

March 1999

SUPERFUND PROGRAM

Activities of the Agency for Toxic Substances and Disease Registry and Department of Justice



**Resources, Community, and
Economic Development Division**

B-281999

March 18, 1999

The Honorable John H. Chafee
Chairman, Committee on Environment
and Public Works
United States Senate

The Honorable Robert C. Smith
Chairman, Subcommittee on Superfund,
Waste Control, and Risk Assessment
Committee on Environment and Public Works
United States Senate

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) created the Superfund program to clean up the nation's most hazardous waste sites. While the Environmental Protection Agency (EPA) has primary responsibility for administering the Superfund program, other federal agencies also play important roles. These include the Department of Health and Human Services' Agency for Toxic Substances and Disease Registry (ATSDR) and the Department of Justice (Justice).

CERCLA authorized the establishment of the Agency for Toxic Substances and Disease Registry to implement its provisions relating primarily to public health. The Superfund Amendments and Reauthorization Act of 1986 expanded the agency's health-related responsibilities to require, among other things, that it conduct a public health assessment at each site proposed for or on the National Priorities List. Justice is responsible for conducting all Superfund litigation involving the cleanup of hazardous waste sites. EPA reimburses both of these agencies for their Superfund-related costs.

You asked us to evaluate the use of Superfund resources by the Agency for Toxic Substances and Disease Registry and Justice. Specifically, we examined (1) the amount and purpose of Superfund money provided to the Agency for Toxic Substances and Disease Registry for fiscal years 1996 and 1997 and the processes this agency follows to ensure that Superfund funds are used for authorized activities, (2) the ways in which EPA uses the Agency for Toxic Substances and Disease Registry's health consultations and assessments in making cleanup decisions for Superfund sites, and (3) the amount and purpose of Superfund money provided to Justice in

fiscal years 1996 and 1997, and the processes Justice follows to ensure that Superfund funds are used for authorized purposes.

Results in Brief

EPA provided the Agency for Toxic Substances and Disease Registry with about \$59 million in Superfund funds in fiscal year 1996 and \$64 million in fiscal year 1997. These funds were used to conduct health assessments at Superfund sites, provide consultations on health issues unique to a site, and research the health effects of hazardous substances. The Department of Health and Human Services' Inspector General annually audits the use of these funds and has reported that these resources were generally used in accordance with applicable requirements.

EPA regional officials told us that many of the Agency for Toxic Substances and Disease Registry's products and services were useful in EPA's efforts to clean up hazardous waste sites, especially the consultations that EPA requests to address unique health concerns at sites, such as sampling surface and groundwater for toxic chemicals, and other services, such as attending public meetings and conducting blood tests. However, these officials also said that the health assessments had little or no impact on EPA's cleanup decisions because they were not issued when needed and were not conclusive about the health effects of Superfund sites. Superfund legislation requires the Agency for Toxic Substances and Disease Registry to conduct health assessments at all sites proposed or listed on the nation's list of the worst hazardous waste sites. Recognizing the problems with assessments, the Agency for Toxic Substances and Disease Registry undertook an initiative to address these concerns. Although EPA and Agency for Toxic Substances and Disease Registry officials believe that the initiative has resolved some of the problems, they questioned the continuing need for the legislative requirement that full health assessments be prepared for all Superfund sites. They also believed that the Agency for Toxic Substances and Disease Registry's resources could be used for consultations or other services that better meet EPA's and other users' needs.

EPA provided Justice with about \$32 million in fiscal year 1996 and about \$30 million in fiscal year 1997 to represent the federal government in litigation involving the cleanup of hazardous waste sites. Justice's actions included negotiating with responsible parties to compel the cleanup of Superfund sites and recovering the federal government's costs when EPA cleans up sites. Justice's annual Inspector General audits have found no major problems in Justice's use of Superfund resources during the 1990s.

Background

Over the last several years, the Congress has provided EPA with an average of about \$1.5 billion annually for the Superfund program. The nation's worst hazardous waste sites, those on EPA's National Priorities List, generally undergo long-term comprehensive cleanup actions, called remedial actions. A remedial action starts with a detailed study of the contamination, including assessing the risks to the environment and human health posed by a site. After this, alternative cleanup methods are reviewed, and EPA, or the parties responsible for the contaminated site, design and conduct the cleanup. The Superfund program also addresses immediate health threats from hazardous substances by actions such as removing the hazardous waste. These shorter-term measures are referred to as removal actions. EPA has the authority to compel parties responsible for the contaminated site to perform the cleanup, or it may pay for the cleanup and attempt to recover the costs. EPA's cleanup and enforcement activities are financed through a trust fund, commonly called the Superfund.

