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HUMAN RESOURCES
DIVISION

RELEASED August 10, 1983

B-207182

The Honorable James J. Florio
Chairman, Subcommittee on Commerce,
Transportation, and Tourism
Committee on Energy and Commerce
House of Representatives

Dear Mr. Chairman:

Subject: Interim Report on Establishment of the Agency
for Toxic Substances and Disease Registry and
the Adequacy of Superfund Staff Resources
(GAO/HRD-83-81)

As you requested on August 31, 1982, we are conducting a review of the Department of Health and Human Services' (HHS') responsibilities under the Superfund legislation, including whether HHS' actions have been sufficient to deal with the health issues addressed in the legislation. On May 10, 1983, you also requested that we prepare this interim report addressing HHS' decision to establish the Agency for Toxic Substances and Disease Registry and the adequacy of staff allocated and proposed to carry out Superfund responsibilities.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510)--commonly referred to as "Superfund"--authorizes the Environmental Protection Agency (EPA) to clean up toxic waste sites and addresses other related issues. The act provides for a \$1.6 billion trust fund to be accumulated between fiscal years 1981-85. While EPA has primary responsibility for the Superfund program, responsibilities were also delegated to several other Federal agencies and departments. Section 104(i) required HHS' Public Health Service (PHS) to establish a new Agency for Toxic Substances and Disease Registry to carry out the act's health-related activities.

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We are conducting our review principally at the Centers for Disease Control (CDC) headquarters in Atlanta, Georgia. CDC has been HHS' lead agency to implement Superfund activities since July 1981, and with the establishment of the Agency for Toxic Substances and Disease Registry in April 1983, CDC officials will also manage the new agency. We also talked with officials at the Office of Management and Budget (OMB), EPA, the National Institutes of Environmental Health Sciences and Occupational Safety and Health, and the National Library of Medicine.

We reviewed the legislative background of Superfund and related documents leading to HHS' decision to establish the new agency. We analyzed various studies, reports, and documentation relating to HHS' Superfund activities. We also reviewed pertinent budget and financial documents relating to HHS' appropriations and staff resources for the Superfund program during fiscal years 1981-84.

HHS' SUPERFUND PROGRAM OPERATIONS
WILL REMAIN ESSENTIALLY THE SAME
UNDER THE AGENCY FOR TOXIC SUBSTANCES
AND DISEASE REGISTRY

Although the Agency for Toxic Substances and Disease Registry was established in April 1983, HHS is implementing its Superfund operations under essentially the same interagency arrangement, involving several PHS agencies, in effect since August 1981. According to PHS officials, this interagency arrangement has several advantages. However, this approach also has reduced the priority of Superfund activities and resulted in program delays.

From the enactment of the Superfund legislation in December 1980, HHS objected to establishing a separate agency to carry out its Superfund responsibilities, contending it was not necessary. Until April 1983, when the new agency was established, HHS chose to coordinate Superfund activities on an interagency arrangement basis. Under this arrangement, several PHS agencies were assigned responsibilities to carry out specific Superfund health activities which were in line with their other delegated responsibilities. For example, the Center for Environmental Health (CEH) within CDC assumed responsibility for health studies on the effects of toxic wastes at Superfund sites, and the National Library of Medicine was made responsible for developing an inventory of the literature, research, and health studies on the effects of toxic substances.

The Assistant Secretary for Health decided on this arrangement because he felt that existing PHS agencies, already involved in environmental activities closely related to Superfund, could more effectively carry out Superfund responsibilities with minimal "startup" costs, experienced staff would be available to work on Superfund, and duplication of existing PHS activities would be minimized.

HHS designated CDC as the lead agency for Superfund activities in July 1981, and on August 5, 1981, CDC established the Superfund Implementation Group within CEH. This group was responsible for coordinating HHS' Superfund activities and for providing scientific, program, and emergency response support to other PHS agencies, EPA, and State or local organizations. As of March 31, 1983, the Superfund Implementation Group was comprised of 15 full-time staff, including 1 physician and 9 public health advisors. Eight of the nine public health advisors are stationed in EPA regional offices to provide assistance concerning health aspects of the Superfund program.

