United States
Environmental Protection
Agency

Office of Site Remediation
Enforcement (OSRE)

January 1998

EPA Superfund Reforms Annual Report FY 1997

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Foreword

The Superfund program has achieved substantial progress in cleaning up hazardous waste sites and protecting human health and the environment with cleanup underway at 89 percent of the sites on the National Priorities List (NPL) (excluding Federal Facilities). To make the program faster, fairer, and more efficient, EPA launched three rounds of Superfund reforms beginning in 1993 that cover a wide range of Superfund concerns, including enforcement, public involvement, State and Tribal empowerment, cleanup effectiveness, economic redevelopment, environmental justice, and program consistency.

Implementation of Superfund reforms has strengthened the program and allowed concepts to be tested prior to reauthorization. For example, EPA estimates that reviewing and updating selected remedies at specific sites in the last two years will yield future cost reductions of over $900 million. Similarly, EPA has effectively reduced the pursuit of small volume (i. e., *de minimis* and de micromis) contributors by private parties, increased public involvement in the cleanup process by creating Regional Ombudsmen to address public concerns, and promoted economic development and environmental justice with Brownfields and job-training initiatives.

As a result, today's Superfund is dramatically different than it was just five years ago. EPA has streamlined cleanups, reduced litigation and bureaucracy, and made common sense improvements to Superfund. This report looks at the accomplishments of the second and third rounds of EPA's Superfund reforms.

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Introduction

The Superfund program is fundamentally different. Since 1993, when EPA announced the first round of reforms, the program has changed in response to stakeholder's concerns. Through the commitment of EPA, State and Tribal site managers, other Federal agencies, private sector representatives, and involved communities, we have achieved real results protecting public health and the environment, while experimenting with and instituting changes to the cleanup process through Superfund Reforms. EPA's cleanups address real threats to public health and the environment, and where possible, return sites to productive uses (*see Figure 1*). The reforms are taking hold, and we have put in place a faster, fairer and more efficient Superfund program.

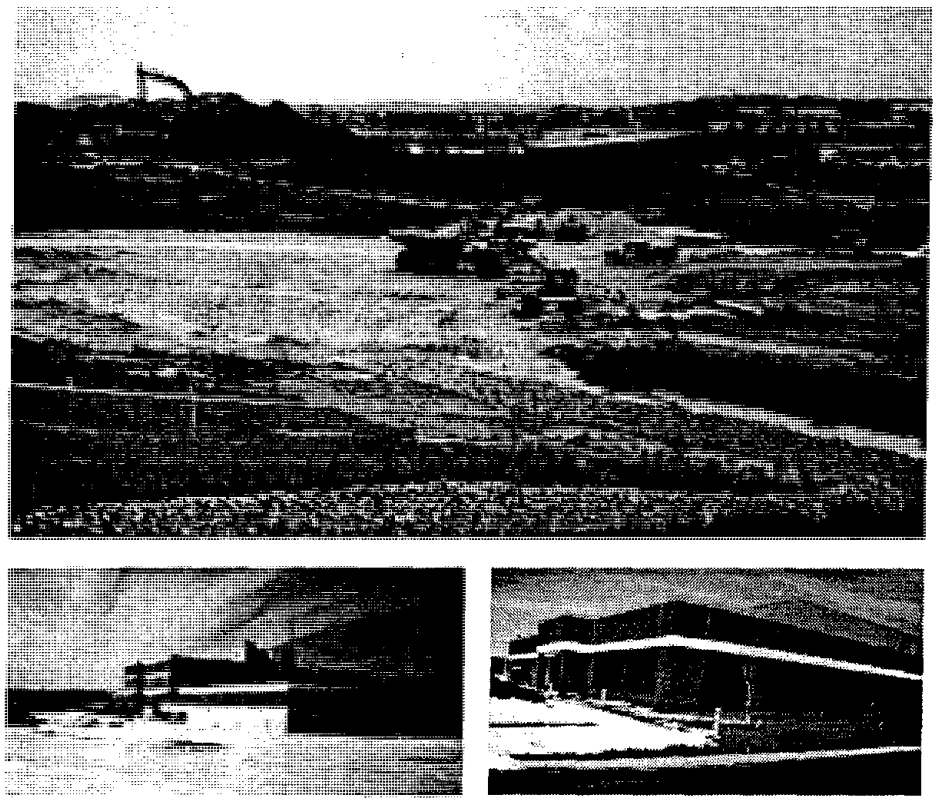

Figure 1: The Fort Devens NPL site in Worcester, MA, during and after Superfund Cleanup. The top photograph was taken in February 1995 during cleanup operations. The bottom photos depict the U.S. Bureau of Prisons new hospital (left) and the Gillette Corporation warehouse and distribution center (right) which are part of the site redevelopment.

Some indicators of the reforms success through September 30, 1997 include the following:

- Increased the pace of cleanup and completed cleanup construction at 498 sites on the National Priorities List (NPL);
- Authorized responsible parties to perform or fund approximately 70% of Superfund long-term cleanups, saving taxpayers, more than $12 billion;
- Removed over 15,000 small contributors from the liability system
- Achieved estimated public and private future cost reductions (savings) of over $900 million; and,
- Evaluated and archived almost 30,500 sites from CERCLIS, the national inventory of hazardous waste sites.

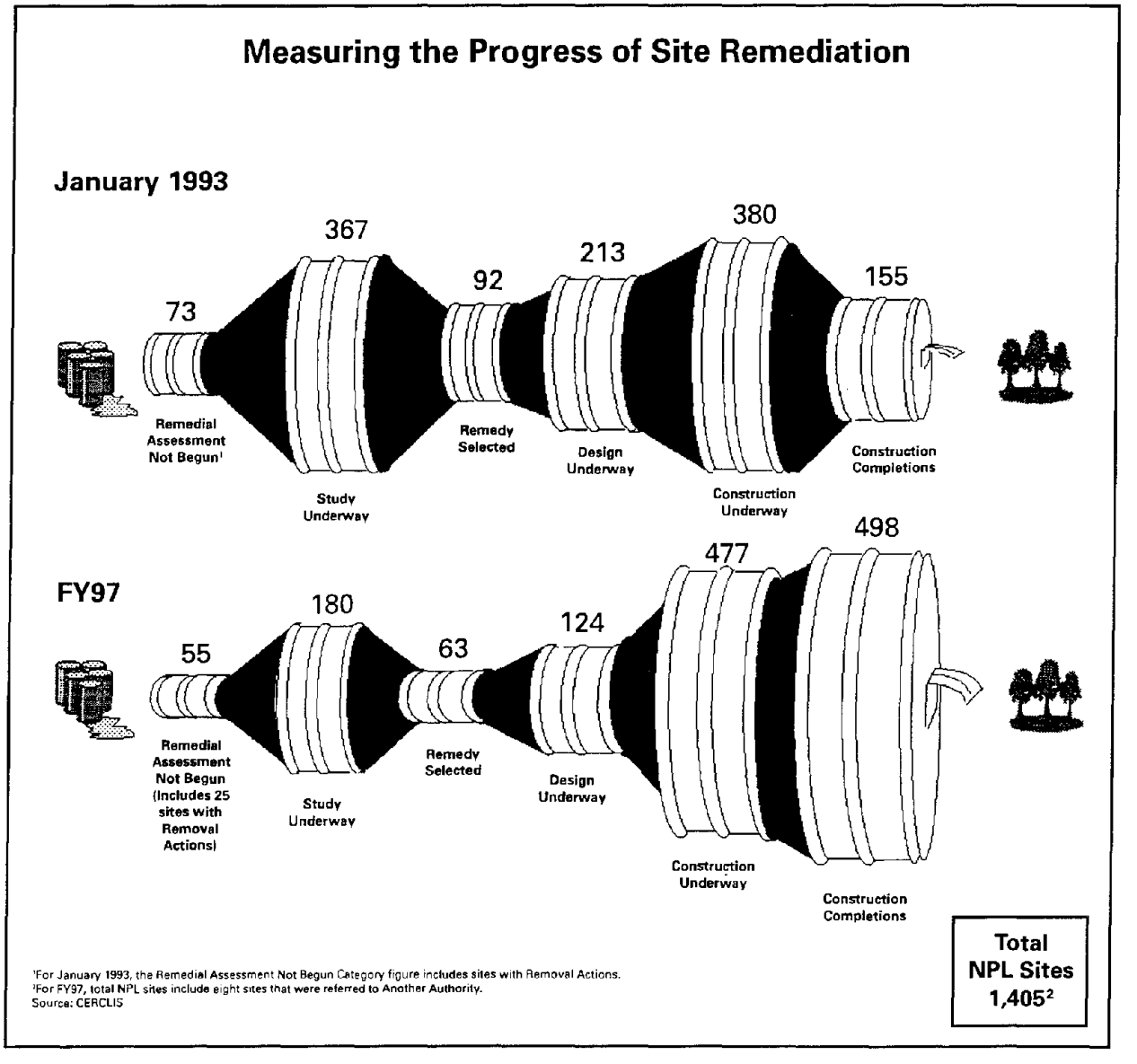

Figure 2

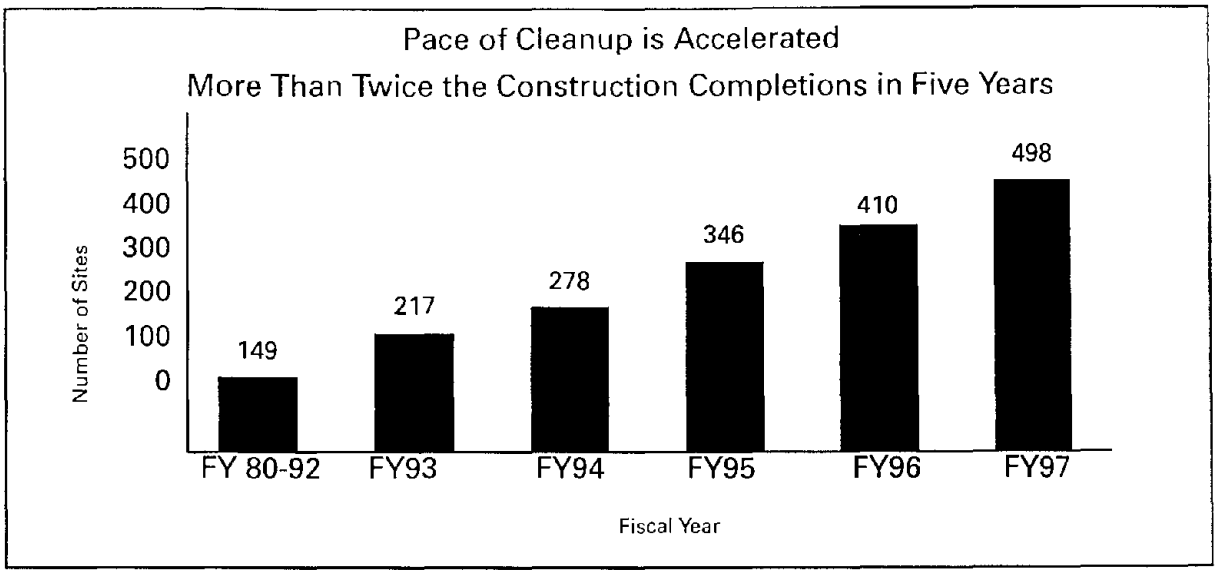

Figure 3

The reforms to Superfund, EPA's hazardous waste cleanup program, are intended to improve the efficiency, pace, cost, and fairness of the program. *Figures 2 and 3* show that EPA, through program reforms, achieved far more cleanups in the last five years than in the first 12 years of the program. This achievement is not isolated. Over 89 percent of the sites on the NPL have cleanup underway or completed (*see Figure 4*). Many of these cleaned up sites have been developed for commercial and other beneficial purposes (see *Figure 5*).

The Superfund Reforms consist of various initiatives and pilots that are being implemented within CERCLA's existing statutory framework. As EPA continues to implement the Superfund reforms, we continue to appreciate the flexibility this approach affords to improve the program.

The first round of Superfund Administrative Improvements, introduced in June 1993, were described in a closeout report issued in February 1995 ("Superfund Administrative Improvements Closeout Report," June 23, 1993 - September 30, 1994, OSWER, February 1995). These reforms focused heavily on speeding up site investigation and construction completion activities.

In February 1995, EPA introduced a second round of reforms, many of which were structured around the principles embodied in the Clinton Administration's Superfund reauthorization proposal in the 103rd Congress (i.e., the Superfund Reform Act of 1994). The second round of reforms was

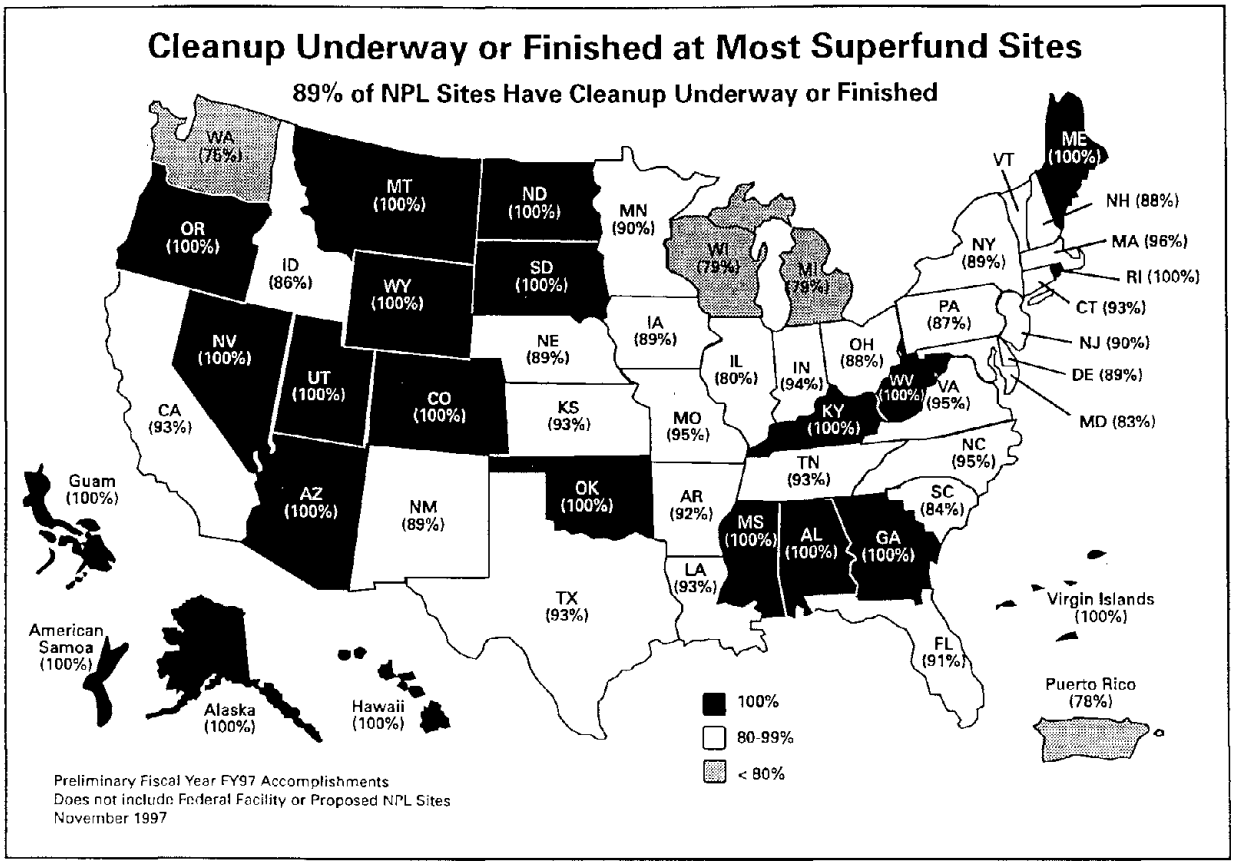

Figure 4

an effort to administratively test or implement many of the innovations contained in the proposal through pilot projects as well as new or revised Agency guidance. The 12 reforms contained in Round 2 encompass six areas: enforcement, economic redevelopment, community involvement and outreach, environmental justice, consistent program implementation, and State empowerment.

In October 1995, EPA introduced the third and final round of Superfund reforms. This round consisted of 20 reforms designed to make cost-effective cleanup choices that protect public health and the environment, reduce litigation and transaction costs, and insure that states and communities are more informed and involved in cleanup decisions.

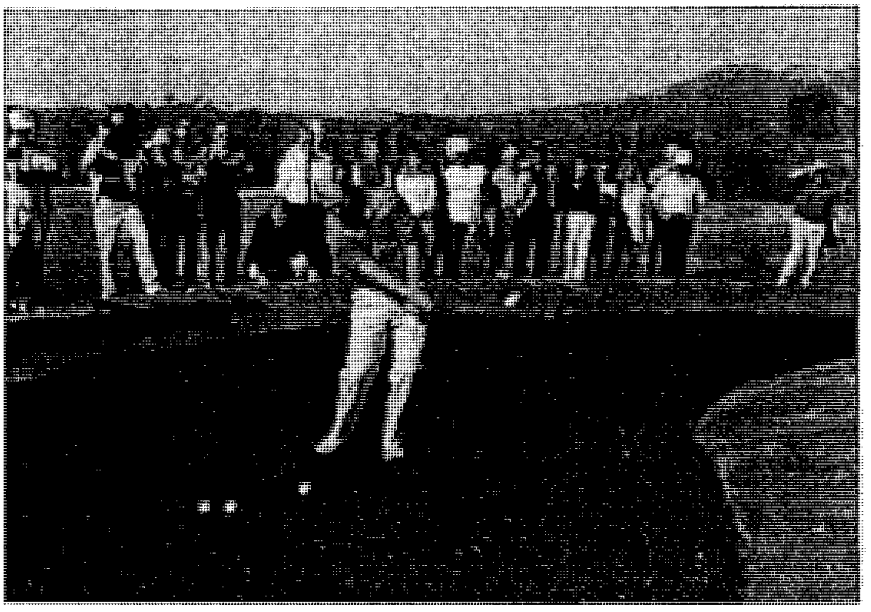

Figure 5: Jack Nicklaus demonstrates his technique for chipping out of a black sand bunker, which uses detoxified slag from a former copper smelter. This was at the 1997 opening of Anaconda's Old Works Golf Course, which Nicklaus designed on a portion of a National Priorities List site in Montana.