ATSDR's Superfund Activities

EPA provided ATSDR with \$59 million in fiscal year 1996 and \$64 million in fiscal year 1997 for products and services that were related to the human health effects of exposure to the hazardous substances at hazardous waste sites. Recent audits performed by the Department of Health and Human Services' Inspector General showed that ATSDR is generally complying with applicable laws, regulations, and other requirements in its spending of Superfund money.

Many of ATSDR's products and services are useful to EPA in its efforts to clean up hazardous waste sites, according to EPA regional officials. These include ATSDR's (1) consultations, which are typically issue-specific, short-term efforts addressing unique health issues at sites; (2) participation at public meetings about sites; and (3) collection and analysis of blood samples from residents near sites. However, EPA officials said that ATSDR's health assessments, which are typically long-term, extensive efforts, generally had little or no impact on EPA's cleanup decisions because they duplicated or were inconsistent with EPA's information, were not issued when EPA needed them, and did not take definitive positions about the health effects of hazardous waste sites. Recognizing the need to improve its health assessment process, ATSDR began a health assessment enhancement initiative in 1994, which EPA officials believe has addressed several of their concerns. However, both agencies believe that the requirement that ATSDR conduct a full health

assessment at all Superfund sites may not make the best use of ATSDR's funds.

ATSDR Uses Superfund Funds for a Variety of Health-Related Activities

To carry out its responsibilities, ATSDR is organized into the following four divisions:

- **The Division of Health Assessments and Consultations.** This division prepares health assessments and/or consultations for individual hazardous waste sites. To complete an assessment, ATSDR reviews available information about the (1) nature and extent of contamination, (2) ways in which humans are exposed to the contamination, (3) size and susceptibility of the community exposed, (4) exposure limits for the substances involved, and (5) diseases associated with the observed levels of exposure. This division also performs health consultations, which are usually requested by EPA or the communities near waste sites and are more focused than health assessments. Consultations address specific health issues at sites and are provided on an as-needed basis throughout the cleanup process.
- **The Division of Toxicology.** This division prepares and updates the toxicology profiles of the 275 hazardous substances on the CERCLA Priority List of Hazardous Substances. These profiles interpret available toxicological and epidemiological information in order to identify exposure levels that are harmful to humans. According to ATSDR, state and local health agencies, as well as EPA, use the profiles to estimate the potential human health risks that may result from exposure to hazardous substances.
- **The Division of Health Studies.** This division performs and supports health studies that evaluate the relationship between exposure to a hazardous substance and adverse health effects. For example, one study looked at the long-term effect of lead exposure on the health of women who worked in a lead smelter facility. The division also maintains a national registry of persons exposed to hazardous substances as an aid in assessing the long-term health consequences of this exposure.
- **The Division of Health Education and Promotions.** This division conducts and supports health education activities, such as working at specific sites to develop and promote strategies to mitigate the health impacts of exposure to hazardous substances at specific Superfund sites. For example, ATSDR works with the medical professionals near hazardous waste sites to improve their ability to identify, evaluate, and treat persons who have been exposed to the site's hazardous substances. ATSDR often

works with federal, state, and local health agencies to develop and implement these public health activities.

In addition, ATSDR uses grantees and contractors to perform many of its Superfund activities. ATSDR has cooperative agreements with 23 state health agencies, referred to as Cooperative Agreement States, that it uses to address health-related issues at specific sites. Approximately 60 percent of ATSDR's Superfund obligations for fiscal years 1996 and 1997 were for cooperative agreements, interagency agreements, and contracts.

ATSDR reports its Superfund obligations by budget activities that are closely related to the four divisions described above. ATSDR's Superfund obligations by budget activity for fiscal years 1996 and 1997 are shown in table 1.