HHS established the new agency for two reasons. First, a lawsuit filed by the Environmental Defense Fund in December 1982 raised the possibility that if HHS lost the suit the court would dictate how HHS must organize the Agency for Toxic Substances and Disease Registry and delegate responsibilities. Second, in February 1983, OMB did not support the reintroduction of legislation originally proposed by HHS in May 1981 (97th Cong., 1st Sess., S. 1285) to delete from the act the requirement that HHS establish a separate agency. According to HHS records, OMB claimed the deletion of that section was politically inadvisable at that time.

As of June 22, 1983, PHS had developed few detailed procedures concerning the new agency and how the Superfund responsibilities would be carried out. According to HHS officials, however, Superfund program operations under the new agency will be essentially the same as when the interagency arrangement was in effect. The agency will have no staff of its own. CDC will detail to the agency the 15 staff members currently comprising the Superfund Implementation Group to accomplish essentially the same tasks. The new agency will continue to use CDC's administrative and support structure. The PHS agencies previously delegated Superfund activities will continue to do the same tasks.

Furthermore, Superfund management will be basically unchanged because the same CDC officials who have had lead responsibility for Superfund activities will also manage the new

agency. For example, the Director, CDC, is also the Administrator of the new agency, and the Director of CEH is the Assistant Administrator of the new agency. Thus, it appears that while establishment of the new agency will bring about several administrative refinements and formalize interagency coordination efforts, such as through reimbursable agreements and formal delegations of authority, Superfund program operations will remain essentially the same as when the interagency arrangement was in effect.

Advantages cited for the interagency approach

PHS believed there were several program advantages in adopting the interagency approach to carry out its Superfund responsibilities. PHS, however, did not develop documentation to quantify or specify the benefits.

PHS believed that administrative savings would accrue under the interagency approach because CDC's existing administrative and support structure could be used for such functions as personnel, finance, and procurement. As a result, Superfund resources could be used for direct scientific efforts, rather than for administration. In addition, "startup" costs, such as acquiring additional space, procuring equipment, and obtaining supplies, would be minimized.

PHS believed that better quality staff could be obtained to work on Superfund by not establishing a separate agency. According to PHS officials, working full time on Superfund is not considered to be as professionally challenging as working on a variety of activities, such as other CDC environmental studies. In addition, PHS believed that recruiting and retaining quality staff would be difficult, given the uncertainties of the future of Superfund.

The major advantages of the interagency approach, according to PHS, are that experienced staff would be used on Superfund activities and duplication of ongoing PHS activities will be prevented. The Superfund act requires many activities which have been the responsibility of several PHS agencies for years. For example, the National Institute of Environmental Health Sciences regularly conducts tests to determine the toxic effects of chemicals, and the National Library of Medicine developed and now maintains a data base on the health effects of toxic substances. In addition, CEH has considerable experience in conducting environmental health studies closely related to those required under Superfund. For instance, before Superfund was

enacted, CEH was involved in health studies at several Superfund sites, including Love Canal, New York; Globe, Arizona; and Triana, Alabama. Also, CEH's Birth Defects Branch has over 15 years of experience in conducting health studies, including the effects of toxic chemicals.

Disadvantage of the interagency approach

The Congress apparently required HHS to establish a separate Agency for Toxic Substances and Disease Registry to ensure some independence and priority for Superfund activities. However, Superfund activities have been integrated into existing organizations, and as a result, have been delayed because Superfund duties have had to compete with other agency responsibilities for staff time.

For example, in fiscal year 1982, CEH decided to develop a Superfund program plan before beginning major Superfund health study efforts. This planning effort began in November 1981 and was not completed until August 1982. According to CDC officials, the planning was delayed for two reasons. First, during early fiscal year 1982, CEH experienced personnel reductions because of budget constraints. Overall, CEH staffing decreased 9 percent and staffing within the division responsible for Superfund health studies decreased 14 percent. Accordingly, substantive Superfund duties were added to the ongoing CEH responsibilities while resources were being reduced. Second, in March 1982, CEH management proposed a Center-wide reorganization. This caused an extensive, internal debate concerning CEH's mission, structure, and priorities. Until these issues were settled in July 1982, Superfund activity was delayed. To illustrate, during the last 6 months of fiscal year 1982, the division that was conducting Superfund health studies and providing emergency response and scientific advice used less than 0.7 staff year on Superfund duties.

