



# SUPERFUND TASK FORCE RECOMMENDATIONS

*Recommendations in response to Administrator Scott Pruitt's request on May 22, 2017. The recommendations address: expediting cleanup and remediation process; reducing financial burden on all parties involved in the entire cleanup process; encouraging private investment; promoting redevelopment and community revitalization; and, building and strengthening partnerships.*



July 25, 2017

The U.S. Environmental Protection Agency has an important role to ensure stewardship of our natural resources, including clean air, land, and water. A key objective to this goal is revitalizing land, to return it back to local communities so they can enjoy it.

When I assumed my role as EPA Administrator, I was astounded to learn there were over 1,330 Superfund sites across this country – sites where land has languished and left with contamination seeping into the land and water. Unfortunately, many of these sites have been listed as Superfund sites for decades, some for as many as 30 years. This is not acceptable. We can – and should – do better.

This is why earlier this year, I appointed a ‘Superfund Task Force’. In both a thorough and timely manner, the task force has conducted a review of the Superfund sites and issued this report in order to provide certainty to the American families, businesses, local governments and economies that depend on EPA to provide the leadership and management needed to properly cleanup contaminated sites.

There are many hard working people who have dedicated their careers to cleaning up these sites, but they were not served well by the previous leadership – leadership that put other priorities first. I ask myself every day, what could be more important, more ‘core’ than giving Americans the ability to use the land they are blessed with. This report demonstrates EPA’s commitment to getting these sites cleaned up so that the land is safe for those who build, live or play on it.

The professionals at EPA and the stakeholder partners that contributed to this report share my passion to clean up the country’s worst pollution, as expeditiously and as thoroughly as possible. We welcome the feedback and help from all stakeholders in this national effort. And, we look forward to working together, with states, local communities and tribes – alongside those who are responsible for cleaning up their pollution.

Collectively, we can achieve great things when we provide the leadership and management that Americans deserve.

Respectfully,

E. Scott Pruitt  
Administrator

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“Depending on how the various recommendations and proposals in this report may be further developed and implemented, the wording and objectives of some of the items in the report may need to be refined to ensure consistency with existing laws, regulations and EPA guidance documents; in some cases, it also might be appropriate to modify existing policy statements, amend current regulations, or seek legislative amendments to clarify the Agency’s authorities. The Task Force Report is not final Agency action.”

## Executive Summary

The core mission of the Environmental Protection Agency is to protect the health of our citizens and the environment in which we all live. Action now serves to preserve that environment for future generations. Under Administrator Pruitt's leadership, we are focused on returning to that essential core mission. The Comprehensive Environmental Response, Compensation, and Liability Act or (CERCLA) also known as 'Superfund' was signed into law on December 11, 1980. Since its beginning, the Superfund Program has made remarkable achievements, most of which represent significant contributions to the nation's collective health and quality of life. Superfund, with its many tools, abates and remediates sites contaminated with hazardous waste and reduces risk to both humans and the environment as a whole.

The National Priorities List (NPL) came into existence in 1983. It represents those properties that are the most contaminated and pose the most risk to human health and the environment. Since that time, many sites have been listed on the NPL and many have been remediated and removed. However, sites still remain and each year sites are added to the list. As of June 21, 2017, there are 1,336 sites on the NPL, of which 1,179 are private sites and 157 are Federal Facility sites. Many of these are in different stages of completion and will move off the NPL list in the future, once site completion is achieved. As such, much work still remains. This plan will improve and expedite the process of site remediation and promote reuse.

Administrator Pruitt commissioned the Superfund Task Force on May 22, 2017. The Task Force was charged to 'provide recommendations on an expedited timeframe on how the agency can restructure the cleanup process, realign incentives of all involved parties to promote expeditious remediation, reduce the burden on cooperating parties, incentivize parties to remediate sites, encourage private investment in cleanups and sites and promote the revitalization of properties across the country.' To focus their mission more precisely, the Task Force was given 30 days to complete its mission.

This document presents a set of recommendations that are reflective of the expectations of substantive action from the Administrator. It does not represent all potential actions that may be needed in the future. Rather, it represents a good beginning that will lead to program efficiencies and identify areas for further refining. Importantly, such refinement will be the subject of close stakeholder engagement as we seek to strengthen our partnerships with all those involved in the Superfund process. The recommended actions in this document are reflective of this Administrator's top priorities to reinvigorate and prioritize the Superfund program in a most expeditious manner.

The goals of this plan reflect the charge received by the Administrator, namely:

- Expediting Cleanup and Remediation
- Re-Invigorating Responsible Party Cleanup and Reuse
- Encouraging Private Investment
- Promoting Redevelopment and Community Revitalization
- Engaging Partners and Stakeholders

This plan provides for specific actions, offers time frames for commencement, and identifies EPA staff responsible for each action's implementation. The specific actions outlined are all planned to commence within twelve months and many will be initiated immediately following the approval of the plan. Components of the plan may be revised to include additional actions that may be taken at any stage of feedback, preparation, or implementation. Again, such revisions, improvements, and even additions to the plan are anticipated as we engage with our many stakeholders on the plan's details in an effort to greatly enhance our partnerships throughout the Superfund process. Therefore, the plan was designed to be fluid, dynamic, adaptable and provide both substance and accountability. It will be a living, ever improving action plan.

The Task Force had many members participate. Over the course of this project, upwards of 80 highly experienced EPA professionals, including management and staff, were involved. Five groups, one for each goal, were formed to develop recommendations. The groups' chairs were Dana Stalcup, Ken Patterson, Karen Melvin, Betsy Smidinger, Monica Gardner, Debra Morey, Frank Avvisato, Matthew Tejada, Greg Gervais, Silvina Fonseca and Cyndy Mackey. These individuals used their extensive program knowledge and experience to develop the specific actions identified in the plan. Additionally, many unsolicited, but welcome, letters and white papers were received from industry, trade groups and individual companies which were considered by the Task Force members. Ultimately, the Task Force carefully considered many proposed recommendations but put forth a specific set of actions that could make a difference and meet the charge from the Administrator. Many of these recommendations will be the basis for future actions and plan revisions.

The Superfund Task Force Report identifies a number of opportunities to accelerate cleanup and reuse of Superfund cleanups. This effort identified 42 recommendations that can be initiated without legislative changes during the next year. These recommendations and other innovative ideas will be considered and applied to Superfund Sites with priority given to addressing NPL sites.