Table 1: ATSDR's Superfund Obligations, by Budget Activity, Fiscal Years 1996 and 1997

Budget activity	Dollars in millions			
	Fiscal year 1996		Fiscal year 1997	
	Dollars	Percent of total funding	Dollars	Percent of total funding
Public health assessments, health consultations, and site-specific health activities	\$22.4	38.0	\$25.2	39.4
Scientific assessment, research, and information dissemination	16.0	27.1	13.9	21.7
Surveillance/ epidemiologic/health studies and registries	14.3	24.2	13.8	21.6
Health education and promotion	6.3	10.7	11.1	17.3
Total	\$59.0	100.0	\$64.0	100.0

Audits performed by the Department of Health and Human Services' Inspector General for fiscal years 1994 through 1997 found that ATSDR generally administered Superfund funds in accordance with the federal government's applicable laws, regulations, and other requirements.

EPA's Use of ATSDR's Health Consultations, Health Assessments, and Other Services

EPA regional officials told us that many of ATSDR's products and services were useful in EPA's efforts to clean up hazardous waste sites, especially the consultations that EPA requests to address unique health concerns at sites and other services, such as attending public meetings and conducting blood tests. However, these officials also said that ATSDR's health assessments had little or no impact on EPA's cleanup decisions because,

among other things, they were not issued when needed and were not conclusive about the health effects of Superfund sites. Recognizing the problems with assessments, ATSDR undertook an initiative to address these concerns. Although they believe that the initiative has resolved some of the problems, EPA and ATSDR officials questioned the continuing need for the legislative requirement that full health assessments be prepared for all Superfund sites.

EPA Views Health Consultations and Other Services as Useful

Superfund officials in EPA's regional offices found ATSDR's health consultations very helpful in making cleanup decisions. ATSDR's consultations range from a one-day, one-page summary of the latest research on a certain chemical to months of work by a team of ATSDR officials evaluating a specific health hazard at a site. EPA officials noted that they relied on ATSDR to provide up-to-date expertise on the health effects of many chemicals—expertise that some EPA regions may not have.

Because consultations fill data gaps and ATSDR usually responds quickly, EPA regional officials reported that almost all consultations were useful. They said that the extent to which they used ATSDR's consultations depended on the types of sites and the staff's capabilities in the regions. Regions may have ATSDR advise on the type of action needed to protect human health or ways to implement that action. ATSDR also helps determine (1) what the appropriate cleanup levels are for certain chemicals and (2) whether site contamination is the cause for nearby residents' health problems. It may also help educate the public about a site's hazards. In emergency situations, such as train wrecks and chemical plant accidents, some officials said they depend heavily on a quick response from ATSDR on a number of issues. Emergencies often involve chemicals that EPA is less familiar with, and officials need ATSDR's advice on the toxicity of the chemicals, their possible effect on human health, the symptoms doctors might see in local residents, and the treatment of those symptoms.

EPA regional officials also spoke highly of other types of ATSDR's assistance, such as its participation in public meetings that EPA conducts at various stages of the hazardous waste cleanup process. Because ATSDR's representatives have medical expertise, the public often considers them more credible than EPA on health issues. EPA regional officials also rely on ATSDR to design blood tests for residents living near sites. For example, at one site, lead screening for area children demonstrated that their blood levels of lead were 20 to 30 times higher than the state average. ATSDR also

worked with state and local health agencies to educate the public on how to prevent the health hazards of lead. Some EPA regional officials said that they would like ATSDR to expand these types of assistance at sites that have effects on human health and at those where the issue of health effects is controversial.

EPA Questions the Utility of Health Assessments

In 1991, we reported that ATSDR's health assessments generally had not been useful to EPA and others because the assessments duplicated EPA's own information, did not add to EPA's own analysis of site risks, and recommended actions that EPA had already planned.¹ We also reported that EPA officials found ATSDR's health consultations useful. During our current work, we found that these observations have not materially changed. Most EPA regional officials responsible for managing the cleanup of Superfund sites continue to question the utility of ATSDR's health assessments. EPA regional officials said that while some health assessments have been useful to EPA, most had little or no impact on its cleanup decisions because they (1) duplicated or were inconsistent with EPA's own health-related information, (2) were not issued when EPA needed them, and (3) did not take definitive positions about the health effects of hazardous waste sites.

Several regional officials stated that ATSDR's health assessments often included health information that duplicated the information that EPA already had available. In other instances, regional officials said that the health assessment information was inconsistent with the information that EPA had already developed about the health effects of Superfund sites, thus requiring EPA and ATSDR to reconcile the differences. For example, according to officials in EPA's regional office in New York City, ATSDR's health assessments were generally not useful because they duplicated the health-related information that EPA already had in its own risk assessments. They also said that inconsistencies between EPA's risk assessment and ATSDR's health assessment can surprise and confuse the public if the health assessment is prepared in a vacuum rather than in cooperation with EPA.