In addition, CEH scheduled a health study to start in April 1983 to evaluate birth defects in several communities near Superfund sites. CEH assigned an epidemiologist to this study for 30 percent of his time. However, because of other duties, through June 30, 1983, this epidemiologist spent less than 5 percent of his time on this study. CDC officials agreed that Superfund duties had to compete with other duties for available staff time.

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HHS' SUPERFUND ACTIVITIES HAMPERED
BY LACK OF STAFF RESOURCES

HHS' Superfund activities have been hampered because of the level of staff resources, that is, full-time equivalents (FTEs) allowed, relative to the amount of funds appropriated by the Congress.

In fiscal year 1983, EPA's budget requested \$3.2 million for HHS' Superfund activities. HHS' planned staffing for these activities totaled 39 FTEs. The Congress appropriated \$10 million for HHS' activities. In addition, about \$6 million appropriated for fiscal year 1982 was not obligated by HHS and remains available in fiscal year 1983. However, HHS' staffing level for Superfund activities was not increased. The limited staffing is preventing proposed Superfund work from being undertaken. For example:

- In planning for fiscal year 1983 Superfund activities, CEH's laboratory division proposed 12 Superfund projects to study the effects of toxic wastes. This division, however, was allotted eight FTEs for Superfund projects and only four of the projects could be initiated.
- CEH's health study division proposed conducting 12 Superfund health studies in fiscal year 1983. Primarily because this division was given only six FTEs for Superfund health studies, only five of the studies were approved, most to begin in the second half of the fiscal year.
- During the last half of fiscal year 1983, CEH's health study division will have about \$1 million available to conduct health studies at Superfund sites. This division has been given four FTEs to conduct this labor intensive work. According to CDC officials, much of this work will not be accomplished during fiscal year 1983.

HHS initially requested 53 FTEs and \$6.4 million for Superfund activities in fiscal year 1984. EPA, as trust fund manager, reduced this request to 48.5 FTEs and \$4.2 million because it did not believe that several of HHS' projects were adequately justified and/or the funds would be needed as soon as HHS projected. OMB, in considering the overall staffing plans of HHS, allowed 21 FTEs and \$1.9 million.

CDC officials advised us that, if only 21 FTEs were approved in the final fiscal year 1984 budget, the entire HHS Superfund program would be adversely affected. They also told

us that, under the OMB proposal, no staff would be available for the National Institute of Occupational Safety and Health to conduct Superfund worker safety and health activities, for the National Library of Medicine to update the Superfund toxicology data base, or for the National Institute of Environmental Health Sciences to test the toxic effects of chemicals. CDC officials also told us that, because of the lack of staff, they expected to eliminate virtually all long-term health studies, registries, and laboratory projects.

OBSERVATIONS BY CDC OFFICIALS

We discussed the contents of this interim report with officials of CDC and the Agency for Toxic Substances and Disease Registry. These officials generally agreed with the contents of the report. The officials reiterated their belief that more had been accomplished under Superfund using the interagency approach than if HHS had started "from scratch" and established a new, separate agency. For example, they noted that, as of March 31, 1983, PHS had completed 339 Superfund health consultations with EPA, State, or local officials.

The officials stated that, since they now had some experience with Superfund operations, PHS planned to establish controls to assure the independence of Superfund activities. They acknowledged, however, that, by not keeping Superfund insulated from other PHS responsibilities, delays had occurred.

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We will send copies of this report to the Secretary, HHS; the Administrator, EPA; the Director, OMB; and several congressional committees concerned with the issues addressed in our review. Copies will also be made available to others on request.

Sincerely yours,



Richard L. Fogel
Director