A summary of the proposals is the following:

- High attention is given to the Administrator's keen focus on sites that have seemingly taken far too long to remediate. This will be accomplished by:
  - *Establishing an "Administrator's Top Ten" list which will get his weekly attention.*
  - *Directing inquiry and resources as necessary to sites that have been on the NPL for five years or longer without a significant movement.*
  - *Reviewing all remedy review and approval authorities so as to have consistency across the nation.*
- Third party investments in NPL cleanups will become an operational way for the agency to accelerate cleanups and promote reuse of NPL sites. This will be done by identifying reuse candidate sites that are selected to pilot innovative tools and incentives. This includes:
  - *Publicizing site-specific information, including reuse fact sheets to inform the community and developers about properties with reuse potential.*
  - *Engaging communities in identifying cleanup and reuse opportunities.*
  - *Entering into site-specific agreements that define the responsibilities and liabilities of a third party investor.*
  - *Utilizing alternative approaches to financing site cleanups, including environmental liability transfer approaches.*
  - *Working with PRPs to better integrate reuse needs into cleanup activities.*
- NPL sites at which remedies have already been selected will be prioritized for faster completion and deletion from the NPL. Tools to achieve this goal include:
  - *Requiring Remedy Completion Strategies to identify next steps and track progress.*
  - *Conducting Optimization Reviews, including identification of fifteen sites at which to immediately pilot such review.*
  - *Implementing early response actions at selected portions of sites.*
  - *Finishing sites where construction is completed or nearly completed in order to transition the site from "Remedial Action" to "Ready for Reuse" to Deletion, as appropriate.*
- NPL sites in the assessment and investigation stages will be expedited by applying new technologies and approaches, including:
  - *Utilizing state of the art technologies, including using conceptual site model technologies at ten NPL sites.*

- *Increasing access to technical resources.*
- *Promoting Adaptive Management at Complex Sites, including using Interim/Early Actions.*
- *Clarifying Groundwater Cleanup Goals*
- Efforts to secure PRP commitments to perform timely, high quality cleanup will be invigorated. EPA will provide increased inducements and deterrents to encourage PRPs to quickly complete negotiations and cleanup commitments, including:
  - *Reducing oversight costs for PRPs that perform timely, high quality work. This may include a compromise that reduces indirect cost charging. It may also include designating a singular agency or third party to oversee certain aspects of the cleanup.*
  - *Increasing PRP and agency personnel adherence to project deadlines.*
  - *Utilizing enforcement authorities to get work underway quickly and to keep work on schedule.*
  - *Streamlining the dispute resolution process at Federal Facilities and private sites so that final decisions are promptly made and quickly implemented.*
- Development of strong stakeholder relationships is key to EPA's remediation success. This will include:
  - *Ongoing and robust dialogue with stakeholders*
  - *Use of the input and feedback from these stakeholders to continuously upgrade the plan*
  - *Higher focus on our Federal industry partners*
  - *Joint identification of barriers to success*

The Plan includes many more details and other actions. For those of us who were privileged to work on this project, we are pleased and excited to be a part of the EPA's core mission. The recommendations and associated actions in this plan should expedite reduction of risks to human health and the environment and accelerate the reuse of properties affected by hazardous waste contamination. The recommendations and specific actions will benefit our citizens now and those of generations to come.

June 21, 2017  
Environmental Protection Agency  
Superfund Task Force  
Washington, DC



## **GOAL 1: EXPEDITING CLEANUP AND REMEDIATION**

### **STRATEGY 1: EVALUATE AND ACCELERATE NATIONAL PRIORITIES LIST (NPL) SITES TO COMPLETION**

**Background:** As of June 21, 2017, there are 1,336 sites on the National Priorities List (NPL). These sites (and portions thereof) are in various stages of investigation, cleanup, and reuse. As sites have been added, EPA has chosen to spread its resources across the Superfund pipeline to maximize its ability to make incremental progress at a majority of the sites. An effort to accelerate remedial action and NPL completions will involve re-prioritizing some resources to focus on remedial actions, construction completions, ready-for-reuse determinations, and deletions.

#### ***RECOMMENDATION 1: Target NPL Sites That Are Not Showing Sufficient Progress Towards Site Cleanup and Completion***

##### **Specific Actions:**

- Develop a list of potential NPL sites to target for completion based on any the following criteria:
  - o Five years listed on the NPL without a selected action;
  - o Remedy design not started for a remedy selected more than 2 years ago;
  - o Remedial action not started which have a Potentially Responsible Party (PRP); or,
  - o Sites with special accounts with a remedial design completed more than 2 years ago.
- As sites are completed, replenish the NPL-targeted list.
- Establish a Top Ten Administrator's Emphasis List on sites determined to need immediate and intense attention:
  - o Determine method for designating sites;
  - o Find obstacles to completion and address them;
  - o Report progress through monthly reports submitted directly to the Administrator; and,
  - o As sites are completed, replenish the list.
- Determine any site where human exposure is not under control and prioritize effecting control.
- Develop recommendations for a process for working with Regions to:
  - o Establish metrics on all sites to track progress, including PRP lead, length of time to estimated partial or complete deletion, costs anticipated, etc.;
  - o Develop project timelines and exit strategies; and,
  - o Track and report progress on achieving/meeting timelines.

**Timeframe:** Commence activities within 30 days of approval of this plan



***RECOMMENDATION 2: Develop Strategies for NPL Sites where Remedies have been Selected to Move Sites Towards NPL Deletion***

**Specific Actions:**

- Prepare and issue a directive to establish and adhere to a process for tracking and reporting on the progress towards site completion.
- Track remedy completion progress within Superfund Enterprise Management System (SEMS) or with other tracking methods if more efficient.
- Conduct regional and Headquarters work planning sessions semi-annually to discuss and develop strategies for site completion.
- Provide to the Administrator an annual report of sites progressing to completion.
- Review and revise the NPL deletion policy to maximize statutory flexibility.
- Focus resources on maximizing deletions/partial deletions for sites that meet Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and National Contingency Plan (NCP) requirements.

**Timeframe:** Commence activities within 30 days of approval of this plan

**STRATEGY 2: PROMOTE THE APPLICATION OF ADAPTIVE MANAGEMENT AT COMPLEX SITES AND EXPEDITE CLEANUP THROUGH USE OF EARLY/INTERIM RODS AND REMOVAL ACTIONS**

**Background:** Adaptive Management is an approach used at large and/or complex sites that focuses limited resources on making informed decisions throughout the remedial process. Adaptive management requires the development of a clear site strategy with measurable decision points, and focuses site decision making on a sound understanding of site conditions and uncertainties. Based on site uncertainties, decisions are made from data collection, to remedy selection and implementation that allow for the ability to adapt in the event that these uncertainties result in fundamental changes to site conditions.

Under an Adaptive Management strategy, Regions are encouraged to consider greater use of early and/or interim actions including use of removal authority or interim remedies, to address immediate risks, prevent source migration, and to return portions of sites to use pending more detailed evaluations on other parts of sites. The characterization data collected to support the early/interim actions can be used to update the site Conceptual Site Model (CSM) and reduce time and costs associated with the Remedial Investigation/Feasibility Study (RI/FS). This approach will be most effective at contaminated sediment and complex groundwater sites where using removals or early actions to address sources or areas of high contamination is highly efficient. US EPA's 2017 Directive (9200.1-130) memo reiterates EPA's stated bias for initiating responses as soon as the information makes it possible to do so and recommends the use of removals or early actions to quickly address high risk areas. US EPA's 1996 Directive (9283.1-12) outlines the "phased approach" strategy for addressing contaminated groundwater integration, site characterization, early actions, and remedy selection.

**RECOMMENDATION 3: Broaden the Use of Adaptive Management (AM) at Superfund Sites**

**Specific Actions:**

- Prepare a directive outlining adaptive management, including greater use of early actions and interim Records of Decision (RODs), and considerations for implementation at Superfund sites.
- Identify pilots to demonstrate AM implementation throughout the pipeline.
- Communicate success stories in this area.