The timing of ATSDR's health assessments also limited their usefulness to EPA in making cleanup decisions. According to EPA regional officials, ATSDR's health assessments were often completed after EPA had decided on the appropriate cleanup measures for a site. In other instances, ATSDR sometimes issued health assessments before EPA needed the information;

¹Superfund: Public Health Assessments Incomplete and of Questionable Value (GAO/RCED-91-178, Aug. 1, 1991).

in these cases as well, the health information in the assessments was not useful to EPA. For example, officials in EPA's regional office in Seattle stated that sometimes ATSDR issued assessments too early, without complete information, and therefore reached a conclusion about a site's adverse health effects that was different from the conclusion that it and EPA might have reached with more complete information.

In addition, according to EPA regional officials, some health assessments were not definitive enough in quantifying or qualifying the adverse health effects of hazardous waste sites, and other assessments did not have enough health information for EPA to draw conclusions about the health effects caused by a site. For example, according to officials in EPA's regional office in New York City, some health assessments were not useful because they were inconclusive about the health risks from exposure to hazardous substances. According to these officials, it would have been better not to issue health assessments than to have inconclusive information. According to officials in EPA's regional office in San Francisco, ATSDR seldom had enough information in the health assessments to serve as the basis for EPA's decisions about cleaning up sites. Furthermore, according to officials in EPA's regional office in Chicago, the health assessments tended to oversimplify the issues because the information was written to be understandable for all audiences, including the general public, and therefore the information was not specific enough to be useful to EPA.

EPA officials in most EPA regional offices noted that, because of the problems with timeliness, completeness and other concerns about ATSDR's health assessments, the health information in the assessments often had little or no effect on EPA's final cleanup decisions for hazardous waste sites. For example, officials in EPA's regional office in Denver believed that the health assessments did not add anything to the information the region already had about the sites. Even though health assessments may not be used directly in EPA's cleanup decisions, some regional officials said that the information was useful because it provided additional support for the cleanup decisions that EPA had already made at some hazardous waste sites.

ATSDR Recognizes the Need to Amend the Health Assessment Process

EPA regional and ATSDR officials attributed the problems with health assessments largely to inadequate communication between ATSDR and EPA and the statutory requirement for preparing full health assessments for all sites listed or proposed for listing on EPA's National Priorities List. ATSDR

officials also said that increased flexibility would allow them to provide more focused or customized products, such as health consultations, that may be more appropriate for a given site.

In December 1994, ATSDR began an effort—known as the Health Assessment Enhancement Initiative—to revise its health assessment process and better integrate it into EPA’s Superfund process. The initiative was implemented as a pilot program at 24 hazardous waste sites. One of the initiative’s key features was the use of site teams—composed of staff from ATSDR and state health agencies—and the adoption of a customer-oriented, phased approach for the health assessment process. The teams focused their efforts on the specific circumstances at each waste site and provided health-related products and services when EPA and other stakeholders needed them rather than waiting to issue a final health assessment. The site teams preferred health consultations to assessments because they considered consultations more focused, shorter, and more responsive to EPA’s and other stakeholders’ needs. In contrast, many site teams considered health assessments to be bulky, inflexible, and complex, producing information that did not respond to many of the stakeholders’ needs in a timely manner.

EPA regional officials generally told us that they had a positive impression of the health-related products and services provided under the initiative, such as consultations, blood testing, and participation at public meetings. For example, officials in EPA’s regional office in Philadelphia believed that the initiative had increased ATSDR’s level of involvement at hazardous waste sites by making ATSDR a full partner in governmental efforts to assess health hazards and address community concerns. Several other regions stated that ATSDR was more timely and responsive in addressing site-specific health issues. EPA regional officials also said that under the initiative, communication between ATSDR and EPA officials had improved. Nevertheless, most regional officials stated that if ATSDR had the flexibility to prepare other health-related products and services in lieu of assessments, EPA’s needs would be better met. Many of the EPA officials we interviewed believed that ATSDR should have the option of preparing full health assessments only when they are needed rather than requiring them for each site.

