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Superfund Reforms Annual Report FY 1998

Foreword

EPA's series of reforms have fundamentally changed the Superfund program. Today, the program is working better than ever—cleaning up hundreds of hazardous waste sites and protecting public health and the environment. EPA remains committed to completing these reforms and fully integrating them into its base program operations.

This report highlights Superfund accomplishments through FY98, showing how EPA is cleaning up sites faster, fairer, and more efficiently. The data reported are current through September of 1998 unless otherwise noted.

Those seeking additional information on the reforms should visit the new Superfund Reforms Website at http://www.epa.gov/superfund/programs/reforms/. The website outlines the history of the Superfund reforms and provides detailed information on each reform, including results and success stories, document links and downloads, answers to commonly asked questions, and contact information.

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Introduction

The Superfund program is working—cleaning up hundreds of hazardous waste sites and protecting public health and the environment. Since EPA announced the first round of reforms in 1993, the Agency has made Superfund a fundamentally different and better program. EPA has implemented three rounds of reforms in seven major categories: cleanups, enforcement, risk assessment, public participation and environmental justice, economic redevelopment, innovative technology, and state and tribal empowerment. EPA remains fully committed to completing these reforms and integrating them into its base program operations. Through reform efforts, the Superfund program is protecting public health and the environment in a way that is faster, fairer, and more efficient.

The first round of reforms, announced in June 1993, responded to common stakeholder concerns about the Superfund program, focusing primarily on expediting site cleanups and increasing liability fairness. Through first-round reform implementation, EPA surpassed its goal of tripling the number of construction completion sites—bringing over 200 sites to this stage by the end of FY93. Over the next two years, EPA removed thousands of small contributors from the liability system and produced several guidance documents on improving cleanup efficiency. In February 1995, EPA closed out the first round of reforms with the issuance of the "Superfund Administrative Improvements Closeout Report."

EPA introduced the second round of reforms in February 1995. This round strengthened and improved the program by testing many of the innovations embodied in the proposal for the Superfund Reform Act of 1994. Round two initiatives produced both pilot projects and guidance designed to promote economic redevelopment and innovative technology, enhance public involvement, and empower states and tribes.

Finally, EPA announced the third round of reforms in October 1995. This round took a "common-sense" approach to reform and targeted the concerns of stakeholders. Round three consists of 20 reforms that promote cost-effective cleanup choices, reduce litigation and transaction costs, and ensure that states and communities are informed and involved in cleanup decisions.

EPA remains committed to fully implementing the reforms, refining or improving them where necessary, and broadening their impact by effectively communicating the scope, goal, and success of each initiative. As the Agency evaluates each reform, it will continue to incorporate the most successful ideas into the entire Superfund program.

This report highlights a number of significant program achievements attributed to the Superfund Reforms. Through improvements fostered by the reforms, EPA has:

- Accelerated the pace of cleanups to achieve "construction completion" status at approximately 47 percent of the non-federal facility NPL sites; an additional 30 percent of the non-federal facility NPL sites had their cleanup remedy under construction.
- Worked with potentially responsible parties (PRPs) to obtain over $15 billion in commitments to conduct response work and reimburse Agency costs, saving taxpayers' money;
- Streamlined and enhanced the remedy selection process, producing estimated future cost reductions or savings of over $1 billion;
- Facilitated productive use at numerous sites by removing over 30,000 sites from CERCLIS and awarding 227 Brownfield Pilot grants;
- Removed 18,000 small contributors from the Superfund liability system; and
- Partnered with various stakeholders to address Superfund concerns, establishing over 45 community advisory groups (CAGs) and awarding over 200 technical assistance grants (TAGs).

A strong indication of the reforms' success is the number of sites on the NPL where the construction of cleanup remedies has been completed (construction completion). In only two years, FY97 and FY98, EPA completed construc-

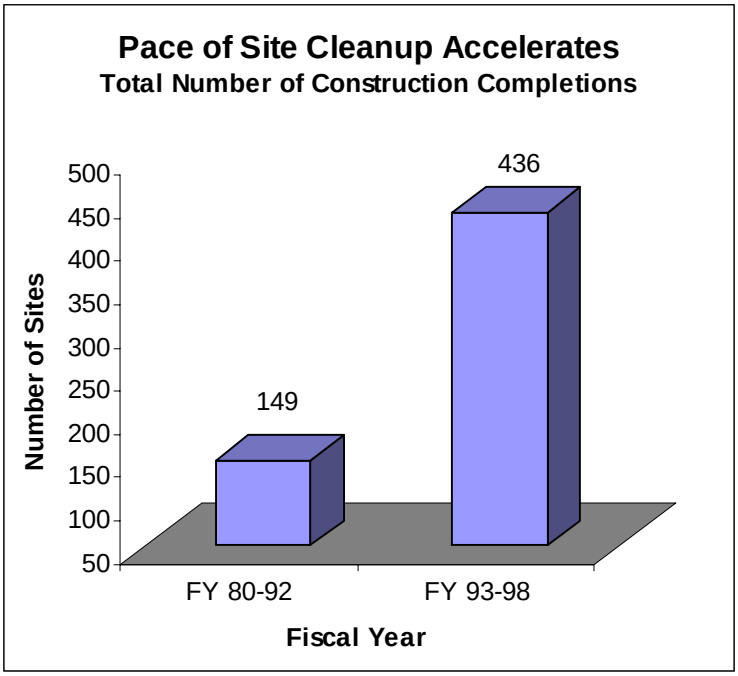
The Industri-Plex site in Woburn, Massachusetts, illustrates Superfund's effectiveness in returning sites to productive use. Once a contaminated property that threatened human health and the environment, the site is now poised to become a major commercial and retail district that will include a Target store *(shown below)*, a state regional transportation center, and a wetlands preserve.

tion at 175 sites on the NPL, far exceeding the target of 130 construction completion sites for those years. Of the 175 sites completed during FY97 and FY98, 128 sites (or 73 percent) are designated as enforcement-lead, demonstrating the success of both the "enforcement first" policy and the numerous enforcement reforms. In addition, the 175 sites account for 30 percent of the total 585 sites completed since the program's inception in 1980. These 585 construction completions account for 43 percent of all NPL sites and approximately 47 percent of the non-federal facility sites as of October 3, 1998. Based on these results, the Superfund program plans to exceed the Agency target of 650 construction completion sites during FY99, one year earlier than originally expected.

Forty of the 175 sites completed during FY97 and FY98 were added to the NPL during the 1990s—meaning that EPA has completed cleanup at a total of 111 sites that were added to the NPL during the 1990s. Completion of these sites

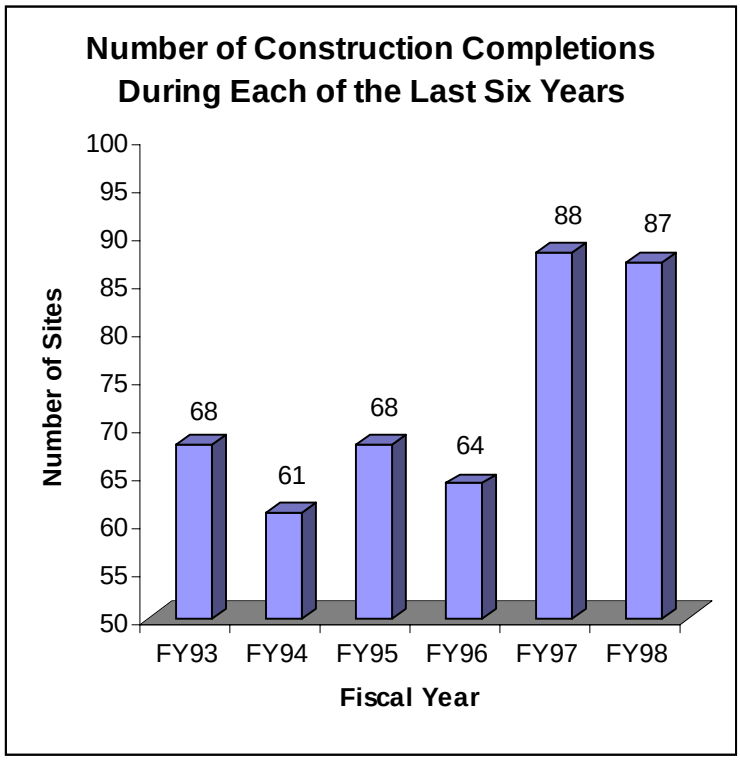
A site is considered

to reach "construction completion" when physical construction of all cleanup remedies is complete, all immediate threats have been addressed, and all long-term threats are under control.



in less than eight years reflects improvements in the pace of Superfund cleanups and demonstrates how the reforms have worked together to make Superfund more efficient. Finally, states and local communities have been active partners in cleanups. States have concurred on remedies and contributed a 10 percent cost share at the Fund-financed sites, while local communities have increased the overall effectiveness of the program through meaningful public involvement and communication.

The initiatives, pilots, and new or reformed guidance embodied in the reforms all combine to produce a better Superfund program. This report will show how the Superfund program is working—faster, fairer, and more efficiently—to better protect human health and safeguard the natural environment. These achievements are described in detail in Superfund Program Accomplishment Headlines. Specific reform summaries and the final results of the numerous enforcement pilot projects are provided in Reforms at a Glance and the Enforcement Pilots.

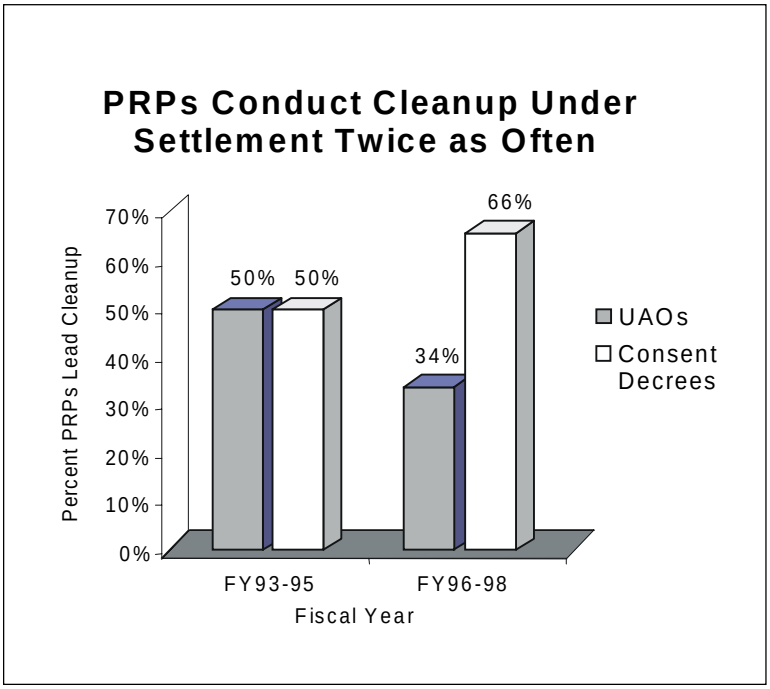


Potentially Responsible Parties Commit to Over $15 Billion

EPA remains dedicated to maximizing PRP-lead cleanups, and reform initiatives have significantly increased PRP commitments to cleanups. In FY98, the Superfund enforcement program secured private party commitments that exceeded $1 billion, bringing the cumulative value of private party commitments since the program's inception to approximately $15.5 billion. This number includes $13.1 billion in response settlements and $2.4 billion in cost recovery settlements. Response settlements conserve use of the Superfund Trust Fund for use at sites without capable and willing responsible parties, while cost recovery settlements help replenish the Trust Fund. PRPs initiated approximately 72 percent of new remedial actions at NPL sites during FY98, and PRP-lead sites accounted for over 70 percent of all construction projects completed during FY97 and FY98.

Greater PRP Commitment

EPA has seen an increase in PRP involvement since implementing key fairness reforms. Prior to developing initiatives such as orphan share compensation and special accounts, EPA ordered PRPs to conduct remedial cleanup work in approximately 50 percent of all cases. Since EPA implemented the reforms, PRPs have agreed to conduct cleanup approximately 66 percent of the time.



Encouraging PRPs to enter into cooperative cleanup settlements reduces the need for litigation to recover past cost and oversight costs, thus reducing EPA and private party transaction costs. Several factors affect a PRP's decision to settle a case, and EPA is not privy to the reasons why PRPs ultimately decide to settle. However, the Agency is encouraged by the increasing number of PRPs entering cooperative cleanup agreements. In an effort to address stakeholder perceptions, EPA is making full use of its enforcement discretion to encourage settlements that are fair to all parties. EPA offers a toolbox of enforcement reforms that allow PRPs to achieve a more equitable settlement with the Agency. Several enforcement options available to PRPs are described below.

Orphan Share

The reform with one of the most immediate and direct impacts on EPA's settlement practice is Orphan Share Compensation. The term "orphan share" refers to costs at a site that are attributable to insolvent parties. Pursuant to this reform, the Agency continues to share the cost burden of the orphan share with settling PRPs at every eligible site. Through FY98, EPA offered approximately $145 million in orphan share compensation at 72 sites. Many of the offers made in FY98 were in the context of cost recovery negotiations, as EPA has expanded this reform to include these cases. The average offer was $2 million per negotiation. These numbers demonstrate EPA's commitment to achieving greater fairness even where this commitment may result in a significant reduction of the amounts ultimately returned to the Fund.

Special Accounts

Continuing in FY98, EPA encouraged the use of Special Accounts, which accrue interest while holding settlement funds for response actions at Superfund sites. Through the end of FY98, EPA collected over $399 million, established 115 Special Accounts, and accrued over $69 million in interest for a total of $468 million. In November 1998, the Agency issued the "Interim Final Guidance on Disbursement of Funds From EPA Special Accounts to CERCLA Potentially Responsible Parties." The guidance provides direction to Regional offices on the possibility of disbursing funds from the Special Accounts to PRPs who undertake response actions at Superfund sites under a settlement agreement. This guidance represents EPA's commitment to continue improving and expanding the original reform where appropriate.

Equitable Issuance of Unilateral Administrative Orders (UAOs)

EPA expects that PRPs will be more amenable to entering a settlement when the Agency ensures that they will otherwise face a UAO. Accordingly, in FY98 EPA continued to implement the UAO reform, with Headquarters independently reviewing all 68 UAOs to ensure that they had been issued to all appropriate parties (including governmental entities). During the fiscal year, EPA issued its first CERCLA UAO to another federal agency; and issued at least six orders to state and local government entities.