**Timeframe:** Q3, FY18

**STRATEGY 3: CLARIFY POLICIES/GUIDANCE TO EXPEDITE REMEDIATION**

**Background:** Regions should be consistent in prioritizing RI/FSs to identify those sites that need more immediate action in order to help focus available funds and resources. Targeting our efforts, resources and funding may achieve efficiencies in both performance and results. This will foster cooperative partnerships, shorten review times, target sampling and analysis, foster creative thinking, provide a higher level of program accountability and communicate EPA's commitment to the public. In order to accomplish this, the program should focus resources (funds and personnel) to activities associated with NPL sites and establish timeframes and financial limits for conducting RI/FSs.

The principles of groundwater restoration are key concepts outlined in CERCLA and the National Contingency Plan (NCP). Developing improved guidance in this area may help facilitate more timely remedy decisions and make use of the flexibilities inherent within the statute and the NCP. Flexibilities include: using a phased approach, considering monitored natural attenuation, determining whether a technical impracticability waiver is warranted, etc. These strategies, considered early in the cleanup process, may allow for early stakeholder consensus and input and more expedient implementation of remedies.

Currently, the National Remedy Review Board (NRRB) and Contaminated Sediments Technical Advisory Group (CSTAG) are review boards for high-cost sites and sediment sites respectively. Current policy provides that all remedy decisions over \$50 million, which require approval by the Administrator, undergo an NRRB review. Both national consistency and expediting remedy completion are goals of this Administration.

**RECOMMENDATION 4: To Better Promote National Consistency and Review, Update the Authority for Approval of the Remedy Selection While Considering the Retained Authority of the Administrator**

**Specific Actions:**

- Review the current approval and review authority for sites in excess of \$50 million.
- Review current approval and review authority for all sediment sites.
- Create new procedures with timelines for review of remedies in excess of \$50 million or that have sediment sites.
- Prepare protocol for submission of remedy proposals to the Administrator.
- Determine all current levels of authority to approve remedies.
- Evaluate proper levels of authority in light of the Administrator's directive.
- Make recommendations to the Administrator.

**Timeframe:** Q1, FY18

**RECOMMENDATION 5: Clarify Priorities for RI/FS Resources and Encourage Performing Interim/Early Actions During the RI/FS Process to Address Immediate Risks**

**Specific Actions:**

- Develop criteria for Regions to apply when prioritizing projects so that resources are directed in the order of priority. Include time limits for completing RI/FS.
- Evaluate EPA retaining engagement and direction of the Feasibility Studies.
- Prepare and issue policy memorandum that requires Regions to:
  - Focus on NPL sites first;
  - Establish criteria for prioritizing RI/FSs;
  - Set time and funding parameters for RI/FSs; and,
  - Promote and direct use of early/interim actions.

**Timeframe:** Q1, FY18

**RECOMMENDATION 6: Provide Clarification to the Principles for Superfund Groundwater Restoration**

**Specific Actions:**

- Draft a proposed policy for Clarification of Groundwater Flexibilities with special emphasis directed to early action and the phased approach of remedy selection and implementation. Once drafted and approved, distribute the Policy and provide outreach and training.
- Evaluate the groundwater beneficial use policy with a focus on beneficial use determinations for aquifers not reasonably anticipated for drinking water use in the near-term or long-term.
  - Maintain current policy for drinking water aquifers that are currently used for these purposes.
  - For aquifers not reasonably anticipated for drinking water use in the near- or long-term, consider modifying how groundwater use designation is determined for these aquifers.

(The revised strategy should reflect the input from Office of Water and partners to CERCLA cleanups (e.g. federal facilities, state and tribal governments, communities, and environmental organizations) when making these decisions.)

**Timeframe:**

1. Groundwater Flexibilities Policy Memorandum:
  - a. Draft – Q2, FY18
  - b. Final – Q4, FY18
2. Groundwater Use Criteria:
  - a. Options Paper for Management Consideration – Q3, FY18
  - b. Draft Policy Revision (if applicable) – Q4, FY18

**STRATEGY 4: USE BEST MANAGEMENT PRACTICES, SYSTEMATIC PLANNING, REMEDY OPTIMIZATION, AND ACCESS TO EXPERT TECHNICAL RESOURCES TO EXPEDITE REMEDIATION**

**Background:** Site characterization and remedial actions can take years to complete, especially when site conditions are complex and dynamic. Remedial activities should be continually reviewed and optimized in order to enhance the understanding of the changing site complexities and conditions.

Reinforcing the need for thorough systematic planning early in the process and throughout the project lifecycle as well as providing Remedial Project Managers (RPMs) the resources for systematic planning facilitation could significantly improve project efficiencies. Further, as site work progresses, emphasizing progress review through independent, third-party optimization<sup>1</sup> of the remedy and evolving site conditions can help ensure maximum effectiveness throughout the project life cycle. RPMs shall utilize best science and continue research on innovative technologies and cleanup approaches; while promoting Best Management Practices (BMPs) for optimization activities. Remedial Investigation/ Feasibility Study (RI/FS) planning will require development of tools and enhanced communication of internal and external resources to support these activities.

Recent developments in real-time investigation technologies and data visualization techniques offer opportunities to build robust understanding of site conditions portrayed in CSMs focused on root causes and high-value, targeted, remedial actions. Advances in electronic data capture and distance collaboration platforms enable project stakeholders to work as a team on RI/FS and Remedial Design/Remedial Action (RD/RA) activities, ensuring all stakeholder concerns are

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<sup>1</sup> EPA defines optimization as: “Efforts at any phase of the removal or remedial response to identify and implement specific actions that improve the effectiveness and cost-efficiency of that phase. Such actions may also improve the remedy’s protectiveness and long-term implementation which may facilitate progress towards site completion. To identify these opportunities, regions may use a systematic site review by a team of independent technical experts, apply techniques or principles from Green Remediation or Triad, or apply other approaches to identify opportunities for greater efficiency and effectiveness.” For more information, reference the Office of Remediation and Technology Innovation June 2013 Guidance, “Remediation Optimization: Definition, Scope and Approach” available at [https://clu-in.org/Optimization/pdfs/OptimizationPrimer\\_final\\_June2013.pdf](https://clu-in.org/Optimization/pdfs/OptimizationPrimer_final_June2013.pdf)

considered as the work is performed. In this way, the team can focus on taking actions that drive sites toward completion.

**RECOMMENDATION 7: Promote Use of Third-Party Optimization Throughout the Remediation Process and Focus Optimization on Complex Sites or Sites of Significant Public Interest**

**Specific Actions:**

- Expand the use of third-party optimization evaluations throughout all phases of the pipeline on selected sites.
- Determine complex sites and sites of significant public interest:
  - Provide internal or external review and support for key project milestones;
  - Identify opportunities for efficiencies and cost savings; and,
  - Ensure a clear path to project completion.

**Timeframe:** Q1, FY18

**RECOMMENDATION 8: Reinforce Focused Scoping Which Closely Targets the Specific Areas for Remediation and Identify and Use Best Management Practices (BMP) in the RI/FS Stage**

**Specific Actions:**

- Prepare and issue a directive requiring the use of project scoping and outlining expected processes and procedures to be utilized in choosing the appropriate response action.
- Develop a plan to increase regional expertise to support this planning function.
- Study best management practices used across all Regions and adopt those nationally.

**Timeframe:** Q1, FY18

**RECOMMENDATION 9: Utilize State-Of-The-Art Technologies to Expedite Cleanup**

**Specific Actions:**

- Expand the use of real-time investigation technologies and data visualization techniques.
- Determine other available state-of-the-art technologies on at least an annual basis.
- Compile annual report of new technologies and their applicability.

