

Future of Superfund: New EPA Initiatives and Hurdles to Implementation

Pharmaceutical EHS Counsel Roundtable

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Agenda

- A. Administrator Pruitt's Superfund Announcements**
- B. The Task Force Report and Some Promising Opportunities to Streamline Superfund**
- C. Vocal Support for Superfund Contrasted with Trump Administration Actions**
- D. EPA Inspector General Report Regarding Regional Superfund Staffing**
- E. Further Discussion**

Pruitt's May 22 Superfund Announcement

- “Prioritizing the Superfund Program”
- Revoked remedy selection authority from EPA regional administrators for remedies estimated to cost \$50 million or more
- Created Superfund Task Force

July 27 Superfund Task Force Report

- 42 recommendations categorized into five overarching goals
 - Expediting cleanup and remediation
 - Re-invigorating responsible party cleanup and reuse
 - Encouraging private investment
 - Promoting redevelopment and community revitalization
 - Engaging partners and stakeholders
- Administrator's "Top 10" List
- Focus efforts on 20 NPL Sites with the most redevelopment potential

Promising Recommendations

- Increase use of project management – metrics, timelines, tracking (commence w/in 30 days)
- Speed up settlement process
- Require consideration of early response actions during negotiations (Q417-Q118)
- Reduce oversight of PRP led cleanups (create working group; criteria to be established 1Q18)
- Identify opportunities for independent 3rd parties to oversee aspects of PRP led cleanups (FY18)
- Review financial assurance requirements to promote more realistic requirements (Q1-Q218)
- Increase flexibility for remedies for groundwater not used as drinking water (3Q-4Q18)
- Integrate use of re-use outcomes in site planning
- Explore ELT approaches –potential for pilot programs (Q418)
- Expand use of prospective purchaser agreements and comfort status letters (FY17)
- Increase use of site-specific agreements that define responsibilities/liabilities of 3rd party investors

Actions Inconsistent with Expressed Importance of Superfund

- Proposed budget cuts
- New NPL Site listings
 - 7 – YTD 2017
 - 18 – avg. 2009-16
- Political appointees
 - 11 of 13 Assistant Administrators are “Acting”
 - 9 of 10 Regional Administrators are “Acting”
- Reduced environmental enforcement
 - 0 reported Civil Cases/Settlements YTD
 - 16 reported for 2016



EPA Inspector General Report

- September 19, 2017 EPA Office of Inspector General report: “EPA’s Distribution of Superfund Human Resources Does Not Support Current Regional Workloads”
 - Staffing shortages are impacting pace of work at NPL Sites
 - Proposes prioritizing Superfund risks nationally and assigning FTEs in a manner that sufficiently addresses risks

What's Next?

- Monitoring the progress on Superfund Task Force's 42 recommendations
 - May not fundamentally alter Superfund program
 - Could present opportunities to engage with EPA to shape scope of remediation or pursue early settlement
- Political appointments



Further Discussion

Thank you!



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