Enforcement Success

Hansen Container, CO

A letter dated September 21, 1998, from Waste Management Inc., on behalf of the Oil and Solvent Process Company regarding the Hansen Container Superfund site (Denver, CO), shows the success of several enforcement administrative reforms (*e.g.*, Orphan Share Compensation, Expedited Settlement Pilots, and Alternative Dispute Resolution) used at the site. Excerpts are listed below:

"The United States Environmental Protection Agency (EPA) Region 8 is to be commended for its innovative approach in these consent decrees which resulted in settlements quicker and with fewer transaction costs than probably would have been possible if the Agency had followed more conventional methods."

"Through the use of alternative dispute resolution EPA accomplished this feat in a very cost-effective fashion."

"Even without the need to be part of EPA's pilot allocation projects, the region was willing to consider a fundamentally different approach to allocation at the site. We applaud the region's use of a third-party neutral and senior agency officials to overcome obstacles to settlement."

"The proposed Hansen Container settlements demonstrate a very substantial commitment by Region 8 to aggressively execute the Superfund reforms in connection with this site and to take other initiatives which promote early settlement, reduce costs, and foster cooperation among the stakeholders."

Program Exceeds $1 Billion in Cost Savings

In 1995, EPA initiated several reforms to ensure that cleanup actions are consistent nationally, reflect recent advances in science and technology, and are cost effective. By reviewing proposed high-cost remedies in real time and updating selected remedies at Superfund sites, Reforms 3.1a (Establish the National Remedy Review Board) and 3.2 (Update Remedy Decisions at Select Sites) have realized substantial benefits. In particular, these reforms have facilitated savings of over $1 billion in estimated cleanup costs for PRPs and the Superfund program since 1996. Combined with new program policy and guidance developed under other reform initiatives, these reforms have significantly improved remedy selection and implementation at many Superfund sites.

Remedy Reforms Lead to Dramatic Cost Savings

	FY 1996	FY 1997	FY 1998[1]	Total
National Remedy Review Board				
# of updates[2]	12	8	13	33
Est. savings[3]	$25 million	$6 million	$12 million	$43 million
Remedy Updates				
# of updates[2]	60	80	>60	>200
Est. savings[4]	$355 million	$390 million	>$255 million	>$1 billion

[1] As of 9/98.
[2] May include more than one update per site.
[3] Includes future cost savings as estimated at the time of the proposed plan.
[4] Includes estimated future cost savings.

The National Remedy Review Board (NRRB)

EPA created the NRRB in January 1996 as part of a comprehensive package of reforms designed to make the Superfund program faster, fairer, and more efficient. The NRRB is essentially a peer review group that understands both the EPA regional and headquarters perspectives in the remedy selection process. It reviews proposed Superfund cleanup decisions that meet cost-based review criteria to assure consistency with Superfund law, regulations, and guidance. The NRRB is composed of managers or senior technical or policy experts from EPA offices important to Superfund remedy selection issues.

EPA believes the NRRB has accomplished a great deal. Its reviews have contributed to a more cost-effective, consistent Superfund program; improved the quality of several high-cost cleanup decisions; and contributed to human health and environmental protection. Since the Board began its reviews, EPA estimates that NRRB reviews have reduced total estimated cleanup costs involving 33 high-cost remedies by more than $43 million. EPA

expects these savings estimates to increase as regions complete their analyses of NRRB comments and issue proposed plans. More importantly, however, the opportunity for Board members to discuss remedy selection issues common to all regions has provided a significant boost to national consistency, both for the sites reviewed and other sites across the regions. Members often return from Board meetings and apply lessons learned to other lower cost site decisions in their home regions.

At some sites, NRRB discussions contribute to or bolster support for response plans regions are only beginning to formulate. At the Region 8 Anaconda Smelter site, for example, the region devised a decision framework involving extensive stakeholder participation that ultimately reduced the estimated cleanup costs for the proposed action by $20 to $70 million. This result can be partly attributed to the extensive Board discussion about site revegetation and long-term effectiveness of the remedy.

NRRB Review Success

Anaconda, MT

The Anaconda Smelter Superfund site covers 15,000 acres in Anaconda, Montana. A smelting operation operated on the site from the late 1800s until it closed in September 1980, contaminating much of the area with heavy metals and other dangerous substances. A key part of EPA's cleanup plan is to use revegetation to prevent contamination from spreading, and to protect the public and ecosystem from the site contamination. The NRRB reviewed the proposed cleanup decision for the Anaconda Smelter Superfund site in March and April of 1997. The Board offered several recommendations for the region to consider as they finalized their cleanup plans.

EPA Region 8 responded with a creative approach to dealing with the Board's concerns. Among the actions Region 8 took was the development of a novel decision making system that helped focus the revegetation efforts. To develop the system, the region took into account a great deal of data gathered at the site before and during the public comment period on the proposed cleanup. In cooperation with those responsible for cleaning up the contamination, as well as the state and community stakeholders, the region is using its system to assess physical and chemical data and vary the site revegetation levels. Thus, they are able to improve the cost effectiveness of their cleanup without sacrificing the level of protection it provides. These efforts, in part, enabled the region to revise their cost estimate for the site cleanup from approximately $180 million to an estimated range of $90 million to $160 million.

As regional managers indicate, while it is difficult to attribute such savings to Board review alone, the additional analyses, ideas and encouragement provided by Board discussions on proposed regional initiatives are often significant factors in the site decision process.

National Remedy Review Board Review Criteria

With the exceptions noted, the NRRB reviews all proposed Superfund cleanup decisions for which:

- the action costs more than $30 million; or
- the action costs more than $10 million and is 50 percent greater in cost than the least-costly, protective, cleanup alternative that complies with Applicable or Relevant and Appropriate Requirements (ARARs).

The NRRB reviews proposed decisions for Department of Energy (DOE) sites where the primary contaminant is radioactive waste in cases where:

- the action costs more than $75 million; or
- the action costs more than $25 million and this cost is 50 percent greater than that of the least costly, protective, cleanup alternative that complies with ARARs.

In FY98 the Board began reviewing all proposed EPA and DOE Non-Time-Critical Removal Actions (NTCRAs) estimated to cost more than $30 million.

The Board does not review proposed decisions for Base Realignment and Closure (BRAC) sites.

EPA expanded the scope of the Board in 1998. In addition to its usual reviews of remedial cleanup plans, the Board now reviews cleanup plans for non-time-critical removal actions that exceed defined monetary thresholds. The Board completed one review of a non-time-critical removal action during FY98. In addition, on October 5, 1998, EPA and the DOE signed an agreement under which the Board will review all DOE non-time-critical removal actions that are estimated to cost over $30 million. The Board expects to review 10 to 15 sites per year during both FY99 and FY00.

Updating Remedy Decisions

The updating remedy decisions reform is one of EPA's most successful reforms, based on its frequent use and the amount of money saved by the lead party for the remedial action. This reform encourages regions to revisit selected remedy decisions at sites where significant new scientific information, technological advancements, or other considerations suggest an alternative remedy will protect human health and the environment while enhancing the cost effectiveness of the cleanup. From FY96 through FY98, EPA and other parties updated over 200 remedies and generated estimated future cost savings of over $1 billion. During the same period, only eight remedy updates generated cost increases (estimated at approximately $65 million).

EPA summarized the results of remedy updates completed during FY96 and FY97 in a report entitled "Updating Remedy Decisions at Select Superfund Sites, Summary Report, FY96 and FY97" (July 1998, OSWER Directive 9355.0-70). The report includes a list of sites with remedy updates that generated either estimated cost savings or cost increases.

Most remedy updates in FY96 and FY97 were initiated by parties outside of EPA (e.g., PRPs, states, communities, federal facilities). Over the two-year period, parties outside EPA initiated 90 updates and EPA initiated 34 updates (not including 24 updates initiated

Remedy Update Success

Avco Lycoming, PA

The Avco/Textron Lycoming site in Pennsylvania proposed a remedy update based on successful pilot tests of molasses injection for metals treatment and air sparging/soil vapor extraction for organics treatment. The update to a new technology reduced the cleanup time by 33 percent and saved an estimated $5.3 million.

Auburn Road Landfill, MA

At the Auburn Road Landfill in Massachusetts, new performance data provided the necessary information to update the selected remedy. Two years of monitoring and modeling performance data from the site showed that the original ground water pump and treat remedy successfully brought volatile organic compounds (VOCs) below the cleanup levels in most areas. Updating the remedy to monitored natural attenuation saved an estimated $12 million.

The Allied Chemical/Ironton Coke Site, Lawrence County, OH

On September 30, 1998, EPA approved an amendment to the Record of Decision for the Ironton Coke site that will result in cost savings of approximately $50 million.

The PRP at the site proposed the alternative remedy after data collected during the engineering design phase showed that contamination levels in the soils were not as high as previously estimated. The revised remedy will replace in-situ bioremediation of over 450,000 cubic yards of soil with hot-spot excavation and wetland development; and replace incineration of other lagoon materials with recycling, treatment, and/or disposal of waste materials in an approved off-site hazardous waste facility, with some remaining soils used as an alternative fuel mixture. The new remedy will achieve cleanup levels that are protective of human health and the environment, and the constructed wetland will create a valuable ecological habitat for the community.

by more than one party). These numbers are consistent with the percentage of EPA versus non-EPA parties who conduct the actual cleanup work (i.e., since the inception of Superfund, EPA has been the lead organization on only about 30 percent of remedial design and constructions projects, compared with 70 percent of projects led by non-EPA organizations).

After three consecutive years of over 60 updates per year, EPA is confident that the updating remedy decisions reform plays a major role in remedy decisionmaking and implementation by encouraging continued review of cleanup progress for opportunities to ensure both protective and cost-effective remedies.

The success of these reforms combined with the completion of other related program policy and guidance has significantly enhanced the remedy selection process. Policy and guidance developed under other reform initiatives include the "Directive on Land Use in Remedy Selection;" the "Guidance on the Role of Cost in Remedy Selection;" the "Directive on National Consistency in Remedy Selection;" and a series of presumptive remedy guidance documents for municipal landfills, sites with volatile organic contaminants in soils, wood treater sites, and contaminated ground water sites. These guidance documents have heightened awareness of cost-effective cleanup measures that are highly protective. Further, the initiatives have helped to ensure appropriate national consistency in cleanup decisions.

Stakeholder Comments

"The new National Review Board is widely regarded as the flagship among the 20 reforms announced on October 2, 1995."
—"EPA's Superfund Reforms: A Report on the First Year of Implementation," Superfund Settlements Project, December 1996 (p. 2).

The following statements appeared in a Chemical Manufacturers Association report, "A Chemical Industry Perspective on EPA's Superfund Administrative Reforms" (April 1997):

> "Of the five reforms covered in this report, the updating of previous RODs reform generated the most positive comments, both from PRPs and from EPA" (p. 15);
>
> "PRPs confirm that some remedies are being updated and that additional petitions to update remedies are pending" (p. 15);
>
> "In sum, this reform has produced the greatest tangible benefits of any of EPA's Superfund administrative reforms" (p. 18).

Revitalizing America's Land

EPA has stressed the reuse of formerly contaminated properties as a high priority, and combines many different strategies to enable these sites to be considered for redevelopment. These actions often spark a new economic boost to potentially depressed and formerly contaminated areas.

The Agency's first strategy to enable reuse is the Brownfield Pilot Projects for non-Superfund sites, which play a major role in encouraging the redevelopment of potentially contaminated property. The second strategy involves two reforms (Refining CERCLIS and Delete Clean Parcels from the NPL) that alter the inventory and listing status of sites

Brownfields Success

Bridgeport, CT

Through both private and public funding, the former Jenkins Valve site, located at Bridgeport's main gateway, will be home to an indoor skating rink, a new 5,500-seat ballpark, and a new museum. The ballpark project alone has supported 361 jobs, 68 of which are permanent.

Emeryville, CA

EPA awarded Emeryville a $200,000 Assessment Demonstration Pilot under EPA's Brownfield Initiative in March 1996. On an abandoned, four-acre railroad site in Emeryville, CA, the city and a development corporation plan to construct 200 units of housing. Approximately 100 construction workers have already been hired to build these housing units. Within the next five years, construction of retail, hotel, and office complexes is expected to support as many as 10,600 jobs and nearly 4 million square feet of new facilities, providing an additional $6.4 million in annual property tax revenues.

Trenton, NJ

EPA awarded Trenton $200,000 under its Brownfield Initiative in September 1995. Trenton's Gould National Battery site was home to commercial lead-acid battery manufacturing from the mid-1930s to the early 1980s. A research corporation developing innovative methods of site remediation approached the city about conducting a demonstration cleanup project on the Gould site. Phytotech was interested in a new soil cleanup technique called phytoremediation, in which plant are used to extract lead and other heavy metals from the ground. Indian mustard plants were planted at the site in 1996, and initial tests prove that lead levels on the property have already been reduced. Through efforts of the Brownfield Assessment Demonstration Pilot, the city, the community, and the researchers, the Gould site will one day return to productive use.

in CERCLIS as well as of small portions of Superfund sites. EPA uses its enforcement discretion as a third strategy to remove liability barriers that might impede site reuse. Documents such as prospective purchaser agreements and comfort/status letters have aided this effort.

Brownfields Program Promotes Cleanup and Redevelopment

EPA continues to promote cleanup and redevelopment of brownfields—abandoned, idled, or under-used industrial and commercial properties where expansion or redevelopment is complicated by real or perceived environmental contamination. During FY98, EPA funded Brownfields Pilots in three categories: Assessment Demonstrations, Job Training partnerships, and Showcase Community collaboration projects. EPA also provides support through the Brownfields Revolving Loan Fund Program. These efforts are designed to promote cleanup and redevelopment through the active involvement of states, local governments, communities, and tribes.

EPA has funded 227 Brownfield Assessment Demonstration Pilots through FY98. These pilots award up to $200,000 over a two-year period for the creative exploration and demonstration of brownfield solutions. The pilots are seen as catalysts for change in local communities, and often spur community involvement in local land use decision making. This is accomplished by extensive outreach to all stakeholders such as bankers, developers, community and neighborhood grass-roots organizations, faith groups, and small and large businesses. During FY99, EPA plans to identify new Brownfield Assessment Demonstration Pilots and supplement up to 50 existing pilots. In addition, through the Targeted Site Assessment (TSA) process, EPA provides funding and technical assistance for environmental assessments at brownfield sites throughout the country. In FY98, EPA distributed $8 million for this purpose.