This report describes the continuing implementation and evaluation of the second and third rounds of the Superfund Reforms through Fiscal Year 1997. The report is divided into three sections: 1) Reforms at a Glance, 2) Round 3 Reforms, and 3) Round 2 Reform Initiatives. The Reforms at a Glance section provides a quick overview of the major accomplishments as well as the current status and projected completion dates for Rounds 3 and 2 Reforms. The remaining sections provide details on the Rounds 3 and 2 reforms including: the results, lessons learned, stakeholder comments and suggestions, and EPA's evaluation of the reform, where appropriate.

Reforms at a Glance

Major Program Accomplishments–Fundamentally Different Superfund

Construction Completions (498 by 9/27/97)

Archived Sites (30,454 as of 9/30/97)

De Minimis Parties Settled Out (over 15,000)

Brownfields Pilots (121 Pilots–awarded up to $200,000 per pilot)

Prospective Purchaser Agreements (68 agreements have been reached; 51 have been entered since May 1995 Guidance)

This "Reforms at a Glance" section provides a quick reference tool that summarizes the current status and future activities planned for each reform. The reforms are separated into broad categories within Rounds 2 and 3, including Cleanup, Enforcement, Public Involvement, Economic Redevelopment, Community Outreach, Environmental Justice, Consistent Implementation, and State and Tribal Empowerment. Implementation of 27 of the reforms is complete, while several others are nearing completion. EPA has characterized 18 of the completed reforms as those designed to fundamentally change the Superfund program, as opposed to simply improving it. Completed reforms designed to fundamentally change the Superfund are identified in the Status column as "Completed/Fundamental Change."

The table's separate columns present easily accessible information for each reform. The first column, "Reform," provides the title of the reform and, in parenthesis, its number. The second column, "Status," describes each reform's accomplishments through FY97. The bar under each reform indicates its status – whether the reform is still ongoing or completed. "Completed" indicates that the major objectives of the reform have been fulfilled, and future activity will consist mainly of continuing to implement the reform (e.g., the reform called for a guidance document to be issued, that guidance was issued, and future activity will consist of implementing that guidance). The third column, "Next," lists future actions that will be taken to implement the reform.

Reforms at a Glance ROUND 3

Reform	Status	Next
CLEANUPS		
Establish National Remedy Review Board (NRRB) (1A)	• Established Remedy Review Board (11/95) • Issued memorandum and fact sheet on Remedy Review Board (9/96) • Issued annual progress report (12/96) • Reviewed a total of 20 site decisions saving an estimated $31.5 million (9/97) COMPLETED/FUNDAMENTAL CHANGE	• Review cleanup decisions at approximately 10 sites in FY98 • Implement recommendations to refine the scope and nature of the Board's mission as well as its implementation procedures • Review non-time-critical removal actions that meet certain criteria
Establish New Remedy Selection Management Flags/Rules of Thumb (1B)	• Issued consolidated guide to consultation procedures for Superfund response decisions (5/97) • Issued guidance on rules of thumb for Superfund remedy selection (8/97) COMPLETED	• Implementation of this reform is complete • EPA staff will continue to use the consolidated guide and guidance to improve remedy selection process
Update Remedy Decisions at Select Sites (2)	• Issued final implementation memorandum (9/96) • Estimated future cost savings of over $360 million from updating remedies at over 50 sites in FY96 • Revised estimated future cost savings of over $360 million from updating remedies at over 60 sites in FY97 • Updates are currently underway at 35 additional sites COMPLETED/FUNDAMENTAL CHANGE	• Work with States and PRPs to identify opportunities for improving remedies • Develop Regional Plans specifying how each Region will implement this reform in FY98 • Tabulate specific remedy update data on a quarterly basis

Reform	Status	Next
Clarify the Role of Cost in the Remedy Selection Process (3A)	• Issued memorandum and fact sheet on the role of cost (9/96) COMPLETED	• Implementation of this reform is complete
Directive on National Consistency in Remedy Selection (3B)	• Issued national consistency memorandum (9/96) COMPLETED	• Implementation of this reform is complete
Clarify Information Regarding Remedy Selection Decisions (4)	• Developed interim remedy selection summary sheet (12/96)	• Prepare more comprehensive guidance for end of FY98
Community Participation in Designing Risk Assessments (5A)	• Develop draft reference document on good practice	• Issue draft reference document on good practice in January 1998 • Issue final document in September 1998
PRP Performance of Risk Assessments (5B)	• Issued guidance clarifying PRP role in risk assessments (1/96) COMPLETED/FUNDAMENTAL CHANGE	• Survey Regions in FY98 to determine if there are sites where PRPs perform the RI/FS but not the baseline risk assessment
Establish National Criteria to Plan, Report and Review Superfund Risk Assessments (6A)	• Drafted standard risk assessment data reporting tables (7/97) • Issued Technical Approach to Risk Assessment for planning reporting, and reviewing risk assessments (9/97)	• Issue Risk Assessment Guidance for Superfund in the second quarter of FY98

Reform	Status	Next
Standardize Risk Assessments (6B)	• Formed EPA Workgroups (3/97) • Issued draft workplan (3/97) Initiated guidance development (5/97) • Initiated planning for next stakeholders meeting in early 1998 (7/97)	• Convene stakeholders meeting in March 1998 • Issue final guidance in December 1998 • Completed guidance document(s) (12/97)
Utilize Expert Workgroup on Lead (6C)	• Convened a national conference on lead (10/96) • Drafted five issue papers (6/97)	• Finalize five issue papers and issue a directive on lead removal actions in early FY98
Establish Lead Regulator for Federal Facilities (7)	• Developed draft policy	• EPA will complete implementation of reform with signed policy on the single regulator concept in FY98
Consider Response Actions Prior to NPL Listing (8)	• Amended October 1992 NPL policy (4/97) COMPLETED/ FUNDAMENTAL CHANGE	• Continue to collect information and monitor implementation of reform
Delete Clean Parcels from the NPL (9)	• Issued notice on policy change to allow partial deletions (11/95) • Issued partial deletion guidance (4/96) • Issued three notices of intent and six final notices to delete clean parcels from the NPL (9/97) COMPLETED/ FUNDAMENTAL CHANGE	• Issue additional notices of intent to delete clean parcels • Pilot deletion of remediated parcels at closing military bases

Reform	Status	Next
Promote Risk-Based Priority Setting at Federal Facility Sites (10 A)	• Developed draft guidance	• Issue final guidance in second quarter of FY98
Promote Risk-Based Priority for NPL Sites (10B)	• Established National Risk-Based Priority Panel to rank sites based on risk (8/95) • Evaluated over 50 projects during FY97 (8/97) COMPLETED/FUNDAMENTAL CHANGE	• Continue review of cleanup projects started in FY97 • Reconvene panel (early spring 1998)

ENFORCEMENT

Orphan Share Compensation (11)	• Offered over $100 million in orphan share compensation over the last 2 fiscal years • Existence of orphan share may be considered in settlement of cost recovery cases, as stated in the Addendum to the "Interim CERCLA Settlement Policy", issued September 30, 1997 COMPLETED/FUNDAMENTAL CHANGE	• Continue to offer orphan share compensation at every eligible site under the June 1996 Interim Guidance on orphan share compensation
Site Specific Special Accounts (12)	• Reached agreement that interest can accrue directly to special accounts (6/96) • Through FY97, $52 million in interest accrued from $405 million principal in 93 special accounts COMPLETED/FUNDAMENTAL CHANGE	• As an outgrowth of this reform, EPA is exploring options for disbursing these funds to PRPs to perform future response work

Reform	Status	Next
Unilateral Administrative Orders (UAO) Reform (13)	• Issued memorandum to Regions directing changes in procedures for UAO issuance (8/96) • HQ personnel independently review the documentation prepared by Regional staff and determine consistency with existing Agency policy, including 8/96 memorandum • In multi-Agency MOU (currently circulating for signature) Federal Resource Managers receiving newly delegated UAO authority commit to comply with existing Agency policies, including this reform.	
Revised De Micromis Guidance (14)	• 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) COMPLETED/FUNDAMENTAL CHANGE	• Develop a directive encouraging the inclusion of De Micromis waivers in CERCLA settlements
Adopting Private Party Allocations (15)	• Used allocations as basis for settlement at several sites (9/96) COMPLETED/FUNDAMENTAL CHANGE	• This reform was merged with the orphan share reform

Reform	Status	Next
Improving the Administration of PRP Oversight (16)	• Issued directive on reducing oversight (7/96) • Targeted reduced PRP oversight at approximately 100 sites (9/96) • Initiated national workgroup to implement directive (1/97) • Met with external stakeholders to get feedback on implementation of reform (5/97) COMPLETED/FUNDAMENTAL CHANGE	• Organize meetings between Regions and PRPs to discuss oversight issues • Conduct site-specific evaluations to assess reform impacts

PUBLIC INVOLVEMENT

Pilot Remedy Selection by Selected States and Tribes (17)	• Issued formal solicitation for pilot sites (6/97)	• Develop process and procedures for new State remedy pilots (11/97) • Collect information on pilots, past and present, with intent to publish "lessons learned" document
Pilot Community-Based Remedy Selection (18)	• Discussions on Regional approaches ongoing	• Continue to discuss regional approaches to community based remedy selection throughout FY98
Establish Superfund Ombudsman In Every Region (19)	• Appointed an ombudsman in each Region • Convened annual meetings (6/96 and 2/97) • Conducted ongoing public outreach and mediation training (2/97) COMPLETED/FUNDAMENTAL CHANGE	• Conduct ongoing public outreach • Convene annual meeting
Improve Communication with Superfund Stakeholders (20)	• Created Headquarters Superfund homepage (4/96) COMPLETED/FUNDAMENTAL CHANGE	• Continue to post and revise Superfund information on EPA Superfund homepage

Reforms at a Glance ROUND 2

Reform	Status	Next
ENFORCEMENT		
PRP Search Pilots (1)	• Initiated Pilots at 15 Superfund sites COMPLETED	• Pilots Done • Incorporate lessons learned into the program • Issue comprehensive PRP Search Guidance in FY 98
Expedited Settlement Pilots (2)	• Initiated pilots at 18 Superfund sites	• Complete pilots • Incorporate lessons learned into the program
The Allocation Pilots (3)	• Offered allocation process at 12 sites; process being piloted at 9 Superfund sites • Three allocation reports issued • One settlement lodged • Two other sites settled pre-allocation report	• Complete pilots
ECONOMIC REDEVELOPMENT		
Brownfields Pilot Projects and Brownfields community outreach (4A-B)	• Awarded 121 pilots - up to $200,000 per pilot (10/97) COMPLETED/FUNDAMENTAL CHANGE	• Identify up to 100 assessment pilots in FY98 • Initiate expansion of site assessments • Select 10 Brownfields Showcase Communities • Work with NIEHS to coordinate minority workers with pilot activities • Continue outreach to stakeholders and offer technical assistance

Reform	Status	Next
Refining CERCLIS (4C)	• Archived sites (30,454 as of 9/30/97) COMPLETED/FUNDAMENTAL CHANGE	• Continue to archive sites from CERCLIS
Clarifying NPL Sites (4D)	• Convened workgroup (5/95) • Workgroup recommended a policy change to allow partial deletions • Published Federal Register notice (11/95) COMPLETED/FUNDAMENTAL CHANGE	• EPA announced a Round 3 Superfund Reform: Delete Clean Parcels from NPL Sites (Reform 3-9) • This completes implementation of the workgroup's recommendation • Implementation of this reform is complete
Removing Liability Barriers: PPAs (4E)	• Issued 4 guidance documents providing assurance to prospective purchasers, lenders, and property owners on CERCLA liability (10/96) COMPLETED/FUNDAMENTAL CHANGE	• Continue using PPAs to encourage redevelopment of Superfund sites

COMMUNITY INVOLVEMENT AND OUTREACH

Community Advisory Groups (5A)	• Issued guidance summary on use of CAGs (8/96) • Issued case Studies of five sites, "Community Assistance Groups: Partners in Decisions at Hazardous Waste Sites" (11/96) • Established CAGs at 33 sites (5/97) • Issued the CAG Toolkit one of the most effective mechanisms for implementing the CAG program at Superfund sites (8/97) COMPLETED	• Continue to test CAG Toolkits at various sites • Evaluate CAGs and develop new methods to promote and assist CAGs

Reform	Status	Next
Technical Assistance Grants (5B)	• Drafted proposed TAG regulation	• Publish proposed TAG regulation • Promote citizen involvement by improving TAGs and facilitating the process • Publish provisions to the TAG regulation in FY98
Community Involvement in the Enforcement Process Pilots (6)	• Completed piloted activities at some of the 13 sites selected	• Continue to implement enhanced community involvement activities at the remainder of the selected sites. Also implement most effective activities outside the scope of the pilot • Complete pilot • Incorporate lessons learned into the program

ENVIRONMENTAL JUSTICE

Training and Health Service Assistance to Communities (7A)	• Targeted 4 sites for assistance (9/97)	• Secure funding to finance FY98 pilot projects
Superfund Jobs Training Initiative (7B)	• Funded NIEHS minority worker training programs for FY97 • EPA Superfund Jobs Training Initiative started five pilots at Superfund sites COMPLETED	• Continue to fund NIEHS • Continue to establish SuperJTI pilots

Reform	Status	Next
CONSISTENT PROGRAM IMPLEMENTATION		
Guidance for Remedy Selection (8)	• Issued new land use directive (5/95) • Issued final soil screening guidance (5/96) • Issued a presumptive remedy users guide for volatile organic compounds in soils (7/96) • Issued additional presumptive remedy guidance for: wood treater sites (12/95), MSW landfills at military bases (4/96), and ground water sites (10/96) • Issued supplemental bulletin for multi-phase extraction technology for the VOCs in soils presumptive remedy (4/97) COMPLETED/FUNDAMENTAL CHANGE	• Issue a supplemental bulletin for multi-phase extraction to assist site managers using VOCs presumptive remedy • Develop additional bulletins to document time and future cost reductions
Risk Sharing: Implementing Innovative Technology (9A)	• Prepare final guidance on implementing the risk sharing initiative (10/97)	• Issue guidance for risk-sharing initiative (2/98) • Engage State agencies in this initiative through ITRC
Risk Sharing: Identifying Obstacles to Using Innovative Technology (9B)	• Issued innovative technologies in waste management directive (4/96) COMPLETED	• Implementation of this reform is complete

Reform	Status	Next
STATE AND TRIBAL EMPOWERMENT		
Voluntary Cleanup Program (10)	• 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 • As of January 1998, EPA has signed MOAs with eleven states COMPLETED	• Agency anticipates awarding up to $15 million in cooperative agreements to States in FY98
Integrated Federal/State/ Tribal Site Management Program (11)	• Issued final guidance on deferral program (5/95) • Signed agreements with 12 States (8/97) COMPLETED	• Evaluate review of State deferrals and determine appropriate followup actions
State/Tribal Superfund Block Funding (12)	• Nine State and three Tribal pilots are underway	• Issue final report documenting obstacles in awarding and utilization of Superfund resources (12/97) • Evaluate ongoing pilots in FY98

CLEANUPS

Reform in Brief

3-1.a. Establish National Remedy Review Board

The National Remedy Review Board's (the Board) goal is to promote cost effectiveness and national consistency in remedy selection at Superfund sites. To accomplish this, the Board analyzes proposed site-specific cleanup strategies to insure they are consistent with current law, regulations, and guidance.

The Board has undergone scrutiny by both private parties and Congress, and reaction to the Board's accomplishments to date is generally positive. In FY97, the Board reviewed eight cleanup decisions. While the effects of these reviews on estimated cleanup costs are not yet fully determined, EPA estimates that the first FY97 reviews have saved approximately $6 million in estimated future cost reductions, for a total Board savings of over $31 million since 1996. Regions have observed a wide range of additional benefits from the review process, including improved national consistency, clarity of decisions, and cross-Regional communication on key remedy selection issues. Further, while the Board is contributing to cost effectiveness and consistency, the reviews have generally confirmed that Superfund cleanup decisions are technically sound and comply with applicable regulations and guidance.

Also in FY97, the Board conducted an in-depth analysis of its operating procedures, and revised several key protocols based on analysis of feedback from concerned stakeholders. Of particular note, the Board raised the limit on technical submissions from stakeholders from five to ten pages, and instituted procedures to review high cost non-time-critical removal actions. ■

BENEFITS

- Improved national consistency in Superfund remedy selection.
- Improved remedy cost effectiveness.
- Confirmation of technically sound decision-making at high cost sites.
- Assurances that decisions are in accordance with regulations and guidance.

