

**Statement of Bill A. Roderick
Acting Inspector General
U.S. Environmental Protection Agency
Before the
Subcommittee on Environment and Hazardous Materials
Committee on Energy and Commerce
U.S. House of Representatives
March 1, 2007**

Mr. Chairman and Members of the Subcommittee, I am Bill Roderick, Deputy Inspector General of the U.S. Environmental Protection Agency (EPA), serving as Acting Inspector General since March 2006. I am pleased to testify before you today during this oversight hearing on the EPA's budget. The views I express here today are those of the Office of Inspector General (OIG) only and do not represent the EPA's official position.

Given the tightening budget environment facing most Federal Government agencies, EPA must look for ways to leverage its limited resources through improved operating efficiencies and management to ensure that it can continue to adequately meet its mission of protecting human health and the environment. The OIG has issued numerous reports over the years that have identified areas where such improvements can be made and corrective actions taken. My testimony today will focus on key OIG work in areas under this Subcommittee's jurisdiction: Superfund, Brownfields, and the Office of Underground Storage Tanks. In addition, given the particular interests of this Subcommittee, I will also briefly discuss environmental justice and EPA's Partnership Programs.

Superfund Program

The Comprehensive Environmental Response, Compensation, and Liability Act established the Superfund program in 1980. Superfund is the Federal Government's program to clean up the nation's abandoned and uncontrolled hazardous waste sites.

An issue of primary and current concern in the Superfund program is the sufficiency of funding for cleanups. According to the Government Accountability Office, until 1995, dedicated taxes provided the majority of the Superfund program's income through the Hazardous Substance Superfund Trust Fund, the account designated to provide funding to these sites. However, the Trust Fund has decreased over the years, to the extent that in FYs 2004 and 2005, all Superfund appropriations came from general tax revenue rather than the Trust Fund. The Superfund program must compete for revenue along with other discretionary programs, which have received decreasing portions of Federal dollars over time.

Work that we did in 2003 at the request of Chairman Dingell, Congresswoman Solis, and Senators Boxer and Jeffords showed a funding shortfall for non-Federal Superfund sites. We found that during FY 2003, limited funding prevented EPA from beginning construction at all sites or providing additional funds needed to address sites in a manner believed necessary by regional officials, and caused projects to be segmented into phases and/or scaled back to accommodate available funding. Within this context, regional officials told us at the time they considered funding sufficient to address most sites. However, we estimated that the FY 2003 site-specific funding shortfall was \$174.9 million. One of the sites for which funding was

insufficient was Libby, Montana. The Remedial Project Manager indicated to us that an additional \$740,000 was needed to take additional samples, analyze the samples taken, and conduct a study to determine a cost-effective method for quantifying the amount of asbestos in the soil.

More recently, funding was again raised as a concern in a report we issued this past December based on a congressional request that looked at EPA's cleanup efforts in Libby. In our limited review, we identified significant issues that we believed were critical to a successful cleanup in Libby. EPA has not completed a toxicity assessment necessary to determine the safe level for human exposure to asbestos. Therefore, EPA cannot be sure that the Libby cleanup sufficiently reduces the risk that humans may become ill or, if ill already, get worse. During extensive conversations and correspondence with Office of Solid Waste and Emergency Response (OSWER) officials about EPA's not performing a toxicity assessment of the Libby asbestos, one of the reasons provided was that a toxicity assessment was proposed but denied because EPA did not approve the budget request. We also found that EPA's public information documents on vermiculite and asbestos distributed to Libby residents were inconsistent about safety concerns. We recommended that EPA fund and execute a comprehensive amphibole asbestos toxicity assessment to determine the effectiveness of the Libby removal actions, and to determine whether more actions are necessary. We also recommended that EPA correct any statements that cannot be supported in documentation distributed to Libby residents regarding the safety or handling of asbestos.

While EPA disagreed with our characterization of its work in Libby, they said in their response to our report that they were committed to conducting a comprehensive amphibole

asbestos toxicity assessment and to reviewing and revising statements made about living with or handling asbestos.

Superfund mega-sites, which are sites that cost \$50 million or more to clean up, are taking a financial toll on the program. In 2004, we looked at the financial impact of hardrock mining sites on the Trust Fund and the States. Hardrock mining, which is not coal mining, involves the extraction of certain metals and minerals found in hard formations of the earth. This mining can significantly impact the environment. Clean up of such sites is costly, complex, and lengthy. At the time of our review, we identified 156 hardrock mining sites nationwide that have the potential to cost between \$7 billion and \$24 billion to clean up. These costs were over 12 times EPA's total annual Superfund budget. While most of the sites had identified potentially responsible parties (PRPs), it is questionable whether the PRPs can financially sustain clean up efforts "in perpetuity" as projected for most of these sites. Also, these sites will impact the States because EPA eventually turns over responsibility for long-term response actions to the States. It should be noted that most of these hardrock mining sites are located in the western and southeastern United States.