During FY98, EPA announced 16 Showcase Communities that display the joint effort of many federal programs and EPA to strengthen the brownfields effort. Over the next two years, each community will receive up to $1 million in grants and other technical and financial aid, depending on its specific needs. In addition, 24 community finalists received supplemental funding to support assessments. The showcase communities will also receive the assistance of a federal staff member for the duration of two years to support all brownfield activities. These Showcases intend to empower America's communities and demonstrate the benefits of coordinated federal attention to brownfields.

To strengthen economic growth within brownfields communities, EPA awarded 11 new Job Training Development and Demonstration Pilots in FY98. These job training programs enable local citizens to take advantage of jobs created by the assessment and cleanup of the brownfield areas. Based on the success of current training programs, EPA anticipates awarding ten additional pilots in FY99.

Brownfields Showcase Communities

Baltimore, MD
Chicago, IL
Dallas, TX
East Palo Alto, CA
Southeast, FL
Glen Cove, NY
Kansas City, KS/MO
Los Angeles, CA
Lowell, MA
Portland, OR
State of Rhode Island
St. Paul, MN
Salt Lake City, UT
Seattle/King County, WA
Stamford, CT
Trenton, NJ

EPA initiated Clean Air Brownfield Partnership Programs in Baltimore, Dallas, and Chicago during FY98. These creative partnerships will demonstrate the effectiveness of innovative strategies designed to enhance both air quality and economic vitality in Baltimore, MD; Chicago, IL; and Dallas, TX.

Finally, EPA uses the Brownfields Cleanup Revolving Loan Fund Pilots (BCRLF) to provide grants to cities to leverage their ability to make low-interest loans for brownfields cleanup. The Agency is currently implementing 23 grants awarded during FY97. Due to Congressional restrictions, no new pilots were awarded during FY98. However, EPA expects to fund up to 63 new BCRLF pilots in FY99 in amounts up to $500,000 per pilot. Supplemental support of up to $150,000 may also be available for up to 23 existing pilots.

Refining CERCLIS and NPL Status

Almost 42,000 sites have been entered into the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS), EPA's database of site information for all potential or confirmed Superfund sites. Yet of these 42,000 sites, less than four percent have been listed on the NPL. Until recently, sites evaluated and not placed on the NPL remained in CERCLIS, associating a perceived threat of Superfund liability with the sites. To rectify this problem, EPA refined the process for registering and maintaining site information in CERCLIS by archiving such sites.

EPA introduced the CERCLIS archiving effort in early 1995 as part of the Agency's Brownfields Economic Redevelopment Initiative. Archive candidates include sites where the initial investigation finds no contamination, where contamination is quickly removed, and where contamination is insufficient to warrant federal Superfund attention. In June 1996, EPA provided guidance for identifying types of sites eligible for archiving. The Agency continues to archive sites from CERCLIS as assessment and any necessary non-NPL cleanup activities are completed. The Agency has archived 31,000 (75 percent) of the sites in CERCLIS through FY98.

Reforms have also enabled EPA to delete portions of sites that are uncontaminated or have achieved their cleanup goals from the NPL. These steps facilitate the transfer, development, or redevelopment of property or portions of property where all necessary response work has been completed. The Agency has developed tools and guidance to identify, map, and track these partial deletion sites, and has initiated partial deletions at 14 sites since FY96. In FY98, the Agency completed six partial deletions and two notices of intent to partially delete.

Removing Liability Barriers

The prospective purchaser agreement (PPA) is one tool that EPA uses to facilitate the cleanup and reuse of contaminated property. In May 1995, EPA published the "Guidance on Agreements with Prospective Purchasers of Contaminated Property," which superseded the 1989 prospective purchaser guidance. The 1995 guidance's revised criteria allow EPA greater latitude in using covenants not to sue to support the cleanup and reuse of contaminated property. The Agency now may enter into PPAs whenever federal action has occurred, is ongoing, or is anticipated. In addition, the guidance provides flexibility in the form of benefits that purchasers must provide to EPA to receive a covenant not to sue.

PPA Success

Woburn, MA

To advance the redevelopment proposals at the Industri-Plex Superfund site in Woburn, MA, EPA entered into three PPAs. The PPAs enabled the public/private partnership to begin developing the area into a Regional Transportation Center with over 200,000 square feet of retail space, and potentially over 750,000 square feet of hotel and office space.

Environmental and economic benefits include:

- Creation of an open land and wetlands preserve;
- Reduced exposure to contaminants by enhanced remedy protectiveness;
- Improved traffic and safety conditions through alleviation of congestion at a major highway interchange; and
- An average of 700 short-term jobs with an estimated total annual income of $23.6 million.

Prior to publication of the 1995 guidance, EPA had entered into 20 PPAs. At the end of FY98, close to 100 PPAs were referred to the Department of Justice; of these, close to 90 are final agreements. Following issuance of the revised guidance, the number of PPAs into which EPA entered increased by over 300 percent.

The impact of the PPA guidance is visible in communities across the country. EPA regional staff estimate that, to date, PPAs have facilitated the purchase of over 1,500 acres of contaminated property and have supported over 1,700 permanent jobs. Finally, reuse projects associated with PPAs have resulted in an estimated $2.6 million in local tax revenue and have spurred redevelopment of hundreds of thousands of adjacent acres nationwide.

Another tool available for removing liability barriers is EPA's "Policy on the Issuance of Comfort/Status Letters" (November 1996). The policy reassures parties that EPA will not pursue them for cleanup costs if they purchase, develop, or operate on brownfields property. Sample letters in the guidance provide interested parties with all releaseable information EPA has on a piece of property, what that information means, and the likelihood of or current plans for federal Superfund action. Parties gain "comfort" by receiving EPA's data on a site and knowing the Agency's intentions regarding a Superfund response. To date, the Agency has issued approximately 300 comfort/status letters.

Stakeholder Comments

EPA's reforms respond to many of the fundamental concerns of those considering the acquisition or financing of environmentally impaired real property. As a result, these reforms are increasingly facilitating the recycling of our nation's brownfields, thereby advancing both economic and environmental policy objectives.

—Roger Platt, National Realty Committee

EPA has demonstrated a steadfast commitment to reducing the anxiety of real estate investors interested in properties where contamination, or the threat of contamination, is present. Through a concerted series of EPA Superfund Administrative Reforms and associated Clinton Administration policy initiatives, a remarkable number of previously abandoned or underutilized properties are now being returned to productive use.

—Lawrence Jacobson, Commercial Real Estate Finance Mortgage Bankers Association of America

Comfort Letter Success

Woburn, MA

A property owner adjacent to the Industri-Plex Superfund site was receiving offers of less than half his asking price for his property due to potential ground water contamination. After EPA issued a comfort letter to the property owner, he received the amount he was asking.

Glendale, CA

Dreamworks, the film studio founded by Steven Spielberg, showed interest in buying a large parcel of land on which to build sound stages. However, the land included a portion of the San Fernando Valley Superfund site, a contaminated aquifer subject to EPA cleanup activities. EPA's comfort letter was able to address Dreamworks' concern over potential Superfund liability.

On November 16, 1998, EPA issued the "Handbook of Tools for Managing Federal Superfund Liability Risks at Brownfields and Other Sites." This handbook compiles tools that describe federal liability as it relates to real property. The handbook provides background information on CERCLA and summarizes various statutory provisions and Agency regulations, policies, and guidance documents that help manage CERCLA liability risks associated with brownfields and other sites. EPA hopes that the handbook will facilitate reuse by helping developers weigh the benefits of redevelopment against any associated environmental risks.

The reforms discussed in this section intend to help government and communities work together sufficiently to start, maintain, and complete the remediation process. The cooperation and participation of all involved stakeholders allows redevelopment to occur both quickly and efficiently. By supporting brownfields initiatives, refining CERCLIS, and addressing liability concerns, EPA has successfully enabled the return of sites to productive use.

Superfund Site Reuse Success

Anaconda, MT

Through a cooperative effort involving EPA, state and local governments, and ARCO, the responsible party, a portion of the Anaconda Copper Smelter Site has been transformed into an award-winning golf course. After being capped, a 1,500-acre portion of a former smelting and processing area was redesigned by golf pro Jack Nicklaus. Nicklaus preserved and incorporated many of the smelting structures into features of the golf course to retain the lands' historical importance. A state-of-the-art drainage system was also implemented to protect a nearby watershed. During its six-month season, the Old Works Golf Course supports approximately 20 full-time, permanent jobs. The total annual income associated with these permanent jobs is estimated to be $480,000. These permanent jobs will result in over $30,000 in state income tax. The county also expects to receive $250,000 annually from golf course revenues.

Superfund Site Reuse Success

York County, VA


Source: VA Power

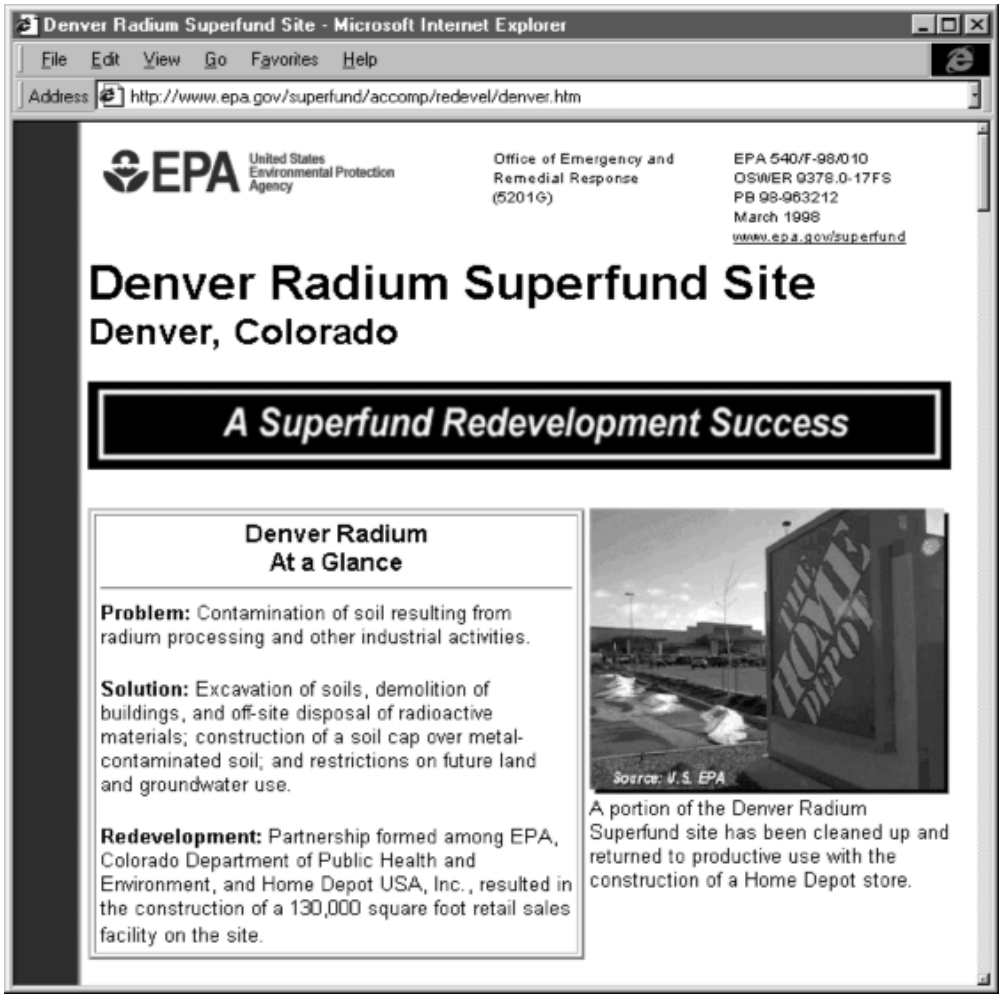
The Chisman Creek watershed was contaminated by the dumping of over 500,000 tons of fly ash (the soot-like byproduct from the burning of fossil fuels like coal and petroleum coke). Heavy metals such as nickel, vanadium, arsenic, beryllium, chromium, copper, molybdenum, and selenium were leaking into local rivers and ponds and contaminating drinking wells. Following site cleanup, a partnership of EPA, the Commonwealth of Virginia, Virginia Power, and York County, with the full support and urging of the community, constructed Chisman Creek and Wolf Trap Parks on a total of 41 acres. The two recreational facilities contain softball and soccer fields, recreational support facilities, two ponds, and a memorial tree grove. The National Environmental Awards Council, representing 23 non-profit environmental advocacy groups, presented an Environmental Achievement Award to the "Chisman Creek: Fly Ash to Fly Balls" partnership.

Recycling Superfund Sites

A logical outgrowth of the brownfields redevelopment work is the reuse of Superfund sites. Recycled Superfund sites may be redeveloped for a variety of uses, including commercial/industrial, recreational, and ecological projects. Major national corporations have established businesses at recycled Superfund sites, including Netscape, Target, Home Depot, and McDonalds. Other sites have been redeveloped into athletic fields, community parks, golf courses, and wetland and habitat preserves. Preliminary analyses indicate that as many as 150 Superfund sites are in reuse or continued use, supporting thousands of jobs and generating revenue for states and local communities. EPA continues to make strides in spurring the beneficial reuse of Superfund sites.

EPA has produced

several fact sheets that highlight successful site reuse projects, such as the document discussing the Denver Radium site *(below)*. These fact sheets can be found online at: http://www.epa.gov/superfund/accomp/redevel/index.htm.



Getting the Little Guy Out

Since initiating the reforms program in 1993, EPA has removed thousands of small waste contributors from the Superfund liability scheme. Recognizing that third-party litigation can inordinately burden small parties, EPA has used its settlement authority to get small waste contributors out of Superfund litigation. This effort decreases transaction costs while increasing fairness and resolution speed.

EPA recognizes two main types of small contributors: de minimis and de micromis:

- De minimis contributors are those parties who have contributed only a very small amount of waste to a site, and whose contribution is minimal compared to other waste at the site. For example, an individual who contributed one percent or less of the waste at a site may be considered a de minimis party.

- De micromis contributors are those parties whose contribution of hazardous substances to a facility is minimal, both in volume and in toxicity. De micromis parties are defined by the following eligibility:

  — 0.002 percent (of total volume) or 110 gallons/200 pounds of materials containing hazardous substances, whichever is greater; or

  — 0.2 percent of total volume, where a contributor sent only municipal solid waste (MSW).