Results

The Board has reviewed total of 20 cleanup decisions, eight of these were reviewed in FY97. So far, it is estimated that FY97 reviews have saved approximately **$6 million** in estimated future cost reductions, for a total Board savings of over **$31 million.**

Contacts

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SUCCESS — New Bedford Harbor Site Massachusetts

Since last year's Annual Report several Regions have completed analyses of the Board's comments. These have shown the significant benefit from the Board's review. For example, the Board reviewed a cleanup decision for the New Bedford Harbor site in Massachusetts. One of the Board's recommendations was for the Region to assess whether their air monitoring program was overly extensive, given the nature of the contaminants and actions planned at the site. The Region subsequently reassessed the need for continued monitoring of this nature. In so doing, the Region made adjustments in the monitoring program, reducing the costs by approximately $8.4 million.

Next Steps

- Review cleanup decisions at approximately 10 sites in FY98
- Implement refinements to the Board's mission as well as its implementation procedures
- Review non-time-critical removal actions that meet certain criteria

Stakeholder Comments

"The new National Remedy Review Board ("the 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 (pg.2)

Reform in Brief

3-1.b. Establish New Remedy Selection Management Flags ("Rules-of-Thumb")

The goal of the rules-of-thumb initiative was to develop remedy selection rules that will promote cost-effectiveness and flag potentially "controversial" cleanup decisions for senior management review.

EPA developed two products to implement this reform. The first is a brief guidance document that presents key principles and expectations that should be consulted during the Superfund remedy selection process. These rules-of-thumb correspond to three major policy areas in the Superfund remedy selection process: risk assessment and risk management; developing remedial alternatives; and ground water response actions. This document is a comprehensive and easy-to-understand guide to Superfund remedy selection policies and guidance. The document gives full citations for all referenced material and explains how the reader can obtain the more detailed source documents (NTIS Report Number PB97-963301INZ). Gathering these remedy selection rules-of-

(continued see *Remedy*)

BENEFITS

- *Rules of Thumb for Remedy Selection* guidance was created to clearly present key principles and expectations that should be consulted during the Superfund remedy selection process.
- A fact sheet was created to describe management review procedures employed by EPA to insure that national remedy selection policies and procedures are being implemented.
- The appropriate, consistent application of national policy and guidance helps to insure the reasonableness, predictability, and cost-effectiveness of decisions.

Results

Since EPA posted Rules of Thumb for Remedy Selection guidance on its homepage in October 1997, more than **1,500 users** have accessed the document.

Remedy continued...

thumb in one document will aid in supporting our efforts to promote these important objectives.

The second product is a fact sheet that describes management review procedures employed by EPA to insure that national remedy selection policies and procedures (as outlined in the rules-of-thumb) are being implemented in a reasonable and appropriately consistent manner.

Both documents are completed and in use. They are available from the National Technical Information Service (NTIS) at (703) 605-6000 or federal employees may obtain them from the Superfund Docket at (703) 603-9232. The Rules-of-Thumb document is available without charge on the Superfund homepage. Both documents are used as resource tools by EPA staff when remedy selection documents are reviewed for appropriate national consistency. ■

Next Steps

- EPA staff will continue to use these documents to improve the remedy selection process and to review remedy selection documents for national consistency.
- Implementing of this reform is complete.

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Reform in Brief

3-2. Update Remedy Decisions at Select Sites

EPA encourages the Regions to revisit remedy decisions at certain sites where significant new scientific information, technological advancements, or other considerations will achieve the current level of protectiveness of human health and the environment while enhancing overall remedy effectiveness and cost effectiveness.

The Agency has always been able to "update" or change the details of a cleanup strategy to reflect new information that may not have been available at the time of the original decision, but this reform institutionalized remedy updates to encourage these cost-saving measures. Typically, these changes were made to reflect new information about the characteristics or volumes of contamination present and/or new expectations regarding the performance of selected technologies under site-specific

(continued see ***Decisions***)

Results

During FY97, remedy updates of all types that achieved future cost reductions resulted in a total estimated future cost reduction of over **$360 million at over 60 sites.** (Note: This figure does not include the DOE Hanford site which updated a portion of the overall remedy based on value engineering for an estimated cost savings of $297 million.) Of the $360 million in cost reductions, over $270 million resulted from updates of the kind identified in the Reform guidance. Cumulative numbers for FY96 and FY97 (excluding the Hanford site) show estimated cost savings of over **$725 million at approximately 120 sites nationwide.** Of the $725 million in cost reductions, approximately $597 million resulted from updates of the kind identified in the Reform guidance. The Agency is gathering information regarding changes in technology that improve remedy performance at costs higher than those previously reported for the original remedy in order to present the full picture of net cost changes.

Decisions continued...

conditions. Further, these updates considered the implications of these factors on original decision criteria such as implementability, short-term effectiveness, and cost or community acceptance. Updates also were made to reflect changes in State requirements (i.e., ARARs), or other information that could not have been considered in the original decision. Once a Regional manager decides to undertake such changes, there are specific requirements for public or other stakeholder involvement depending on the nature and significance of the anticipated change.

The Update Remedy Reform was included in the third round of Superfund reforms and was undertaken specifically to encourage appropriate changes in response to advances in remediation science and technology. Reform guidance (OSWER Directive: 9200.2-22) targeted the following three types of changes, but recognized that other types of changes may be appropriate as well: 1) changes in the remediation technology employed, where a different technology would result in a more cost-effective cleanup; 2) modification of the remediation objectives due to physical limitations posed by site conditions or the nature of the contamination; and, 3) modification of the monitoring program to reduce sampling, analysis, and reporting requirements, where appropriate. This reform recognized that recent advances in the area of ground water science and remediation made these types of decisions good candidates for updates.

It is important to emphasize that this initiative does not signal any changes in Agency policies regarding site cleanup, including policies regarding remedy selection, treatment of principal threats, preference for permanence, establishment of cleanup levels, waivers of cleanup levels, or the degree to which remedies must protect human health and the environment. ■

Next Steps

- Headquarters will continue to work with the Regions on implementation of this reform. Headquarters has requested each Region to explain their strategy for implementing the reform during FY98. Also, specific remedy update data will be tabulated on a quarterly basis.

Contact

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BENEFITS

- This reform has been very successful in bringing past decisions in line with current science and technology. By doing so, these updates improve the cost-effectiveness of site remediation while ensuring reliable short- and long-term protection of human health and the environment. The quantifiable results of this reform have been announced in EPA's testimony before Congress, private industry evaluations of Superfund reforms, and a report of the U.S. General Accounting Office. Of additional note is EPA's overwhelmingly positive record of responding to remedy update requests made by outside parties.

SUCCESS

Western Point Processing Site, Kent, Washington

At the Western Processing site in Washington, the ground water portion of the original remedy (valued at approximately $200 million) was modified to reflect new information gained from remedy implementation. As a result of information collected during operation of the pump and treat remedy, the Region determined that the remedy could be significantly enhanced by extending the existing containment barrier and by automating the pumping system. These changes also will greatly reduce the volume of ground water pumped and also will reduce the monitoring and sampling costs. These changes also are fully consistent with EPA's recent guidance for remediating ground water. Accordingly, an Explanation of Significant Differences (ESD) was signed to implement the changes. Estimated costs of the modified remedy will be approximately $118 million, resulting in overall reductions in remedy costs of $82 million.

A. O. Polymer Site Sparta Township, New Jersey

At the A. O. Polymer site in New Jersey, the original ground water remedy included pumping and treating with powdered activated carbon followed by filtration and carbon polishing to achieve State maximum contaminant levels, at a cost of approximately $19 million. Through a request to revise the treatment system by a potentially responsible party (PRP), EPA and New Jersey reviewed the data and granted the request to update the ground water treatment system to air stripping at a cost of approximately $10 million. Additional future cost reductions will be realized through refining the capture zone of the pumping system and by reducing pumping volumes. An ESD was signed to implement these changes, which EPA estimates will result in a reduction in remedy costs of over $9 million.

Norwood PCB Site, Norwood, Massachusetts

At the Norwood PCB site in Massachusetts, the original soil remedy called for on-site solvent extraction (an innovative technology) at costs estimated at slightly over $13 million in 1989, but which had increased to over $54 million by 1995. Difficulties in locating solvent extraction facilities due to space constraints and safety issues were encountered in the pre-design phase. From 1989 to 1995, EPA reexamined the risk-based site cleanup goals based on revisions to human health and ecological risk calculations and clarified the reasonably anticipated future land use for the site. Based on the new site information obtained from this reexamination (together with data showing that all treatment technologies evaluated in the original remedy could not be implemented due to limited space), an alternate approach of consolidation was developed. The Record of Decision (ROD) amendment was signed updating the soil remedy to consolidation under an impermeable asphalt cap which could facilitate future site development at a cost of just over $7 million. EPA estimates this amendment will result in overall reductions in cost of approximately $47 million.

Metamora Site, Metamora, Michigan

At the Metamora site in Michigan, the original soil remedy called for excavation and incineration of co-mingled soils at a cost of approximately $70 million. Additional soil characterization during remedy implementation showed that materials previously categorized as "principal threats," for which treatment is strongly preferred, were in actuality "low level threats," for which containment is generally acceptable. EPA reviewed and approved a request made by a PRP to reconsider the threat posed by soil. A ROD amendment was signed which updated the remedy to consolidation of soils into an on-site landfill at a cost of approximately $42 million. The future cost reduction of over $28 million resulted from improved understanding of the nature of the soil contamination and is consistent with policy expectations regarding treatment of principal threats or containment of low-level threats.

Stakeholder Comments

In the Chemical Manufacturers Association's Report, "A Chemical Industry Perspective on EPA's Superfund Administrative Reforms," April 1997, the following quotes were made:

"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 (pg. 15);"

"In sum, this reform has produced the greatest tangible benefits of any of EPA's Superfund administrative reforms (pg. 18);"

"PRPs confirm that some remedies are being updated and that additional petitions to update remedies are pending (pg. 15);" and,

"Of all of the EPA reforms announced in October, 1995, this is the one that has produced the most tangible results (pg.17)."

Reform Evaluation

Although EPA has conducted some reviews of the reform, EPA has not conducted a formal evaluation of remedy updates. EPA does gather Regional remedy update information on a quarterly basis, incorporates this information into a database for tracking, and shares this information among all ten Regions, Congress, and outside parties.

Reform in Brief

3-3.a. Clarify the Role of Cost in the Remedy Selection Process

The objective of this reform is to clarify the current role of cost as established in existing law, regulation, and policy.

To implement this reform, EPA developed a fact sheet explaining EPA policy in this area. This fact sheet does not elevate or establish a new role for cost in the Superfund program, but rather summarizes the current role of cost in the Superfund program as established by CERCLA, the National Contingency Plan (NCP), and current guidance.

EPA issued the fact sheet on September 10, 1996. It is entitled, "The Role of Cost in the Superfund Remedy Selection Process" (OSWER Directive 9200.3-23FS) and is available through the National Technical Information Service (NTIS) at (703) 605-6000 and the Superfund Document Center. The document currently is used as a resource tool by EPA staff when remedy selection documents are reviewed for appropriate national consistency. ■

Results

The current role of cost in the Superfund program has been summarized in a fact sheet.

Since this fact sheet was posted on the Superfund homepage in December, 1996, over **1,000 users** have accessed the document.

BENEFITS

- Through the distribution of this fact sheet, EPA hopes to insure that all stakeholders involved in the Superfund process fully understand the important role of cost in remedy selection under existing law and policy and recent initiatives aimed at enhancing the cost-effectiveness of remedial actions.

Next Steps

- EPA staff will continue to use this fact sheet to improve the remedy selection process and to review remedy selection documents for national consistency; however, implementation of this reform is complete.

Contact

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Reform in Brief

3-3.b. Directive on National Consistency in Remedy Selection

This directive emphasizes the critical importance of maintaining appropriate national consistency in the Superfund remedy selection process, and requests that program managers make full use of existing tools and consultation opportunities to promote such consistency.

The implementation of this reform has been completed. EPA issued the Directive entitled, "National Consistency in Superfund Remedy Selection" on September 25, 1996. This directive emphasizes the critical importance of maintaining appropriate national consistency in the Superfund remedy selection process and requests that program managers make full use of existing tools and consultation opportunities to promote such consistency. In particular, this memorandum identifies a range of efforts that support national consistency in remedy selection and encourages informed discussion of cross-cutting issues.

EPA Headquarters staff continue to review all proposed plans and RODs to promote appropriate national consistency in Superfund remedy selection decision-making. In addition, cross-regional management and technical review workgroups have been established to promote communication and national consistency. The review procedures and consultation requirements are outlined in a fact sheet entitled "Consolidated Guide to Consultation Procedures for Superfund Response Decisions" (OSWER Directive 9200.1-18FS). ■

Contact

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Results

Cross-regional management and technical review workgroups have been established to promote communication and national consistency.

BENEFITS

- This directive sends a clear and distinct message that nationally consistent remedy selection decision-making is very important to EPA.

Next Steps

- Implementation of this reform is complete.

Reform in Brief

3-4. Clarify Information Regarding Remedy Selection Decisions

The goal of this initiative was to design a tool for clearly presenting, in a standardized format, the context, basis, and rationale for site-specific Superfund remedy selection decisions.

EPA developed a draft remedy selection summary sheet in December 1996. Due to comments received on this draft document, the summary sheet will remain an interim draft document and will not be finalized. Instead, EPA has decided to incorporate this product into a broader document that provides guidance on preparing Superfund decision documents (including the Proposed Plan,

(continued see *Clarify*)

Clarify continued...

ROD, Explanation of Significant Differences, and the ROD Amendment). Anticipated completion of this more comprehensive guidance document is the end of FY98. In addition, the December 1996 version of the summary sheet continues to be used by the National Remedy Review Board as a standard format for presenting key remedy selection information for discussion. ■

Contact

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Next Steps

- Completion of guidance on preparing Superfund decision documents is anticipated by the end of FY98.
- The December 1996 version of the summary sheet continues to be used by the National Remedy Review Board as a standard format for presenting key remedy selection information discussion.

BENEFITS

- A standard format for documenting remedy selection decisions will allow EPA to evaluate Superfund remedy selection decision-making and communicate this information to the public in a consistent manner.

Reform in Brief

3-5.a. Community Participation In Designing Risk Assessments

This initiative will create a concise, helpful, user-friendly reference that will provide risk assessors and community members with suggestions for working together in designing and carrying out good risk assessments. The objective of this initiative is to promote public participation in the risk assessment process.

A key element of the design of a risk assessment should be a meaningful consideration of the issues and concerns that the community has about the risks posed by the site. People who live and work near a Superfund site not only deserve to be informed and involved, but are likely to have knowledge and insights that would be helpful in planning and conducting a site-specific risk assessment.

The result of this reform will be a concise, helpful, user-friendly reference that will provide risk assessors and community members with suggestions for working together in designing and carrying out good risk assessments. The first draft reference document was completed in September 1997. ■

BENEFITS

- Increases public participation in risk assessments, which should result in better risk management decisions.

Results

In February 1997 EPA formed a work group to develop the reference document. A draft of the reference document is now being circulated within EPA for comments. In January 1998 a revised draft will be provided for review to over 200 representatives of community groups, state and local governments, and industry.

SUCCESS **Risk Assessment Training**

Region 7, in cooperation with Missouri's Department of Health and Department of Natural Resources, presented risk assessment training to the local community at Big River NPL site and other historic lead mining sites in Missouri's St. Francois County. The training will enable the community to participate in the risk decision-making and lay the ground work for later participation in the response action decision-making stage.

Next Steps

- The final risk assessment reference document is scheduled for September 1998.

Contact

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Reform in Brief

3-5.b. PRP Performance of Risk Assessments

This initiative reaffirms EPA's commitment to authorize potentially responsible parties (PRPs) to perform risk assessments under the proper circumstances.

BENEFITS

- Makes the cleanup process more efficient
- Decreases the time needed for conducting an RI/FS
- Improves communication between EPA and PRPs
- Gives PRPs a greater role in characterizing site risks
- Reduces EPA's oversight requirements

On January 26, 1996, OSWER Directive 9340.1-02 announced EPA's revised policy of allowing PRPs to conduct risk assessments at most sites where they are also performing an RI/FS. The Directive listed six criteria that the Regions are to consider when deciding whether or not to authorize PRPs to perform a risk assessment. The new policy also removed the previous requirement for the Regions to consult with Headquarters before authorizing a PRP to conduct the risk assessment. ■

Next Steps

- Survey Regions in FY98 to determine if there are sites where PRPs perform the RI/FS but not the baseline risk assessment.

Contact

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Stakeholder Comments

"This [PRPs performing risk assessments] is a welcome development: EPA has over the years changed its mind about whether PRPs may perform risk assessments."

– CMA Report "A Chemical Industry Perspective on EPA's Superfund Administrative Reforms (p.23).

Reform Evaluation

Reform to be evaluated to determine PRP involvement in risk assessment.

Reform in Brief

3-6.a. Establish National Criteria on Superfund Risk Assessments

The Agency has prepared draft documents to help insure that risk assessments are consistent and reasonable.

The Agency has prepared draft documents outlining technical approaches to planning and reviewing risk assessments, and standardizing risk assessment data reporting tables. EPA also has established a workgroup of Headquarters and Regional representatives to review and revise these drafts and produce final guidance. The workgroup has completed revisions to these documents.

This reform will establish national criteria for the Regions to plan, report, and review Superfund risk assessments. EPA is issuing guidance to insure that risk assessments: 1) are well-scoped and well designed; 2) use a standardized presentation format; and 3) are easier to review by Superfund risk assessors. These improvements will help to promote clarity and consistency in the development of risk assessments and facilitate decision-making for response actions at Superfund sites. The workgroup has completed a preliminary review of the outlined technical approach and the standardized risk assessment data reporting tables. ■

Results

EPA issued draft standard risk assessment data reporting tables in July 1996. Comments have been received and are being addressed by EPA.

EPA established a workgroup of Headquarters and Regional representatives to review and revise the drafts of the outlined technical approach and the standardized risk assessment data reporting tables and to produce final guidance. To date, the workgroup has completed revisions to these documents.