According to its draft report, ATSDR has changed the health assessment process as a result of the initiative to include (1) requiring site teams for all sites and (2) keeping EPA, the public, and other stakeholders involved in

and informed about the site teams' activities and findings.² Taken together, the actions resulting from the initiative and EPA's overall favorable reaction to them indicate that a number of the past shortcomings for the health assessment process are being addressed. Nevertheless, it is doubtful whether the changes made by the initiative will address all of EPA's concerns about the overall health assessment process—specifically, the statutory requirement that ATSDR prepare health assessments for all Superfund sites.

The Acting Assistant Administrator of ATSDR told us it would be beneficial if ATSDR had more flexibility to decide which health-related products and services would best meet EPA's and other users' needs for each Superfund site. In fact, in 1998, ATSDR proposed amending CERCLA to allow it more flexibility in designing the appropriate response to individual sites. ATSDR noted that because sites vary in their physical, chemical, and demographic characteristics, other health-related activities—such as health consultations, health education, and health studies—may be more appropriate than health assessments. Furthermore, persons living near a Superfund site would benefit by a more timely and appropriate response than would be feasible with the time required for a health assessment. Finally, the proposal said that increased flexibility would be cost beneficial, potentially reducing the average unit cost of ATSDR's involvement at individual sites.

Justice's Superfund Activities

As the litigator for EPA, Justice conducts work in a wide variety of areas associated with the Superfund program, from compelling responsible parties to clean up hazardous waste sites to defending EPA in lawsuits concerning EPA's implementation of the program. Justice received about \$32 and \$30 million from EPA in fiscal years 1996 and 1997, respectively, to conduct this work. To help ensure that the Superfund funds it receives are used only for authorized Superfund litigation, Justice uses an independent accounting firm to allocate costs to cases and bill EPA. Moreover, CERCLA requires Justice's Inspector General to audit Justice's Superfund expenditures annually to determine the adequacy of Justice's internal controls. These audits have revealed no material problems during the 1990s.

Justice Carries Out Litigation for EPA

EPA begins the enforcement process at hazardous waste sites by identifying the parties responsible for the contamination and collecting

²"Public Health Assessment Enhancement Initiative Close-Out Report" (draft), Agency for Toxic Substances and Disease Registry, Jan. 11, 1999.

evidence to show that the government has a valid claim against them. EPA then refers cases to Justice for initiating a lawsuit or negotiating a settlement. Once a case is referred, EPA attorneys continue to support the case, but Justice takes the lead in negotiating and settling or litigating the case.

Justice's Superfund efforts include three major areas. First, Justice negotiates with responsible parties about performing cleanups. Justice attempts to settle the case by having the responsible parties agree to conduct and/or finance cleanup activities and pay the government's cleanup costs. If the negotiation is successful, EPA and the responsible parties must sign a consent decree—that is, a legal document filed in court that sets forth the requirements for cleanup and/or payment. Because these cases often involve many responsible parties and complex technical issues, they are resource-intensive, consuming a significant percentage of resources on Justice's Superfund docket.

Second, when EPA has cleaned up sites because the responsible parties were unwilling or unable to do so, Justice files suit against the responsible parties, when practicable, to recover EPA's cleanup costs. These cases range from very small cases of emergency removals to very large cases with many responsible parties. This area of work currently constitutes the largest number of Superfund cases on Justice's docket.

Third, to support its attempts to locate responsible parties and establish liability at hazardous waste sites, EPA has the authority to request financial or other records from responsible parties. EPA also has the authority to enter properties to, among other reasons, perform cleanups, inspect contaminated sites, and obtain pertinent records. Justice handles cases involving EPA's exercise of these authorities.

Justice also conducts other types of work for EPA using Superfund resources. For example, the parties responsible for a contaminated site may challenge EPA's decision to list the site on the National Priorities List. In addition, Justice prosecutes criminal violations of CERCLA, which may occur when a person fails to notify relevant officials of hazardous substance releases into the environment. According to Justice officials, these cases always include additional charges under other statutes, such as the Clean Water Act. To facilitate reimbursing Justice for its Superfund work, EPA and Justice annually negotiate an interagency agreement, which establishes the type of activities EPA expects Justice to perform and an annual estimated amount of funding for Justice.

Audits Identify No Material Problems With Justice's Superfund Activities

In fiscal year 1987, Justice initiated a cost accounting system for its use of Superfund resources that was developed by an independent certified public accounting firm. The accounting firm developed procedures to ensure that all direct costs are allocated accurately to cases and a system to fairly allocate indirect costs to cases. Since then, Justice has used this accounting system to calculate charges to the Superfund. This accounting system, as well as the costs charged to the Superfund and the requirements of the interagency agreement, have been audited annually by Justice's Inspector General. Since the early 1990s, Justice has received annual audit reports with no material findings.

