

Charge to the National Environmental Justice Advisory Council on Superfund Remediation and Redevelopment for EJ Communities

BACKGROUND:

The National Environmental Justice Advisory Council (NEJAC) has been at the forefront of contaminated site cleanup and redevelopment initiatives since its founding. In 1995, the EPA and NEJAC co-sponsored a series of dialogues across the country that provided an opportunity for environmental justice advocates and residents of impacted communities to provide input on revitalization of abandoned properties called “brownfields.” In December of 1996, NEJAC finalized an extensive set of advice and recommendations for EPA to consider titled *Environmental Justice, Urban Revitalization, and Brownfields: The Search for Authentic Signs of Hope*. A consistent theme throughout the recommendations was the importance of seeking and including communities in decisions and planning.

Taking these recommendations into consideration, EPA took numerous actions to improve its brownfields initiative. For example, EPA agreed to create a Brownfields Job Training Grants Program targeted toward residents living close to Brownfield sites. EPA initiated brownfields pilots with the U.S. Department of Health and Human Services to focus on an assessment of health risks associated with revitalizing brownfields sites. The NEJAC recommendations also led to the creation of the EPA National Brownfields Conference and the Brownfields Showcase Communities.

After a decade of brownfields program implementation, it became apparent to environmental justice leaders and many others that the clean-up and redevelopment of contaminated sites could just as easily lead to the gentrification of neighborhoods and displacement of local populations as it could to local revitalization. The NEJAC thus made substantive recommendations relevant to these issues with a follow-on report in 2006 titled *Unintended Impacts of Redevelopment and Revitalization Efforts in Five Environmental Justice Communities*. In addition, several other NEJAC recommendations have provided major contributions to EPA’s thinking and policy development around contamination, local impacts, and community revitalization. These include multiple iterations of recommendations on meaningful public participation and involvement in regulatory processes, a 2004 report *Environmental Justice and Federal Facilities: Recommendations for Improving Stakeholder Relations Between Federal Facilities and Environmental Justice Communities*, and more recently in 2015 with *Recommendations for Promoting Community Resilience in Environmental Justice Industrial Waterfront Areas*.

With its long history of involvement in EPA’s implementation of regulatory programs focused on contamination and contaminated sites, it is natural that EPA’s current focus on the Superfund program should include the creation of a charge for the NEJAC. Recommendations from the 2017 EPA Superfund Task Force (SFTF) Report address expediting cleanups; reducing financial burden on parties; encouraging private investment; promoting redevelopment/revitalization; and building/strengthening partnerships. The 2018 update to the Task Force’s Recommendation Number 42 pinpoints cleanup and redevelopment of sites through integration of environmental justice and directs the creation of a charge to the NEJAC for development of recommendations that speak to these issues.

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
The NEJAC will undertake the task of preparing a report of formal consensus advice and recommendations related to long-term stewardship and risk communication at Superfund sites. Additional stakeholder and partner engagement processes will be used to seek feedback from targeted stakeholders, including engaging other EPA federal advisory committees to inform them about what EPA is doing. In addition to using this mechanism to elicit individual feedback from advisory committee members, consideration is being given (in accordance with FACA obligations to hold open meetings) to seek additional stakeholder and partner input related to long-term stewardship and risk communication at Superfund sites.

This recommendation from the SFTF Report and the following charge to the NEAJC provide an opportunity to continue the momentum of NEJAC's involvement in this sphere of EPA's regulatory and policy work and help shape outcomes for the next generation of Superfund cleanup and reuse.

It is important to note that the NEJAC's efforts will not be carried out in a vacuum. There are in fact at least two other recommendations in the SFTF second year report which are relevant and have significant overlap with the charge for the NEJAC. Specifically, recommendation 40 on development of a communications strategy which will largely take on the issue of advancing EPA's ability to effectively communicate risk, and recommendation 39 which contains several elements of communication, community revitalization, and local stakeholder engagement and collaboration, provide opportunities for the work of the NEJAC to align and provide synergy with other EPA efforts related to the SFTF¹.

Overall goal of this charge:

EPA is committed to continually improving our ability to achieve clean-ups of Superfund sites more quickly and with better outcomes for local communities while maintaining our focus on protecting human health and the environment. The overall goal of this charge is to provide recommendations to the EPA Administrator that will identify barriers, solutions, and best practices to achieve this above goal in a manner that takes central consideration of the unique burdens and vulnerabilities of environmental justice populations living in and around superfund sites. The recommendations produced should not be overly focused on the immediate activities of the superfund program but instead look out five to ten years into the future and describe a horizon that the Superfund program can aspire to achieve through the adoption of NEJAC's recommendations over time. The recommendations should account for the importance of the intersection between remediation and redevelopment. And the recommendations should also everywhere include consideration of improving EPA's ability to effectively communicate risk to local communities and other stakeholders.