Next Steps

- The workgroup is presenting its work as "Risk Assessment Guidance for Superfund: Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments)." It expects to have the publication available on the Internet and through the National Technical Information Service (NTIS) in the second quarter of FY98.

SUCCESS — **Data Reporting Tables**

EPA's draft standard risk assessment data reporting tables have been developed as electronic spreadsheet templates that provide clear, consistent, and transparent risk data presentations. The tables provide the summary-level risk data that must be entered into CERCLIS 3 — now the table data can be electronically transferred to CERLCIS 3, omitting the need for data reentry.

Contact

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BENEFITS

- Established national criteria for the Regions to plan, report, and review Superfund risk assessments;
- Insures that risk assessments: are well-scoped and well designed; use a standardized presentation format; and are easier to review by Superfund risk assessors; and
- Promotes clarity and consistency in the development of risk assessments and facilitating decision-making for response actions at Superfund sites.

Reform in Brief

3-6.b. Standardizing Risk Assessments

This initiative will improve current national Superfund risk assessment guidance by selectively updating the 1989 Risk Assessment Guidance for Superfund (RAGS).

Throughout 1996, EPA met with various stakeholders groups to solicit ideas for improvements to RAGS. This outreach effort culminated in two large stakeholders forums convened by the International City/County Managers Association (ICMA) on October 29-31, 1996, in San Francisco, CA and on November 6-8, 1996, in Washington, D.C. At the forums, stakeholders identified key areas where improvement is needed and offered suggestions to improve RAGS. The forums also gave stakeholders an opportunity for dialogue with EPA and other interested groups on a variety of Superfund issues. ICMA prepared meeting proceedings, which were mailed out to the forum participants.

EPA identified four key issues to address:

- Community Involvement in the Risk Assessment Process
- Land Use Considerations
- Establishing Background for Risk Assessment Purposes, and
- Uncertainty / Probabilistic Analysis.

EPA selected these topics based on input received by the Agency's own risk assessors and managers as well as from stakeholders in the Superfund process. ■

Results

EPA has created workgroups, with representatives from both Headquarters and the Regions, to address the four issues. These workgroups are exploring ideas and options to be included in future guidance documents.

Contact

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Next Steps

- ICMA is planning to convene a follow up meeting (scheduled for March 2-4, 1998, in Atlanta, Georgia) to discuss drafts of the guidance documents. (Drafts of the workgroup products will be available prior to the next stakeholders forum.) This will be an opportunity for EPA to discuss with the stakeholders the science and the policies involved in the four issue areas as the Agency develops the guidance documents.
- Final guidance will be issued in December 1998

Stakeholder Comments

Generally, the stakeholders thought the forums were a useful first step in initiating dialogue about the Reform. They especially liked the breakout sessions where they could talk in small groups about Superfund risk assessment issues.

"I was impressed that people from very diverse perspectives / affiliations could come together in small groups and leave behind their preconcieved notions and positions to constructively discuss problems amd reach solutions."

(Attendee at DC forum from a non-profit organization.)

BENEFITS

- Improves current Risk Assessment Guidance for Superfund to insure quality, consistency and reliability.
- Insures greater community involvement in designing risk assessments by providing for stakeholder input.

Reform in Brief

3-6.c. Utilize Expert Workgroup on Lead

This initiative utilizes an expert workgroup to standardize risk assessment approaches for lead-contaminated Superfund sites. The workgroup is comprised of technical staff from EPA Regions, OERR Headquarters, the Office of Research and Development (ORD), and other EPA programs.

EPA has established an expert workgroup to promote consistent application of the best science for risk assessment approaches for lead-contaminated Superfund sites. Lead contamination poses significant problems because it is common at Superfund sites, can affect neurological development in children, and is prevalent in economically disadvantaged and minority-populated areas.

(continued see *Lead*)

Results

In FY97, the TRW developed short sheets, fact sheets, and issue papers on key parameters for lead risk assessment; posted a homepage; reviewed lead risk assessments at six sites throughout the country; and developed lead tools.

Lead continued...

The Technical Review Workgroup (TRW, an Agency workgroup of experts in lead toxicity and exposure assessment) provides information and advice to Regional risk assessors and site managers on a wide range of issues pertaining to lead contamination, but generally focuses on sites with complex or national precedent setting lead issues.

This initiative links and expands existing efforts that support lead risk assessment and policy. The workgroup is responsible for information collection and distribution, analysis of key issues, providing feedback to the Regions, and networking on lead issues. The goals of this initiative are to provide scientifically sound information pertaining to the similarities and differences in Regional approaches to lead risk assessment (and the uses of these assessments); and to create a forum for site managers and senior managers to discuss alternative risk assessment approaches.

The TRW participated in more than 20 conference calls and two face-to-face meetings in FY97; developed short sheets, fact sheets, and issue papers on key parameters for lead risk assessment; created and posted a TRW homepage on the Internet; and reviewed lead risk assessments at six sites throughout the country. The TRW conducted an independent validation and verification (IV&V) of the Integrated Exposure Uptake Biokinetic (IEUBK) Lead model. In addition, the Adult Lead Subcommittee of the TRW has developed a lead exposure risk assessment tool (spreadsheet model) for assessing risks in adult females for the protection of the fetus. EPA has issued two guidance documents that provide recommendations for conducting lead risk assessments: "Recommendations of the Technical Review Workgroup for Lead for an Interim Approach to Assessing Risks Associated with Adult Exposures to Lead in Soil" (December 1996), and "Revised Interim Soil Lead (Pb) Guidance for CERCLA Sites and RCRA Corrective Action Facilities" (August 1994). Copies of these documents may be viewed and downloaded at:

http://www.epa.gov/superfund/oerr/ini_pro/lead/

SUCCESS — **Site-Specific Assessments**

The Technical Review Workgroup (TRW) reviewed data on bioavailability, lead speciation in the environment, and lead ingestion inputs at several sites. TRW analysis of risk assessments influenced cleanup decisions at the following sites: the Palmerton Zinc site in Carbon County, Pennsylvania; the California Gulch site, in Leadville, Colorado; the Remington Arms site in Bridgeport, Connecticut; the Sandy Smelter site in Sandy, Utah; the Greenbay Paint Sludge site in Michigan; and the Jack's Creek site in Maitland, Pennsylvania.

TRW Homepage
http://www.epa.gov/superfund/oerr/ini_pro/lead/tblwelc.htm

BENEFITS

- Helps to insure that lead risk assessments are conducted consistently at sites across the U.S.
- Provides a national forum for sharing the best available scientific information and exploring the state of the science for evaluating the risks due to lead contamination.
- Addresses site-specific concerns pertaining to the application of the IEUBK model and helps to evaluate risks to citizens (especially children) living in proximity to lead contaminated sites.
- Develops, reviews, and provides analytical tools for lead risk assessments.

Next Steps

- EPA plans to issue a Directive on Lead Removal Actions early in FY98.

Contacts

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SUCCESS

Facility Reviews

The TRW conducted a review of the Internal Revenue Service Day Care Facility in Washington, DC.

State Assistance

The TRW assisted the State of Ohio in creating the "Voluntary Action Program Support Document for the Development of General Numerical Standards and Risk Assessment Procedures;" advised the State of Georgia Voluntary Action Program on the correct methodology for applying the Adult Lead Model; and provided general recommendations for soil-to-dust ratios to the State of Washington.

Information Hotline

The TRW staffs a hotline and also responds to requests via email. In FY97, the TRW responded to 12 questions concerning the IEUBK model or other related issues and supplied TRW documents to 19 requestors. Additionally, the TRW homepage was visited over 700 times within a month of being posted.

Reform in Brief

3-7. Establish Lead Regulator at Federal Facilities

EPA developed 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.

A Federal facility cleanup may be governed by multiple authorities, e.g., Superfund, the Resource Conservation and Recovery Act (RCRA), and/or State laws. Although Federal and State agencies involved in a cleanup share the same goals of protecting human health and the environment, their processes, and even cleanup standards, may be different. In addition, the overlapping authorities may be duplicative and use resources inefficiently. Establishing clearly defined roles for regulators at Federal facilities will help simplify the cleanup process as well as provide for more efficient staffing.

To meet this goal, EPA developed a policy that promotes the single regulator concept, defines roles, and outlines the general principles and guidelines that Federal and State partners should assume in overseeing cleanup responses. The policy was developed by EPA with the advice of an interagency workgroup, that included States' input. ■

Results

Some Regions have been able to implement this concept in advance of issuance of the policy. Regions 4, 8, and 10 have made considerable progress negotiating agreements with Federal agencies and States that designate a single regulator with lead oversight responsibilities.

SUCCESS Milestones

Region 4 plans to continue to work with the States to establish lead regulator responsibility for all Department of Energy (DOE) and Department of Defense (DOD) sites.

In July 1996, Region 8 finalized their Rocky Flats Cleanup Agreement with DOE and Colorado, which adopted the lead regulator concept.

Since October 1994, Region 10 has had an agreement in place with the State of Washington that divides the sizable Federal facility workload between EPA and the State.

Regions 5 and 6 have been working with Ohio and Texas respectively to implement similar agreements.

Next Steps

- The Agency will distribute the signed policy to EPA Regions and States in FY98.
- EPA will continue using the single regulator concept at sites.

Reform Evaluation

Upon completion of the policy, Headquarters closed the interagency workgroup (underway since fall 1995) which included EPA Regions, Federal agencies, and State representatives.

Contact

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BENEFITS

- Establishes clearly defined roles for regulators at Federal facilities which aids in simplifying the cleanup process as well as providing for more efficient staffing.
- Reduces duplicative efforts and inefficient use of resources.
- Promotes cooperation between, Headquarters, Regions, and States.

Reform in Brief

3-8. Consider Response Actions Prior to NPL Listing

This reform will provide greater flexibility to the current National Priorities Listing (NPL) policy for evaluating the impact of completed removals on the Hazard Ranking System (HRS) score by allowing post-Site Inspection ("post-SI") completed removals to be considered in HRS scoring.

Based on experiences from applying the current NPL policy, the Agency recognized that some post-SI removal actions can substantially address the threat to human health and the environment, and should be considered up to the time of NPL listing. Therefore, as a means of encouraging early response actions, especially by private parties, when setting priorities for the NPL, EPA can now consider certain post-SI removal completions (removals completed before the site is

(continued see *Response Actions*)

Response Actions continued...

proposed to the NPL) in preparing HRS scoring packages.

This reform only applies where the Region has documentation that clearly demonstrates there is no remaining release, or potential for a release, that could cause adverse environmental or human health impacts. Otherwise, the removed waste should be counted in the HRS waste quantity value calculation. If the site's HRS score drops below 28.5 as a result of these changes, and if all cost recovery activities have been addressed, the Region may proceed with archiving the site from the Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS). The extent to which EPA applies this policy will depend on the facts of each case.

BENEFITS

- Reflects the Agency's priorities for listing only those sites adversely impacting human health and the environment.
- Reduces the Agency and private sector legal/ transaction costs associated with the listing and subsequent process.

Next Steps

- Continue to collect information and monitor implementation of reform. The extent to which EPA applies this policy will depend on the facts of each case.

Contact

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Reform in Brief

3-9. Delete Clean Parcels from the NPL

EPA will delete portions of sites from the NPL that have been cleaned up and are available for productive use.

Listing a property on the NPL may affect the value of that property and the surrounding area—whether or not all of the property or adjacent property is contaminated. As a component of its Redevelopment Initiative, EPA is developing a program that provides the Regions with the flexibility to clarify the areas of

(continued see *Parcels*)

Results

The partial deletion guidance was signed and sent to the Regions on April 30, 1996 (OSWER Directive 9320.2-11). This guidance does not outline partial deletion procedures because they are the same as deletion procedures for total site deletion.

At the end of FY97, Regions 3, 4, 6 and 10 reported six sites with partial deletions and three sites with published Notices of Intent to Partially Delete.

BENEFITS

- Maps and tracks partial deletions at NPL sites to better portray the Agency's successes.
- Facilitates redevelopment of uncontaminated portions of sites.

Next Steps

- Issue additional notes of intent to delete clean parcels
- Pilot deletion of remediated parcels at closing military bases

Parcels continued...

sites determined to be contaminated or uncontaminated. This program facilitates the transfer, development, or redevelopment of uncontaminated portions of sites.

Another product of this initiative is an EPA guidance document outlining the procedures for issuing assurances, followup consultation, and coordination concerning areas of sites that are not contaminated. As part of this initiative, EPA has developed tools such as "Soil Screening Guidance" to identify portions of sites that do not warrant Federal attention. In addition, EPA is considering, on a pilot basis, deletion of remediated parcels of a closing military base that is listed on the NPL so that the parcels may be returned to productive use. ■

Contact

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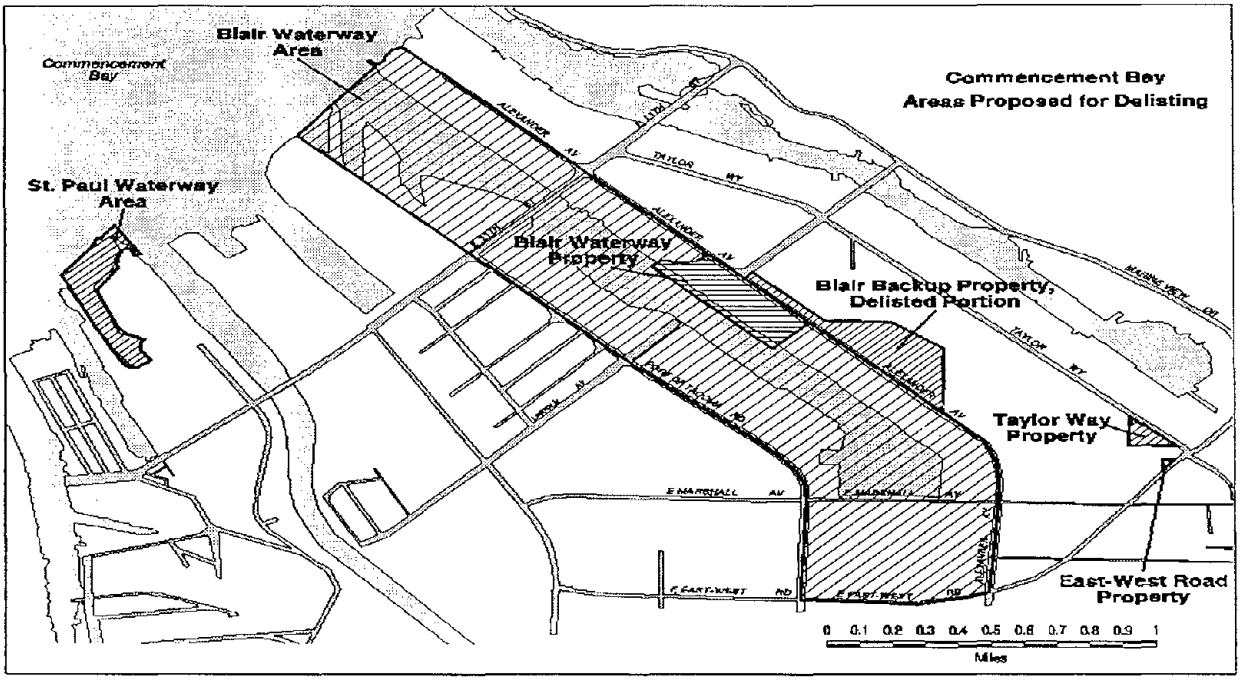
SUCCESS — Commencement Bay Nearshore Tideflats Tacoma, Washington

Cleanup progress in several areas of the site eliminated the threat to public health or the environment and allowed EPA Region 10 to publish a Notice of Intent to Delete in the August 28, 1996, Federal Register. The first partial site deletion was completed on October 29, 1996. Several of the deleted parcels have potential for commercial uses. (see diagram)



Reform in Brief

3-10.a. Promote Risk-Based Priority Setting at Federal Facility Sites

Headquarters is developing draft guidance for the Regions which will address the role of risk and other factors (*e.g.*, cost, community concerns, environmental justice, and cultural considerations) in setting priorities at Federal facility sites.

Risk-based priority setting guidance will address DOD and DOE approaches in evaluating risks at sites, and the appropriate role of stakeholders in the process of setting priorities. Headquarters has received extensive comments from EPA staff, other Federal agencies, and States on the draft priority setting guidance. The guidance has been rewritten based on these comments and will be redistributed to the Regions for a final review and comment. A final guidance is expected to be issued by the second quarter of FY98. Regions are implementing the concept of risk-based priority setting at Federal facility sites. ■

Next Steps

- EPA will issue final guidance in the second quarter of FY98.

Contacts

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BENEFITS

- This guidance will incorporate several issues of interest to various stakeholders. It will address the role of risk and other factors (*e.g.*, cost, community concerns, environmental justice, and cultural considerations) in setting priorities at Federal facility sites.

Reform in Brief

3-10.b. Promote Risk-Based Priority for NPL Sites

EPA has established a National Risk-Based Priority Panel to evaluate the risk at NPL sites with respect to human health and the environment. These evaluations are used to establish funding priorities.

In August 1995, EPA established a National Risk-Based Priority Panel of program experts representing all 10 Regions and Headquarters, to evaluate the relative risk associated with projects eligible for funding.

(continued see *Risk*)

Results

During FY97, the Panel evaluated over 50 projects, and of these, 35 projects totaling **over $185 million were funded** in accordance with their recommendations. Unfunded projects will carry over to FY98.

The panel has **ranked over $1 billion** in cleanup projects since its inception.

Risk continued...