In the early 1990s, EPA was concerned that Superfund resources were not being used entirely for authorized Superfund activities in cases that included alleged violations under CERCLA and other environmental statutes (called mixed-count cases). At that time, Justice was charging all mixed-count cases entirely to the Superfund. Because of EPA's concerns, Justice changed its accounting for these cases in 1995. Specifically, when work for the Superfund counts can be separated out from work on the other counts, Justice charges the Superfund only for work done for the Superfund counts. However, when all the counts are factually linked (work for the Superfund counts also supports the non-Superfund counts), Justice charges the entire case to Superfund. Mixed-count cases charged entirely to Superfund totaled \$2.3 million in fiscal year 1997, or 8 percent of Justice's total Superfund resources for the year. EPA and Justice's Inspector General are satisfied with Justice's current accounting approach for mixed-count cases and have voiced no further concerns.

Conclusions

Concerns about the usefulness of ATSDR's health assessments have persisted for almost a decade. Recognizing these concerns, ATSDR has analyzed its process for conducting health assessments and made several changes that, if properly implemented, should address a number of past concerns. Nevertheless, ATSDR is still required to prepare health assessments for all Superfund sites. Both ATSDR and EPA officials believe that increased flexibility would allow ATSDR to produce alternative products and services, such as health consultations that would be more timely, effective, and cost beneficial in addressing the human health effects related to Superfund sites. We believe that providing ATSDR with greater flexibility would enable it to better use its resources for other health-related products and services, such as health consultations, health testing, and education.

Recommendation to the Congress

We recommend that the Congress amend the requirement that the Agency for Toxic Substances and Disease Registry conduct a detailed health assessment at each site proposed for listing on the National Priorities List in order to provide the Agency for Toxic Substances and Disease Registry with more flexibility in choosing the appropriate health-related product or service that will best meet EPA's and other users' needs.

Agency Comments

We provided a draft of this report to the Agency for Toxic Substances and Disease Registry, EPA, and the Department of Justice for their review and comment. The Agency for Toxic Substances and Disease Registry and EPA both stated that they agree with our recommendation. The Agency for Toxic Substances and Disease Registry also provided additional information regarding its health assessment efforts. See appendixes II and III, respectively, for the text of the Agency for Toxic Substances and Disease Registry's and EPA's comments. The Department of Justice stated that it fully concurred with both the description of its program and our overall findings. (See app. IV.)

We conducted our review from July 1998 through February 1999 in accordance with generally accepted government auditing standards. See appendix I for our detailed scope and methodology.

As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies to other appropriate congressional committees, the Agency for Toxic Substances and Disease Registry, the Environmental Protection Agency, and the Department of Justice. We will also make copies available to others upon request.

If you have any further questions about this report, please call me at (202) 512-6111. Major contributors to this report are listed in appendix V.



Peter F. Guerrero
Director, Environmental Protection Issues

Contents

Letter	1
Appendix I Scope and Methodology	16
Appendix II Comments From the Agency for Toxic Substances and Disease Registry	17
Appendix III Comments From the Environmental Protection Agency	20
Appendix IV Comments From the Department of Justice	21
Appendix V Major Contributors to This Report	22
Table	5

Table 1: ATSDR's Superfund Obligations, by Budget Activity, Fiscal Years 1996 and 1997

Abbreviations

ATSDR	Agency for Toxic Substances and Disease Registry
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980
EPA	Environmental Protection Agency

Scope and Methodology

To determine the amount and purpose of Superfund money provided to the Agency for Toxic Substances and Disease Registry (ATSDR) and the Department of Justice (Justice) for fiscal years 1996 and 1997, we reviewed the agencies' financial statements and summary reports of actual expenditures. We also interviewed Justice, ATSDR and Environmental Protection Agency (EPA) headquarters officials about the activities that Justice and ATSDR performed with Superfund resources and reviewed agencies' annual reports. We were unable to include complete fiscal year 1998 data because of time lags in the agencies' reporting of expenditures.