The de minimis initiative was a Round 1 reform that has now been fully incorporated into the base Superfund program. This reform has been one of the Agency's most successful, embraced by the regions, major PRPs, and small waste contributors. Through FY98, the government has completed settlements with over 18,000 small-volume contributors (two-thirds since the de minimis reform was announced) at hundreds of Superfund sites.

EPA has also sought to protect de micromis contributors. The Agency issued its first policy in 1993, indicating that these parties should not be pursued, and subsequently expanded the number of parties eligible for de micromis treatment in the "Revised De Micromis Guidance" (June 1996). The revised guidance doubles previous eligibility cutoffs and intends to further discourage third-party litigation against de micromis parties. For such small parties, the cost of legal and other representation services may actually exceed the party's settlement share of response costs. If private parties do threaten suit against these very small contributors, EPA enters into settlements providing contribution protection.

By publicly offering parties a zero dollar settlement in the 1996 Revised Guidance, EPA hinders big polluters from dragging de micromis contributors into litigation. The real success of this method is measured by the untold number of potential lawsuits that the Agency has discouraged. The low number of sites using de micromis settlements (nine sites through FY98) illustrates how EPA's 1993 and 1996 de micromis policies have successfully deterred PRPs from pursuing small parties.

In addition, when EPA settles with the primary PRPs, the Agency asks that the primary PRPs waive their right to pursue de micromis parties. EPA and the Department of Justice issued an October 2, 1998, policy entitled "Inclusion of Contribution Waiver by Private Parties in CERCLA Administrative and Judicial Settlements." The policy provides that EPA should seek these waivers in all agreements (e.g., Remedial Design/Remedial Action, removal, Administrative Order on Consent, de minimis, cost recovery). Although the 1996 Revised De Micromis Guidance provides that the government will exercise enforcement discretion and decline to pursue these parties, it did not insulate such parties from contribution actions by other PRPs at the site. The development of this policy further strengthens EPA's commitment not to pursue de micromis parties and to protect them from third-party litigation.

Success Through Partnerships

When EPA began investigating ways to improve the Superfund program in 1991, it immediately recognized the critical importance of partnership and community participation. The Agency saw involvement as key to the success of Superfund. Partnership includes both community and EPA interaction as well as federal, state, and tribal integration. In addition, partnership includes enhancing individual stakeholder participation in the program.

Community Involvement

EPA believes that communities must have meaningful opportunities for involvement early in the cleanup process and should stay involved throughout site cleanup. Initiatives such as Community Advisory Groups (CAGs), Technical Assistance Grants (TAGs), and job training programs are just a few of the ways that EPA is supporting this endeavor.

On the local level, CAGs foster meaningful public involvement and integrated problem-solving. The CAG serves as a public forum for representatives of diverse community interests to present and discuss their needs and concerns related to the Superfund site with federal, state, tribal, and local government officials. The number of sites with CAGs increased by over 50 percent before the CAG program was officially taken out of the pilot stage. In FY98, 14 new CAGs were created, bringing the total to 47. The CAG concept has been so successful that other Agency programs (Community-Based Environmental Protection, the Resource Conservation and Recovery Act, and Project XL) adopted its ideas in FY98. In Region 1, use of a CAG led to community consensus and the selection of a new remedy that saved approximately $45 million.

To facilitate CAG efforts, EPA released two versions of a Community Advisory Group Toolkit during FY98. The toolkits—one for EPA staff and one for community members—were designed to help communities set up and maintain a CAG. EPA tested the toolkits at 18 sites. Based on comments from the field tests, the Agency revised the toolkits and distributed final copies in October 1998. As a companion document, EPA also released "About the Community Advisory

TAG Success

Vertac Site, AR

TAGs have enabled communities to better understand and therefore comment on Superfund activities. For example, the Concerned Citizens Coalition (CCC) of the Vertac site in Arkansas was awarded a TAG in 1996. According to a CCC member, the community was better able to understand EPA's technical decisions and actions with the help of the Technical Advisor (TA) provided by TAG funding.

AT&SF Site, NM

At the AT&SF site in New Mexico, the San Jose Community Awareness Council used TAG funds to pay for the technical advisor as well as to help create and fund a community newsletter that provides site activities information to the neighborhood.

Group Toolkit: A Summary of the Tools" in September 1998, describing the toolkit and explaining its uses. In addition to ensuring the continued success of the CAG program, EPA will continue to evaluate CAGs; pursue CAG formation at appropriate sites; and develop techniques for improving its support and assistance to communities that form CAGs.

CAG Success

Orongo-Duenweg Mining Belt, MO

At the Orongo-Duenweg Mining Belt in Missouri, the formation of a CAG in 1995 gave community members a voice in dealing with their concerns about EPA's plans for site cleanup, including the impact these plans could have on real estate values and citizens' health. The group helped establish a working relationship between the community and EPA by opening up the lines of communication. This improved communication helped EPA explain its site remedy choice to concerned community members. In fact, the community came to agree with EPA's proposal to implement an innovative cleanup technology, which promises to increase the pace of the cleanup and save money.

"Established communications forums where complex issues can be discussed in detail, enable people to begin to understand site issues on a deeper level and help them to not react from fear."
—David Mosby, CAG Member

Geneva City Dump/True Temper Sports Site, OH

Co-founder Beth Robinson and Chairperson Pat Simpson of the Geneva City Dump/True Temper Sports site's CAG in Geneva, OH, said that the CAG has strongly influenced the cleanup of the True Temper Sports site. They cited the CAG's success in expanding the scope of the original cleanup plan to include removal of contaminated sludge from a lagoon. They also said that EPA listened and responded to community concerns by doubling the size of the cleanup and incorporating citizen comments into the work plan.

"Our Community Advisory Group has had an excellent, non-adversarial relationship with EPA from the beginning of the process. They said the community trusted EPA more as a result of the formation and operation of the Community Advisory Group."
—Co-founder Beth Robinson and Chairperson Pat Simpson, Geneva City Dump/True Temper Sports Sites CAG

Velsicol Chemical Site, MI

According to Chairman Ed Lorenz of the Pine River Task Force (Velsicol Chemical site) in St. Louis, MI, information in the *Community Advisory Group Toolkit* prompted the group to focus on environmental justice issues. The task force has done extensive outreach to local citizens, and a nearby Indian reservation now has an active member on the group. The task force has also reached out to seasonal migrant workers. This outreach has resulted in more diverse input to the cleanup process.

CAG Toolkit

The toolkit contains outlines, forms, publications, and other "tools" that can be used to establish and operate CAGs. A brief overview of the tools follows.

- Meet the Community Advisory Group
  Explains the purpose of CAGs and provides presentation materials for members to use in promoting their community group.

- Tips for Involving Hard-to-Reach Segments of the Community
  Contains suggestions on how to reach out to and involve portions of the community with low-income and minority populations.

- Let's Get Started
  Highlights a few of the steps involved in structuring and starting a CAG, including choosing a name, defining a mission, and setting up an organizational structure.

- Writing a Mission Statement
  Describes how to craft a well-written mission statement that focuses an organization and tells how important a statement is in communicating the CAG's objectives.

- Developing Operating Procedures
  Explains how to write operating procedures on how the group will conduct business, make decisions, and resolve disputes.

- Incorporating Your Community Advisory Group
  Explains the importance of incorporating the CAG for tax purposes, and describes the steps involved so that groups can qualify for financial assistance from federal, state, public or private resources, or TAGs from EPA.

- Securing Tax-Exempt Status
  Outlines the steps involved in applying for tax-exempt status with the IRS and provides guidelines for state and local governments (as incorporation does not automatically exempt CAGs from taxation).

- Community Advisory Groups and Technical Assistance Programs
  Describes the steps involved in obtaining TAGs to hire independent technical advisors, so that citizens can better understand complex issues at Superfund sites.

- Finding Funding for Community Advisory Groups
  Provides a guide to help groups write an effective proposal that will attract funding.

Through initiatives such as the CAG program, communities gain greater input into and awareness of Superfund issues. Yet citizens also need to understand complex technical information. To fulfill this need, TAGs allow eligible community groups to hire technical advisors to help the community better understand site-related technical information. EPA has awarded 202 TAGs to various groups since the program's inception in 1988. In June 1999, the Agency plans to publish the provisions of the revised TAG regulation, which is intended to simplify the TAG program.

Stakeholder Comments

The Dutch Boy Site Community Advisory Group has been an effective way of getting everyone with an interest in site decisions to talk to each other. Now, the two homeowners associations work together closely—not only on site-related issues, but on other common concerns. The flow of information between the local, state, and federal government and community residents has improved as well.

—Co-chairs John Chenier and Tony Davenport, Dutch Boy Site CAG, Chicago, IL

The CAG concept is "the best way to resolve issues at Superfund sites, because everyone talks and listens to each other."

—CAG Member Catherine O'Brien, Brio Refining Inc., Superfund Site, Harris County, TX

The partnership was successful in developing practical remedies that conserved financial and natural resources, reflected input from the public, and relied on coordination among regulatory agencies.

—Tony Able, EPA Region IV Remedial Project Manager regarding EPA, DOE, TDEC cooperation for Lower East Fork Poplar Creek Oak Ridge Site, TN

Other outreach initiatives have also provided meaningful and timely participation for communities. In response to requests for local economic benefit from site cleanups, EPA used interagency partnerships to design the Superfund Jobs Training Initiative (SuperJTI). At the NL Industries-Taracorp Superfund site in Granite City, Illinois, EPA worked with DePaul University in Chicago to provide environmental job training for 26 area residents, 18 of whom have been hired by environmental firms. Additionally, EPA partnered with the U.S. Public Health Service to form the Superfund Medical Assistance Work Group, which established the Medical Assistance Plan to address health concerns of citizens living near hazardous waste sites. Since 1995, the Agency for Toxic Substances and Disease Registry has provided 62 environmental health care training programs, workshops, lectures, and seminars to health care providers, local agencies, and residents of communities near hazardous waste sites.

State and Tribal Involvement

EPA recognizes the importance of ensuring effective state and tribal involvement. States are successfully conducting thousands of hazardous waste site cleanups under both state and federal Superfund programs. Approximately 35 states have implemented Voluntary Cleanup Programs (VCPs)—only one example of integrated programs that affirm state and federal commitment to partnership. EPA has identified 11 program areas

for potential state involvement, with over 50 percent of all states participating in at least one, and with some states active in as many as five program areas.

EPA has begun collecting and evaluating data from state remedy selection pilots, and will incorporate findings into the Agency's Enhanced State and Tribal Roles Initiative. EPA is also supporting pilot initiatives in two states (New Hampshire and Texas) to assess the ability of states to conduct more time-critical removal actions. The Agency is developing an evaluation strategy and expects to complete it during FY99. These pilots will help EPA focus on efficient and effective ways to increase state involvement and reduce EPA oversight within the Superfund cleanup process.

Partnership Success

RSR Smelter Site, Dallas, Texas

The names of the certified students who completed the 80-hour HAZMAT (hazardous materials) training were sent via the remedial project manager to the selected contractors who will carry out the remedial action for Operable Unit #4. It is hoped that the students will be selected for employment during the implementation phase of the response action.

State Marine Site, Port Arthur, Texas

On July 22, a community meeting was held at the site to inform residents of future opportunities to participate in the National Institute of Environmental Health Sciences (NIEHS) Minority Worker Training Program. Approximately 20 students will be trained in study skills, life skills, math skills, HAZMAT, and other related training. When removal action begins at the site, contractors will be encouraged to hire the trained and certified community residents.

EPA Brownfields Job Training, Dallas, Texas

In addition to the NIEHS minority training opportunities available to communities affected by brownfields, EPA is piloting its own brownfields-related minority worker training program. The program offers citizens living in brownfields communities environmental and other related training so that they can find jobs in local cleanup projects. EPA required that pilot applications be located within or near one of the 121 pre-1998 brownfields assessment pilot communities. A Dallas pilot program was forwarded to Headquarters for consideration and the approved proposal was announced on August 8, 1998, with the grant to be awarded by October 1, 1998. The Texas A&M Extension Center will provide training to 40 students in innovative technology, study skills, life skills, math skills, heavy equipment operation, and HAZMAT training.

Integrated federal, state, and tribal site management efforts further empower states in the cleanup process. Deferring sites from NPL listing and assigning cleanup responsibilities to state or tribal agencies leads to greater state involvement. Since the initiative was announced in 1995, at least 11 states have signed state deferral agreements that cover over 30 sites. Region 8 signed a new agreement at the Smeltertown site in September 1998 and anticipates up to seven new agreements next year.

State Participation Program Areas

- Pre-remedial/Site Assessment Cooperative Agreement
- Remedial Response Cooperative Agreement
- Enforcement Cooperative Agreement
- Removal Response Cooperative Agreement
- Core Program Cooperative Agreement
- Support Agency Cooperative Agreement
- Multi-site Cooperative Agreement
- Voluntary Cleanup Program
- Consolidated Cooperative Agreement Pilot
- Remedy Selection Pilot

Consolidated (Block) Funding can be defined as the consolidation of two or more of the six types of cooperative agreements currently offered in Superfund under a single umbrella cooperative agreement (CA), with a single scope of work and budget. The initiative was designed to enhance state flexibility in redirecting CA funds between and among sites and activities (to the extent allowed by the Superfund Advice of Allowance); expand state and tribal flexibility to transfer funds among sites and activities within the approved tasks for the CA without prior EPA approval; reduce the need for amendments when scope-of-work changes are needed; and reduce other specific administrative budget and reporting requirements, where appropriate. The consolidated (block) funding reform was implemented in early 1997 with a start-up of 13 pilots. In FY98, the number of pilots grew to over 20, resulting in reduced reporting requirements, scope changes, money movement within and among CAs, and generic obligation of monies. EPA hopes to evaluate the program's success in FY99.

Both community involvement and federal, state, and tribal initiatives have strengthened the Superfund program. Reforms that enhance community involvement and communication increase the effectiveness of the program overall. Site-specific activities can move forward in an environment of stronger community satisfaction and involvement. More resources are provided for the community, including job training and health programs. Federal, state, and tribal partnerships, built upon a foundation of demonstrated state readiness and resources, provide clear state decisionmaking authority with support from (but minimal overlap with) EPA. By forging partnerships and pooling the knowledge and resources of various stakeholders, the Superfund program can better protect people and the environment from risks associated with contaminated sites.

Enhancing Stakeholder and Citizen Participation

EPA is improving the Superfund program by providing the opportunity for input not only at the state and community levels, but also at an individual level. Through tools such as forums, Ombudsmen, and websites, interested stakeholders and citizens can easily access information and participate in local cleanups.

