

FRANK PALLONE, JR., NEW JERSEY
CHAIRMAN

CATHY McMORRIS RODGERS, WASHINGTON
RANKING MEMBER

ONE HUNDRED SIXTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6115

Majority (202) 225-2927

Minority (202) 225-3641

June 9, 2022

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue
N.W. Washington, D.C. 20004

Dear Administrator Regan:

We write to you today to obtain a better understanding of the current status of the Superfund program and the budget request for that program.

Officially titled the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; P.L. 96-510), the Superfund program was created in 1980 by Congress to require and obtain cleanup of our nation's most significant environmental pollution events, like the contamination at Love Canal, NY.¹ The Superfund Amendments and Reauthorization Act of 1986 (SARA, P.L. 99-499) clarified the applicability of the statute's requirements to federal facilities, and modified various response, liability, and enforcement provisions.² As of March 22, 2022, the Environmental Protection Agency (EPA) reports that 1,333 sites appear on the National Priorities List (NPL) and 43 proposed NPL sites.³

The most important goal of this program is to clean up sites so that they can be deleted from the NPL and placed back into productive use. Merely completing construction at a site does not mean a cleanup is done and people can reuse that land.

Regrettably, there is a history of CERCLA resources being wasted on transaction costs instead of actual cleanup. Reports indicate that less than half of these funds have gone to actual cleanup (or "moving dirt") and that cleanups take between one and two decades to complete.⁴ Progress at

¹ <https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0201290>

² <https://www.crs.gov/Reports/R41039?source=search&guid=e389eef68d984b9799220905707200d1&index=4>

³ <https://www.epa.gov/superfund/superfund-national-priorities-list-npl>

⁴ <https://www.govinfo.gov/content/pkg/GAOREPORTS-T-RCED-97-69/pdf/GAOREPORTS-T-RCED-97-69.pdf>

EPA de-listing CERCLA sites bottomed out in fiscal year 2016 with EPA focused on other policy goals and less than 5 sites were removed.⁵

In fiscal years 2017 through 2020, however, EPA recommitted to CERCLA cleanups and fully or partially delisted 82 sites – matching the total of the preceding eight years. The Agency also deleted all or part of 27 NPL sites, the largest number of deletions in a single year in twenty years.⁶ In addition, EPA employees initiated a process to streamline internal barriers to site deletions, resulting in a consolidated rulemaking process that will reduce workloads, shorten process lead times, and lower program costs. We do not want to return to past inefficiencies, and we want to ensure that the EPA’s allocation and use of federal resources will keep cleanups moving forward.

EPA received \$3.5 billion under the Infrastructure Investment and Jobs Act of 2022 (IIJA, P.L. 117-58) for Superfund, as well funding from the newly reinstated (and increased) Superfund tax. Despite these funds, the President’s budget requests an additional \$454.6 million in annual appropriations for remedial actions and just \$51 million less than last year for the overall program. EPA also has billions of dollars available in Superfund Special Accounts and billions of dollars in cost recovery from responsible parties.

We ask that you respond to the following questions:

1. Why is the Biden administration asking for additional appropriations in the budget in light of the very substantial funding provided by the IIJA, including the Superfund tax receipts, which are not subject to appropriation?
2. What are the EPA’s plans for the expenditure of the \$3.5 billion from the IIJA?
3. What are EPA’s plans for the receipts from the Superfund tax?
4. What is EPA doing to optimize the spending of funds from the Superfund Special Accounts?
5. What percentage of the annual Superfund expenditures from annual appropriations is actually planned to be spent on Superfund field work? Of that amount, how much is meant for actual remedial and removal activities?
6. Please identify on which sites EPA intends to spend IIJA funding for “dirt-moving” remediation or removal and those sites addressed through the requested, appropriated dollars. Of these, how many will be delisted?

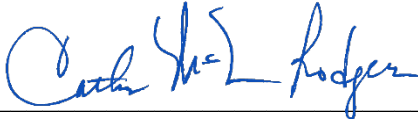
⁵ https://www.epa.gov/sites/default/files/2021-01/documents/hq_2020_year_in_review.pdf

⁶ Ibid.

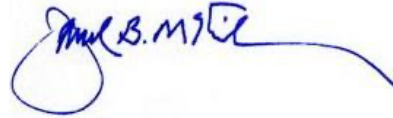
7. Why does the proposed budget request seek \$33 million less for Emergency Response and Removal – actual emergency cleanup -- than in FY 2021?

Please feel free to reach out to us if you have any questions. We request that you respond to these questions no later than June 24, 2022.

Sincerely,

A handwritten signature in blue ink, reading "Cathy McMorris Rodgers". The signature is fluid and cursive, with the first name "Cathy" being the most prominent.

Cathy McMorris Rodgers
Republican Leader
Committee on Energy and Commerce

A handwritten signature in blue ink, reading "David B. McKinley". The signature is fluid and cursive, with the first name "David" being the most prominent.

David B. McKinley
Republican Leader
Subcommittee on Environment and Climate
Change