We reported last year on Superfund expenditures at headquarters and the regions based on a congressional request. We found that for the five-year period between FYs 1999-2003, the Superfund program experienced an overall decline in appropriations of about 7.5 percent, yet expenditures were greater than their corresponding appropriation. A key reason for this is that EPA expends prior year funding to pay for current needs. We also found that administrative costs increased as a percentage of total expenditures while programmatic costs decreased. This

increase in administrative costs was due to increases in personnel-related costs, which accounted for the vast majority of total known administrative expenditures. The majority of Superfund expenditures occurred in the EPA regions, which averaged about 75 percent of total expenditures during FYs 1999-2003.

We noted several organizational and accounting obstacles that impact EPA's ability to efficiently and effectively manage its Superfund resources. EPA has dispersed responsibilities for Superfund management and resources so no single EPA office, including OSWER, which is the office accountable for Superfund cleanup goals, has full responsibility or control over EPA's Superfund appropriation. Dispersing the Superfund appropriation across offices limits any single EPA office's control of Superfund resources and has impacted EPA's ability to optimize resource utilization and cleanup activities. Other obstacles we identified include disagreements about how to classify Superfund administrative expenses, decentralized Superfund management, incomplete information on program costs, an outdated process for allocating resources, and continuing to maintain unliquidated Superfund obligations and money in special accounts, as a "hedge against tough financial times."

Brownfields Program

The Brownfields program is also an area where we found opportunities for EPA to better manage its resources. The Small Business Liability Relief and Brownfields Revitalization Act created a new environmental program that fosters Brownfields redevelopment, and authorized Congress to appropriate up to \$250 million per year through FY 2006 to implement the new program. Brownfields are defined as real property, the expansion, redevelopment, or reuse of which may be complicated by a hazardous substance, pollutant, or contaminant. This can apply to a wide variety of sites, including industrial properties, former gas stations, warehouses, and residential buildings. While there has not been a precise count of the number of Brownfields sites in the United States, estimates range from 450,000 to as many as a million.

In 2005, in response to a congressional request, we evaluated the administrative and program costs being incurred to carry out the Brownfields program and identified options to reduce administrative costs. We determined that EPA's ability to effectively manage Brownfields resources is challenged by policy and organizational impediments. Because the authority for Brownfields resources is dispersed, offices with responsibility for program resources are not in alignment in their efforts to define and track Brownfields costs, and staff resources cannot be accounted for and efficiently utilized. We also found that EPA expends significant financial and personnel resources on Brownfields outreach at conferences and meetings. Among our recommendations was that OSWER, with assistance from other Assistant Administrators, as appropriate: more closely align themselves in support of an accountable entity to effectively distribute, manage, account for, and optimize Brownfields resources, consistent

with program needs and goals; define Brownfields administrative and programmatic payroll costs and establish a system to identify and track them; revise the regional staffing model to support current workload, develop a workload model for allocation of Brownfields headquarters staff, and develop a schedule for regularly updating the workload model; and hold the EPA-sponsored Brownfields conference once every two years rather than annually. EPA did not address all our findings and recommendations and disagreed with our analysis in several cases.

Office of Underground Storage Tanks

The Office of Underground Storage Tanks (OUST) was created in 1985 to carry out a congressional mandate to develop and implement a regulatory program for underground storage tank systems that store petroleum and certain hazardous substances.

In 2004, we raised concerns with how OUST administers its contracts for cleanup. We found at the time that OUST had inappropriately used and inefficiently managed its contract funds. For the two primary contracts it uses, OUST did not always identify the correct appropriation to be charged when ordering and paying for work, a violation of appropriation law. OUST also obligated money to contracts but did not order a commensurate amount of work. In one case OUST allowed approximately \$330,000 of Environmental Program Management funds to expire because it did not order work from contractors during the life of the appropriation, making most of these funds unavailable for future work. OUST also risked losing nearly \$500,000 in unliquidated obligations related to the practice of “parking” funds (i.e., obligating funds to contract without ordering work) on level-of-effort contracts. OUST proposed a number

of corrective actions to address these issues.

In a followup report we issued last year, we found that OUST implemented most of the corrective actions it proposed. In particular, OUST stopped obligating funds to contracts without identifying corresponding work. However, we still noted problems with properly charging to appropriations. We recommended that OUST regularly query EPA's financial systems to monitor the status of funds obligated and to enable deobligations when appropriate. OUST concurred with our recommendations.

Partnership Programs

I am aware of the Subcommittee's concerns about the resources being expended on EPA's Partnership Programs based on conversations with Subcommittee staff. Over the last few years, EPA has worked to develop new types of environmental solutions. Recently, EPA has begun using on voluntary partnership programs to complement traditional regulatory approaches to protect the environment. These programs address a variety of environmental and human health problems, including loss of wetlands and pesticide exposure. They also address water and energy use, recycling, or the environmental actions of individuals. Some partnership programs report very small budgets and only a fraction of a staff member's time devoted to operating them. Other programs report they have dozens of staff with budgets in the millions of dollars.