Forums are one tool that EPA uses to enhance public participation in the Superfund program. In September 1998, the Agency held the Sustainable Development/Recycling

Superfund Websites

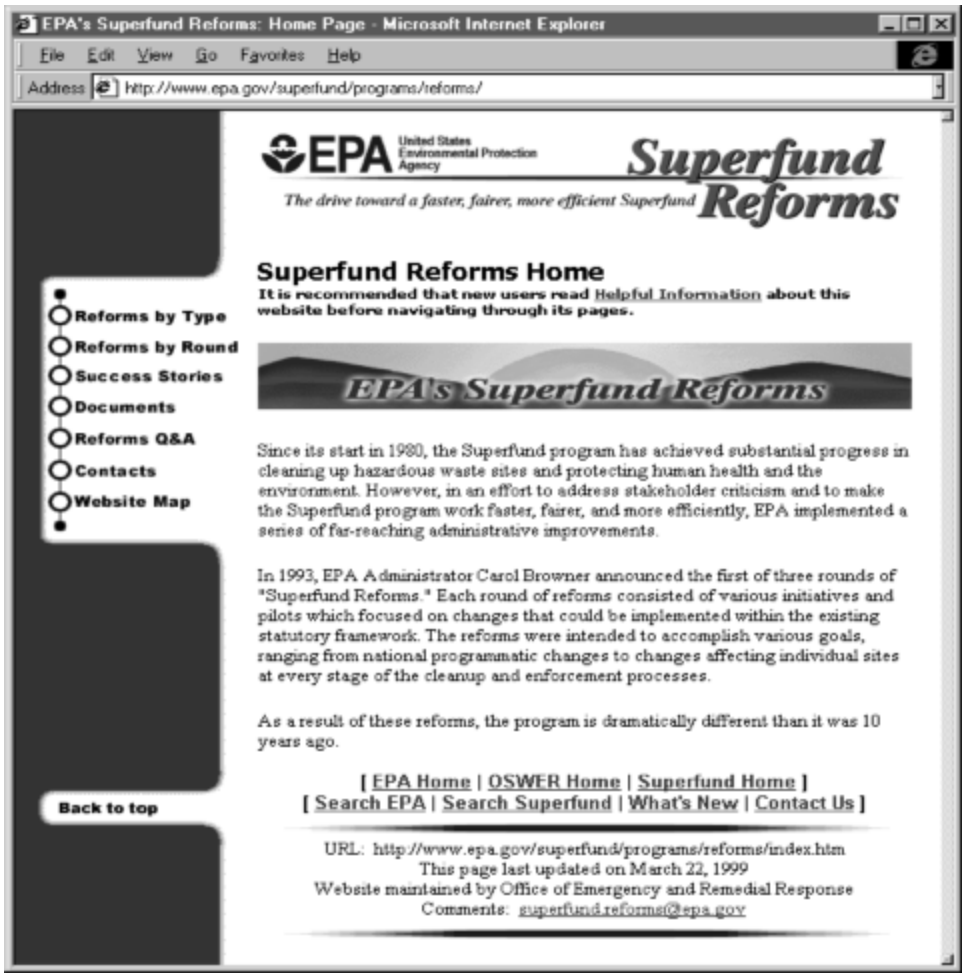
- Headquarters Superfund Homepage (www.epa.gov/superfund/)
- Region 1 Superfund Homepage (www.epa.gov/region01/remed/superfund/index.html)
- Region 2 Superfund Homepage (www.epa.gov/region02/superfnd/superfnd.htm)
- Region 3 Superfund Homepage (www.epa.gov/reg3hwmd/super/index.htm)
- Region 4 Superfund Homepage (www.epa.gov/region4/wastepgs/sf/supfnd.htm)
- Region 5 Superfund Homepage (www.epa.gov/R5Super/)
- Region 6 Superfund Homepage (www.epa.gov/earth1r6/6sf/6sf.htm)
- Region 7 Superfund Homepage (www.epa.gov/region07/programs/spfd/spfd.html)
- Region 8 Superfund Homepage (www.epa.gov/region08/sf/sf_home.html)
- Region 9 Superfund Homepage (www.epa.gov/region09/waste/)
- Region 10 Superfund Homepage (http://epainotes1.rtpnc.epa.gov:7777/r10/cleanup.nsf/webpage/Superfund+(CERCLA))
- Superfund Reforms Homepage (www.epa.gov/superfund/programs/reforms/)
- National Remedy Review Board Website (www.epa.gov/superfund/programs/nrrb/)
- Rules of Thumb for Remedy Selection Guidance (www.epa.gov/superfund/resources/rules/)
- Clarifying the Role of Cost in the Remedy Selection Process Factsheet (www.epa.gov/superfund/resources/cost_dir/cost_dir.pdf)
- Expert Workgroup on Lead Website (www.epa.gov/superfund/programs/lead/)
- Superfund Site Dynamic Query Function (www.epa.gov/superfund/sites/)
- Superfund Risk Assessment Website (www.epa.gov/superfund/programs/risk/)

Superfund Sites Forum to discuss issues surrounding the recycling of Superfund sites. Over two days, a broad range of participants from local government, community groups, private industry, and other parties involved with Superfund sites discussed their perspectives on site reuse, provided feedback to EPA, and created a valuable network of stakeholders who can share expertise in the field. The forum helped EPA gather input from interested parties on the role the Agency can play in promoting and leveraging the reuse of Superfund sites.

In March 1998, EPA teamed with the International City/County Managers Association to hold the third Risk Assessment Guidance for Superfund (RAGS) Stakeholder Forum in Atlanta, Georgia. Participants discussed the role of community involvement in Superfund risk assessments and helped develop public outreach products, including an educational videotape for citizens. Participants provided helpful suggestions for improving the products and gained a better understanding of risk assessment reforms.

EPA's ten regional Superfund Ombudsmen help resolve concerns community members have with cleanup actions. For example, EPA Region 7 undertook a major action to clean up lead contamination in approximately 3,000 residential yards. The regional Ombudsman helped resolve complaints from property owners who were not satisfied with the outcome. In one particularly difficult case, the Ombudsman made an independent assessment and then worked out an agreement acceptable to EPA, the property owner, local officials, and the Army Corps of Engineers.

EPA also uses its extensive Superfund website to inform and involve the public. In addition to the Headquarters Superfund page, all ten regions have their own homepages that provide site information, link to important documents, and list appropriate contacts. The Agency's new Superfund Reforms Website allows stakeholders to view documents, read success stories, and access the latest information on each reform. Visit the Superfund Reforms Website at http://www.epa.gov/superfund/programs/reforms/.



Reforms at a Glance

The Reforms Matrix section provides a quick reference tool that summarizes the current status and activities for each reform. The reforms are separated into broad categories within Rounds 2 and 3, including cleanups, enforcement, risk assessment, public involvement and environmental justice, economic redevelopment, innovative technology, and state and tribal empowerment.

The matrix is intended to be a comprehensive look at the activities and achievements of the reforms. The column headings present easily accessible information for each reform. The first column, "Reform," provides the reforms name and number, as well as a brief description of the reform goals. The second column, "Status," indicates whether a reform is complete or ongoing, and lists current activities of the reform effort. "Completed" status indicates that the major objectives of the reform have been fulfilled and future activity will consist mainly of continuing efforts to implement and strengthen the reform. For these reforms, activities listed under the "Status" heading reflect ongoing program implementation. The third column, "Successes," lists the reform's achievements and outcomes.

Reforms Strengthen and Improve the Superfund Program

Faster, Fairer, More Efficient

Ensuring consistent program implementation by applying lessons learned from past initiatives to make cleanups faster, more efficient, and less costly.

Promoting economic development initiatives that foster cleanup and reuse of abandoned, idled, or under-used industrial and commercial properties where expansion or redevelopment is complicated by real or perceived contamination.

Involving and informing communities in the cleanup process to ensure that cleanup objectives are responsive to the needs of the communities served.

Ensuring environmental justice for people of all ethnic groups and the economically disadvantaged through equal, prompt, and effective environmental protection.

Getting state and tribal governments more involved in recognition of the high quality of state cleanup programs and state and tribal contributions to Superfund efforts.

Making the liability system work better by test-driving innovative enforcement processes; reducing transaction costs for PRPs; and promoting fair, effective, and efficient settlements.

CLEANUPS

Reform	Status	Successes
Establish National Remedy Review Board (NRRB) (1a) Promotes cost-effectiveness and national consistency in remedy selection through analysis of site-specific cleanup strategies	**Reform Complete** • Continue to review site cleanups and non-time-critical removal actions that meet certain criteria	• Established Remedy Review Board (11/95) • Issued memorandum and fact sheet on Remedy Review Board (9/96) • Issued annual progress report (12/96 and 2/98) • Created National Remedy Review Board website (www.epa.gov/superfund/programs/nrrb/index.htm) • Reviewed and streamlined the scope and mission of the Board (FY98) • Reviewed a total of 33 site decisions, saving an estimated $43 million (through 9/98)
Establish New Remedy Selection Management Flags/ Rules of Thumb (1b) Promotes cost-effectiveness by developing remedy selection rules that flag potentially "controversial" cleanup decisions for senior management	**Reform Complete** • Continue to use consolidated guide and guidance to improve remedy selection process	• Issued consolidated guide to consultation procedures for Superfund response decisions (5/97) • Issued guidance on rules of thumb for Superfund remedy selection (8/97) • Posted "Rules of Thumb for Remedy Selection" guidance on EPA homepage (10/97); over 1,500 users have accessed the document (www.epa.gov/superfund/programs/reforms/reforms/3-1b.htm#docs)
Update Remedy Decisions at Select Sites (2) Revisit remedy decisions at sites where new scientific information or technological advancements will maintain protectiveness of human health and environment and enhance overall remedy and cost-effectiveness	**Reform Complete** • Work with states and PRPs to identify opportunities for improving remedies • Tabulate specific remedy update data on a quarterly basis	• Issued final implementation memorandum (9/96) • Updated over 210 remedies, with estimated future cost savings of over $1 billion (through 9/98) • Published results of remedy updates completed during FY96 and FY97 in report, "Updating Remedy Decisions at Select Superfund Sites, Summary Report" (7/98)

ROUND 3

Reform	Status	Successes
CLEANUPS		
Clarify the Role of Cost in the Remedy Selection Process (3a) Clarify the role of cost as established in existing law, regulation, and policy	**Reform Complete**	• Issued memorandum and fact sheet on the role of cost (9/96) • Fact sheet posted on Superfund homepage (12/96) and accessed by over 1,000 users (www.epa.gov/superfund/resources/cost_dir/cost_dir.pdf)
Directive on National Consistency in Remedy Selection (3b) Emphasize critical importance of national consistency in the remedy selection process and request that program managers fully use existing tools and consulting opportunities to promote such consistency	**Reform Complete** • Continue to review all proposed plans and Records of Decision (RODs) to promote national consistency in remedy selection decisionmaking	• Issued national consistency memorandum "National Consistency in Superfund Remedy Selection" (9/96) • Established cross-regional management and technical review workgroups to promote communication and consistency • Published fact sheet on EPA's management review procedures (5/97)
Clarify Information Regarding Remedy Selection Decisions (4) Design a tool for clearly presenting, in a standardized format, the context, basis, and rationale for site-specific remedy selection decisions	**Reform Complete** • Prepare more comprehensive guidance	• Developed interim remedy selection summary sheet (12/96)
Establish Lead Regulator for Federal Facilities (7) Develop guidance to establish a lead regulator at sites undergoing cleanup activities under competing federal and state authorities to eliminate overlap and duplication of oversight efforts	**Reform Complete**	• Developed draft policy • Issued policy that promotes the single regulator, defines roles, and outlines the general principles and guidelines for federal and state partners in overseeing cleanup responses (FY98)

CLEANUPS

Reform	Status	Successes
Consider Response Actions Prior to NPL Listing (8) Provide greater flexibility to current NPL policy for evaluating the impact of completed removals on the HRS score by allowing post-Site Inspection completed removals to be considered in HRS scoring	**Reform Complete** • Continue to collect information and monitor implementation of reform	• Amended October 1992 NPL policy (4/97)
Promote Risk-Based Priority Setting at Federal Facility Sites (10a) Develop draft guidance for the regions which will address the role of risk and other factors in setting priorities at federal facility sites	**Reform Ongoing** • Implement on a regional level •Completion expected 3/99 • Issue final guidance	• Developed draft guidance • Regions began implementing risk-based priority setting at federal facilities • Issued "Interim Final Policy on the Use of Risk-Based Methodologies in Setting Priorities for Cleanup Actions at Federal Facilities" (8/98)
Promote Risk-Based Priority for NPL Sites (10b) Establish national Risk-Based Priority Panel to evaluate the risk at NPL sites with respect to human health and the environment; use evaluations to establish funding priorities	**Reform Complete** • Continue review of cleanup projects and establish funding • Reconvene panel (early Spring 1999)	• Established National Risk-Based Priority Panel to rank sites based on risk (8/95) • Evaluated over 50 projects during FY97 (8/97) • Evaluated over 50 projects in FY98, 30 of which were funded in accordance with their recommendations totaling over $180 million • Ranked over $1 billion worth of cleanup projects since its inception

ROUND 3

Reform	Status	Successes
RISK ASSESSMENT		
Community Participation in Designing Risk Assessments (5a) Create a concise, user-friendly reference that provides risk assessors and community members with suggestions for good risk assessments; promotes public participation in the risk assessment process	**Reform Ongoing** • Complete and distribute final guidance document (1/99) • Prepare a hand-out on community participation (1/99) • Produce a video that discusses risk assessment and opportunities for public involvement (Spring 1999) *[See also Reform 3.6b]*	• Formed work group to develop reference document (2/97) • Shared draft of reference document with the Association of State and Territorial Solid Waste Management Officials (ASTSWMO), and with participants at the Risk Assessment Reform Stakeholder Forum (3/98) and several EPA technical community involvement meetings • Revised document based on feedback
PRP Performance of Risk Assessments (5b) Reaffirms EPA's commitment to authorize PRPs to perform risk assessments under the proper circumstances	**Reform Complete** • Survey regions to determine if there are sites where PRPs perform the RI/FS but not the baseline risk assessment	• Issued guidance clarifying PRP role in risk assessments (1/96)
Establish National Criteria to Plan, Report, and Review Superfund Risk Assessments (6a) Prepare documents to help insure that risk assessments are more transparent, clear, consistent and reasonable	**Reform Complete** • Continue RAGS Part D pilot during FY99, addressing questions from training and website feedback • Test RAGS Part D on various site types and provide clarification and user tips as appropriate • Revise guidance as appropriate throughout and following pilot period • Address lead, radionuclide, and ecological standardization issues	• Drafted standard risk assessment data reporting tables (7/97 or 7/96) • Issued Technical Approach to Risk Assessment for planning, reporting, and reviewing risk assessments (9/97) • Issued "Risk Assessment Guidance for Superfund (RAGS) (Part D)" (1/98) • Launched RAGS Part D website containing guidance documents (2/98) (www.epa.gov/superfund/programs/risk/ragsd/index.htm) • Released "Ecological Risk Assessment Guidance for Superfund" (6/98) • Conducted RAGS Part D training for risk assessors and risk managers (7-9/98)

