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**TESTIMONY OF
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OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SUBCOMMITTEE ON ENERGY AND HAZARDOUS MATERIALS
COMMITTEE ON ENERGY AND COMMERCE
UNITED STATE HOUSE OF REPRESENTATIVES**

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Mr. Chairman and Members of the Subcommittee, my name is Peter Murtha. I am the Director of the Office of Criminal Enforcement, Forensics and Training in the Office of Enforcement and Compliance Assurance at the Environmental Protection Agency (EPA). In that capacity, I direct EPA's criminal enforcement role in responding to human health and environmental threats, including those posed by methamphetamine production. Thank you for inviting me to appear today to discuss the Agency's efforts regarding enforcement issues associated with methamphetamine production, in particular HR 3889, the Methamphetamine Epidemic Elimination Act. We commend the Committee for proposing steps to eliminate methamphetamine labs. My testimony today will describe in general EPA's criminal enforcement experience with methamphetamine labs.

EPA's Criminal Enforcement Program

EPA's criminal enforcement program investigates those violations of environmental laws that both pose a significant threat to human health and the environment, and manifest the required criminal intent. The program provides state-of-the-art training to our employees and

our partners in international, federal, tribal, state, local law enforcement, regulatory and intelligence agencies. EPA's Office of Criminal Enforcement, Forensics and Training administers this program through its Criminal Investigation Division.

EPA Criminal Investigation Division offices are located in 15 Area Offices and 29 Resident Offices throughout the country. EPA participates nationwide in dozens of environmental crime task forces. Our partners in these task forces consist of other federal law enforcement agencies, Offices of the U.S. Attorney, as well as state and local law enforcement and regulatory agencies. EPA works with many of these partners in their efforts to arrest and prosecute producers of methamphetamine who not only violate state and federal narcotics laws but also federal hazardous waste laws.

As a law enforcement matter, regulation of methamphetamine labs fall primarily within the jurisdiction of other federal, state and local law enforcement agencies. EPA does, however, have authority to investigate environmental crimes relating to such labs (e.g., the unpermitted disposal of RCRA hazardous waste).

It is our experience that in cases involving methamphetamine laboratories, the drug, racketeering and conspiracy charges generally brought are typically easier to prosecute and yield far greater sentences than environmental crimes. Thus, in many instances EPA's investigation of a methamphetamine laboratory would have limited incremental value.

EPA continues to coordinate with our federal, state and local law enforcement partners to assist in such cases, while ensuring that they are investigated and prosecuted in the most

appropriate manner, which is often not as federal criminal environmental crime cases. At the same time, however, in those unusual cases in which the environmental crimes, rather than the traditional drug prosecution, is the best prosecutive option, EPA stands ready to assist our law enforcement partners by investigating these crimes.

Emergency Response

Each year, more than 20,000 emergencies involving the release, or threatened release, of oil and hazardous substances are reported in the United States, potentially affecting both large and small communities and the surrounding natural environment. Reports in the local news often report the timely, effective response of local firefighters and other emergency officials. Behind the scenes, however, an integrated National Response System (NRS) involving federal, state, and local officials is at work supporting the men and women on the front lines.

The U.S. Environmental Protection Agency plays a leadership role in this national system, chairing the National Response Team and directing its own Emergency Response Program. In the instances when EPA has had to respond to the risks posed by meth labs, it has been through EPA's Emergency Response Program. The Program's primary objectives are taking reasonable steps to prevent emergencies involving hazardous substances and oil; preparing emergency response personnel at the federal, state, and local levels for such emergencies; and responding quickly and decisively to such emergencies wherever and whenever they occur within our national borders.

Methamphetamine Labs - EPA's Role

Identifying and cleaning up the vast majority of methamphetamine labs is done by local

and state governments, and methamphetamine labs do not generally involve scenarios that would trigger response under the Superfund law. EPA does respond in that small percentage of cases when local or state resources cannot address the problem. In addition to EPA cleanup response, the Agency provides training for thousands of state and local responders each year. EPA offers a wide range of technical and management courses designed to aid responders in identifying and implementing appropriate actions to eliminate the threats from hazardous substances.

The Agency also provides financial support to state, tribal and local governments and nonprofit organizations that can be used to eradicate and clean up meth labs. Local governments can receive help paying for emergency response actions through EPA's Local Governments Reimbursement Program. To date, EPA has provided local governments more than \$3 million through this program. EPA also makes funding available to state and local governments for the assessment and cleanup of meth lab sites through the Office of Brownfields Cleanup and Redevelopment via grants of up to \$200,000 per site. State and local governments can receive grants up to \$1 million to be used for the capitalization of revolving loan funds; they can then make loans and subgrants for the cleanup of methamphetamine labs sites. State and tribal grants provided under CERCLA Section 128 for the development and enhancement of state and tribal response programs can also be used in this regard. And, nonprofit organizations are also eligible for cleanup grants to remediate meth lab sites, also up to \$200,000 per site.

Wastes Resulting from the Production of Methamphetamine

EPA's regulations establish two ways of identifying solid wastes as hazardous under the Resource Conservation and Recovery Act (RCRA). A waste is hazardous if it exhibits certain

hazardous properties (known as “Characteristics”). RCRA regulations define four hazardous waste Characteristics: ignitability, corrosivity, reactivity, or toxicity. Waste generators are responsible for determining if their wastes exhibit any of the Characteristics through specific tests or general knowledge of the wastes. The second approach used by EPA is to conduct a specific assessment of a waste or category of wastes and “list” them as hazardous if the wastes pose substantial hazards. The listings include wastes generated from various industrial processes, as well as lists of commercial chemical products and other materials.

There are a variety of methods for making methamphetamine. In general many of the chemicals and wastes likely to be associated with methamphetamine production may be addressed as hazardous waste under RCRA, typically as “characteristic” (e.g., ignitable) hazardous waste. A relatively smaller number of the wastes associated with methamphetamine production, including solvents and other chemicals used in the purification of crude methamphetamine products would also be considered hazardous waste based upon a listing as discarded commercial chemical products. Nearly every investigation of a methamphetamine lab reveals either characteristic or listed hazardous waste.

Conclusion

While the response to methamphetamine labs is led principally by local and state efforts, EPA's criminal enforcement program works with local, state, and other federal law enforcement agencies in limited, appropriate cases to investigate and prosecute criminals involved in the production of methamphetamine. EPA will continue to help local, state and other federal agencies address the problems associated with methamphetamine production, ensuring an appropriate law enforcement response. While we anticipate having few such cases in the future, we are ready to assist in those cases that require our participation, such as those with significant environmental impacts or no better prosecutorial option.

We look forward to working with the Committee and its Members as it continues to consider this legislation and provide the Committee with any needed technical assistance. Thank you for the opportunity to appear before you today.