**Timeframe:** Q2, FY18

**RECOMMENDATION 10: Develop a Technical Support Team and Tools to Inform RPMs Regarding Available Resources to Assist with Best Management Practice (BMP) Applications, Including Scoping and Targeted Technical Reviews**

**Specific Actions:**

- Finalize online catalog of in-house resources using Tech Hub.
- Develop analytical and reporting capabilities to evaluate, document, and disseminate information on pilot studies and other demonstrations of innovative tools and technologies.

- Increase awareness of and expand the existing ORD TSC Share Point site for requesting and tracking technical assistance requests for ORD TSCs and STLs.
- Combine or develop an additional tool for requesting and tracking OSRTI Environmental Response Team (ERT) technical assistance requests.
- Identify fifteen sites to undergo a Technical Support Team optimization review.

**Timeframe:** Q2, FY18

***RECOMMENDATION 11: Review all Third-Party Contracting Procedures, Large EPA-Approved Contractors, and Contracts to Determine Appropriate Use Parameters and Qualification Methods for EPA Contracting***

**Specific Actions:**

- Consult with regions to determine the current use parameters and frequency of use of third-party contractors.
- Review amount of funds expended on outside contractors agency wide, including review of budgeted allocations.
- Specifically examine sole source contracts and contractors.
- Determine authorization levels for use of contractors.
- Review all large contractors approved by EPA.
- Involve appropriate personnel to modify, if necessary, the protocol for use of outside contractors.

**Timeframe:** Q1, FY18

## **GOAL 2: RE-INVIGORATING RESPONSIBLE PARTY CLEANUP AND REUSE**

### **STRATEGY 1: ENCOURAGE AND FACILITATE RESPONSIBLE PARTIES' EXPEDITIOUS AND THOROUGH CLEAN-UP OF SITES TO EFFECT RE-USE MORE QUICKLY**

**Background:** At sites where responsible parties can be identified, the cost of remediation is intended to be borne by them. However, utilizing tools and procedures to assist these parties in their efforts is helpful to all stakeholders. Settlement can be reached sooner by providing incentives to performing parties. More importantly, proper use of incentives will reinforce the notion that cooperative parties who settle *early* will obtain significant benefits by doing so. Second, cleaning up a Superfund site can be completed faster and more efficiently by using incentives to reach expected milestones in the cleanup work. Third, enforcement authorities can be used as leverage in certain cases to get the cleanup started or to help reach settlement. Fourth, all parties can avoid the increased transaction costs associated with protracted negotiations.

Each of the federal facility agreements (FFAs) at federal facility NPL sites includes timelines for moving through the dispute process. These timelines were developed in order to ensure that work at Federal Facility (FF) NPL sites moved efficiently even in the case of disagreements between the parties. The dispute resolution process includes a commitment by the parties to make reasonable efforts to resolve disputes informally before invoking formal dispute procedures. Informal disputes and each of the stages of formal dispute have specific timeframes built into the FFAs. Reinforcing these timelines to ensure that the dispute resolution timelines are more closely adhered to will ensure that cleanup work is not unreasonably slowed when a disagreement between the FFA parties arises.

***RECOMMENDATION 12: Recommend Consideration and Use of Early Response Actions at Superfund Sites, Particularly Sediment Sites, While Comprehensive Negotiations Are Underway for the Entire Cleanup***

#### **Specific Actions:**

- Issue an Agency Directive requiring consideration of early actions and a separate track for Remedial Design (RD) actions at PRP-funded Superfund Sites. This should include (1) using parallel tracks for the remedial design and remedial action and (2) dividing cleanup work into manageable areas of response actions.
- Reissue/revise remedial design guidance.

#### **Timeframe:**

1. Q4, FY17
2. Q1, FY18

***RECOMMENDATION 13: Identify Opportunities to Utilize Various Federal and State Authorities to Conduct Response Actions that are Consistent with CERCLA and the NCP***

**Specific Actions:**

- Evaluate and develop criteria on utilizing alternate tools to pursue liable parties at NPL-caliber sites, including greater use of the Superfund Alternative Approach (SAA) in pursuit of cleanup.
- Where appropriate, use Resource Conservation and Recovery Act (RCRA), CERCLA, Safe Drinking Water Act (SDWA), and other Federal or State authorities to address hazardous waste sites where statutory requirements are met.
- Where appropriate, designate states as leads on sites.

**Timeframe:** Q1, FY18

***RECOMMENDATION 14: Maximize the Use of Special Accounts to Facilitate Site Cleanup and/or Redevelopment***

**Specific Actions:**

- At sites where PRPs agree to perform cleanup work, prioritize use of special account funds as financial incentives. Consider, where applicable:
  - Reserving/prioritizing special account funds for sites with potential for redevelopment;
  - Disbursing funds quicker to a PRP when, for example, the PRP completes work ahead of schedule;
  - Providing reimbursement from special accounts to reduce the cost a PRP has incurred for cleanup at sites; and/or,
  - Delaying reimbursement from special accounts for response work until a PRP takes steps to increase potential for site reuse/redevelopment at sites where cleanup will enhance marketability of the property.
- Aggressively pursue additional opportunities to provide special account funds to Bona Fide Prospective Purchasers (BFPPs) that agree to perform cleanup work.
  - Develop guidance for disbursing special account funds to BFPPs.
  - Consider extending financial incentives available to PRPs to BFPPs.
- Establish and use special account funds to pay for EPA oversight (when any party is doing work).
- Maximize the use of special account funds to preserve scarce EPA and state resources.
- Evaluate for revisions EPA policy and guidance to reflect specific actions listed above.

**Timeframe:** Disbursement guidance: Q4, FY17

Identification of additional revised / new guidance: Q2, FY18



**RECOMMENDATION 15: *Speed Up Settlement Process Where There Are Federal PRPs at a Site***

**Specific Actions:**

- Work with the Department of Justice (DOJ) and other Federal Agencies for policy changes that promote early decisions on whether Federal Agencies will participate in settlement negotiations.
- Finalize model Federal Agency settlement language for all settlement agreements (both administrative and consent decrees), and work with DOJ to promote consistent use of the model language by DOJ personnel.
- Establish model reservation language and standard procedures/timeframes to allow private parties to reserve:
  - Their rights to pursue certain contribution claims against the federal government.
  - Certain contract/indemnification claims against the federal government.

**Timeframe:** By Q1, FY18 reach agreement in principle at appropriate levels at DOJ on all three objectives. By Q2, FY18, finalize agreements reached and revise model documents.