Reform	Status	Successes
RISK ASSESSMENT		
Standardize Risk Assessments (6b) Improve current national Superfund risk assessment guidance by updating and expanding upon parts of the 1989 Risk Assessment Guidance for Superfund (RAGS)	**Reform Ongoing** • Develop videotape "Superfund Risk Assessment & How Communities May Become Involved: A Video for Citizens" (Spring 1999) • Issue guidance document and fact sheet on "Community Involvement in Superfund Risk Assessment" (FY99) • Complete expanded guidance document to supplement EPA's RAGS Part B (other-than-residential land uses) (10/99) • Develop technical guidance document for soil background determinations (10/99) • Develop guidance document "RAGS Volume 3" and companion workbook for probabilistic risk assessment (10/99)	• Formed EPA Workgroups (3/97) • Issued draft workplans (3/97) • Initiated guidance development for all RAGS reform projects (5/97) • Updated workplan (4/98) • Held 3rd RAGS Reform Stakeholder Forum (3/98), workshop with (ASTSWMO), and presented project status and draft documents at a number of EPA technical and community involvement meetings • Released "Superfund Today: Focus on Revisions to Superfund's Risk Assessment Guidance" (10/98)
Utilize Expert Workgroup on Lead (6c) Utilize expert workgroup to standardize risk assessment approaches for lead-contaminated Superfund sites	**Reform Complete** • Issue a directive on lead removal actions (FY99) • Plan a second national conference on lead (6/99)	• Convened a national conference on lead (10/96) • Finalized 10 issue papers(9/98) • Held 3 meetings in 1997 and 2 in 1998 • Posted the Technical Review Workgroup for Lead (TRW) website (FY97) (www.epa.gov/superfund/programs/lead/index.htm) • Reviewed lead risk assessments at 6 sites nationally (FY97)

ROUND 3

Reform	Status	Successes
ECONOMIC REDEVELOPMENT		
Delete Clean Parcels from the NPL (9) Delete portions of sites from the NPL that have been cleaned up and are available for productive use	**Reform Complete** • Issue additional notices of intent to delete clean parcels • Pilot deletion of remediated parcels at closing military bases • Continue to promote the use of partial deletions of NPL sites	• Issued notice on policy change to allow partial deletions (11/95) • Issued partial deletion guidance (4/96) • Deleted clean parcels at 14 sites; issued notice of intent to delete clean parcels at 3 sites (through FY98)
ENFORCEMENT		
Orphan Share Compensation (11) Provide greater fairness, reduce litigation, and promote cleanup of Superfund sites by compensating parties who perform cleanups for a portion of cleanup costs to orphan shares	**Reform Complete** • Continue to offer orphan share compensation at every eligible site under the June 1996 interim guidance on orphan share compensation • Continue to offer orphan share compensation in cost recovery negotiations under discretionary September 1997 policy	• Issued interim final guidance on orphan share compensation (6/96) • Existence of orphan share may be considered in settlement cost recovery cases, as stated in the Addendum to the "Interim CERCLA Settlement Policy," issued September 30, 1997 • Approximately $145 million offered in orphan share compensation at 72 sites (through FY98)
Site Specific Special Accounts (12) Encourage greater use of Special Accounts for settlement funds to be used for response actions at Superfund sites; insure that interest earned by Special Accounts be credited and available for response actions at the site for which the Special Account was established	**Reform Complete** • Continue to promote and refine the use of Special Accounts, and develop guidance as needed • Explore options for disbursing these funds to PRPs to perform response work as an expansion of the original reform	• Reached agreement with OMB allowing interest to accrue directly to special accounts (10/96) • Through FY98, collected over $399 million, established 115 special accounts, and accrued over $69 million in interest (through 8/31/98) for a total of $468 million • Issued the "Interim Final Guidance on Disbursement of Funds From EPA Special Accounts to CERCLA Potentially Responsible Parties" (11/3/98)

Reform	Status	Successes
ENFORCEMENT		
Equitable Issuance of Unilateral Administrative Orders (UAO) (13) Ensure that UAOs are issued to all appropriate parties following consideration of the adequacy of evidence of the party's liability, their financial viability, and their contribution to the site; establish several different document requirements	**Reform Complete**	• Issued memorandum to regions directing changes in procedures for UAO issuance (8/96) • EPA Headquarters personnel independently reviewed the documentation prepared by regional staff and determined consistency with existing Agency policy, including the 8/96 memorandum • Issued 68 UAOs (FY98) • Issued first CERCLA UAO to another federal agency (FY98) • Issued at least 6 orders to state/local government entities (FY98)
Revised De Micromis Guidance (14) Further discourage third-party contribution litigation against de micromis parties; where necessary, resolve de micromis parties' liability concerns quickly and fairly	**Reform Complete** • Only 9 sites have had de micromis settlements. This low number illustrates how the reform has proactively deterred PRPs from pursuing minuscule parties	• Issued de micromis guidance and models in which levels previously identified for small party protection were doubled, and streamlined and simplified the settlement process (6/96) • EPA and the Department of Justice (DOJ) issued the policy "Inclusion of Contribution Waiver by Private Parties in CERCLA Administrative and Judicial Settlements" (10/2/98)
Adopting Private Party Allocations (15) Provide private parties with the opportunity to submit an allocation approach that covers 100 percent of the costs at a given site	**Reform Complete** • This reform was merged with the orphan share reform (FY97)	• Determined that current Superfund policies are adequate for providing direction to implement this reform • Used allocations as basis for settlement at several sites (9/96)

ROUND 3

Reform	Status	Successes
ENFORCEMENT		
Improving the Administration of PRP Oversight (16) Maximize effectiveness and efficiency of EPA oversight of PRPs through enhancement of EPA's working relationship with these parties	**Reform Complete** • Organize meetings between regions and PRPs to discuss oversight issues • Conduct site-specific evaluations to assess reform impacts	• Issued definition to Regions on requirements for implementing the reform during FY98 (FY98) • Included over 70 PRPs as participants in the reform (FY98) • Issued statement that the reform has been reoriented to focus on improving working relationships with PRPs and the efficiency of oversight management (FY98) • Conducted panel discussion at annual conference of National Association of Remedial Project Managers to promote implementation of reform (6/98) • Participated on panel discussion of oversight and cost recovery issues at the semi-annual conference of the Information Network for Superfund Settlements (10/98)
STATE AND TRIBAL EMPOWERMENT		
Pilot Remedy Selection by Selected States and Tribes (17) Provide states and tribes with an increased role in remedy selection at NPL sites when possible	**Reform Ongoing** • Continue implementing the remedy selection process for pilot sites • Collect state remedy selection dates (began FY98) • Prepare closeout report FY99 • Incorporate conclusions into EPA's Enhanced State and Tribal Roles Initiative	• Formed national workgroup to develop criteria and process to select pilot sites and evaluate impact of reform (FY96) • Identified 11 pilot sites from 6 regions (FY97)

Reform	Status	Successes
PUBLIC INVOLVEMENT/ENVIRONMENTAL JUSTICE		
Pilot Community-Based Remedy Selection (18) Promote greater public involvement in the Superfund program, especially during remedy selection	**Reform Ongoing** • Complete case studies • Complete and distribute compendium of useful experiences, approaches, and techniques (1/99) • Continue to discuss regional approaches to community-based remedy selection	• Discussed regional community-based remedy selection approaches (ongoing)
Establish Superfund Ombudsman in Every Region (19) Place an Ombudsman in each region to serve as a point of contact for the public and help resolve stakeholder concerns	**Reform Complete** • Continue to conduct public outreach	• Appointed an Ombudsman in each region (completed 3/96) • Published "Fact Sheet: Regional Ombudsman–Providing a Meaningful Forum for Stakeholder Concerns" (6/96) • Convened annual meetings (6/96, 2/97, 4/98) • Conducted ongoing public outreach and mediation training (2/97) • Developed new outreach tools, toll-free numbers for stakeholders to call, and new processes to resolve issues
Improve Communication with Superfund Stakeholders (20) Increase communication among all Superfund stakeholders and improve access to Superfund information using electronic tools, such as the Internet	**Reform Complete** • Continue to post and revise Superfund information on EPA Superfund homepage, including enhancements to the dynamic Superfund Site Information Query, visual improvements, restructuring according to survey responses (planned) of website users	• Created Headquarters Superfund homepage (4/96); over 100,000 users have accessed the site since 10/96 (www.epa.gov/superfund/) • Revised website (3/97) to facilitate stakeholder access to Superfund information • Released Superfund Site Dynamic Query function on website for personalized Superfund searches (2/98) (www.epa.gov/superfund/sites) • Released Superfund Risk Assessment website (11/98) (www.epa.gov/superfund/programs/risk/index.htm) • Updates to website during FY98 include: online customer survey, user buttons, and posted success stories

ROUND 2

ENFORCEMENT

Reform	Status	Successes
PRP Search Pilots (1) *[See Enforcement Pilots Section]* Determine whether the time line proposed in the Superfund Reform Act of 1994 can be accomplished through completion of early PRP searches; pilot several techniques developed to streamline and improve the PRP search process	**Reform Complete** • Incorporating lessons learned into the program • Sponsor a national PRP Search Enhancement Conference	• Initiated pilots at 15 Superfund sites (FY95) • Developed "Regional Pilot Participation Package" as resource for pilots (6/95) • Pilots completed
Expedited Settlement Pilots (2) *[See Enforcement Pilots Section]* Reduce transaction costs for all PRPs at Superfund sites through early settlements. Reform was designed to encourage early *de minimis* settlements, encourage ability to pay settlements, and give PRPs opportunity to nominate other PRPs	**Reform Complete** • Continue to monitor remainder of pilots • Incorporating lessons learned into the program	• Initiated pilots at 18 Superfund sites • Issued guidance on standardizing *de minimis* premiums (7/95)
The Allocation Pilots (3) *[See Enforcement Pilots Section]* Offer a fundamentally different approach to allocating Superfund costs between parties–a neutral "allocator" selected by the parties conducts a non-binding, out-of-court process resulting in an allocation report from which parties may offer to settle with EPA based on their allocated share	**Reform Complete** • Incorporate lessons learned into the program • Finish the allocation process for the remaining pilots	• Offered allocation process at 12 sites; process being piloted at 9 Superfund sites • Issued 5 allocation reports • Settlement complete at 4 sites • Settled pre-allocation report at 5 other sites

Reform	Status	Successes
ECONOMIC REDEVELOPMENT		
Brownfields Pilot Projects and Brownfields Community Outreach (4a-b) Fund pilots designed to support creative explorations and demonstrations of brownfields solutions; provide EPA, states, tribes, municipalities, and communities with useful information and strategies; promote community involvement and partnerships	**Reform Complete** • Identify up to 50 new Brownfields Assessment Demonstration Pilots and supplement up to 50 existing pilots • Identify up to 70 additional Brownfields Cleanup Revolving Loan Fund Pilots • Identify up to 10 new Job Training and Development Demonstration Pilots • Work with NIEHS to coordinate minority workers with pilot activities • Work with American Society for Testing and Materials (ASTM) to develop standard guide to identify interrelationship aspects of brownfields revitalizations.	• Awarded 227 Assessment Demonstration pilots – up to $200,000 per pilot (through FY98) • Announced selection of 16 Brownfields Showcase Communities as part of National Partnership (FY98) • Awarded 11 job training pilots (FY98) • Continued oversight and development of 23 Brownfields Cleanup Revolving Loan Fund Pilots (FY98) • Awarded 3 Clean Air/ Brownfields Partnership Pilots (FY98) • Provided support for brownfields targeted site assessments (FY98) • Department of Transportation announced policy to recognize the importance of revitalizing brownfields as part of transportation projects (Earth Day '98) • Conducted Brownfields National Conference with 12 co-sponsoring organizations (11/98) • HMTRI held workshop to assist community colleges in developing environmental job training programs (6/98)
Refining CERCLIS (4c) Refine CERCLIS (automated inventory of site information); encourage cleanup and redevelopment by archiving sites that no longer need to be tracked	**Reform Complete** • Continue to archive sites from CERCLIS	• Archived sites (31,116 as of 10/7/98) • Sent 200 letters to mayors with archived sites in their cities (7/95) • Developed fact sheet "Archival of CERCLIS Sites" as a reference (4/97) • Posted an inventory of archived sites by state on the Internet (4/97)

ROUND 2

ECONOMIC REDEVELOPMENT

Reform	Status	Successes
Clarifying NPL Sites (4d) Provide regions with flexibility to clarify areas within Superfund sites determined to be contaminated or uncontaminated	**Reform Complete**	• Convened workgroup (5/95) • Workgroup recommended a policy change to allow partial deletions • Published Federal Register notice (11/95) • Published guidance describing procedures for partial deletions (4/96) • Deleted clean parcels at 14 sites and issued notices of intent to delete 3 other sites (through FY98)
Removing Liability Barriers: PPAs (4e) Identify options and tools to remove liability barriers to encourage the cleanup and redevelopment of contaminated properties	**Reform Complete** • Continue using PPAs and Comfort Letters to encourage redevelopment of Superfund sites	• Issued guidance documents providing assurance to prospective purchasers, lenders, and property owners on CERCLA liability (5/95) • Issued "Policy on the Issuance of Comfort/Status Letters" (11/96) • Issued "Handbook of Tools for Managing Federal Superfund Liability Risks at Brownfields and Other Sites" (11/98) • Referred almost 100 PPAs to DOJ; of these, close to 90 were finalized as of end of FY98 • Issued approximately 300 comfort letters to date

