Recommendations for Superfund Cleanup Program Improvements: Association of State And Territorial Solid Waste Management Officials Position Paper

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The Association of State And Territorial Solid Waste Management Officials ("ASTSWMO") released a position paper titled:

RECOMMENDATIONS FOR SUPERFUND CLEANUP PROGRAM IMPROVEMENTS ("Position Paper").

The Position Paper identifies areas that ASTSWMO membership has designated as priority topics for improving the federal Superfund Cleanup Program.

ASTSWMO and its member agencies are from the 50 states, 5 territories, and the District of Columbia.

Serving on ASTSWMO's CERCLA and Brownfields Committee are Arkansas Department of Energy and Environment – Division of Environmental Quality personnel:

- Addie McClain, Brownfield Program/Project Manager.
- Dianna Kilburn, Technical Branch Manager/Office of Land Resources.

By way of background, the Position Paper notes that the importance of the federal Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") Superfund Program, citing:

- Providing a mechanism for cleaning up properties that pose a threat to human health and the environment.
- There are 1,341 sites on the National Priority List ("NPL") as of January 2025.
- There is pressure on the United States Environmental Protection Agency ("EPA") to accelerate cleanups/remove sites from the NPL.

As a result, ASTSWMO notes that:

…Periodic review, reassessment and modernization of our statutory and regulatory authorities is a critical governmental process that ensures continued protection of human health and the environment in an efficient and effective manner, as we learn from the past and plan for the future.

The Position Paper identifies the following areas as priority topics for improving the Superfund Program:

- Increase State involvement in the Superfund process.

- Enhance opportunities for state participation in the Superfund process and best practices for EPA – state coordination.
- Applicable or Relevant and Appropriate Requirements (ARARs) determinations
- CERCLA should be updated to clarify that states determine state ARARs for a site and state environmental covenant and land use control laws and regulations are ARARs.
- Allow States additional top-priority selections.
- Interest in having additional opportunities to designate a top-priority site for the NPL without using the Hazardous Ranking System.
- Cost credits for required 10% or 50% State cost match of remedial action expenses.
- Grants states credit for their share of all costs associated with actions at a facility listed on the NPL under the National Contingency Plan.
- Public participation requirements.
- Publishing in a major local newspaper of general circulation is dated and does not reflect the multiple ways Americans receive their news.
- National Contingency Plan (NCP).
- Update to reflect important lessons from the last 40 years of environmental cleanup experience by States and EPA.

A copy of the Position Paper can be downloaded here.