**RECOMMENDATION 16: *Provide Reduced-Oversight Incentives to Cooperative, High-performing PRPs, and Make Full Use of Enforcement Tools as Disincentives for Protracted Negotiations, or Slow Performance Under Existing Cleanup Agreements***

**Specific Actions:**

- Develop a plan to provide financial incentives in the form of reduced oversight to PRPs who perform timely, quality work under an agreement by reducing the costs associated with EPA's oversight, including adjustments to indirect costs.
- Determine current Regional practices, including actual charges that currently compose indirect costs
- Create a National Workgroup to identify circumstances under which a reduction in oversight costs would be appropriate.
- Develop guidance to assist Regional staff in application and identification of milestones at specific sites, establishing criteria for deliverables, and determining appropriate level of compromise of oversight costs during settlement.
- Develop model language for settlement documents relating to establishment of milestones and level of compromise of oversight costs.
- Identify efficiency opportunities for timely resolution of disputes (including evaluating whether protracted "informal" dispute resolution is advisable) with PRPs that arise in implementing cleanups.
- Establish and promote strict adherence to project deadlines.
- Assess stipulated penalties when deadlines are to motivate timely adherence to deadlines.
- Trigger work takeover provisions when multiple deadlines are missed and access financial assurance when appropriate.
- EPA will meet its own review deadlines when PRPs are performing quality work and will:

- Publish response work completion schedules and milestones on EPA websites.
- Consider incentives to all parties to meet the deadlines proposed.
- Prohibit PRPs from multiple chances to revise the same document when initial submittal is subpar.
- Actively use enforcement authorities, including more prevalent issuance of unilateral orders to recalcitrant parties to discourage protracted negotiations
  - As needed, implement “participate and cooperate” orders – particularly for Remedial Actions.
  - Emphasize the use of “delayed effective date” unilateral administrative orders as an incentive to speed negotiations.

**Timeframe:** Criteria for Reduced Oversight, Draft Q1, FY18. Guidance and model language for Reduced Oversight, Final Q3, FY18. Guidance, policy changes to support disincentives to protracted negotiations or delayed cleanup, Draft Q1, FY18.

***RECOMMENDATION 17: Adjust Financial Assurance (FA) Required Under Enforcement Documents to Reduce Cooperating PRP’s Financial Burden While Ensuring Resources Are Available to Complete Cleanups***

**Specific Actions:**

- Review EPA’s financial assurance requirements and consider modification to promote realistic requirements. This review should consider (1) defining situations where it may be appropriate for parties to incrementally provide FA for the various phases of cleanup work as they occur; (2) adjusting the discount rate used in the calculation of the cost of future work and (3) identifying other opportunities for achieving a responsible balance between the cost of financial assurances and the risk of financial default.
- Modify model settlement provisions, as needed.

**Timeframe:** By Q1, FY18, reach agreement in principle on all criteria for identifying PRPs that could be subject to reduced FA burdens. By Q2, FY18, finalize model FA-related language.

***RECOMMENDATION 18: Reinforce the Federal Facility Agreement Informal and Formal Dispute Timelines***

**Specific Actions:**

- Develop a policy for the Regions, to be shared with, or ideally co-signed by, federal agencies and the states, which reinforces the importance of adhering to the informal and formal dispute timelines identified in the FFAs.
- Track and report to Regions, Federal Agencies, and States the informal and formal dispute times and postponement of milestones.

**Timeframe:** Q1, FY18

## **STRATEGY 2: CREATE OVERSIGHT EFFICIENCIES FOR PRP LEAD CLEANUPS**

**Background:** Cleanup decisions and implementation often take a long time due to the number of people and issues involved. Oversight efficiencies can be realized and costs can be reduced if responsibility for overseeing cleanup is clarified and better distributed.

### ***RECOMMENDATION 19: Expand Cleanup Capacity by Designating One Agency Lead for Each Project in Order to Reduce Overlap and Duplication***

#### **Specific Actions:**

- Increase use of Memoranda of Understanding with federal agencies, states and tribes to identify lead agencies for each site and roles and responsibilities for each.
- Identify situations or phases of cleanup for which certain agencies should have primary responsibility (e.g., tribal/state/local responsibility for long-term stewardship of sites).

**Timeframe:** FY18

### ***RECOMMENDATION 20: Identify Opportunities to Engage Independent Third Parties to Oversee Certain Aspects of PRP Lead Cleanups***

#### **Specific Actions:**

- Create a workgroup to research existing state programs and identify opportunities for independent third parties to perform certain fixed tasks at NPL sites.
- Design and implement a pilot that utilizes independent third parties to oversee certain actions, such as long-term monitoring.
- Evaluate pilot effectiveness and efficiency
- Have workgroup recommend use or non-use of pilot procedures.

**Timeframe:** FY18

## **STRATEGY 3: PROMOTE REDEVELOPMENT/REUSE OF SITES BY ENCOURAGING PRPS TO INVEST IN REUSE OUTCOMES**

**Background:** Under the current paradigm, PRPs may resist engaging with third parties to facilitate reuse. To overcome such resistance, EPA should understand and address the legal, financial and technical burdens that may arise when a third party wants to build on a contaminated site. For instance, some uses may require additional cleanup beyond what is necessary to stabilize a site for protectiveness; some uses involve a project schedule that differs from the cleanup and some uses may complicate the long term maintenance obligations for the property.

***RECOMMENDATION 21: Facilitate Site Redevelopment During Cleanup by Encouraging PRPs to Fully Integrate and Implement Reuse Opportunities into Investigations and Cleanups of NPL Sites***

**Specific Actions:**

- Work with PRPs, local governments, and local professionals to identify opportunities for PRP-lead cleanups to integrate reuse outcomes.
- Issue an Agency Directive to encourage integration of reuse outcomes into PRP-led cleanups. This should include encouraging (1) PRPs to work with end users to perform assessment and additional cleanup/enhancement to achieve reuse objectives; (2) PRPs to directly fund or perform enhanced cleanup or “betterment” by entering into agreements with end users; and, (3) “marketing” of property undergoing cleanup as a deliverable to encourage private investment at sites during and after cleanup. This directive should include creative mechanisms for incentivizing these reuse actions, including financial credits for such actions.

**Timeframe:** By Q1, FY18 engage with PRPs to identify barriers and explore opportunities to encourage reuse. This action item should be closely coordinated with the activities under Goal 3.

## **GOAL 3: ENCOURAGING PRIVATE INVESTMENT**

### **STRATEGY 1: USE ALTERNATIVE AND NON-TRADITIONAL APPROACHES FOR FINANCING SITE CLEANUPS**

**Background:** Private sector tools and approaches to manage environmental liabilities and risks are important to the cleanup and reuse of contaminated sites. Some PRPs engage in contractual arrangements to pay a premium for unknown risks and transfer responsibilities to environmental remediation companies where the Superfund site cleanup has a fair degree of certainty. These arrangements may be in the form of an insurance policy, annuity, a designated agent, or an agreement to allow a third party to assume all obligations for remediation and legal liability. However, as provided by CERCLA section 107(e)(1), even the most comprehensive arrangement does not legally bar the government from pursuing the PRP at a later date. Such arrangements tend to be reasonably specific to the circumstances of a site, but they can help expedite the cleanup and reuse of a site. EPA recognizes that it should support, where appropriate, innovative approaches to promote third-party investment in cleanup and reuse of contaminated properties consistent with statutory authorities and needs to consider mitigating its retained rights.

***RECOMMENDATION 22: Explore Environmental Liability Transfer (ELT) Approaches and Other Risk Management Tools at PRP cleanups***

#### **Specific Actions:**

- Conduct stakeholder outreach that includes:
  - Industry professionals to discuss their products and the industry climate;
  - PRPs who have used an ELT or other risk management tools (e.g. liens on property, bonds, trusts, or insurance) to discuss their experience;
  - Contractors who have successfully been parties to ELTs; and,
  - States to discuss their experiences with ELTs.
- Establish a national workgroup to identify:
  - Creative uses of insurance, annuities, indemnification and other tools for third parties interested in buying/selling the risk of cleanup;
  - Types of remedial actions, site conditions, and PRPs that stand to benefit from this risk management tool;
  - When it is appropriate to use comfort/status letters or settlement tools to provide certainty to encourage and/or reassure PRPs contemplating using an ELT or other tool; and,
  - Whether a pilot program using these risk management tools at appropriate sites is feasible.