The panel uses the following criteria to evaluate projects:

- Risks to humans;
- Ecological risks;
- Stability of contaminants;
- Contaminant characteristics; and economic, social, and program management considerations. ■

Next Steps

- Due to changing conditions at certain sites, some projects will carry over to FY98. In such instances, critical removal actions, or the completion of enforcement agreements also might initiate new project actions. The panel will reconvene in early spring 1998.

Contact

John J. Smith, OERR, (703) 603-8802

BENEFITS

- Process employs risk as a primary criteria to establish funding priority.
- Projects are funded (with the exception of emergencies and the most critical removal actions) in priority order based on Panel evaluations.

Reform Evaluation

The Panel met in October 1997 to rank new projects ready for funding in FY98. Once the FY98 operating plan is completed and approved, funding for new projects will commence.

ENFORCEMENT

Reform in Brief

3-11. Orphan Share Compensation

The Orphan Share Compensation Administrative Reform, announced in October 1995, is intended to provide greater fairness, reduce litigation, (and promote faster cleanup of Superfund sites). The reform accomplishes these goals by compensating parties who perform cleanups for a portion of cleanup costs (the Agency allocates) to orphan shares. EPA continues to offer orphan share compensation at every eligible site under the 1996 interim guidance.

Results

During FY97, the Agency offered more than $53 million in orphan share compensation at 20 sites across the United States. These figures reflect some new applications of the policy consistent with the principles articulated in the orphan share policy. Offers of compensation range from $38,524 to $15 million, with an average of over $2.5 million per site. Twelve of the offers were equal to 25 percent of estimated RD/RA or removal costs, three were equal to past and future oversight costs, and five constituted the entire orphan share.

An orphan share is the financial responsibility assigned to a potentially liable party who is insolvent or defunct, and unaffiliated with other viable liable PRPs. Providing compensation for orphan shares creates a major incentive for responsible parties to agree to perform cleanups and settle claims without litigation, and reduces transaction costs by wholly or partly resolving the question of who should bear the burden of orphan shares. The "Interim Guidance on Orphan Share Compensation for Settlors of Remedial Design/ Remedial Action and Non-Time Critical Removals," issued in June 1996, accomplishes these goals in a manner that preserves the limited resources of the Trust Fund.

Under the June 1996 policy, the Agency compensates parties who agree to perform a remedial action or non-time-critical removal at a NPL site, for some or all of the costs specifically attributable to insolvent or defunct PRPs. Compensation can be up to 25 percent of the response costs or total past and future oversight costs, whichever is less, but cannot exceed the estimated orphan share.

In September 1997, EPA and the Department of Justice expanded the orphan share reform. The September 30, 1997, policy statement entitled "Addendum to the 'Interim CERCLA Settlement Policy' Issued on December 5, 1994" describes factors for the government to consider when deciding whether and how much to compromise a cost recovery claim based on the existence of a significant orphan share. In addition, the addendum provides that where there is a significant orphan share in a cost recovery case, the orphan share may be considered as an "inequity" or "aggravating factor" within the meaning of the "Interim CERCLA Settlement Policy," and justifies EPA's recovery of less than 100 percent of response costs. The Agency will consider, on a case-by-case basis, cost recovery settlement offers which provide a compromise based on an orphan share.

(continued see *Orphan*)

Orphan continued...

Because of this increased flexibility, parties who wish to submit private party allocations may do so in the context of either work or cost recovery settlement negotiations, thereby obviating the need for the Agency to maintain, as a separate reform, the Adopting Private Party Allocations Reform announced in October 1995. ■

BENEFITS

- By providing more than $100 million in orphan share compensation in the last two fiscal years, EPA greatly reduced the burden of requiring financially viable and cooperative settlors to bear the entire cost of orphan shares. In addition, this compensation creates incentives for viable parties to perform cleanups and reduces the time required to complete settlement negotiations.

SUCCESS

Operating Industries, Inc. Landfill (OII), Monterey Park, California

In FY97, EPA offered orphan share compensation in the amount of $15 million to 270 major potentially responsible parties associated with the Operating Industries, Inc. Landfill site. The offer is conditioned upon the parties' commitment to conduct the remaining cleanup activities at the site. The total cost of cleanup activities at the site is estimated at $217 million. The settlement offer would compensate settling parties for the entire amount of the orphan share if a settlement to perform work is reached.

Interstate Lead Company Superfund Site (ILCO), Leeds, Alabama

In FY97, EPA entered into a settlement with 20 financially viable generators for site cleanup valued at $59.4 million, and reimbursement of $1.8 million of $16.6 million in outstanding response costs. As part of the settlement, EPA compromised $14.8 million in outstanding response costs, or 25 percent of the estimated remedy cost. This compromise was based on EPA's offer in FY96 to compensate settling work parties in recognition of the orphan share.

Reform Evaluation

The orphan share reform is a fundamental and permanent change in EPA's enforcement process. The reform mitigates the effect of joint and several liability where responsible parties absorb costs attributable to insolvent or defunct parties. While joint and several liability continues to be an integral part of the Superfund liability system, the reform rewards those parties who are willing to settle with the United States.

Contact

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Reform in Brief

3-12. Site Specific Special Accounts

In October 1995, EPA announced its intention to encourage greater use of Special Accounts for settlement funds to be used for future response actions at Superfund sites and to insure that interest earned by Special Accounts can be credited to these accounts and be available for future response actions at the site for which the Special Account was established.

In October 1996, OMB approved EPA's methodology for calculating Special Account interest. In late October 1996, EPA sent a memorandum to the Regions outlining the agreement with OMB, providing principal and interest balances in Special Accounts, and providing directions on how to request these funds. In February 1997, EPA updated and supplemented its 1996 guidance to the Regions.

Throughout 1997, EPA worked to insure that its Regions (program, counsel and finance offices) understood how to create and use Special Accounts. EPA is working on financial guidance to supplement the general program guidance issued in FY96 and FY97. EPA is also developing guidance on the disbursement of Special Account funds to parties conducting site response actions. ■

Results

In FY97, the Regions established 34 Special Accounts, with a total cumulative balance of $75 million. At the conclusion of the FY97, a total of 93 Special Accounts had been established by EPA. The total balance of funds available in Special Accounts is $405 million, representing $353 million in principal and $52 million in interest (interest through September 30, 1997).

Contact

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SUCCESS

Cherokee County Superfund Site
Cherokee County, Kansas

Special Account funds in the amount of $2.25 million will be used to conduct future work at the site, including groundwater and surface water remediation, soil cleanup, and public water supplies.

Jasper County Superfund Site
Jasper County, Missouri

Special Account funds in the amount of $5.9 million will be used to conduct future work at the site, which may include public water supplies and/or individual water treatment units; surface water remediation; and engineering controls.

Reform in Brief

3-13. Unilateral Administrative Orders (UAO) Reform

In FY97, EPA expanded and continued to implement its reform relating to equitable issuance of CERCLA section 106 unilateral administrative orders (UAOs). This reform is designed to insure 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. To achieve this goal, the reform established several different documentation requirements, including documentation of staff's reasons for proposing to exclude a party from an order and documentation of the rationale for not issuing an order to a late-identified PRP. The documentation requirement relating to excluded parties was phased in, applying initially (in FY96) only to orders for RD/RA and, in FY97, extended to all UAOs, including UAOs for removals and RI/FSs.

Approximately two-thirds of the 60 UAOs issued in FY97 excluded certain parties from the order. A Headquarters team reviewed the documentation prepared by Regional staff to justify the exclusion of these parties. Although as of January 1998 the HQ team's review was not yet entirely complete, the team's preliminary conclusion is that orders have been issued to all appropriate parties, and that the reasons cited for excluding certain PRPs from UAOs were generally consistent with existing Agency policy. In most cases, the excluded parties were not financially viable or had only contributed relatively minor amounts of waste to the site. For example, EPA Region 3 issued a UAO to two parties for cleanup of the Spelter Smelter Site in Spelter, West Virginia, and excluded three other PRPs because they were not financially viable. Similarly, at the Operating Industries, Inc. Site in Monterey Park, California, EPA Region 9 justified the exclusion of numerous parties on the basis that they had only contributed *de minimis* amounts of waste to the site. In some cases, parties were excluded because the government did not yet have sufficient evidence to establish a particular party's liability.

One of the reform's documentation requirements involves situations where Regional staff propose not to issue UAOs to late-identified PRPs. While the Agency continues to face difficulty in readily tracking these situations via CERCLIS, the EPA Regions demonstrated the spirit of this requirement by issuing participate-and-cooperate orders in at least five cases during FY97. ■

Results

During FY97, 60 UAOs were issued pursuant to CERCLA section 106. For roughly a third of these orders, the UAO was issued to all parties connected to the site. For the rest, an EPA HQ team has independently reviewed the relevant documents and preliminarily concluded that the reasons cited for exclusion were generally consistent with Agency policy.

Contact

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SUCCESS

Carolawn Site
Fort Lawn, South Carolina

In FY97, EPA Region IV issued a UAO to all 24 PRPs identified at the site.

American Allied Additives Site
Cleveland, Ohio

In FY97, EPA Region V issued a UAO to 14 parties and, one month later, amended the order to include the only other two parties connected to the site.

Reform Evaluation

The Agency expects that insuring the equitable issuance of UAOs will ultimately increase the likelihood of settlements and reduce private party litigation. To date, EPA has not undertaken any significant effort to quantitatively measure the reform's impact on settlements or private party litigation. However, there is some anecdotal evidence suggesting that stakeholders perceive positive impacts resulting from this reform. For example, some PRP representatives have reported that they have detected a positive change in Regional attitudes since the announcement of this reform, indicating an increased willingness to issue UAOs to larger numbers of PRPs.

Reform in Brief

3-14. Revised De Micromis Guidance

For very small volume waste contributors at Superfund sites, i.e., de micromis contributors, the cost of legal and other representation services may actually exceed a party's settlement share of response costs. If private parties threaten suit against these very small contributors, EPA enters into settlements providing contribution protection. This reform is intended to further discourage third party contribution litigation against de micromis parties, and where necessary, EPA will resolve de micromis parties' liability concerns quickly and fairly.

In June 1996, EPA revised its de micromis guidance by doubling the level previously identified for de micromis protection. The revised guidance recommends cutoffs for eligibility at:

1) 0.002 percent (of total volume) or 110 gallons/ 200 pounds of materials containing hazardous substances, whichever is greater; or
2) 0.2 percent of total volume, where a contributor sent only municipal solid waste (MSW).

If a de micromis party is threatened with litigation by private parties, EPA will settle with that party for $0 in a settlement agreement that protects such parties from further litigation.

SUCCESS Cherokee Oil Resources Site Charlotte, North Carolina

EPA entered into *de minimis* settlements with over 200 small parties, and another round of *de minimis* settlements is planned for the site. In an agreement reached with the major and *de minimis* contributors, they waived their rights to pursue over 1,000 de micromis parties.

Another vehicle for protecting de micromis parties is through the use of waivers in our settlement agreements. This method can be less resource intensive than actually developing de micromis settlements for those parties that are threatened with lawsuits. De micromis waiver language was developed in the 1995 RD/RA model consent decree, which states that settling parties waive their contribution rights against de micromis parties. The Office of Site Remediation Enforcement plans to develop a directive to promote the use of de micromis waivers in settlement agreements to insure that major parties do not pursue these small parties. ■

SUCCESS Raymark Industries Stratford, Connecticut

The U.S. Government and the State of Connecticut protected homeowners living near the Raymark facility, from a "third party" lawsuit brought against them by the company. Under the settlement, 58 homeowners whose property was contaminated with hazardous waste from the Raymark plant will each pay one dollar and will be shielded from third party claims Raymark brought against them in an attempt to recover the costs of cleaning up the contamination from its plant.

Contact

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Reform in Brief

3-16. Improving the Administration of PRP Oversight

This reform seeks to maximize the effectiveness and efficiency of EPA oversight of potentially responsible parties (PRPs) through the enhancement of EPA's working relationships with these parties. EPA is focusing its effort toward PRPs whom the Agency considers to be capable and cooperative pursuant to earlier guidance issued under this reform.

As the Superfund program has matured, parties have developed considerable experience in conducting response activities at sites. Some not only have used this experience to perform high quality work, but also have cooperated with EPA throughout the cleanup and enforcement processes. In recognition of this development, and to promote further cooperation, EPA issued a directive on July 31, 1996 (OSWER Directive 9200.4-15), on "Reducing Federal Oversight at Superfund Sites with Cooperative and Capable Parties." This Directive encourages Regions to seek opportunities to reduce oversight at sites having cooperative and capable PRPs, while ensuring that the protectiveness of the remedies is maintained and the concerns of communities are addressed. The guidance also provides criteria for the Regions to consider when determining whether a PRP is cooperative and capable (and thus eligible for reduced oversight) and provides examples of reduced oversight. During FY97, a national EPA work group was initiated to put the guidance into practice. The reform has been reoriented to consider broader concerns with respect to administering PRP oversight, namely improving working relationships with PRPs through better communication of oversight expectations, identifying opportunities to improve oversight efficiencies, and improving billing practices. For FY97, EPA Regional Offices were requested to identify NPL sites with capable and cooperative PRPs and inform these PRPs of EPA's efforts to control or reduce the level and associated costs of oversight at their sites. ■

Results

In FY96, **100 sites** were tentatively identified as being eligible for the reform. As the reform has progressed sites originally identified were deleted and others added. EPA Regions sent letters to PRPs at sites to inform them of Agency efforts to control or reduce oversight costs during FY97.

BENEFITS

- Reduces project completion time as well as EPA and PRP costs
- Fosters cooperation among parties, facilitating successful project completion and encouraging similar interactions among parties at other sites

Next Steps

- For FY98, the focus of the PRP oversight administrative reform will be to implement practices that achieve or enhance effective and efficient working relationships with capable and cooperative PRPs.
- During FY98, Regions will meet with participating PRPs to provide information on planned oversight activities, discuss potential future oversight costs, review oversight activities of the previous billing period, and discuss timely payment for oversight costs incurred, as appropriate.

SUCCESS

Cleve Reber Site, Sorrento, Louisiana

EPA Region 6 achieved a cost savings of $500,000 in 1996 by switching to the U.S. Army Corps of Engineers for oversight instead of using a private contractor.

Ruston/North Tacoma Site, Washington

By reducing the number of split samples taken, frequency of site visits, and comparative data analyses, EPA Region 10 saved nearly $700,000 in oversight costs between 1994 and 1996.

Schuylkill Metals Corporation Site, Plant City, Florida

By limiting field oversight, EPA Region 4 has incurred less than half of the oversight costs originally anticipated in 1993, for a savings of over $80,000.

Pristine Inc. Site, Reading, Ohio

Since 1996, EPA Region 5 has saved roughly $250,000 a year through the reduction of contractor support for oversight.

Stakeholder Comments

In May 1997, the national EPA workgroup hosted a meeting with industry representatives to discuss opportunities to control costs. EPA Regions 1, 2, 3, and 5 have hosted similar meetings.

– Comments following the May 1997 National Meeting

"We [industry] like the idea of meeting and discussing oversight expectations with EPA. Receiving cost information and getting bills on time also helps us plan and budget our oversight expenses. We'd like to get a sense of the baseline value of oversight costs against which to compare oversight costs at our own sites."

– Rachel Deming, Remediation Counsel, Ciba Specialty Chemicals Corporation

Reform Evaluation

EPA intends to conduct site-specific evaluations to assess the impacts of the reform at sites that participate in the reform during FY98.

Contacts

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PUBLIC INVOLVEMENT

Reform in Brief

3-17. Pilot Remedy Selection by Selected States and Tribes

The goal of this reform is to provide States and Tribes with an increased role in remedy selection at NPL sites when possible.

Under this Pilot, EPA and selected States or Tribes (hereafter, States) enter into agreements through which participating States would agree to conduct the remedy selection process, consistent with applicable law and regulations, at certain NPL sites. Using remedy selection pilots, participating States will supervise the remedy selection process with minimal EPA oversight or involvement. This would give the States or Tribes significantly more control than usual over other NPL site cleanups. ■

Results

Pilots were solicited in June 1997. Regions 1, 2, 6, 7, and 10 now have pilots underway.

BENEFITS

- This initiative will provide experience with empowering States and Tribes to select remedies and will reduce the need for EPA oversight in remedy selection.

Concepts & Lessons Learned

The national workgroup has developed criteria and a process to select new pilots, monitor and assess the results.

Next Steps

- Encourage additional Regions to start pilot programs.

Reform Evaluation

Information collection will begin in the first quarter of FY98, to the extent possible, on past and ongoing pilots with the ultimate goal of publishing "lessons learned" for these pilots. Progress and issue monitoring will occur on a quarterly basis.

Contact

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Reform in Brief

3-18. Pilot Community Based Remedy Selection

This initiative is based on the theory that consensus-based approaches to remedy selection, and collaborative partnerships involving community stakeholders, can lead to remedies that better satisfy the community, while still meeting statutory and regulatory requirements. The output from this initiative will be a compendium of useful experiences, approaches, and techniques for fostering community participation.

This initiative is intended to promote greater public involvement in the Superfund program, especially during remedy selection. The effort involves exploring the use of more consensus-based approaches that involve community stakeholders. The theory is that collaborative partnerships can lead to remedies that better satisfy the community, while still meeting statutory and regulatory requirements. The output from this initiative will be a compendium of useful experiences, approaches and techniques for fostering community participation.

One of the best ways to increase citizen participation is through establishing and nurturing community advisory groups (CAGs). A CAG is made up of representatives of diverse community interests. Its purpose is to provide a public forum to consider cleanup-related issues and to work with EPA to address community needs and concerns with respect to the response. Ideally, the CAG and EPA will develop an effective partnership that will result in the community having meaningful influence on site cleanup decisions. ■

Next Steps

- Continue to discuss regional approaches to community based remedy selection throughout FY98.