To determine how EPA uses health assessments and consultations in making cleanup decisions, we conducted telephone interviews with remedial and removal officials in EPA's 10 regional offices. We asked these officials about, among other things, the usefulness and timeliness of assessments and consultations that ATSDR completed for their regions in fiscal years 1996 and 1997. We also asked them about the effect of ATSDR's enhancement initiative in their regions. We discussed these same issues with the EPA headquarters officials responsible for coordination with ATSDR and with ATSDR headquarters officials. In addition to EPA, other users of ATSDR's products and services include the public, such as people who live near Superfund sites. We did not obtain information from other users about the usefulness of ATSDR's products and services. We reviewed ATSDR's draft report on the results of the enhancement initiative and discussed them with ATSDR and EPA officials.

To determine the processes in place at Justice and ATSDR to help ensure that Superfund funds are used only for authorized activities, we reviewed the mandated annual Inspector General audits of Justice's and ATSDR's Superfund activities. We discussed these reports and the status of any corrective actions needed with officials in the Department of Health and Human Services and with Justice's Office of Inspector General. We also discussed EPA's implementation of its interagency agreements with Justice and ATSDR with the EPA officials responsible for negotiating and carrying out these agreements. Finally, we discussed Justice's Superfund accounting system with representatives of Justice's independent certified public accounting firm.

We conducted our review from July 1998 through February 1999 in accordance with generally accepted government auditing standards.

Comments From the Agency for Toxic Substances and Disease Registry



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Agency for Toxic Substances
and Disease Registry
Atlanta GA 30333

FEB 25 1999

Mr. Peter F. Guerrero
Director, Environmental Protection Issues
United States General Accounting Office
441 G Street, NW, Room 2091 E
Washington, D.C. 20548

Dear Mr. Guerrero:

Thank you for providing the opportunity to comment on the draft report of *Superfund Program: Activities of the Agency for Toxic Substances and Disease Registry and the Department of Justice in Cleaning up Hazardous Waste Sites*. We appreciate the efforts taken to produce this report, and we have provided technical corrections to the contents of Table 1 in the enclosure to this letter.

We agree with the recommendation to provide our agency with more flexibility in choosing the appropriate health-related product or service to meet the needs of communities, tribes, local and state entities, the Environmental Protection Agency (EPA), and our other customers. Such increased flexibility in providing public health products and services must continue to be supported by the mandate that public health actions be considered for each site proposed for or listed on the National Priorities List (NPL). The impetus for proposing or placing sites on the NPL is almost always the protection of human health; therefore, it is imperative that ATSDR continue its vigilance of, and response to, the public health needs of communities and tribes near these sites.

An underlying principle for the public health assessment enhancement initiative was to facilitate the use of multiple products and services to meet the needs of our customers. Thus, we appreciate the recognition and comments in the report regarding the public health assessment enhancement initiative. Our goals were to better integrate our activities with EPA schedules, substantively engage communities and improve our communication with stakeholders, improve data collection for exposure-driven decision making, and continue to provide timely, quality public health products and services. The findings from the initiative—including the use of site teams, increased flexibility in providing products/services to respond to customer needs, greater community involvement, and improved communication with stakeholders—have been integrated into our standard approach to addressing NPL sites. We too believe these methods will improve communication and increase integration with EPA activities at hazardous waste sites.

ATSDR has been attentive to our mandated public health assessment responsibilities and believe it is worthwhile to provide additional information regarding our efforts:

Appendix II
Comments From the Agency for Toxic
Substances and Disease Registry

Page 2 - Mr. Peter F. Guerrero

- A public health assessment is a process, a series of public health activities within a community or tribe, that includes community involvement and outreach, technical assistance to EPA and state and local health and environmental agencies, public meetings and availability sessions, health consultations, medical and toxicologic support, information dissemination and education, exposure investigations (e.g., taking blood lead samples or drinking water samples), documentation of health hazards and health concerns, and other responses or activities to address the environmental public health needs of the community or tribe. Such activities are purposeful and useful to ATSDR, communities, our health partners, and, as noted in the report, EPA.
- Each public health assessment is a weight-of-evidence, health hazard evaluation that analyzes environmental data, health outcome data, and community health concerns information to reach health conclusions regarding a site or release of hazardous materials. Our attention to all three data sources, particularly health outcome data and community health concerns, sets our evaluations apart from those conducted by EPA. Furthermore, because assessments are written for, or focus on, a community audience, the underlying science basis may not always be apparent; however, each document considers a myriad of scientific and public health factors in reaching a definitive conclusion regarding the public health hazard posed by a site.
- Of critical importance, ATSDR's public health assessment: 1) provides our customers with an independent evaluation of current and future exposures, 2) provides the **only** public health decisions regarding past exposures (which may result in current or future adverse health effects), and 3) discusses associations between current exposures and adverse health impacts that may be realized by the affected communities. Although EPA removal and remedial actions are necessary for the mitigation or prevention of current and future exposures, these actions do not address the implications of past exposures or resultant future adverse health effects.
- Our tracking of public health assessment recommendations shows that routinely more than 80% are accepted for implementation by EPA, state environmental agencies, or ATSDR and our health partners. These recommendations have been credited by state and federal agencies with preventing adverse health effects as well as saving several million dollars in individual site clean-up costs. Each public health assessment includes recommendations to cease or reduce human exposure, further characterize the extent of exposure, and/or undertake more rigorous investigations (e.g., epidemiologic studies, other health studies, registries, health surveillance, or medical