As outlined in the SFTF Report recommendations, the EPA reaffirms the Agency's commitment to incorporating advice and recommendations from the NEJAC to determine best approaches to integrating environmental justice considerations and the perspectives of multiple stakeholders into cleanup and redevelopment of sites. The EPA intends to integrate EJ considerations into site cleanup and redevelopment by collaborating with NEJAC to include a diversity of voices in driving the best outcomes for underserved and vulnerable communities.

¹ For more information and the text of recommendations 39 and 40, please see the Superfund Task Force report at <https://semspub.epa.gov/work/HQ/197209.pdf>.

Charge Questions:

Specifically, the EPA requests that the NEJAC consider the following issues related to cleanup and redevelopment of Superfund sites to provide feedback on barriers and opportunities:

Phase 1: Completed by June 1, 2019

1. What are specific ways in which the NEJAC, EPA, and other relevant stakeholders can facilitate strong, strategic relationships with stakeholders to facilitate effective cleanups and site reuse, and equitable decision-making throughout the entire SF process? How can NEJAC and EPA most effectively and efficiently identify EJ stakeholders and their interests, capacity and needs (community education, engagement, and capacity building) and ensure that interests and needs are considered in redevelopment planning and implementation processes?
 - a. Who are the impacted populations?
 - b. What are best practices and important considerations to achieve meaningful engagement and fair treatment when there are different impacted communities and disparities exist between those communities?
 - c. What are methods and innovations for community capacity building?
 - d. Are there other essential services and needs providers (e.g. health care, healthy food, recreation)?
 - e. What are specific ways in which all communities can be encouraged to move from passive stakeholders to active partners?
 - f. Are there additional/unique educational needs related to the technical aspects of clean up and redevelopment?
 - g. What do equitable cleanups of Superfund sites look like to EJ stakeholders?
2. What does NEJAC believe should be done to facilitate effective, efficient, and consistent decision-making regarding remediation and redevelopment of NPL sites? How can EPA better ensure that all parts of the community – especially vulnerable, overburdened, and underserved populations – are able to meaningfully engage in every phase of the Superfund process and have the information they need to understand the data and issues? How can EPA more clearly communicate the risks at sites and ensure that concerns and knowledge from all parts of the community are being heard and considered in remediation and redevelopment decision-making? Please consider these questions relevant to the following major items/areas within the Superfund process:
 - a. Remediation Approaches, especially Institutional and Engineering Controls: assumptions, considering cumulative impacts, community awareness of requirements, etc.;
 - b. Long Term Stewardship: notice of ICs, maintenance of ICs over time, adapting operation and maintenance plans, etc.;
 - c. Risk Communication and Community Engagement: cultural and linguistic differences, learning strategies, access, and availability of current site-related information, etc.;
 - d. Barriers and Opportunities for community participation in the Remedial Process (Discovery to Deletion), and ensuring that EJ stakeholder interests and needs are considered in redevelopment planning and implementation;

- e. How can EPA be more proactive in avoiding the creation of Superfund sites in the first place?

Phase 2: Completed by March 30, 2020

- 3. Can the NEJAC provide examples of case studies and models – Superfund and non-Superfund alike – that illustrate best practices and lessons learned (cleanup, redevelopment, risk communication, federal initiatives) which can inform ways to elevate equity in Superfund cleanup and redevelopment, to ensure all have a voice in EPA decisions? How has the EPA Superfund Task Force’s plan and recommendations advanced contaminated site remediation and redevelopment in vulnerable, overburdened, and underserved communities?
 - a. Are there certain practices and tools (e.g. Health Impact Assessments) that are especially effective in facilitating relationships with all stakeholders?
 - b. How can EPA best implement the Superfund Redevelopment Initiative? Are there certain practices and tools that can be improved as part of this process?
 - c. Are there certain practices and tools from other waste media programs (e.g. wastewater management) that have been effective?
 - d. Are there retrospective and/or prospective case studies that best illustrate the barriers and opportunities?
- 4. Which additional resources (e.g. water infrastructure investment, job creation) can be realized to support reuse and redevelopment of remediated Superfund sites from other sources? Specifically, resources including but not limited to:
 - a. Federal, Tribal, state, and local agencies;
 - b. Private sector/third party investors.
- 5. Does the NEJAC propose any additional issues related to the clean-up and redevelopment of Superfund sites that are not captured in the questions above? Does the NEJAC identify any issues related to the implementation of the SFTF Plan and Recommendations?
 - a. Legacy contamination that impacts multiple generations
 - b. Disposal of contaminated materials