Contact

Bruce Engelbert, OERR, 703-603-8711

BENEFITS

- Helps increase awareness among Superfund response personnel of their responsibilities for working with citizens affected by the cleanup and the importance of including community values and concerns in response decision-making.

SUCCESS

Overall Success

Last year's report highlighted the success of public participation at the Lower East Fork Poplar Creek site in Oak Ridge, Tennessee. Community support for changes to the remedy resulted in estimated future cost reductions **(cleanup savings) of $160 million.** Efforts to increase the community's involvement in the cleanup process also have payed positive dividends at sites in Jasper County, Missouri, and Leadville, Colorado. Although in each case the circumstances were different, as were the methods used, the outcomes were enhanced because the public felt included.

Oronogo-Duenweg Site, Jasper County, Missouri

At the Oronogo-Duenweg site in Jasper County, the remedial project manager developed a close rapport with the site's CAG. This led to the award of a $200,000 grant to the community to develop an environmental master plan which served as the basis for the institutional controls adopted as part of the site remedy.

California Gulch Site, Leadville, Colorado

At the California Gulch site in Leadville, Colorado, the community's outright hostility to EPA and the cleanup was completely turned around after EPA invested a considerable amount of time listening to the concerns being expressed by citizens and then worked with them to come up with mutually acceptable solutions.

Reform in Brief

3.19. Establish Superfund Ombudsman in Every Region

The goal of this initiative was to place an Ombudsman in each Region to serve as a point of contact for the public and help resolve stakeholder concerns. It was undertaken by a joint Headquarters/Regional workgroup.

Headquarters and the Regions were equal partners in the development of the mission statement, position description, process description, and implementation and evaluation plans for this reform. The Regions have adapted the generic products to meet their needs, thus allowing for Regional variation but retaining national consistency. On June 4, 1996, EPA Administrator Carol Browner announced that all 10 Regions had nominated Ombudsmen by the prescribed date of March 31, 1996.

The responsibilities of the Superfund Regional Ombudsman include resolving concerns and providing information and guidance. The Superfund Regional Ombudsman (RO) can also assist staff members to settle or prevent problems with stakeholders. While helping the public, the RO can also identify sites requiring cleanups, assist in the Brownfields area, address environmental justice (EJ) issues, identify criminal cases and find methods to improve processes.

In FY97 the Region 2 RO received 175 requests for assistance with 83 of them being received over the last four months. This compares with nine calls for the same period in FY96. This was due to both the increase in publicity of the available services and to customer satisfaction. Ninety-five of the calls were requests for general, program and technical information. Approximately 66 requests from professional environmental and media personnel were referred to others for response. Where possible, responses to the other 109 stakeholders requiring individual attention were made by the RO directly. There were 80 requests for general and site specific assistance. Of these, 44 requests involved 26 NPL and non-NPL sites.

Since most stakeholders cannot distinguish between Superfund and other programs, the RO responded to all stakeholders' public health and environmental concerns. This resulted in an increase in EPA's rating with our stakeholders. To be more responsive to stakeholders, the RO responds directly where possible. This not only provides quick answers, but also assists the Region's technical staff by saving them time and not interrupting them. In FY97, the RO responded directly to 109 (62 percent) of the cases. Many calls from concerned citizens involved health related problems dealing with their homes for which they could not obtain answers. Besides providing answers to their problems, the RO was usually able to alleviate their concerns and fears.

Region 3 placed a priority on developing the infrastructure needed to support a Superfund Ombudsman program. The

(continued see *Ombudsman*)

Results

Regions have developed new outreach tools, toll-free numbers for use by stakeholders and new processes to facilitate resolution of issues.

In Region 2, the volume of calls increased dramatically as a result of an aggressive stakeholder advertising campaign. The Ombudsman has resolved 96 percent of the cases, with 55 percent resolved within 24 hours.

Ombudsman continued...

Region developed a mission statement, principles of operation, a position description, performance standards, and placed Ombudsman information on the Hazardous Waste Management Division's homepage on the Internet. The Region 3 Ombudsman has averaged about two calls per week; the calls can be handled very quickly, generally within 24 hours.

The Region 7 Ombudsman handles approximately three issues per month. Most issues (more than 80 percent) are minor, i.e., are resolved with two or three simple actions. Approximately 50 percent are non-Superfund matters. The Ombudsman contacts the appropriate staff from across the Region to respond with the correct information in a timely manner. While Region 7 has had few complaints overall, the Ombudsman has also counseled Superfund branch chiefs and staff on how to handle some of the more difficult complaints.

During FY97, the Region 9 Ombudsman received 15 requests for assistance, three of which are still pending at the end of the fiscal year. Five of these requests were for general information, five reported an environmental problem (one of which turned out to be a major pesticide site requiring emergency response), one was a criminal case outside the authority of the Ombudsman, two were from individuals dissatisfied with EPA actions, and two were from individuals not getting response from anyone about their environmental problem. In the two cases where people were dissatisfied with In Region 9's response, the situations related to the amount of money the individuals were receiving as compensation for a cleanup. One case has been resolved satisfactorily; the other is still pending. ■

BENEFITS

- Makes the Superfund program more responsive to the community and increases EPA's overall rating with stakeholders.

Next Steps

- Conduct ongoing public outreach and convene the annual meeting.

Contacts

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SUCCESS

Drake Chemical Site, Lockhaven, Pennsylvania

The Ombudsman's support on this case has included gathering information on alleged hazardous waste sites in the Lock Haven area, and meeting with the Lock Haven Environmental Advisory Committee to offer assistance.

Rayioner Pulp Mill, Port Angeles, Washington

Stakeholders requested the assistance of the Regional Ombudsman to help them address concerns associated with the closing of this pulp mill and associated landfill sites which were used to dispose of mill wastes. Region 10 now has a site team in place, consisting of an OSC (who is providing limited oversight of the mill demolition), two site assessment managers who are responsible for the Preliminary Assessments (PA), and a community involvement coordinator who is working closely with the state, local authorities, citizens, environmental groups, and interested Congressional staff.

Commencement Bay/Nearshore Tideflats Superfund Site Tacoma, Washington: Hylebos Waterway

The Region 10 Ombudsman received a request from a PRP to look into the decision-making process to insure adequate involvement of interested parties outside of EPA. The Ombudsman worked with the site team (remedial project manager and community involvement coordinator) to respond to the request, which resulted in the addition of a significant public involvement component to the decision-making process. When citizens expressed concerns about site cleanup levels and inquired about "appealing" the decision, the Ombudsman worked with the group to identify future opportunities for their involvement in the cleanup, and provided information about CERCLA and their rights to dispute such decisions.

Reform in Brief

3-20. Improve Communication with Superfund Stakeholders

EPA is using electronic tools, such as the Internet, multimedia computers, and other electronic means, to increase communication among all Superfund stakeholders and improve access to Superfund information.

The EPA National Superfund website has been comprehensively redesigned to make it easier for the public to access and find Superfund program information – 13 top-level buttons emphasize the public outreach focus of this website, with categories such as "What is Superfund," "Site Information," "Community Tools," "Superfund for Kids," "Technical Resources," and "Regional Programs". A key new feature to be added in early 1998 is the on-line querying of Superfund data.

All EPA Regional offices have developed homepages which include information on Regional Superfund programs, such as Superfund site lists, site-specific information, and links to state Superfund activities. Of note during 1997, the Regional Superfund Internet workgroup coordinated the dissemination of information on the National and Regional Superfund websites. For example, the Regions have prime responsibility for the Superfund site fact sheets on the Internet – such as a comprehensive list of National Priorities List (NPL) site summary fact sheets in Regions 2 and 4. Region 3 also has included Superfund site-specific information on its website and is in the process of posting site-remediation photographs. The Region 5 Superfund website includes comprehensive links to Superfund success stories, NPL sites, and Record of Decision (ROD) information. It also features an emergency hotline and a "Kids and Superfund" button. Regions 6,7, and 8 all profile Superfund site status summaries/fact sheets with Region 6 also featuring information on the Brownfields program. Region 9 is piloting a format to present a full range of information and documentation on its Superfund sites. Finally, Region 10's site information includes geographic information system (GIS) maps for some of its key sites and an emphasis on providing information in different formats to meet varying customer needs. ■

Next Steps

- Continue to post and revise Superfund information on EPA Superfund homepage.

Results

Since October 1996, more than **100,000 users have accessed** the Superfund homepage.

Superfund information that once cost $785 under FOIA is now available immediately for little or no cost on the Internet.

Stakeholder Comments

"The revamped site provides an impressive quantity of data and links that ought to satisfy most environmental law junkies' craving for Superfund knowledge. Although the information available is comprehensive enough to make the site useful to environmental professionals, it is presented in a way that is understandable to the layman."

– "EPA Refreshes Superfund Website," *Envirobiz*, April 3, 1997.

BENEFITS

- Makes Superfund information available to the public on an immediate low-cost continuing basis.

Contacts

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Stakeholder Comments

"The most comprehensive website concerning Superfund is the USEPA Superfund Homepage. The EPA Superfund Homepage provides extensive information on all aspects of Superfund in a format designed for environmental professionals, local officials, and the general public. Almost any Internet research for Superfund information should begin with the EPA Superfund Homepage."

– Paper titled, "Superfund Resources on the Internet," published for the HazWaste World/Superfund XVIII conference in December 1997.

Reform Evaluation

The Superfund website (**www.epa.gov/superfund**) was significantly revised in March 1997, to facilitate access by stakeholders to Superfund information. This reform has dramatically increased the amount and speed of Superfund program information available to the public and OERR's ability to respond to inquiries from the public on Superfund issues. The reform itself is considered complete, although the Superfund website is continually being improved and new material is being added. OERR's focus during 1998 will be to "build out" the Superfund website by offering new and more varied types of Superfund program information (for example, on-line querying of Superfund site data).

ENFORCEMENT

About the Pilot

2-1. PRP Search Pilots

The primary goal of the PRP search pilots was to determine whether the time line proposed in the Superfund Reform Act (SRA) of 1994 (H.R. 4916, 103rd Congress) can be accomplished through completion of early PRP Searches. In addition, EPA piloted several techniques developed to streamline and improve the PRP Search process.

In the Spring of 1995, 15 candidate sites were identified where PRP searches had just begun or were about to be initiated. To test the relevant provisions contained in SRA, each pilot site was set up to conform as nearly 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. Additionally, each pilot tested one or more streamlining techniques identified during a national PRP search conference.

Piloted streamlining techniques included: exploring the use of 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 assist PRPs in identifying other PRPs earlier in the enforcement process.

PRP searches at the 15 piloted sites varied widely in their duration and scope, resulting from 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 sites made the 18 month deadline for notifying all other parties within 18 months of the search start date. Today's Superfund enforcement program must be supported by a PRP search program that incorporates today's enforcement goals – thorough investigation, identification of all parties, and greater involvement of PRPs in the PRP search. The results of the PRP search pilots, as well as previous PRP search improvement efforts and evaluations, serve as a building block for EPA's efforts currently underway to enhance PRP searches.

The national PRP Search Enhancement Team (Team) was formed by Office of Site Remediation Enforcement (OSRE) 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.

BENEFITS

- Several streamlining techniques were found to be beneficial and 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 parties, 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.

Through mid-1998, the Team and regions will perform a number of tasks, including the following:

- Sponsor a national PRP Search Enhancement Conference
- Develop a national enforcement network to facilitate information sharing efforts
- Develop fact sheets and checklists to assist regional search staff on subjects such as:
  - Parameters for PRP Involvement in PRP Searches
  - Corporate Successor/Parent-Subsidiary Issues
  - On-Line Resources for PRP Searches
  - Information Request Letter Tracking and Followup
  - Removal Search Activities
- Best practices

In addition to these tasks, OSRE will continue to incorporate PRP search enhancement concepts in all relevant Superfund enforcement training programs and materials as well as continued development of PRP search guidance materials. ■

Concepts & Lessons Learned

The SRA goals of notifying *de minimis* parties within 12 months and other PRPs within 18 months of the search start are currently unrealistic for most Superfund sites. SRA time frames were too ambitious for the piloted sites, and would most likely be too ambitious for a majority of Superfund sites. There is a balance between speed and comprehensiveness in the PRP search process.

Although the causes of difficulty in adhering to the SRA time line were numerous and often site specific, three factors were common to a number of sites:

(1) Many PRPs/Complex Sites

(2) Troublesome Hazardous Substances (i.e., mixed radioactive waste)

(3) Uncooperative PRPs.

The five pilot sites where the 18 month goal was met generally had fewer PRPs and no significant complications. Given ideal circumstances, it appears that some PRP searches can meet the SRA time frames. However, it seems unlikely that PRP searches at larger, more complex sites can regularly be completed this quickly.

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. Consideration should be given to devoting more resources to interviews at an early date, particularly by making civil investigators available early in the PRP search process.

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About the Pilot

2-2. Expedited Settlement Pilots

EPA announced the expedited settlement reform in 1995 to reduce transaction costs for all potentially responsible parties (PRPs) at Superfund sites through early settlements. The reform was designed to encourage early (i.e., pre-ROD) *de minimis* settlements; encourage ability to pay settlements with *de minimis* PRPs who demonstrate they cannot pay their full share of response costs at the site; and give PRPs the opportunity to nominate other PRPs who they believe are also responsible for site cleanup.

From the pilot's inception through the end of FY97, EPA achieved early *de minimis* settlements at eight pilot sites, ability to pay settlements at three pilot sites, and solicited nominations of additional PRPs at five of the eight pilot sites which had achieved an early *de minimis* settlement.
The early *de minimis* settlements were achieved at the following Superfund sites: Solvents Recovery; Tri-Cities Barrel Co., Inc.; Elizabethtown Landfill; Taylor Road; Arcanum Iron & Metal; Hansen Container; Bennington Landfill; and Tulalip Landfill. These settlements were reached with approximately 488 *de minimis* parties, resulting in recovery of approximately $14.8 million. Three of these settlements were achieved in FY97 with 22 *de minimis* parties for approximately $3.4 million. From the pilot's inception, ATP settlements were achieved with a total of 22 parties: 20 at the Solvents Recovery Site; one at the Tulalip Landfill site; and one at the Arcanum Iron & Metal Site. ■

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Concepts & Lessons Learned

- The key elements of efficiently reaching early *de minimis* settlements were complete information, the type and quantity of waste, a good PRP search, and the existence of reliable cost estimates early in the process.
- The ability to pay settlement goals have been difficult to meet for the following reasons:
  1) at some sites, no PRPs are found who meet the ability to pay criteria;
  2) small parties sometimes ignore EPA's requests for financial information to prove the party's limited ability to pay the full settlement amount; and
  3) PRPs sometimes submit incorrect information that requires additional research.

About the Pilot

2-3. The Allocation Pilots

The Agency commenced the Allocation Pilots in May 1995, offering a fundamentally different approach to allocating Superfund costs between parties. Under the pilot, a neutral is selected by the parties (an "allocator") who conducts a non-binding out of court process resulting in an allocation report (i.e., where each allocation party is assigned a share of responsibility). Parties may then offer to settle with EPA based on their allocated share. Under the pilot, EPA is responsible for 100 percent of the orphan share, which consists of the shares of allocation parties which are insolvent or defunct.

Status

EPA offered the pilot at twelve sites. At three sites, parties declined to enter the pilot because they believed they could reach settlement outside of the allocation process or already had performed a private allocation. At the nine remaining sites, the allocation pilots are at various stages. For example, at two sites the allocator issued a report reflecting an agreement regarding the shares of responsibility between the parties. At another site, the parties reached an agreement on shares and the allocator was dismissed. At a fourth site, the majority of parties settled (i.e., for the performance and funding of the response action), but the allocator recently issued a report identifying shares for the parties which did not join the settlement. For most of the remaining sites, the parties have selected an allocator and are in the midst of the allocation process.

Implementing the Process

After two years of implementing the pilots we have gathered useful information concerning the allocator selection process and need for a protocol document between the parties participating in the pilot.

Selecting the Allocator

In selecting an allocator, parties have uniformly agreed to use a convening process. Through the use of a neutral (a convener), the parties selected an allocator by interviewing several candidates and then reaching a consensus agreement on the best person for that site. At all pilot sites the parties agreed to choose solely from the 37 candidates qualified through the Agency's procurement process. Parties believed the level of experience presented by the candidates and the information provided was sufficient to choose an allocator.

Need for Protocol Document

In designing the pilots the Agency believed that a basic confidentiality agreement and litigation tolling agreement (i.e., so no party would sue each other during the allocation) was sufficient to implement the pilots. However, parties wanted to negotiate procedures for the number of interviews with witnesses, timeframes for submission of documents to the allocator, and identify equitable factors for the allocation. The allocators wanted these issues to be resolved amicably between the parties. Negotiating a protocol agreement has taken between one to four months, depending on the number of issues to be addressed and the number of parties at the site. To save time the parties negotiated the allocation protocol during the time the Agency is formally entering into the contract with the selected

(continued see ***Protocol***)

Protocol continued...

allocator. The neutral who convened the selection process has also assisted in developing the protocol agreement. ■

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Reform Evaluation

Since the commencement of the pilots in 1995, EPA has been gathering information from the participants, including PRPs, allocators and Regional staff, concerning time spent and resources expended, general impressions of fairness of the process, and the overall implementability of the process.

1. Time - Where an allocation report has been issued, the average time spent to complete the allocation process was 20 months. This includes the time spent identifying additional parties, selecting the allocator, entering into the protocol document, and performing information gathering by the allocator. It also includes time spent filing briefs, conducting oral arguments, and issuing the draft and final allocation report. The time frame is expected to increase for the total group of pilots to approximately 24 months because a number of sites are taking significantly longer than the 20 month period.