**Timeframe:** Q4, FY18

## **STRATEGY 2: STREAMLINE THE PROCESS FOR COMFORT LETTERS AND SETTLEMENT AGREEMENTS WITH THIRD PARTIES**

**Background:** The 2002 Brownfield Amendments to CERCLA added new landowner liability protections, including the Bona Fide Prospective Purchaser (BFPP) protection, to address the liability concerns that act as a barrier to the cleanup and reuse of contaminated properties. Congress intended these liability protections to be self-implementing, although some third parties still remain concerned about potential liability and the availability of the BFPP protection at contaminated properties (see *Ashley II*<sup>2</sup>). As a result, at some sites, a site-specific tool may be needed for third parties to address liability concerns before the third party can move forward with the cleanup and reuse of the site. EPA's primary tools to address the CERCLA liability concerns of third parties are comfort/status letters and settlement agreements. These site-specific tools have enabled some cleanup and reuse at sites on the NPL to move forward where liability concerns posed a barrier. However, more substantive tools must be used.

### ***RECOMMENDATION 23: Ensure Timely Use of Site-Specific Tools When Needed and Appropriate to Address Liability Concerns at Contaminated Sites***

#### **Specific Actions:**

- Identify regional best management practices for addressing purchaser liability concerns and how to respond to inquiries with site-specific comfort/status letters and agreements.
- Issue recommendations for improvements to the process for responding to requests for site-specific tools and the creation of regional third-party inquiry teams. (See Region 4 procedure).
- Develop a model request for prior written approval of site-specific letters and agreements to streamline and expedite regional/headquarters/DOJ approval process.
- Expand use of prospective purchaser agreements for BFPP and PPs to specifically limit their liability.
- Participate on national team of redevelopment experts (discussed in Goal 4) to support development of streamlined and innovative liability clarification and settlement approaches.

**Timeframe:** FY17

### ***RECOMMENDATION 24: Create and Maintain an OECA Information Repository to Provide Access to Enforcement Information and Tools to Support Third-Party Cleanup and Reuse.***

#### **Specific Actions:**

- Enhance EPA's web content to include case studies, statistics and other relevant information regarding site-specific comfort/status letters, agreements and other enforcement tools and approaches that have supported third-party cleanup and reuse.
- Establish a list of sites with greatest potential for cleanup/reuse by third parties and focus resources and activities at those sites.

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<sup>2</sup> *PCS Nitrogen v. Ashley II of Charleston, LLC*, 714 F.3d 161 (2013).

- Create a national library, for internal EPA use, of sample comfort/status letters and settlement agreements.

**Timeframe:** FY17

### **STRATEGY 3: OPTIMIZE TOOLS AND REALIGN INCENTIVES TO ENCOURAGE THIRD-PARTY INVESTMENT**

**Background:** Before the enactment of the Brownfield Amendments to CERCLA, Prospective Purchaser Agreements (PPAs) and comfort/status letters were used by Regions to address the CERCLA liability concerns of parties who wanted to reuse contaminated properties. Comfort/status letters were developed as an efficient tool, where a settlement agreement is not appropriate, to provide prospective purchasers and other parties with the information EPA has about a particular party, EPA's intentions with respect to the property as of the date of the letter, and the liability protections that may be available to the party. (See 2015 Revised Comfort/Status Letter Policy and Models.) After the addition of the landowner liability protections by the Brownfield Amendments, EPA issued enforcement guidance which explained that EPA involvement is no longer necessary in most private party transactions given the self-implementing nature of the protections and that EPA generally will no longer be entering into PPAs. In 2006, in recognition that BFPPs at some sites might be interested in performing cleanup work beyond what would be expected of them to maintain their BFPP liability protection (e.g., conducting cleanup work beyond the statutory requirement to take "reasonable steps" to prevent or limit exposure and stop continuing or threatened releases at the site), EPA issued a model agreement for BFPPs who are interested in performing Superfund removal work. EPA also has developed a model agreement to resolve an existing or potential "windfall lien" with interested BFPPs.

#### ***RECOMMENDATION 25: Update EPA's Position on the Use of Site-Specific Agreements with Third Parties at NPL Sites***

##### **Specific Actions:**

- Develop and issue a new policy memorandum, working with the Office of General Counsel (OGC), Department of Justice (DOJ), and other EPA offices, which provides for the greater use of PPAs and windfall lien resolution agreements with third parties in addition to BFPP agreements consistent with CERCLA/DOJ authority at NPL sites. The policy should identify what situations, in addition to performing work, would justify entering into negotiations for written agreements.
- Develop a communications roll out plan announcing new policy statement and approach, including web and social platforms.
- Regularly publicize successful agreements that allow sites to be redeveloped by third parties.

**Timeframe:** FY17

***RECOMMENDATION 26: Revise EPA's Model Agreements to Create More Opportunities for Settlement with Third Parties Interested in Cleaning Up and Reusing NPL Sites***

**Specific Actions:**

- Identify opportunities (with Regions, OGC, and DOJ), as appropriate within existing statutory authorities, to update the model BFPP work agreement, PPA model, and model windfall lien settlement agreement to:
  - Identify provisions in the models that may be revised to incentivize settlement;
  - Research the types of consideration authorized for a settlement agreement; and,
  - Explore options to address future liability concerns to insulate good faith purchasers from unexpected liability (e.g., identify “reasonable steps”).
- Reinstitute the PPA tracking system allowing EPA to track individual requests, evaluate the timeliness of EPA's response, and identify where in the PPA process delays are occurring.
- Designate an agreements coordinator at EPA Headquarters to consult directly with DOJ to quickly resolve issues that impede progress.
- Evaluate and issue recommendations for revisions to model settlement provisions, other types of authorized consideration, and options to address future liability consistent with CERCLA and DOJ authority.
- Revise model agreements.

**Timeframe:** Q4, FY17

***RECOMMENDATION 27: Identify Tools for Third Parties Interested in Investment or Other Opportunities Supporting the Cleanup or Reuse of NPL Sites***

**Specific Actions:**

- Conduct outreach to third-party investors who may provide private financing or otherwise become involved in transactions involving contaminated or previously contaminated property to identify specific liability concerns acting as a barrier to investment or other opportunities in such transactions.
- Identify potential new tools and approaches, as appropriate within existing statutory authorities, to address liability concerns of parties who might acquire property (e.g., enforcement guidance, model reuse assessment agreement, prospective operator agreement, prospective easement agreement).
- Work with lenders to determine standard language to be included in PPAs to facilitate financing.
- Identify public-private partnership investment opportunities and structure for successful arrangement.
- Issue recommendations on potential tools, approaches and opportunities.

