

**STATEMENT OF
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U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
TRANSPORTATION SAFETY, INFRASTRUCTURE SECURITY AND WATER
QUALITY SUBCOMMITTEE OF THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE**

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Good morning, Chairman Lautenberg, and Members of the Subcommittee, I am Susan Parker Bodine, Assistant Administrator of the Office of Solid Waste and Emergency Response (OSWER), U.S. Environmental Protection Agency (EPA). I am pleased to be here to discuss EPA's authorities for promoting the safety of our nation's chemical facilities.

INTRODUCTION

EPA's OSWER manages EPA's response to environmental emergencies, EPA's national planning and preparedness functions, and development and implementation of Federal regulations to prevent hazardous chemical accidents and oil spills.

In carrying out our emergency response functions, we work closely with EPA's 10 regional offices, our Federal agency partners, and state and local authorities to respond to major environmental emergencies and to conduct emergency removal actions at oil spill and hazardous waste sites. In this capacity, we respond to several hundred major oil spills and hazardous chemical releases each year. The events EPA responds to cover a wide range of emergencies, from train derailments and fires at chemical plants to incidents of national significance such as

the collapse of the World Trade Center and the Hurricane Katrina recovery effort. In all of our response activities, EPA maintains close working relationships with state and local authorities in order to carry out our responsibilities.

In the area of national planning, EPA has partnered with the Department of Homeland Security and other Federal agencies in development and implementation of the National Response Plan, the National Incident Management System, and the National Infrastructure Protection Plan (NIPP). Together, these plans form a cohesive structure that integrates the incident management, protection activities, and emergency response capabilities and resources of Federal, State, and local governments into a national framework for domestic incident management.

In addition to managing our field emergency response and national planning functions, OSWER is also responsible for the development and implementation of several important Federal regulations. These include regulations for hazardous chemical inventory reporting under the Emergency Planning and Community Right-to-Know Act (EPCRA), emergency release reporting requirements contained in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), oil spill prevention and response planning requirements under the Clean Water Act and the Oil Pollution Act (OPA), and regulations for chemical accident prevention and mitigation under the Clean Air Act (CAA).

EPCRA AND THE CAA RISK MANAGEMENT PROGRAM

In response to the December 1984 toxic chemical disaster in Bhopal, India, and subsequent chemical accidents that occurred in the United States in the mid to late 1980s, Congress passed both EPCRA and CAA section 112(r), establishing the chemical accident prevention program. EPCRA calls on states to create State Emergency Response Commissions (SERCs) and local communities to form Local Emergency Planning Committees (LEPCs) to prepare community emergency response plans for chemical accidents. EPCRA also requires chemical facilities to provide LEPCs with information necessary for emergency planning, and to submit annual chemical inventory reports and information about the facility's hazardous chemicals to SERCs, LEPCs and local fire departments.

As its name suggests, EPCRA promotes the sharing of hazard information and emergency planning. However, EPCRA does not require facilities to take actions to prevent chemical accidents from occurring. After major chemical accidents continued to occur in the U.S. throughout the late 1980s, Congress added section 112(r) to the Clean Air Act (CAA) in 1990 which imposes a "general duty" on all stationary facilities handling extremely hazardous chemicals to prevent and mitigate accidental releases of those chemicals into the air. It also directs EPA to promulgate risk management requirements for those facilities having large quantities of the most dangerous chemicals.

In accordance with Congress' direction in CAA 112 (r), EPA listed 140 chemicals and their threshold quantities based on potential harm to human health and the environment in the event of an air release. Facilities having a listed chemical present in more than a threshold

quantity must conduct a hazard assessment, develop and implement an accident prevention and emergency response program, analyze the potential consequences of worst-case and alternative (less severe) release scenarios, and provide a summary report - called a Risk Management Plan, or RMP - to EPA. Approximately 14,000 chemical facilities are currently subject to these requirements.

RMPs contain valuable information about a chemical facility and its hazards. In addition to providing the address and physical location of the facility, RMPs report the identity and quantity of each regulated chemical on site, information about the measures taken by the facility to prevent accidental releases, facility emergency planning information, the history of significant accidents at the facility over the last five years, and the facility's Offsite Consequence Analysis (OCA) information, which provides the facility's analytical estimate of the potential consequences of hypothetical worst-case and alternative release scenarios. EPA maintains a national electronic database of RMPs, known as RMP*Info, which is currently the most comprehensive database of chemical facility hazard information in existence.

While neither EPCRA nor CAA section 112 (r) contain any chemical plant security requirements, both contribute to facility safety and emergency preparedness and as a result help reduce the vulnerability of certain facilities and their communities to terrorist attacks. EPCRA's reporting requirements ensure that communities are made aware of hazardous chemicals located in their area, and SERCs and LEPCs established under the law help prepare communities to respond to any catastrophic releases of those chemicals. The CAA requirement for facilities to assess and address their potential chemical hazards reduces the risk that any unanticipated

release will seriously threaten public health and the environment. The CAA requirement that facilities have emergency response plans in place also helps lessen the potential consequences of any unanticipated release, however caused. In addition, the national RMP database created under the CAA has proven to be one of the Federal government's most important sources of information on the risks associated with U.S. hazardous chemical facilities.

COORDINATION WITH DHS

After the creation of the Department of Homeland Security (DHS) in 2002, Homeland Security Presidential Directive 7 established DHS as the lead agency for coordinating the overall national effort to enhance the protection of the critical infrastructure and key resources of the United States, including the chemical sector. While DHS is the lead Federal agency for chemical sector security, EPA serves in a supporting role by providing information and analytical support, and by maintaining involvement in the Department's ongoing chemical security initiatives as requested. For example, EPA participates in the Department's Chemical Comprehensive Review program, where DHS involves Federal, state, and local government authorities, as well as private sector representatives, to evaluate the security vulnerabilities and emergency response capabilities of selected major metropolitan areas, and provides grants to assist states in obtaining resources necessary to address area security vulnerabilities.

The 2007 Homeland Security Appropriations Act now provides DHS with explicit interim authority to publish security regulations for high-risk chemical sites and conduct regulatory enforcement activities. This authority reinforces DHS as the Federal lead for chemical site security and significantly improves the Department's ability to carry out that role.

As DHS continues its efforts to develop and implement the regulations and other programs related to chemical sector security, EPA stands ready to support them in those initiatives, as needed.

CONCLUSION

Thank you for the opportunity to testify. I would be pleased to answer any questions.