

## Unifying Regulatory Programs: CWA and CERCLA Program Realities at Contaminated Sediment Sites

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**Background/Objectives.** The U.S. Environmental Protection Agency (USEPA) has acknowledged the complexities of addressing contaminated sediment sites where both the Clean Water Act (CWA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) will influence environmental management. CWA and CERCLA programs are in place to meet specific and separate regulations, but their execution of these programs often impacts the same water body. CWA-regulated surface water discharges can be sources of CERCLA contaminants to sediment, and CERCLA-regulated contaminated sediment can be an ongoing source of CWA-regulated contamination to surface water. Recent (2013) guidance from USEPA states that coordination between the two programs is the proper approach to investigating and exploring the intersection of and conflicts between the CWA and CERCLA. USEPA has further proposed a memorandum of understanding be established as the administrative vehicle for bridging the two programs. However, the functional bridging of the two programs is complicated because CWA and CERCLA protection goals and management programs are different and challenging to reconcile.

**Approach/Activities.** Using publicly available information as well as site-specific knowledge, approaches at multiple contaminated sediment sites throughout the United States regulated by both CERCLA and CWA were evaluated. Sites evaluated included a variety of ongoing point sources and non-point sources, along with legacy contamination. This evaluation allowed for a comparison of how CWA and CERCLA issues are coordinated between different divisions within USEPA, if at all, as well as within different state programs.

**Results/Lessons Learned.** USEPA has acknowledged that “achieving water quality goals and maintaining public health and environmental improvements at Superfund cleanups and other contaminated sediment sites requires cross-program collaboration.” However, the amount of collaboration varies across the sites. In addition, the point in time when a site is in either of the management programs has played an important role in driving the outcome of the site for both CWA and CERCLA purposes. Achievable remedy objectives that acknowledge both programs and what each program determines to be appropriate goals should form the basis for remedy decision-making. Remedial goals must reflect the practical realities of both the CERCLA and CWA programs. In establishing what is achievable long term as part of a CERCLA remedy, it is important to account for ongoing sources and background conditions that are allowed as part of CWA regulation. Because of the differences in regulatory approaches, it is important to have the full information at hand from both programs to ensure a successful, sustainable, and resilient remedy. Specific examples will be provided.