**Timeframe:** Q2, FY18



**RECOMMENDATION 28: Provide Greater “Comfort” in Comfort/Status Letters**

**Specific Actions:**

- Assess concerns that are not being addressed by the current model comfort letter (e.g., windfall lien uncertainties, comprehensive reasonable steps, lender liability).
- Work with lenders to determine standard language to be included in comfort letters that would allow for certainty in securing funding from lenders for redevelopment of Superfund sites.
- Identify revisions to the model letter, consistent with the statute and legal authorities, to address these concerns, possibly including:
  - Stronger statements by the Agency to address liability concerns; (e.g., BFPP status, applicability of statute of limitations);
  - Clarifications on the application of EPA guidance at a site; and,
  - EPA’s intention regarding windfall liens evidenced by appropriate documents.
- Revise and reissue comfort/status letter model.

**Timeframe:** FY18

**RECOMMENDATION 29: Revise or Develop New Enforcement Guidance to Support the Cleanup and Reuse of Contaminated Sites**

**Specific Actions:**

- Outline a potential new policy, as appropriate within existing statutory authorities, for developers, lenders, investors and/or other third parties to identify or create opportunities for new investment in cleaning up contaminated sites:
  - Propose potential revisions to the “Common Elements Guidance” based on case law developments and lessons learned by EPA and private sector.
  - Identify potential opportunities to expand Good Samaritans or other non-labile party approaches under section 107(d) for addressing liability issues and promoting sustainable redevelopment.

**Timeframe:** FY18

**RECOMMENDATION 30: Revise Federal Facility Enforcement Guidance**

**Specific Actions:**

- Develop Model Federal Facilities Language for placing Federal Facilities Agreement (FFA) provisions on hold in instances where a third party wants to perform the cleanup work.
- Revise the 1997 “Policy Towards Landowners and Transferees of Federal Facilities” to assist with pre-1986 transfers of U.S. land.

**Timeframe:** Q2, FY18 months to develop model language for putting FFAs on hold; Q3, FY18 months for revising the 1997 policy

## **STRATEGY 4: ADDRESS LIABILITY CONCERNS OF LOCAL GOVERNMENTS**

**Background:** Local governments play an integral role in facilitating the cleanup and reuse of contaminated properties. By acquiring contaminated properties, local governments have the opportunity to evaluate and assess public safety needs and promote redevelopment projects that will protect and improve the health, environment, and economic well-being of their communities. Although local governments may take advantage of the statutory liability protections, including the “involuntary acquisition” protection in section 101(20)(D), the innocent landowner defense in section 101(35)(A), and the BFPP protection, these governments continue to raise potential liability concerns about the acquisition of contaminated property as a barrier to reuse. Local government liability concerns at contaminated properties include the timing of and the cost associated with conducting due diligence, the meaning of “involuntary acquisition” in the statutory provisions, and the need for tools specific for local governments.

***RECOMMENDATION 31: Develop New Local Government Enforcement Guidance to Address Concerns Raised by the Landowner Liability Provisions Potentially Applicable to Local Governments***

### **Specific Actions:**

- Propose potential new enforcement guidance to address liability issues acting as a barrier to reuse for local governments, including issues raised by the applicability of the statutory liability protections potentially applicable to local governments.
- Issue recommendations for an enforcement guidance.

**Timeframe:** Q4, FY18

***RECOMMENDATION 32: Develop a Model Comfort/Status Letter and Other Tools to Address the Liability Concerns and Other Barriers Unique to Local Governments***

### **Specific Actions:**

- Identify potential new tools and approaches to address the liability concerns and barriers unique to local governments (e.g., model comfort/status letter, streamlined settlement agreement, deferrals, MOU/MOAs, cost-share credits).
- Draft white paper that identifies options and positives/negatives.
- Issue recommendations.

**Timeframe:** Q4, FY18

## **GOAL 4 – PROMOTING REDEVELOPMENT AND COMMUNITY REVITALIZATION**

### **STRATEGY 1 - FACILITATE SITE REDEVELOPMENT AND SUPPORT ONGOING INFORMATION SHARING**

**Background:** Building capacity and providing training to EPA, Federal, state, tribal and local government staff, elected officials, and other community-based organizations on: the overall site cleanup process as it relates to redevelopment potential; key components of land use and economic development planning; and funding and financing tools will provide better support to communities and promote redevelopment of Superfund sites. Local planning departments and elected officials are critical in developing land use alternatives especially during the RI/FS phase of cleanup. Making sure interested parties have the training and basic knowledge regarding the site cleanup process will inform future use decisions and facilitate interested parties ability to promote redevelopment at Superfund sites.

Providing training that identifies specific actions a community can take in the near term will help community stakeholders understand the market potential/limitations of the site, including how they can make the site more attractive to future development. Initial work by a community demonstrates commitment to site reuse, and signals to developers that the community is a willing partner.

Reuse is further promoted when the community, including developers, has access to more information about an individual site and the sites around it. This includes determining which types of sites businesses/industries/developers are interested in potentially redeveloping and sharing information with them to promote Superfund site redevelopment.

#### **RECOMMENDATION 33: Focus Redevelopment Efforts on 20 NPL Sites with Redevelopment Potential and Identify 20 Sites with Greatest Potential Reuse**

##### **Specific Actions:**

- Focus reuse training, tools, and resources on the current list of NPL sites with the most redevelopment potential based on transportation access, land values, and other critical real estate market drivers.
- Identify 20 NPL sites with greatest reuse and commercial potential considering input from regions and agreed upon criteria.
- Identify the industries and businesses that may be interested in reusing Superfund sites especially the industries that may be interested in reusing the list of 20 NPL sites that have high redevelopment potential.
- Help these businesses and developers understand liabilities and ongoing obligations at sites they are interested in.
- Develop information package for all identified sites using successes from Region 4.

**Timeframe:** Q4, FY2017

**RECOMMENDATION 34: Publicize Site Specific Information to Promote Community Revitalization**

**Specific Actions:**

- Develop a geographic information system (GIS) based map of the U.S. that clearly shows site information, outlines reuse potential, and provides links to relevant documents (ICs, RODs, Five Year Reviews, Brownfield assessment, cleanup, consent orders, etc.) and other key information such as other nearby sites and community demographics.
- Highlight and make more readily available the current cleanup status of the site.
- Develop site specific reuse fact sheets during design, construction and post construction phases that would provide information of interest to the community and developers.
- When appropriate, develop a Ready-for-Reuse Fact Sheet as a mechanism for providing key site information to the community, developers and other potential site users. Include relevant key information for every site, update them regularly, and include contact information. Site owners should be contacted and if possible, included on the sheet as they control land use.
- Update information about sites achieving Site Wide Ready for Anticipated Use (SWRAU) early in the process and update on an annual basis. Include information about the reuse status of SWRAU sites.
- Make all site-specific information and reports readily accessible, including information on existing or needed Institutional Controls (ICs)/Engineering Controls (ECs), so developers and other future users are aware of site conditions.

**Timeframe:** Q3, FY17

**RECOMMENDATION 35: Build Capacity of EPA and Its Stakeholders on the Broad Community and Economic Development Context for Site Remediation and Redevelopment**

**Specific Actions:**

- Conduct redevelopment training in all regions with Superfund, Brownfields, and legal staff on:
  - Existing tools, innovative strategies, and new tools being developed by the SF Task Force;
  - Redevelopment basics, such as incorporating reuse into the cleanup process and reuse assessments;
  - Environmental Liability Transfer and other risk management tools;
  - Financial, social and environmental benefits of conservation easements;
- Provide ongoing updates to EPA staff and stakeholders about reuse barriers and what EPA can do to address them.
  - Promote the Superfund redevelopment process at national meetings and educational opportunities for stakeholders.
  - Identify best ways to engage more tribes in site cleanups on tribal lands with a focus on reuse throughout the process.