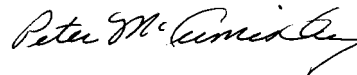
Appendix II
Comments From the Agency for Toxic
Substances and Disease Registry

Page 3 - Mr. Peter F. Guerrero

monitoring) of the health effects experienced by the community or tribe near these sites. The assessments may also include recommendations for additional scientific clarification through applied or basic research.

ATSDR's public health assessment activities have resulted in many actions, which include: 1) sites being added to the NPL, 2) assistance with the prioritizing of site clean-ups, 3) assurance that remedial actions are protective of public health, 4) identification of sites for necessary EPA characterization, and 5) a clear explanation of health hazards to the public. Partnerships with local and state health departments, created through public health assessment activities, have resulted in a national infrastructure that is responding to the public health issues about hazardous waste sites. We believe we have made significant progress in the past decade to improve the public health assessment process and our products and services. We look forward to continued improvement that facilitates a more efficient and effective interaction with all our customers.

Sincerely yours,



Peter J. McCumiskey
Acting Assistant Administrator

Enclosure

Comments From the Environmental Protection Agency



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAP 2 1999

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. Peter F. Guerrero, Director
Environmental Protection Issues
Resource, Community, and Economic Development Division
U.S. General Accounting Office
Washington D.C. 20548

Dear Mr. Guerrero:

Thank you for providing the opportunity to comment on the Draft Report, Analysis of Superfund Expenditures by DOJ and ATSDR. In preparing this report, GAO interviewed removal and remedial officials in all 10 EPA Regional offices on how EPA uses health assessments and consultations in making cleanup decisions. Most, if not all, Regions believe that health assessments are not as useful as the consultations and that the resources given to ATSDR would be better used for health consultations, testing, and education. There also was a general agreement that ATSDR's health assessment enhancement initiative will add positive results.

Under the current Superfund law, ATSDR is required to perform a health assessment at each Superfund site proposed for listing on the National Priorities List. We, as well as ATSDR, agree with GAO's recommendation that ATSDR be given more flexibility to provide alternative services such as health consultations that would best meet EPA's needs.

Sincerely,

A handwritten signature in cursive script, appearing to read "Timothy Fields, Jr.", written in black ink.

Timothy Fields, Jr.
Acting Assistant Administrator

Comments From the Department of Justice



U.S. Department of Justice

Environment and Natural Resources Division

Assistant Attorney General
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Telephone (202) 514-2701
Facsimile (202) 514-0557

February 25, 1999

Peter F. Guerrero
Issue Area Director
Environmental Protection Issues
Resources, Community and Economic
Development Division
General Accounting Office
Washington, DC 20548

Re: Superfund Program Audit Report (GAO/RCED-99-85)

Dear Mr. Guerrero:

I appreciated the opportunity to review and comment on the draft report entitled Superfund Program: Activities of the Agency for Toxic Substances and Disease Registry and the Department of Justice in Cleaning Up Hazardous Waste Sites (GAO/RCED-99-85). We fully concur with both the description of our program and the overall findings of the report.

I was pleased to note that the report validated the approach taken by this Division in fulfilling our Superfund-related mandate. The employees of this Division take very seriously the environmental responsibilities entrusted to us by the American people and it is heartening to have our efforts recognized and confirmed.

Sincerely,

A handwritten signature in black ink, appearing to read "Lois J. Schiffer".

Lois J. Schiffer
Assistant Attorney General

cc: Steven Colgate
Assistant Attorney General
for Administration

Major Contributors to This Report

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