2. Resources - Parties who participated in the pilot estimated they expended $48,000 per party in transaction costs. Approximately 75 percent indicated that the transaction costs were lower than traditional contribution litigation costs. The average cost to the Government (EPA and the Department of Justice) for conducting an allocation (for this group of sites) was approximately $421,000 per site. This includes both intramural and extramural costs. In addition, the average cost for the services of the Allocator were approximately $193,000 per site. At one site, neutral costs were significantly higher as both allocators and mediators were used.

3. General Observations- Private parties agreed to participate in the pilot because: EPA was funding 100 percent of the orphan share; parties believed the process would be more cost efficient than current Superfund litigation; and the party could enter into a fair share settlement.

At the end of the process, parties views on the pilot were mixed. Several parties thought the share assigned to them in settlement was fair considering the level of information available, but others felt that their share was not fair believing that major corporations with greater resources were better able to influence the allocator and/or the Agency. While a number of companies believed the actual costs expended were less than litigation, several small businesses felt the process was not cost effective for them - commenting that transaction costs associated with the allocation process may actually be higher since many felt they had to participate in the process to protect their interests. Finally, there was general agreement that flexibility in an allocation process must exist in meeting deadlines (e.g., for selecting the allocator, information gathering and filing briefs) to address site-specific conditions.

Concepts & Lessons Learned

This past year EPA has learned several important lessons on the relationship of allocation to settlement. In sum, EPA has learned that it is difficult to translate a shares agreement or allocation report into a judicial settlement, and difficult to settle with less than all of the parties and continue the allocation process. For example, some parties may be willing to perform the response action, while other parties would like to pay a sum certain (i.e., a cashout agreement). Several parties believed that providing an offer to settle for their "share" did not necessitate entering into a joint agreement to perform work with the other parties at the site. At one site, the Agency negotiated three Consent Decrees to address the various concerns. Such negotiations are resource intensive.

Another settlement issue involves problems with entering into an agreement regarding shares of responsibility with less than all of the parties. A partial settlement raises concerns that the allocator may assign the parties which remain in the allocation a smaller share than the share negotiated by the settlers. In effect, the non-settlers could possibly benefit by staying in the allocation process. The government position is difficult because parties who seek to settle early may offer to pay a significant premium or to fully perform the work. In addition, parties negotiating a settlement may also be forced to file briefs before the allocator in the event that settlement negotiations are not completed in a timely manner.

SUCCESS

Tulalip Landfill Site, Marysville, Washington

The U.S. recently lodged three Consent Decrees with the majority of the allocation parties at this site. In this settlement, one group of parties will perform the response action, and two separate groups of parties will provide funding for the cleanup. A number of federal entities are also part of the settlement. Allocation parties who are not part of the settlement remain in the allocation process. While the allocator must consider the shares of all the parties in the allocation, only those shares of the parties which did not settle were delineated in the allocation report. This limits the need for the settling parties to continue to participate in the allocation process, thereby saving transaction costs.

The settlement is also significant because the proceeds from a pre-allocation *de minimis* settlement are being provided to the performing parties. Under the pilot, *de minimis* settlers are excluded from the allocation process. Several parties were originally concerned that excluding *de minimis* parties from the allocation process might appear unfair. In effect, however, while the *de minimis* parties were excluded from the allocation process, the settlement proceeds from the *de minimis* settlement reduced the actual amounts the settling parties had to pay.

Hunterstown Road Site Gettysburg, Pennsylvania

- The generators and transporters requested the Agency adopt a private allocation that these parties reached amongst each other, rather than the allocator assigning shares to all parties.
- The Agency agreed to adopt the private allocation so the allocator only had to assign a group generator/transporter share, thereby saving transaction costs.
- All parties then agreed on the group share, submitted it to the allocator who promptly adopted it as part of the allocation report.

ECONOMIC REDEVELOPMENT

Reform in Brief

2-4.a. Brownfields Pilot Projects

Brownfields Assessment Demonstration Pilots are awarded by EPA under cooperative agreements to States, cities, towns, counties, and Tribes. These pilots are funded up to $200,000 over a two-year period and are designed to support creative explorations and demonstrations of brownfields solutions. The Pilots are intended to provide EPA, States, Tribes, municipalities, and communities with useful information and strategies as they continue to seek new methods to promote a unified approach to site assessment, environmental cleanup, and redevelopment.

The "Brownfields Economic Redevelopment Initiative" is a comprehensive approach to empowering States, local governments, communities and other stakeholders interested in economic redevelopment to work together in a timely manner to prevent, assess, safely cleanup and sustainably reuse brownfields. EPA originally addressed implementation of the Brownfield's Initiative through the Brownfields Action Agenda. This first Action Agenda was a collection of bold strategies focused on four main categories - 1) implementing Brownfields Pilot programs in cities, counties, towns and Tribes across the country; 2) clarifying liability and other issues of concern for lending institutions, municipalities, prospective purchasers, developers, property owners and others; 3) establishing partnerships with other EPA programs, Federal agencies, States, and cities and stakeholders; and 4) promoting community involvement by supporting job development and training activities linked to Brownfield assessment, cleanup and redevelopment.

As the Brownfields Initiative has matured, the need for continuation and expansion of the national brownfields response has led to introduction of the new Brownfields National Partnership Action Agenda, further linking environmental protection with economic redevelopment and community revitalization. The Brownfields National Partnership Action Agenda is a two-year plan featuring commitments from more than 25 organizations, including more than 15 Federal Agencies. The Agenda also features a 10 Showcase communities model for demonstrating successful collaboration on brownfields-related activities.

By the end of FY97, EPA had announced the selection of 121 Brownfields Pilots. These pilots will be funded through cooperative agreements are subject to negotiation. Of the 121 Pilots, 64 are National Pilots selected and funded through Headquarters, and 57 are Regional Pilots selected and funded through the 10 Regional offices. EPA intends the pilots to perform the following: provide redevelopment models, direct efforts toward the removal of regulatory barriers; and facilitate coordinated public and private efforts at the Federal, State, and local levels.

Results

By the end of FY97, EPA had announced the selection of 121 Brownfields pilots.

EPA awarded 24 grants to eligible assessment pilot recipients for the capitalization of revolving loan funds for the cleanup of brownfields sites. Grants of this type will not be awarded in FY98 unless mandated by specific statutory authority.

EPA has signed Memoranda of Understanding (MOU) with other Federal partners to coordinate issues related to

(continued see *Brownfields*)

Brownfields continued...

brownfields redevelopment and to leverage additional opportunities. In addition to previously signed MOUs with the Economic Development Administration, and the Departments of Housing and Urban Development, Labor, and Interior, EPA also has signed a MOU with the National Oceanic and Atmospheric Administration.

EPA conducted a Brownfields National Conference in Kansas City, Missouri, in September 1997. A variety of guidance documents and other initiatives have been announced by the Agency affecting the liability aspects of the Brownfields Action Agenda. In addition, EPA archived almost 30,500 sites from the Federal Superfund Inventory — CERCLIS.

Passage of the brownfields tax incentive proposal in 1997 was achieved as part of the budget agreement, and permits expensing of environmental remediation costs. ■

SUCCESS

Baltimore, Maryland

Baltimore has sought to use the city's $200,000 grant to encourage economic growth and redevelopment in urban areas while continuing to provide appropriate and sufficient protection of the environment, especially the Chesapeake Bay watershed area.

Birmingham, Alabama

The North Birmingham Industrial Redevelopment Project centers on a 900-acre industrial area in which nearly forty percent of a formerly active property now lies vacant. In September 1995, the EPA awarded Birmingham a $200,000 grant under its Brownfields initiative to stimulate development of a 150-acre industrial park within the target area. Planners believe the area will see the creation of over 2,000 jobs

Burlington, Vermont

Burlington plans to develop a comprehensive brownfields plan, redevelop the city's brownfields with a high degree of citizen participation and support, and provide a redevelopment model that could be duplicated in small cities across the country.

Dallas , Texas

The City of Dallas, with help from the EPA is returning Brownfield properties into productive use for the community. With six sites in the cleanup and redevelopment process, $44.5 million in private investment has been leveraged, along with an $8.4 million public investment.

Emeryville, California

Since EPA's $200,000 grant, EPA and Emeryville have been working together to rejuvenate the City and the surrounding area, targeting ten sites and more than 180 acres for cleanup and redevelopment. The Brownfields Pilot established strong working relationships among the City's regulatory agencies, which facilitated a plan between the City and Catellus Development Corporation to redevelop abandoned former railyard site. Catellus constructed 200 units off mixed-income housing. Approximately 100 construction workers have been hired to build these housing units.

Oregon Mills, Oregon

The City of Astoria, Oregon has worked in partnership with the Oregon Department of Environmental Quality (DEQ), ECOTRUST, and the community to clean up the City's abandoned mill sites and transform them into thriving waterfront properties. In September 1995, Rural Development Initiatives, Inc., received a $200,000 EPA Brownfields Pilot grant to help jump-start the City's redevelopment efforts.

Next Steps

- Continue coordinating support for the efforts of the Federal Interagency Working Group on Brownfields
- Identify up to 100 assessment pilots in FY98
- Initiate expansion of site assessments
- Select 10 Brownfields Showcase Communities

Contact

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BENEFITS

- Helps States, Tribes, and municipalities create redevelopment models, direct efforts toward the removal of regulatory barriers, and facilitate coordinated public and private efforts at the Federal, State, and local levels.
- Facilitates the reuse of underutilized or abandoned properties.
- Creates jobs and encourages community development in urban areas.
- Fosters economic prosperity and an increased tax base.

Reform in Brief

2-4.b. Brownfields Community Outreach

A Brownfields coordinator position has been established in each region to oversee Brownfields pilots and to initiate other Brownfields activities. EPA also has assigned seven staff members to cities through inter-governmental personnel assignments (IPA) to assist in addressing the Brownfields redevelopment challenges presented at the State and local levels.

The brownfields program is centered on partnerships - with other Federal, State, and local agencies, and diverse stakeholders. The Brownfields National Partnership Action Agenda is based on protecting human health and the environment, enhancing public participation in local decision-making, building safe and sustainable communities through public/private partnerships, and recognizing that environmental protection can be the engine that drives economic redevelopment.

EPA continues to be advised and informed on environmental justice issues relating to Brownfields through the National Environmental Justice Advisory Council (NEJAC). The NEJAC issued a final report, "Environmental Justice, Urban Revitalization, and Brownfields: The Search for Authentic Signs of Hope." The report analyzed the findings from the public dialogues held in June and July of 1995 on revitalization and Brownfields, and made recommendations. Community-based recommendations from the report are helping to shape the future course of the Brownfields Initiative from pilot application to determinations of future site redevelopment.

BENEFITS

- Improves community involvement in the Brownfields Initiative.
- Fosters job development and training.

In conjunction with the Common Sense Initiative (CSI), EPA has identified Brownfields pilots in several cities that provide opportunities to concentrate on Brownfields associated with particular industrial sectors. For example, several Brownfields pilots have been identified for linkage with the CSI "Iron and Steel Sector." EPA is now working with the sector to conduct an 18-month evaluation of two Brownfields pilots that will help to assess the efficacy of the "Brownfields Guiding Principles" developed by the sector.

EPA is working with the American Society for Testing

(continued see *Community*)

Community continued...

Materials (ASTM) to develop a standard guide titled, "The Process of Sustainable Brownfields Redevelopment." The purpose of these efforts is to identify the interrelationships between the financial, regulatory, and community involvement aspects of Brownfields revitalization. EPA and ASTM are working together to involve environmental justice and community representatives in workshops to develop the standard.

EPA is promoting and fostering job development and training through partnerships with Brownfields pilot communities and community colleges. EPA also is working with the Hazardous Materials Training and Research Institute (HMTRI) to expand environmental training and curriculum development. HMTRI has hosted a continuing series of workshops to assist community colleges from Brownfields pilot communities in developing environmental job training programs. The latest workshop was held in San Francisco, California, in June 1997. To date, HMTRI has worked with more than 60 community colleges. Through a cooperative agreement with EPA, Rio Hondo College (Whittier, California), has established an environmental education and training center to provide comprehensive technical-level training. In addition, EPA and the National Institute of Environmental Health Services (NIEHS) are working to coordinate minority worker training grant recipients with Brownfields pilot city activities. EPA will continue outreach to stakeholders on Brownfields involvement. Technical assistance to other Federal agencies and non-governmental organizations will be provided through existing partnerships and pilots. ■

Next Steps

- Work with NIEHS to coordinate minority workers with pilot activities
- Continue outreach to stakeholders and offer technical assistance

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Reform in Brief

2-4.c. Refining CERCLIS

The Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) is an automated inventory of site information for potential or confirmed hazardous waste sites addressed under the Federal Superfund program. To refine CERCLIS and encourage cleanup and redevelopment of contaminated or formerly contaminated sites, EPA has begun a process of "archiving" sites that no longer need to be tracked.

Over 41,000 sites have been entered into CERCLIS; however, less than five percent have made it onto the NPL. Until recently, sites that had been fully remediated or that had never made the final NPL were still listed in CERCLIS, and the perceived threat of Superfund liability remained. To rectify this problem, EPA refined the process for registering and maintaining site information in CERCLIS by archiving such sites.

In response to growing concerns about the unintended stigma associated with CERCLIS, EPA introduced the CERCLIS archiving effort in early 1995 as part of the Agency's Brownfields Economic

(continued see *CERCLIS*)

Results

Of the 41,000 sites entered into CERCLIS: 24,000 CERCLIS sites were archived by February 1995; and **almost 30,500 sites** were archived from CERCLIS through FY97.

CERCLIS continued...

Redevelopment Initiative. The Brownfields Initiative encourages cities, states, and private investors to clean up and redevelop contaminated or formerly contaminated sites. Archive candidates include sites where, following initial investigation, no contamination was found, or any contamination was removed quickly without requiring placement on the NPL; sites that have been completely cleaned up and deleted from the NPL; and sites where the contamination was not serious enough to warrant Federal Superfund attention.

The archiving effort is a continuous process and as more sites are entered into CERCLIS and/or screened out, the CERCLIS and archive lists will change.

SUCCESS

EPA is beginning to see results from its efforts at the Brownfields Pilot in Buffalo, New York. After removing the Republic Steel site from CERCLIS, ATDM Corporation, partnering with Village Farms of Buffalo, agreed to clean up a portion of the site in 1997 for use as a 25-acre hydroponic tomato farm. This new business will employ approximately 300 workers.

In June 1996, EPA provided guidance identifying types of sites eligible for archiving. Sites remaining in the CERCLIS inventory were evaluated, archiving decisions were made, when appropriate.

EPA has conducted outreach efforts to promote its site archiving efforts. In July 1995, EPA sent 200 mayors lists of archived sites in their cities. In April 1997, EPA developed a quick reference fact sheet, "Archival of CERCLIS Sites," and posted it on EPA's Brownfields Internet homepage. An inventory of CERCLIS and archived sites by State also is available on the Internet. ■

BENEFITS

- Removes the stigma associated with CERCLIS sites and facilitates their redevelopment.

Next Steps

- Continue to archive sites from CERCLIS

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Reform in Brief

2-4.d. Clarifying NPL Sites

EPA provides Regions with the flexibility to clarify uncontaminated areas within Superfund sites. To accomplish this, EPA has developed guidance and tools to identify, map, and track uncontaminated portions of sites.

Listing a property on the NPL may affect the value of that property and the surrounding area—whether or not all of the property or adjacent property is contaminated. In order to facilitate the transfer, development or redevelopment of property or portions of property determined to be uncontaminated, EPA, as a part of its economic redevelopment initiative, developed a program to provide Regions with the flexibility to clarify the areas of sites determined to be contaminated or uncontaminated.

(continued see *NPL Sites*)

Results

Workgroup recommended a policy change to allow partial deletions.

EPA announced a policy change to allow partial deletions based on geography or medium (published in the Federal Register on November 1, 1995 (60 FR 55466)).

EPA announced a Round 3 Superfund Reform to encourage Regions to utilize partial deletions.

NPL Sites continued...

A workgroup was convened in May 1995 to evaluate several alternatives including: no partial deletion, partial deletion limited to closing and realigning bases (BRACs), and partial deletion available for all sites. The workgroup also considered geographic and medium limitations on partial deletions.

Based upon the workgroup's recommendation, EPA determined that the Regions should have flexibility to delete portions of any site (i.e., military base or other Federal Facility, or a private site), based on either geography or medium (e.g., groundwater). ■

Next Steps

- This reform is complete. The Round 3, partial deletions reform (i.e., Delete Clean Parcels from the NPL – Reform 9) is being implemented as a part of the Superfund program.

BENEFITS

- Facilitates the transfer, development or redevelopment of property or portions of property determined to be uncontaminated
- Provides Regions with the flexibility to clarify the areas of sites determined to be contaminated or uncontaminated

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Reform in Brief

2-4.e. Removing Liability Barriers: Prospective Purchaser Agreements (PPAs)

EPA identified options to encourage the cleanup and redevelopment of contaminated properties, giving prospective purchasers, lenders, and property owners more assurances that acquisition of such property will not also mean acquisition of liability. In May 1995, EPA revised its PPA guidance (see "Guidance on Agreements with Prospective Purchasers of Contaminated Property") to allow the Agency greater flexibility in entering into agreements with prospective purchasers. These agreements provide a promise by the United States not to sue the prospective purchaser for contamination existing at the time of purchase and provide contribution protection. The revised guidance expands the universe of eligible sites, allowing the use of such agreements when the agreement results in a substantial indirect benefit to the community in terms of cleanup, creation of jobs, and redevelopment of blighted property. A model PPA also was issued to streamline the process.