PUBLIC INVOLVEMENT/ENVIRONMENTAL JUSTICE

Reform	Status	Successes
Community Advisory Groups (5a) Encourage regions to promote the establishment of CAGs, which provide a public forum for community members to present and discuss their needs and concerns about the decision making process at sites affecting them and to participate more effectively in the Superfund decision making process	**Reform Complete** • Evaluate existing CAGs • Promote and assist CAGs by developing a CAG website • Make continual improvements to CAG Toolkit	• Issued guidance summary on use of CAGs (8/96) • Issued case studies of 5 sites, "Community Assistance Groups: Partners in Decisions at Hazardous Waste Sites" (11/96) • Issued the CAG Toolkit, one of the most effective mechanisms for implementing the CAG program at Superfund sites (8/97) • Established CAGs at 47 sites total (through FY98) • Published CAG Guidance/Reference sheet in English and Spanish (4/98) • CAG concept used by other Agency programs (FY98) • Completed field-tests of the toolkits at 18 sites (FY98) • Revised toolkits and final copies printed and distributed (10/98) • Developed and produced booklet highlighting content and promoting toolkit use by communities (9/98)
Technical Assistance Grants (5b) Provide resources to eligible communities affected by Superfund sites to acquire independent technical assistance to help them understand and comment on site-related information	**Reform Ongoing** • Publish proposed TAG regulation (March 1999) • Promote citizen involvement by improving TAGs and facilitating the process • Publish provisions to the TAG regulation in FY99 • Continue to implement enhanced community involvement activities at the remainder of the selected sites • Incorporate lessons learned into the program	• Drafted proposed TAG regulation • More than 202 TAGs awarded since the program's inception in 1988 (as of FY98) • Published strategic plan in FY98

ROUND 2

Reform	Status	Successes
PUBLIC INVOLVEMENT/ENVIRONMENTAL JUSTICE		
Community Involvement in the Enforcement Process Pilots (6) *[See Enforcement Pilots Section]* Pilot ways in which community involvement in the enforcement process could be enhanced	**Reform Complete** • Incorporating lessons learned into the program	• Initiated pilots at 13 sites in 9 out of 10 regions • Completed piloted activities at some of the 13 sites selected • Used effective approaches at a number of sites outside the pilot project
Training and Health Service Assistance to Communities (7a) Respond to health concerns of communities near hazardous waste sites by establishing the Medical Assistance Plan (MAP) in coordination with the U.S. Public Health Service	**Reform Ongoing** • Target 4 sites for assistance (9/97)	• Established Superfund Medical Assistance Work Group to develop MAP (FY94)
Superfund Jobs Training Initiative (7b) Develop interagency partnerships to train and employ community residents living near Superfund sites through classroom instruction and hands-on experience	**Reform Complete** • Continue funding NIEHS's Minority Worker Training Program • Continue establishing SuperJTI pilots • Continue awarding grants to health and safety programs	• Started 5 pilots at Superfund sites • Established 7 programs at 11 sites (6/96) • Awarded 20 grants for health and safety programs (9/96) • Funded NIEHS Minority Worker Training Program for FY97

Reform	Status	Successes
CLEANUPS		
Guidance for Remedy Selection (8) Improve consistency and take advantage of streamlining opportunities in site characterization and remedy selection	**Reform Complete** • Issue user's guide for wood treater sites presumptive remedy • Complete evaluation of implementation of presumptive remedy • Issue presumptive remedy directive for metals-in-soils (FY99)	• Issued final soil screening guidance (5/96) • Issued new land use directive (5/95) • Issued "CERCLA Landfill Caps RI/FS Data Collection Guide" (8/95) • Issued presumptive remedy guidance for: MSW landfills (9/93), VOCs in soils (9/93), presumptive remedy policies and procedures (9/93), wood treater sites (12/95), MSW landfills at military bases (4/96), and ground water sites (10/96) • Issued a presumptive remedy users guide for volatile organic compounds in soils (7/96) • Issued supplemental bulletin reporting results of MSW landfill presumptive remedy pilots (1/97) • Issued supplemental bulletin for multi-phase extraction technology for the VOCs in soils presumptive remedy (4/97)
INNOVATIVE TECHNOLOGY		
Risk Sharing: Implementing Innovative Technology (9a) Share the risks associated with implementing innovative technologies for a limited number of approved projects by "underwriting" the use of certain promising approaches	**Reform Complete** • Engage state agencies in this initiative through the Interstate Technology & Regulatory Cooperation Working Group (ITRC) • Review proposals from Regions 5 and 7	• Issued final guidance for Risk Sharing Initiative (3/98) • Technical evaluation panel reviewed Region 7 proposal and forwarded decision package recommending approval to Assistant Administrator (11/98)
Risk Sharing: Identifying Obstacles to Using Innovative Technology (9b) Develop programs to share implementation risks associated with the use of innovative technologies	**Reform Complete**	• Issued innovative technologies in waste management directive, "Promotion of Innovative Technologies in Waste Management Program" (4/96)

ROUND 2

Reform	Status	Successes
STATE AND TRIBAL EMPOWERMENT		
Voluntary Cleanup Program (10) Support and promote effective state/tribal voluntary cleanup programs, and, in conjunction with the Brownfields Initiative, provide limited financial assistance to such programs	**Reform Complete** • Continue to work on developing agreements with state and tribal voluntary cleanup programs • Anticipate continuation of cooperative agreement awards to states in FY99	• Decided preferred approach is for EPA regions and states to negotiate MOAs on a case-by-case basis that can be customized to better fit the state's VCP and legislation • 35 states have implemented programs since its inception • Signed MOAs with 11 states (through FY98) • Published guidance on drafting MOAs between regions and states (9/97) • EPA distributed $10 million of FY97 funding to support state Voluntary Cleanup Program infrastructure
Integrated Federal/State/ Tribal Management Program (11) With combined EPA and state effort, develop a pilot program which defers sites from NPL listings to the states, territories, commonwealths, and federally recognized tribes who would oversee and compel PRP actions at selected sites	**Reform Complete** • Evaluate review of state deferrals and determine appropriate follow-up actions	• Issued final guidance on deferral program (5/95) • Initiated review of Superfund deferral sites (FY97) • Signed agreements with 12 states (through 9/98)
State/Tribal Superfund Consolidated (Block) Funding (12) Offer ways for states and tribes to realize greater flexibility in their use of Cooperative Agreement (CA) resources	**Reform Complete** • 12 states and 3 tribal pilots are underway • Collect information from EPA regions and states to evaluate and develop lessons learned from the pilots (8/99) • Incorporate block funding concepts into Subpart O revision (2/00)	• Issued final report documenting obstacles in awarding and utilizing Superfund resources (12/97) • Initiated evaluation of ongoing pilots in FY98

The Enforcement Pilots

As part of the Superfund reforms effort, EPA committed to improving the enforcement process—primarily by increasing fairness, reducing transaction costs, and expediting settlements. In February 1995, the Agency announced its efforts to pilot ways to meet this commitment. Over the past several years, EPA has implemented four enforcement pilots: Potentially Responsible Party Search, Expedited Settlements, Community Involvement in the Enforcement Process, and Allocations. These pilot sites test concepts introduced in the Superfund Reform Act (SRA) of 1994 at Superfund sites. After more than three years, the pilots have generated clear trends and provided lessons that will improve the Superfund enforcement process. The following summaries look at cumulative accomplishments and lessons learned for each of the respective pilots. EPA will continue to monitor these pilots; however, the Agency will not issue another detailed summary unless new trends develop.

PRP Search Pilots: A Balance of Speed and Comprehensiveness

The primary goal of the PRP Search Pilots was to determine whether the time frame proposed in the Superfund Reform Act (SRA) of 1994 (H.R. 4916) could be best accomplished through completion of early PRP searches. EPA also tested several techniques, identified during a national PRP search conference, designed to streamline and improve the PRP search process. In addition, EPA's Office of Site Remediation Enforcement (OSRE) formed the national PRP Search Enhancement Team (Team) in early 1997. The Team has worked closely with regional PRP search staff to identify, develop, and prioritize a number of tasks designed to support and promote an enhanced PRP search process.

In the Spring of 1995, EPA identified 15 sites where PRP searches had just begun or were about to be initiated as pilot candidates. To test the relevant provisions contained in SRA, each pilot site was set up to conform as closely as possible to a time frame that would lead to notification of potential de minimis parties within 12 months after the search start, and notification of all other parties within 18 months after the search start. Each pilot also tested one or more of the streamlining techniques.

At the 15 pilot sites, PRP searches varied widely in their duration and scope due to variation in site size, the number of PRPs, nature and extent of contamination, available documentation, and level of state involvement. None of the 13 sites that had potential de minimis parties notified those parties within 12 months of the search start date. Five

Piloted streamlining techniques included:

- Using radio announcements, newspaper advertising, and toll-free telephone numbers to solicit information about PRPs from the public;
- Conducting early interviews of parties to obtain information and minimize the need for multiple rounds of information requests; and
- Establishing a publicly available repository for PRP search information to help PRPs identify other PRPs earlier in the enforcement process.

sites made the deadline for notifying all other parties within 18 months of the search start date. The results of the PRP Search Pilots, as well as previous PRP search improvement efforts and evaluations, serve as building blocks for EPA's efforts currently underway to enhance PRP searches.

Several of the streamlining techniques improved PRP searches. At one site, use of the new model information request letter was instrumental in identifying 150 additional parties early in the search process. At another site, an early interview led to valuable information about other PRPs, and assisted in a better understanding of business practices contributing to contamination of that site. Also, the use of a publicly available repository for PRP search information was very helpful in providing valuable information to PRPs and a local community group, and led to nomination of additional parties earlier in the search process. Early interviews of people with knowledge of a site was the technique most commonly cited as being effective in increasing the speed and efficiency of PRP searches.

EPA learned several lessons from the PRP Search Pilots. Primarily, SRA notification time frames were too ambitious for the piloted sites, and would most likely be too ambitious for a majority of Superfund sites. Of all the difficulty factors, the three most common factors preventing adherence to the SRA time frames were complex sites, troublesome hazardous substances, and uncooperative PRPs. To improve the PRP search process, it appears that speed is most effective when balanced with comprehensiveness.

Expedited Settlement Pilots

In 1995, EPA announced the Expedited Settlement Pilots reform, intended to reduce transaction costs for all PRPs at Superfund sites through early settlements. The reform had three specific goals: to encourage early (i.e., pre-ROD) de minimis settlements; to encourage ability to pay (ATP) settlements with de minimis PRPs who demonstrate they cannot pay their full share of response costs at the site; and to give PRPs the opportunity to nominate other PRPs who they believe are also responsible for site cleanup. EPA initiated pilots at 18 Superfund sites to test concepts for meeting these expedited settlement goals.

At the end of FY98, EPA had settled with a total of 1,402 de minimis and ATP parties, resulting in recovery of approximately $22.7 million. From the pilots' inception through the end of FY98, EPA achieved early de minimis settlements at eight pilot sites and ATP settlements at 5 pilot sites, and solicited nominations of additional PRPs. During FY98, EPA also began three new efforts to track the progress of these pilots: determine the feasibility of pre-ROD settlements; evaluate the lessons learned from these pilots; and examine which aspects of this reform should be incorporated into the existing Superfund Enforcement Program.

Lessons Learned and Recommendations

After over three years of piloting expedited settlements, EPA has learned several valuable lessons. First, the Agency has learned the benefits of encouraging pre-ROD de minimis settlements. Reaching these settlements helps EPA resolve liability issues early in the process, reduces future transaction costs, creates funds that can be used to encourage other PRPs to settle with the Agency, and generates positive feedback from de minimis and non-de minimis PRPs.

In addition, EPA has recognized several factors that lead to successful expedited settlements. Regions should plan to do significant work early in the cleanup process to identify the de minimis PRPs and to craft an appropriate strategy for each of them. As early as possible, regions should obtain reliable information on the identity and contributions of each PRP. This includes obtaining good data on the type and volume of waste contributed by each PRP to the site. In addition, credible and accurate information on the costs of likely future response actions help establish the basis for a de minimis settlement and allow the Agency to provide PRPs with that information. Performing these research tasks early in the process allows the regions to proactively solicit interest in early de minimis and ability to pay settlements.

It is important to involve PRPs in the de minimis identification process (EPA makes the ultimate decision on whether a PRP is a de minimis party for that site) and to make sure that PRPs understand pre-ROD de minimis settlements, their benefits and risks, and the

premium payment provision. This involvement is especially beneficial to PRPs who are not generally knowledgeable about CERCLA. PRPs who believe that they are not financially able to pay their full share of any de minimis settlement should be aware that EPA is willing to consider them for an ATP settlement. The regions should also inform them of the information that they must provide to EPA to establish their limited ATP situation.

In some cases, PRPs may choose not to enter into a settlement with EPA before the Agency has selected the response action. The PRPs may feel that paying a share of the estimated costs of a yet-to-be-selected response action plus a premium is too risky for them, and they may prefer to wait to negotiate any settlement until EPA decides on a response action. Finally, it is important to allow PRPs to nominate other parties as PRPs. EPA will then have time to include such nominated PRPs, should they qualify and choose to be included, in an early de minimis settlement.

Pilot Success

Tulalip Landfill, Region 10

EPA settled with 207 *de minimis* parties, resulting in recovery of approximately $10.0 million. All three goals of the reform were achieved at this remedial pilot: early *de minimis* settlement, ATP settlement, and nomination of additional parties.

Solvent Recovery Services, Region 1

EPA settled with 945 *de minimis* parties, resulting in recovery of approximately $7.3 million. EPA was also able to achieve two goals of the reform at this pilot: early *de minimis* settlement and ATP settlement.

The Allocation Pilots: Sharing Responsibility Among Parties

EPA initiated the Allocation Pilots in May 1995, offering a fundamentally different approach to allocating Superfund costs between parties. The main purpose of the pilot was to test the implementability of the allocation scheme proposed by the 103rd Congress and assess the impact of an allocation process on settlement.

Under the pilot, allocation parties were initially given the opportunity to nominate additional parties. The parties then selected a neutral "allocator" to conduct a non-binding, out-of-court process resulting in an allocation report. The allocation report detailed each allocation party's assignment of shares of responsibility. Parties were offered an opportunity to settle with EPA based on their allocated share. Under the pilot, EPA was responsible for 100 percent of the orphan share, which consists of the shares of allocation parties that are insolvent or defunct.

Implementing the Process

In previous reports, EPA has provided useful information regarding the strengths and weaknesses of the SRA allocation provisions and of the various aspects of the allocation pilot process in general (e.g., allocator selection, development of protocol document between parties, settlement issues, and information derived from surveying the allocation parties). These findings have proved consistent throughout the sites. This year, EPA is reporting on the nomination process, discovery of new parties during the allocation process, the role of the allocator, consequences of an pre-allocation settlement, and the cost of conducting an allocation.