We reported last year that partnership programs may expand EPA's environmental influence by broadening its potential participant base and addressing environmental problems not

governed by regulations based on self-reported surveys. The majority of the programs we surveyed reported having annual goals and program outputs or outcomes. Managers claimed their programs helped to achieve EPA's strategic goals, but we have not yet verified these claims. Many managers also said they collect complete and reliable data that they can then use to make changes to their programs. However, barriers to data collection, including data collection costs, exist. In addition, while the number of partnership programs has grown in the last few years, EPA has had difficulty in defining, identifying, and characterizing its partnership program population. These programs have been grouped into numerous overlapping categories, including "Voluntary Programs," "Partnership Programs," and "Stewardship Programs."

We are building on this work. Currently, we are evaluating the Performance Track program, which EPA initiated in 2000 as part of a "reinvention" effort designed to develop new methods for achieving environmental and public health protection goals. EPA highlights Performance Track as a model, referring to it as the "gold standard" among its partnership programs. Performance Track is supposed to recognize top environmental performance among participating U.S. facilities, both public and private.

We initiated this review to evaluate how the program contributes to EPA's goal of improving environmental performance through pollution prevention and innovation; and how well it accomplishes its program goal of recognizing and encouraging top environmental performers and tracking program performance. To do this, our approach was to analyze a randomly selected sample of 40 member facilities to determine if they met their Performance Track commitments, and assess how much progress they have made. In order to demonstrate if

these facilities represent “top performers,” we also sought to compare the sample facilities’ compliance records and toxic releases with others in their sectors. We are compiling compliance information from EPA databases as well as verifying individual facility data for sample members with regional EPA enforcement and compliance data stewards. This work is incomplete, so I am unable to report on our findings and recommendations at this time. We expect to issue a final report by April, and will gladly brief Members of the Subcommittee once our report is completed.

Environmental Justice

Environmental justice reviews seek to identify and address disproportionately high and adverse human health or environmental effects on minority and low-income populations. Executive Order 12898, signed in 1994, directs agencies to make environmental justice part of their mission by reviewing the effects of their programs on minority and low-income populations.

In a 2004 review, we examined how EPA was integrating environmental justice into its operations. We found that EPA was not fully implementing the Executive Order because it had not identified minority and low-income communities, or defined the term “disproportionately impacted.” Moreover, in 2001, EPA restated its commitment to environmental justice in a manner that does not emphasize minority and low-income populations, the intent of the Executive Order. In the absence of environmental justice definitions, criteria, or standards from EPA, many regional and program offices took steps individually to implement environmental justice policies. The result was inconsistency in applying environmental justice actions across

EPA regions and programs, and the spending of limited regional resources on a wide array of approaches when identifying environmental justice communities. Thus, the implementation of environmental justice actions was dependent, in part, on the EPA region in which the person resided. We made several recommendations to EPA, including that it reaffirm the Executive Order as a priority; establish specific timeframes for developing definitions, goals, and measurements; develop a comprehensive strategic plan; and determine if adequate resources are being applied to implement environmental justice. While EPA agreed to conduct a comprehensive study of regional and program office funding for environmental justice activities, it disagreed with most of our other recommendations.

In 2006, we reported on whether EPA program and regional offices have performed environmental justice reviews of their programs, policies, and activities as required by the Executive Order. We found that EPA program and regional offices have not routinely performed environmental justice reviews. In addition, program and regional offices lacked clear guidance to follow when conducting environmental justice reviews. We recommended that EPA require program and regional offices to determine where environmental justice reviews are needed and establish a plan to complete them; develop specific environmental justice review guidance that includes protocols, a framework, or directions; and designate a responsible office to compile the results of environmental justice reviews and make recommendations to EPA senior leadership. EPA agreed with our recommendations but has not yet established a plan of actions and milestones for implementation.

OIG Annual Performance

I am proud to report that for FY 2006, the OIG questioned \$87 million in costs; identified nearly \$692 million in cost efficiencies; and recorded almost \$31 million from fines, restitutions, and settlements. This represents a potential return-on-investment of over \$16 for every dollar invested into the OIG. While we have exceeded all of our annual performance goal targets, we are continuing to make significant improvements in the application of performance measures to demonstrate our value added. In FY 2006, the OIG began developing measures of internal management activity and cost accounting to our products to improve on our own accountability and transparency. We are implementing a systematic post close-out followup process to account for and report on the completion of agreed-upon EPA actions from OIG recommendations. Finally, we conducted comprehensive outreach planning meetings with each EPA Assistant and Regional Administrator to identify their most significant management and environmental priorities, risks, and challenges, to inform our customer-focused planning process.

Conclusion

If EPA's overall budget continues to shrink in the future, it will be even more critical that it find ways to better manage and utilize its resources and improve its operational efficiencies. I believe the OIG has been a positive agent of change by making significant contributions toward helping EPA in those areas. We have made numerous recommendations to EPA in just the Superfund and Brownfields programs alone, many of which it agreed to implement. We will continue to work with EPA to further identify areas needing attention.

Thank you again for the opportunity to testify before you today. I would be pleased to answer any questions you have.