**Timeframe:** Q3, FY17

### **RECOMMENDATION 36: Engage Superfund Communities in Cleanup and Redevelopment**

#### **Specific Actions:**

- Provide training/fact sheets/on-line information on the following (based on the needs of the community):
  - The Superfund and Brownfields processes;
  - The interplay of federal, state, and local governments; effective communication; leadership; finance; sustainable redevelopment principles, etc;
  - How to undertake market studies and identify assets/challenges specific to the site;
  - The development approval processes, codes, design standards and/or public private financing packages that can help facilitate clean up and re-use;
  - How the redevelopment of the site fits with a broader vision for the economic revitalization for the community;
  - Best practices and case studies from other communities;
  - Which grants or other types of support might be available to help communities implement their site reuse vision;
  - Tools/approaches necessary for local governments or regional councils of government to encourage investment/leveraging, especially in soft markets;
  - Types of up front public or public-private investment that are generally successful in catalyzing redevelopment and community revitalization;
  - Funding/financing mechanisms (e.g. Community Reinvestment Act, CDFI's, New Market Tax Credits, P3 financing) available to local communities;
  - Community partners and other resources available to Superfund communities that can provide design charrettes, and other reuse visioning support;
  - Other agencies that can provide support to on-the-ground community design assistance for neighborhoods that contain Superfund sites;
  - Sustainable and equitable development approaches and how they can be utilized during the cleanup and reuse planning process; and,
  - Practices such as insurance tools that protect the developer from liability;

**Timeframe:** Q3, FY17

### **RECOMMENDATION 37: Recognize and Replicate Local Site Redevelopment Successes**

#### **Specific Actions:**

- Issue more “Excellence in Site Reuse” awards across regions to recognize communities, local governments and/or developers who have gone “above and beyond.”
- Develop an incentive program to recognize and facilitate redevelopment.

**Timeframe:** Q4, FY17

## **STRATEGY 2: UTILIZE REUSE PLANNING TO LAY THE FOUNDATION & SET EXPECTATIONS FOR SITE REDEVELOPMENT**

**Background:** EPA can play a significant role in helping communities realize the associated health, economic and social benefits that accompany Superfund site redevelopment. Cleanup must be coupled with assistance that addresses neighborhood and community challenges to redevelopment to expand the community's ability to redevelop sites. That assistance includes identifying barriers to redevelopment and helping to overcome them.

Additionally, EPA can help communities find ways to enter into partnerships with more public/private organizations and private business organizations such as real estate professionals, lenders, and developers. Using these partnerships can facilitate reuse by identifying resources these partners may have or connecting the site with potential users interested in developing the site.

### ***RECOMMENDATION 38: Support Community Visioning, Revitalization, and Redevelopment of Superfund Sites***

#### **Specific Actions:**

- Create a national team of EPA and other Federal agency redevelopment experts.
- Offer technical assistance to local communities and/or site owner(s) in envisioning and developing an economically feasible redevelopment plan for the site.
- Provide help in gathering and sharing with all interested parties' information that goes beyond contaminant levels, reuse restrictions and liability concerns, such as market demand, infrastructure and priorities of the community.
- Help ascertain employment and job training opportunities that may be available for the affected community during the cleanup and redevelopment process.

**Timeframe:** Q4, FY17

### ***RECOMMENDATION 39: Engage and Facilitate Public/Private Partnerships to Share Information, Resources, and Work Toward Advancing and Promoting the Revitalization of the Site.***

#### **Specific Actions:**

- Identify other federal and state agencies that may be interested in the development and may provide additional resources (e.g., Housing and Urban Development (HUD), Department of Transportation (DOT), Department of Agriculture (USDA)).
- Facilitate and take a proactive approach in involving additional funding institutions/organizations.
- Explore partnerships that could bring unique financing options to finance revitalization.
- Facilitate agreements that enable more non-labile parties to fund cleanups as part of site reuse activities. Facilitate their involvement by developing/sharing information such as "Top 10

Questions for a Non-Liable Party to Ask When Considering Cleanup at a Superfund Site” fact sheet.

- Facilitate interactions for local stakeholders/PRPs/communities to work together. Actively encourage PRPs to engage and be supportive of the process, demonstrating that an engaged community looking to the future can speed up cleanups, have realistic expectations, act as stewards, and promote successful reuse.
- Connect each community with a similarly situated community that has had revitalization success – even if from a different state (i.e., a reuse mentoring program).
- Leverage resources to help market these sites and promote their reuse.

**Timeframe:** Q3, FY17

## **GOAL 5: ENGAGING PARTNERS AND STAKEHOLDERS**

### **STRATEGY 1: KEY STAKEHOLDER ENGAGEMENT**

**Background:** Making the Superfund process more efficient and promoting revitalization to gain long-term benefits for impacted communities must necessarily include building stronger strategic partnerships with key stakeholders across the Superfund process. Such strong partnerships will serve as the underpinnings of this plan's other goals and the basis of relationships going forward.

We must deploy an assortment of partnership building activities and engagement opportunities to increase the collaboration with, and impact of, our key stakeholders. New activities and opportunities will be combined with ensuring that our traditional engagement activities include a focus on the goals of this Administrator's initiative.

#### ***Recommendation 40: Develop a Robust Communications Strategy to Identify and Target Key Stakeholders***

##### **Specific Actions:**

- Execute a strategy that is inclusive of all stakeholders.
- Hold focused public and private dialogues with key stakeholders to strengthen long-term partnerships for clean-up and reuse of sites. Convene regularly scheduled meetings with:
  - States, local governments and federally recognized Native American tribes;
  - Industry, PRPs, contractors, corporations and other private organizations;
  - Community organizations;
  - Environmental organizations, including those related to environmental justice; and,
  - Financial and banking associations.
- Provide reports on dialogues and meetings in a form agreed upon with distribution as agreed.

**Timeframe:** Q4, FY17

#### ***Recommendation 41: For Federal Facility Sites, Collaborate with Other Federal Agencies (OFAs) to Solicit Their Views on How EPA Can Better Engage Federal Agencies***

##### **Specific Actions:**

- Craft a plan to regularly engage solicitation of information from OFAs.
- Solicit OFAs to provide initial recommendations on how to achieve the Administrator's goals at their sites.
- Plan to include regular feedback sessions with other appropriate parties.
- Provide feedback to the identified central repository.

**Timeframe:** Commence activities within 90 days of approval of this plan



***Recommendation 42: Use a Federal Advisory Committee to Work with a Broad Array of Stakeholders to Identify Barriers and Opportunities Related to Cleanup and Reuse of Superfund Sites***

**Specific Action:**

- Establish a federal advisory committee to identify barriers and opportunities by:
  - Assessing PRP reuse concerns;
  - Obtaining state and local government concerns and opportunities;
  - Assessing input from local community champions;
  - Developing financing and infrastructure ideas;
  - Constructing new ways to address abandoned mining sites and contaminated sediment sites; and,
  - Proposing a methodology and forum for evaluating the effectiveness of the Task Force Recommendations in accelerating cleanup and reuse of Superfund Sites.
- Developing on-going reports of the committee findings

**Timeframe:** Commence activities within 180 days of this plan



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