The Nomination Process at Pilot Sites

The allocation pilot process allowed PRPs to propose for inclusion on the PRP list any additional parties whose potential liability could be justified by supporting documentation. At eight of the nine pilot allocation sites, PRPs submitted nominations of additional parties to be included on the list of PRPs for those sites. At one pilot site, parties waived the nomination stage due to no evidence of additional PRPs.

The nomination stage of the pilot was a valuable opportunity for PRPs to identify additional allocation parties who could be assigned shares by the allocator. This opportunity provided the Agency additional information about parties linked to the site and enabled the Agency to determine the nominated party's status (e.g., whether the party is eligible for de minimis or ATP settlements) while ensuring fairness to the existing allocation parties. To discourage PRPs from making frivolous nominations, EPA tested a "fee-shifting" provision adopted from the proposed Superfund legislation. Under fee-shifting, a PRP who nominated another PRP would pay the costs incurred by that party if the

Allocation Pilots Data In Brief

Pilot Facts

EPA offered the pilot at 12 sites. At three sites, parties declined to enter the pilot because they believed they could reach settlement outside the allocation process (*e.g.*, orphan share reform) or had already performed a private allocation. At the remaining nine pilot sites, the following activities occurred:

Nominations Process

- At eight sites, PRPs submitted nominations of additional parties to be included in the allocation process. At the remaining site, parties waived the nominations stage due to no evidence of additional PRPs.
- Based on nomination and followup PRP search efforts, additional parties were added to the list of allocation parties at seven sites. At one site, there was insufficient evidence to include parties in the allocation process.

Selection of Allocator

- Allocators were selected at all sites.

Allocation Report

- Allocators issued an allocation report at five sites:
  - At two of the sites, the allocator issued a report that reflected an agreement on the shares of responsibility reached between the parties;
  - At two other sites, the majority of parties settled, but the allocator had to issue a report for parties who did not join the settlement; and
  - At one site, the allocator issued a report that there had been no settlements to date.

Settlement Offers Based on Allocation

- At two sites, parties submitted settlement offers based on the allocation report; at one site, the Agency is awaiting settlement offers.

Status of Remaining Site Without Allocation Report

- For the four sites without an allocation report, the status is as follows: at one site the parties reached an agreement on shares and the allocator was dismissed; at two sites there are agreements that have not yet been finalized; and at the one remaining site the allocation process is ongoing.

nominee is subsequently assigned a zero share by the allocator. During implementation, however, private parties did not agree to fee-shifting because they believed it was an unfair burden. Instead, they withdrew the names of nominated parties who EPA did not believe were liable.

In the summer of 1997, EPA began surveying participants at the nine allocation pilot sites to collect their perceptions of issues related to the pilot, including the nomination of additional PRPs. The survey asked parties to consider whether they had enough time to nominate additional PRPs, and if they did not, what factors limited the nomination of additional parties.

Overall, allocation parties participating in the survey were generally satisfied with the time and opportunity allowed for nominating additional PRPs. Only a small number of parties indicated that they had specific complaints about the fairness of the nomination process, while others indicated that site data and access to documents were limited.

Discovery of New Parties During the Allocation Process

During the information gathering process, there were instances in which new parties were discovered (e.g., a transporter remembered hauling from a company he previously did not identify). Potentially adding these new parties to the ongoing allocation process raised procedural and substantive issues. Procedurally, EPA had to consider the timing of the addition of new allocation parties. To protect the rights of newly added parties, it was suggested that the allocator or EPA impose a deadline for adding new parties to the allocation. This time restriction attempted to protect the newly added parties from the potential unfairness associated with inadequate time to participate in the allocation process in a meaningful way.

Substantively, the addition of new parties was treated differently at different sites. At one site, the allocator decided whether to add new parties after the information gathering phase of the process brought new information to light (the allocator ultimately added approximately 30 new parties). At several other sites, the parties directed the allocator to make recommendations on adding new parties, but left the ultimate decision to EPA. In these cases, the standard for adding a new party was that, based on new information, there was an adequate basis in law or fact to conclude that the additional party might be liable under CERCLA.

The Role of the Allocator

When EPA commenced the allocation pilots, the Agency developed the allocator selection process to identify experienced neutrals who could implement a process resulting in an allocation report delineating the parties' shares of responsibility at the site. Although many neutrals had experience as mediators or facilitators, most had limited experience as allocators. For the majority of the pilots, the parties wanted a person who

could act as both a mediator and allocator because they believed there would be attempts to settle the matter before or during the allocation. The neutral could act as a mediator during early settlement negotiations and act as an allocator (and issue the allocation report) if settlement negotiations proved fruitless. For example, at one site, the parties selected one group of neutrals to serve as mediators while another group was directed to perform the allocation. When the case at that site was settled, the mediators assisted in finalizing the settlement and dismissed the allocators.

As part of information gathering, several allocators asked the parties to fill out questionnaires, and interviewed parties with knowledge of the waste disposal practices at a site. Although the allocator conducted the interviews, parties were able to attend the interviews and provide questions for the allocator to ask the witnesses. Overall, most parties found this approach fairer than the normal EPA PRP search process. However, at one site, parties believed that the allocators did not have the site experience to ask the most pertinent questions. Other parties questioned the fairness of this process because they could not cross-examine witnesses.

Neutrals performed several activities other than the actual allocation. At one site, the mediators helped resolve issues such as remedy selection, access, covenants, reopeners, and premiums. Other neutrals were charged with convening the parties to aid the allocator selection process and protocol agreement negotiations. Even when acting as the allocator, the neutral conducted numerous meetings with the allocation parties to help resolve issues. Each of these activities proved time-consuming and resource-intensive. The major benefit of these activities is that they enabled the allocation parties to participate in each stage of the process and (when appropriate) remain involved in decisionmaking.

When the allocator acts as a mediator to assist in settlement negotiations, there is the potential for a conflict of interest. In one case, while the neutral was preparing the allocator report, he tried to simultaneously convince all parties to settle, and successfully used the threat of issuance of the allocator report to encourage all parties to settle. That approach may have made the neutral appear less “neutral” and raised questions on the allocator’s impartiality. One way to address this concern is to have different parties serve as mediator and allocator. Overall, the use of neutrals as mediators appeared to facilitate settlement.

Pre-Allocation Settlements

At almost all pilot sites the allocation parties requested settlement negotiations with the government prior to completing the allocation process. Where successful, this approach benefitted both the parties and the federal government. EPA was able to begin site cleanup earlier, and the PRPs received certainty as to their cost share. However, there were a number of issues and consequences to conducting settlement negotiations during the allocation process. Most often, the allocation process was tolled, sometimes

indefinitely. Instead of issuing an allocation report within six months, the reports were delayed for several months. For some pilots, settlement negotiations occurred concurrently with the allocation process. Both the government and parties incurred transaction costs associated with negotiations and the allocation process. This approach was contrary to the intent of the proposed legislation EPA was testing, which was to limit transaction costs.

Unfortunately, at times only some of the allocation parties sought a settlement to perform cleanup work, while others sought to cash out of their responsibilities at the site. A settlement that resulted in less than 100 percent of the liability at the site required that the government incur transaction costs associated with settlement negotiations as well as those associated with conducting the allocation pilot for allocation parties who did not settle before an allocation report was issued. This approach was not considered efficient by the government, but at times it was necessary to conduct both negotiations and an allocation because of site-specific factors.

Cost of Conducting an Allocation (Allocator Costs)

To date, allocator costs total $1.3 million, or roughly $182,000 per site for seven of the nine pilot sites. Allocator costs per site ranged from approximately $11,500 to $540,000. For one pilot site where the allocator was recently hired, the allocator costs are projected to be approximately $280,000. No estimate is available for the one remaining site where the allocator contract has not yet been awarded.

The broad range in costs can be attributed to the scope and complexity of the responsibilities of the allocator, the level of information available and complexity of the site, and the number of parties participating in the allocation.

The significance of these costs can be put into some perspective by considering the remedy costs associated with each site. The average cost to clean up the nine pilot sites for the components of the remedy addressed by the pilot is $10.5 million, ranging from $1.4 million to $26 million. EPA's findings are that the lower cost allocations in the pilot seemed relatively consistent with the lower-cost remedies. The more expensive allocator costs were incurred at sites with remedies expected to cost over $10 million dollars.

It should be noted that the cost of hiring the allocator is not the only cost associated with the allocation process. The cost of implementing the process for both the government and private parties is also significant. In addition, in several instances, mediators were employed as well as allocators. Since the pilots are ongoing, only a portion of that cost data has been collected and, therefore, cost data are not included in this analysis.

Lessons Learned

Implementing the allocation scheme

- Flexibility was needed in the allocation process (*e.g.*, for selecting the allocator, gathering information) to address site-specific issues.
- The allocation process was not cost-effective for small businesses because many believed they had to participate to protect their interests.
- Time frames were exceeded for each step of the allocation process. For example, projected time frames for completing the nominations process and hiring the allocator were insufficient to address numerous issues raised by parties.
- Allocation parties were generally satisfied with the time and opportunity allowed for nominating additional PRPs, but felt that the allocation process as a whole was expensive and time-consuming.
- Parties believed that the use of neutrals was beneficial to the process.

Effect on settlements

- It was difficult to translate individual shares into a global agreement to perform work. (Parties only wanted to be responsible for their individual share.)
- At a number of sites, 90 percent or more of the parties (including EPA) wanted to settle before the allocator issued a report, but the allocation scheme required a 100 percent settlement before the process could be stopped.
- Filing briefs when simultaneously negotiating with parties was difficult because arguments were directed to all parties without knowing which of them would actually remain in the allocation.
- The length of the process hindered progress of cleanup. (Parties wanted to know their share prior to committing to perform work.)

Community Involvement in the Enforcement Process Pilots

Piloting Innovative Ways to Enhance Community Involvement in the Enforcement Process

As part of the Superfund reforms effort, EPA committed to pilot ways in which community involvement in the enforcement process could be enhanced. This initiative was originally developed to pilot the relevant provisions of the 1994 proposed SRA. The regions would implement those provisions that would have required EPA to invite communities to participate in technical workplan discussions related to remedial design/ remedial action negotiations. However, EPA regions were given the discretion to modify the initiative to pilot other innovative approaches in lieu of the relevant SRA provisions, including looking at community participation at other points in the Superfund response pipeline.

Over half the pilot sites submitted by the regions did fall within the criteria identified. For the pilot sites that did not meet the criteria, regions proposed to involve communities in discussions before EPA selected the response action. EPA initiated pilots at 13 sites in nine of its 10 regions where PRPs were committed to conducting cleanup actions or investigations. A variety of approaches were tested to enhance community involvement. These approaches provided communities the opportunity to:

Site Selection Criteria

Each EPA region was asked to identify sites at which increased public participation methods could be tested and evaluated. In general, EPA was looking for sites where:

- EPA had already selected (or will, in the very near future, select) the response action;
- EPA expects that PRPs will perform the response action; and
- The community demonstrated an interest in the cleanup.

- Assist in creating and comment on draft technical documents (i.e., the Statement of Work for designing and conducting the cleanups and for evaluation of possible measures for reducing threats) (post-ROD);
- Assist in the re-evaluation and revision of a site community relations plan so that any special community methods that work for the community could be addressed (pre-ROD/post-ROD);
- Be involved in technical discussions with PRPs and federal officials to increase the level of participation and understanding of site activities (pre-ROD/post-ROD); and

- Be actively involved in the decision making process for determining the appropriate cleanup goals and/or appropriate remedy for a site (pre-ROD).

EPA piloted these approaches to observe their impact on Superfund cleanups and settlement negotiations. At selected sites, piloted activities are completed; at other sites, EPA continues to test various approaches. EPA is using effective approaches at a number of sites outside the pilots.

Pilot Evaluation

Information was gathered via two different survey instruments, which are summarized below. The surveys covered a range of community involvement influences, from involvement in the development/review of draft work plans and technical documents to whether community involvement affected technical discussions or negotiations with PRPs.

Pilot Success

Vertac, Jacksonville, AR

At the Vertac site, EPA conducted several open houses and a number of official briefings since the development of the remediation for the site. The purpose of the meetings was to solicit comments from the citizens on how they wanted to see the site cleaned up. The proposed plan for soils was rewritten as a result of community input. Also, EPA established a satellite community involvement office which helped EPA staff to establish a greater presence within the community and made it easier for the region to oversee community involvement. The satellite office served as the focal point where community members could ask questions, articulate concerns, and obtain information. Most community members felt that the EPA was very responsive to their concerns.

Impacts on Superfund Cleanups and Settlement Negotiations

For the 13 pilots examined, some delays were reported to be due to increased community participation. For many of the pre-ROD pilots, it was generally noted that community involvement had resulted in considerable but unspecified delays in finalizing the ROD. At a few post-ROD sites, community involvement delayed construction activities. At these sites, community involvement played a crucial role in lengthening the negotiation period with PRPs. However, these delays resulted in higher quality work products and increased community acceptance and support.

Lessons Learned

- Communities whose members regularly attend technical meetings are more informed and, therefore, better able to understand the progress of response activities at a site;
- Efforts to involve the community can be extensive and require a significant amount of time, but the efforts are well worth the investment and can result in widespread acceptance and support of cleanup actions; and
- Increased community involvement tends to result in greater community satisfaction with the selected remedy at a site.

General Observations

Soliciting input from the communities yielded varied results. Where communities have become involved, their input has often proven valuable. In many pilots, increased community involvement resulted in greater community understanding and acceptance of the work being conducted. Community members appreciate the opportunity to participate and act as stakeholders in the decisionmaking process. Communities were also satisfied with the level and quality of PRP interaction.

Approaches that add value to the Process and the Community

- TAGs and CAGs. Useful and effective, these mechanisms keep communities affected by Superfund sites well informed and involved with decisions concerning the site. They also enable communities to better articulate their concerns in the decisionmaking process.
- Door-to-door/face-to-face/individual meetings. Several sites interviewed individuals in an attempt to develop consensus on cleanup goals and appropriate remedy selection. Also, door-to-door activities helped generate previously lacking community interest.
- Establishment of a satellite community involvement office. Although not identified as a part of the pilot, at one pilot site this approach greatly facilitated communication between EPA and the community during many phases of the Remedial Action (RA). This office also served as the focal point where community members could ask questions, articulate their concerns, and get information.