SUCCESS Vineland Chemical Superfund Site, Vineland, New Jersey

EPA will receive $10,000 from the purchaser, as well as $309,912 of the purchase price of the property from the site owners pursuant to a consent decree. The purchaser, City of Vineland, represents that it has received two federal redevelopment grants to assist it in redeveloping the property as an industrial park, creating jobs in an economically depressed area.

Results

At the end of FY97, 68 prospective purchaser agreements had been reached.

SUCCESS

General Gas Mantle Superfund Site, Gloucester City, New Jersey

Purchaser plans to rehabilitate an abandoned 1.7 acre property which was previously contaminated with radioactive substances from gas mantle manufacture. The purchase is partially financed by the federally funded Cooperative Business Assistance Corporation. The purchaser is planning to expand its business and provide jobs in a depressed area.

Middlefield - Ellis - Whisman Superfund Site Palo Alto, California

A commercial development of high-tech research and office facilities in a campus-like setting is planned for this currently vacant site. The prospective purchaser will pay $200,000 to EPA, enabling the Agency to continue sampling at a nearby monitoring well for an additional two years.

San Gabriel Valley Superfund Site, Baldwin Park, California

Monsanto plans to purchase assets of a contact lens manufacturing company which has been a source of the contaminated groundwater plume. The purchaser will continue operations, and pay $150,000 to fund response for a portion of the Superfund site.

MRM Industries Site, Sikeston, Missouri

The purchaser – North Ridge Homes, a manufacturer of prefabricated homes –agreed to reimburse EPA $20,000 for costs incurred in a removal action. Sikeston, a city of 5,000 people, is very supportive of the agreement because of the 125 new jobs that the project will bring to the community.

Prier Brass Site, Kansas City, Missouri

The purchaser – CST Limited Liability Partnership – will provide deed restrictions on the property to maintain a protective cover, maintain the foundation of a building on site so as to not disturb the lead-contaminated material beneath it, pay EPA $50,000, and provide operation and maintenance activities. The company will use the property to house the headquarters of their demolition and construction business, a use which local authorities believe will help maintain property values in an area that is prone to attract salvage yards and unauthorized industrial dumping.

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COMMUNITY INVOLVEMENT AND OUTREACH

Reform in Brief

2-5.a. Community Advisory Groups (CAGs)

This initiative encourages Regions to establish Community Advisory Groups (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.

A CAG is a committee, task force, or board comprised of citizens affected by a hazardous waste site. CAGs are made up of representatives with diverse community interests and provide a public forum for community members to present and discuss their needs and concerns about the decision-making process at sites affecting them.

The CAG concept was introduced in the first round of reforms in the arena of Expanding Meaningful Public Involvement. Initially the CAG program was part of the Environmental Justice strategy (Initiative 7) and was initiated to insure that all communities are part of the Superfund process. Several pilot sites were chosen to field test the CAG concept. The CAG program also appeared in the second round of reforms under Community Involvement and Outreach (Initiative 5), along with the Technical Assistance Grants program. This initiative articulated the progression of increased citizen involvement, called for the creation of guidance promoting and supporting CAGs, and encouraged the Regions to establish CAGs or convert existing community advisory organizations into CAGs. EPA issued "Guidance for Community Advisory Groups at Superfund Sites" (OSWER Directive: 9230.0-2) in December 1995, encouraging the use of CAGs at Superfund sites. The guidance has proven to be an effective mechanism for EPA's Regional offices to facilitate the participation of community members. Other products include a fact sheet titled, "Superfund Today Focus on the Community Advisory Group," issued in May 1996 (EPA 540-K-96-005), and a 4-page summary of the CAG guidance issued in August 1996, titled "Community Advisory Groups (CAGs) at Superfund Sites" (OSWER Directive 9230.0-28AFS).

CAG Toolkits are the most recent product created to support the CAG program. The kits are designed to help communities establish CAGs, with each kit containing a variety of information for use in setting up and maintaining a CAG. Two versions of the Toolkit were produced, one for EPA staff (in particular, the Community Involvement Coordinator) and one for the CAG. The Toolkits presently are being field tested

(continued see *CAGs*)

Results

Initially, EPA slated the program to have 10 pilot CAG sites; however, the number of "pilot" sites grew to 16 between the time the program started and when it was officially taken out of the pilot stage. In July 1996 (at the National Community Involvement Conference in Chicago), EPA took the program out of the pilot stage and started accepting names of additional CAGs.

By the end of FY96, the number of CAGs had grown to 23. Ten additional CAGs were formed in FY97, bringing the **total to 33 CAGs.**

CAGs continued...

at 18 sites, and the final product should be available during the summer of 1998.

EPA will continue to evaluate existing CAGs and their impact on community involvement, and also will continue to identify and develop new tools to promote and assist CAGs. ■

BENEFITS

- Creates mutual trust and demonstrates that EPA is a partner in solving community environmental problems.
- Enhances and accelerates the Superfund cleanup decision-making process.

SUCCESS

Southern Shipbuilding, Slidell, Louisiana

After a CAG was formed, more than a dozen formal and informal meetings with concerned citizens and elected officials were held to shape site studies and remedy selection. A striking measure of this community involvement is that an incineration remedy in the middle of the City received majority support from residents (and unanimous endorsement by the City Council).

Allied Paper, Inc., Portage Creek/Kalamazoo River, Michigan

The CAG at this site, consisting of State Officials and local citizens, facilitated community involvement. The CAG meets bimonthly and has sent site progress reports and fact sheets to more than 600 citizens in an effort to keep them informed of the progress at the site.

Brio Refining, Harris County, Texas

A CAG was formed in 1994 to allow citizens and local officials to participate in decisions affecting the cleanup of this site. The CAG meets regularly and maintains a mailing list of 827 citizens. In 1995, the CAG prepared and submitted an application for a new Technical Assistance Grant to increase their understanding of the cleanup solutions being proposed for the site.

Colorado School of Mines Research Institute, Golden, Colorado

EPA helped establish a CAG which allowed for the enhancement of the Superfund cleanup decision-making process through direct community involvement. This site was used as a case study in a document recently completed by EPA.

Reform Evaluation

The effectiveness of the CAG program was evaluated using a case study approach. The case studies examined activities at specific sites and were developed based on interviews with community members involved in CAGs, EPA personnel, and State and local government personnel involved in site cleanup efforts. The five hazardous waste sites chosen for the case studies included: the Brio Refining, Inc., Superfund Site in Harris County, Texas; the Carolawn, Inc., Superfund Site in Chester County, South Carolina; the Colorado School of Mines Research Institute Site in Golden, Colorado; the Oronogo-Duenweg Mining Belt Site in Jasper County, Missouri; and the Southern Maryland Wood Treating Superfund Site in Hollywood, Maryland.

The case studies highlighted the following important lessons for communities considering formation of CAGs:

1. CAGs should be formed as early as possible.
2. The community must take the initiative in CAG formation and operation.
3. CAGs must be inclusive and independent
4. Access to good technical expertise is important.
5. The CAG must recognize what is possible and work within those limits.
6. CAG leaders must be "in it" for the long haul.
7. CAGs are more effective than public meetings.
8. The need for additional resources is a common concern.
9. CAGs can give the community more influence in site-related decisions.
10. CAGs can speed up the process.

Based on the positive results of the case study evaluation, EPA will continue to pursue CAGs where appropriate.

Stakeholder Comments

David Hall, Emergency Management Coordinator for the City of Texarkana, was very supportive of CAGs at the Local Government Relocation Forum held on April 18, 1997. He commented that CAGs were, "the best thing since home-made bread."

According to Mr. Schrader, Brio Refining Inc., CAG Co-Chair, the CAG has been successful because, "dedicated people from the community have been willing to work hard, over a long period of time to get our positions taken into account."

Catherine O'Brien, Brio Refining Inc., CAG Member from San Jacinto College stated that prior to the CAG, "the community could talk to EPA in public meetings, but that wasn't very productive. The PRPs could meet with EPA anytime, because they worked on the site issues all day; the community couldn't, because we have other jobs to do. The CAG has leveled the playing field." She also said she believes the CAG concept is, "the best way to resolve issues at Superfund sites, because everyone talks and listens to each other."

Mr. White, Carolawn Inc., Community Advisory Board Chairman stated, "Regardless of how the decision is made, residents now feel they have had some input."

Next Steps

- Continue to test CAG Toolkits at various sites
- Evaluate CAGs and develop new methods to promote and assist CAGs

Pilots

Completed July 1996.

Contact

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Reform in Brief

2-5.b. Technical Assistance Grants (TAGs)

TAGs provide resources to eligible communities affected by Superfund sites to acquire independent technical assistance to help them understand and comment on site-related information.

Basic Provisions of the TAG Program:

Grants of up to $50,000 are available to community groups for hiring technical advisors to help the community understand site-related technical information. Additional funding may be available for unusually large or complex sites.

The group must contribute 20 percent of the total project costs to be supported by TAG funds. This requirement can be met with cash, donated supplies, and volunteered services.

(continued see *TAGs*)

Results

More than 195 TAGs have been awarded since the program's inception in 1988.

TAGs continued...

The group must prepare a plan for using the funds.

EPA is encouraging the Regions to consider means to increase citizen involvement, such as advance funding of TAGs, the authorization of training for TAG recipients, and the simplification of the TAG application and administrative processes.

The TAG regulation, which was revised during FY95-96, and which the Agency plans to publish in FY98, contains several simplifying provisions. For example, elimination of the three-year budget period will allow groups to determine their own budget period according to site-specific needs. ■

Next Steps

- Promote citizen involvement by improving TAGs and facilitating the process
- Publish proposed and final revisions to the TAG regulation in FY98

SUCCESS — **Southern Shipbuilding Site Slidell, Louisiana**

A group named Slidell Working Against Major Pollution (SWAMP) was awarded a TAG grant on December 15, 1995. SWAMP hired two technical advisors on June 17, 1996, to review site documents prior to release of the final proposed plan of action.

This approach created mutual trust and the concept that EPA was a partner in solving community environmental problems. A striking measure of this community involvement is that an incineration remedy in the middle of the City received majority support from residents (and a unanimous endorsement by the City Council).

BENEFITS

As stated above, preparations are underway to publish the proposed revised rule by March 1998. This revised rule will contain the following:

- Provisions for limited cash advances
- Limited funds for training community members on site-related issues.
- Removal of a 20 percent administrative cap, providing EPA flexibility in negotiating grants with recipients
- An interpretation of congressional intent regarding the Superfund Amendments and Reauthorization Act's (SARA) "one TAG per site language" such that the rule allows multiple non-concurrent grant recipients.

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About the Pilot

2-6. Community Involvement in the Enforcement Process Pilots

In February 1995, EPA announced its commitment to pilot ways in which community involvement in the enforcement process could be enhanced as part of the Superfund Reforms effort. EPA initiated pilot projects at 13 sites in 9 of its 10 Regions for cases in which PRPs committed to conduct cleanup actions or investigations. Several approaches were implemented, including inviting communities to review and comment on draft technical workplans and actively disseminating information. EPA piloted these approaches to observe what impact they have on Superfund cleanups and settlement negotiations. At some selected sites, piloted activities are completed; at other sites, EPA continues to test various approaches. Activities found to be effective are being utilized at a number of sites outside the pilot project.

Many of the piloted activities involve providing opportunities for communities to discuss and review draft technical plans (i.e., draft work plans for investigations of site contamination and design and conduct of cleanups) to be implemented by PRPs. For sites in the early stages of the cleanup pipeline (i.e., investigations), Regions intend to continue enhanced community involvement measures during the later stages of the cleanup pipeline (i.e., remediation). Other piloted activities in this initiative include citizen involvement in removal actions implemented by PRPs; developing consensus on future land use; and citizens review of treatability study documents prepared by PRPs.

These piloted activities are related to, but distinct from, the steps that the Agency already takes at each site to involve the community whenever it selects a response action or finalizes a settlement agreement (i.e., the opportunity for public review and comment on proposed cleanup plans or settlements). It is also distinct from a separate Superfund reform involving the establishment of Community Assistance Groups (CAGs) at Superfund sites. ■

Stakeholder Comments

Community members thought EPA had been successful at making site information available to them, providing them with the opportunity to comment on technical documents, considering their input, and providing them with an opportunity to communicate with PRPs.

By the end of the process, the PRPs had a better appreciation of the views of other stakeholders.
(From participants at the Pine Street Barge Canal, Vermont Pilot)

Lessons Learned

- Communities who regularly attend technical meetings are more informed and, therefore, better able to understand the progress of response activities at a Site;
- Greater degree of community involvement may result in time and resource savings in the longrun;
- Providing opportunities to comment on technical documents is an effective way to enhance community involvement; and
- It may be difficult to reach consensus on future land use, even when mediation efforts are implemented.

SUCCESS

Asarco Tacoma Smelter, Tacoma, Washington

At the Asarco Tacoma Smelter in Tacoma, Washington, the community was given the opportunity to review and comment on the Site Community Relations Plan and draft cleanup work plans as well as provide input on road closures and transportation impacts, future land use and institutional controls. EPA's Region 10 office intends to continue enhanced community measures during the ongoing design of the cleanup and get feedback from the community during the redevelopment of the site.

Eagle Mine Site Minturn, Colorado

At the Eagle Mine site in Minturn, Colorado, the Eagle River Environmental and Business Alliance (the Alliance), a group of community residents, was given the opportunity to review and comment on draft cleanup work plans prepared by the parties performing the cleanup. Many of the comments received from the Alliance were used to guide and formulate cleanup activities. In addition, the Alliance was very much involved in the review of the controversial series of risk assessments conducted around a middle school adjacent to the site. Because of the Alliance's review and agreement with EPA's risk conclusions, the controversy was resolved to the public's satisfaction. The Alliance continues to be involved in the ongoing Eagle Mine project.

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ENVIRONMENTAL JUSTICE

Reform in Brief

2-7.a. Training and Health Service Assistance to Communities

EPA and the U.S. Public Health Service (PHS) established the Medical Assistance Plan (MAP) to respond to the health concerns of under-served citizens living near hazardous waste sites.

In the summer of 1994, EPA requested assistance from the Public Health Service (PHS) to respond to health concerns of communities near hazardous waste sites. In response to this request, the Superfund Medical Assistance Work Group (SMAWG) was established to develop the Medical Assistance Plan (MAP). The first phase of MAP implementation will assess the health care needs and concerns of the community and evaluate nearby primary care capacities. The second phase, according to the community's need for assistance and the availability of budget and personnel services, will provide:

- Physician training and placement;
- Medical testing to assess health affects related to hazardous substance exposure;
- Technical assistance to local agencies and health care providers;
- Environmental health education to health care providers;
- Referral services to assist individuals in locating medical specialty clinics or specialists; and
- Medical followup for individuals who demonstrate documented exposure to hazardous substances or adverse health conditions related to possible exposures.

A third phase will include an evaluation of the effectiveness of the results. The Agency will test the MAP program at various Superfund sites.

Although EPA targeted four sites for program testing during FY95, project funding was available at only one site, the Del Amo/Montrose site in Torrence, California, for which EPA obligated $400,000. EPA Region 9 as well as ATSDR have been working closely with clinic physicians to determine the need for environmental sampling to respond to clinic results. Residents temporarily relocated by EPA have been permanently relocated by Del Amo PRPs. EPA and PHS will continue to seek funds sufficient to finance additional pilot projects in FY98. ■

Results

The Superfund Medical Assistance Work Group (SMAWG) has outlined three phases of the Medical Assistance Plan (MAP). Four sites have been targeted for program testing, and **EPA designated $400,000 for MAP** implementation at the Del Amo/Montrose site in Torrence, California. Temporary relocation efforts have begun at the site.

Next Steps

- Continue to implement the MAP program at the Del Amo/Montrose Site
- Secure funding to finance FY98 pilot projects

BENEFITS

- Improves delivery of existing medical services to communities with potential exposures to hazardous substances.
- Builds environmental health expertise in communities through physician training and placement.

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Reform in Brief

2-7.b. Superfund Jobs Training Initiative (SuperJTI)

EPA has developed interagency partnerships to train and employ community residents living near Superfund sites through classroom instruction and hands-on work experience.

While the purpose of the Superfund Program is to clean up the Nation's worst hazardous waste sites, citizens face many challenges from environmental problems, and related social stresses, in communities affected by Superfund sites. The Superfund Jobs Training Initiative is a response to public demand for more economic benefit, at the local level, from Superfund site cleanups. The Superfund Program is taking a "partnership" approach to find the right resources and providers to enable communities to solve their own problems; and enable the Superfund Program to focus on Superfund. ■

Results

Funded NIEHS's minority worker trainng program in FY97 and started pilots at five Superfund sites through EPA's Superfund Jobs Training Initiative.

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Next Steps

- Continue to award grants for health and safety programs.

BENEFITS

- This initiative will help increase opportunities for job training and employment in neighborhoods affected by Superfund sites, particularly in socio-economically disadvantaged communities.

SUCCESS

NL Taracorp Superfund Site, Granite City, Illinois

EPA Region 5 Superfund staff and the National Institute of Environmental Health Sciences (NIEHS) are working with an Environmental Justice (EJ) community at this site. This SuperJTI effort has included sending flyers on SuperJTI along with DePaul University's Minority Worker Training Program application to approximately 1,600 homes. DePaul will begin an intensive screening/interviewing process to select approximately 20 people by the end of December, and start training in January. Similar to other Regions, training will include life skills training followed by the 40-hour OSHA approved health and safety course as well as lead and asbestos abatement courses.

RSR Smelter Site, West Dallas, Texas

In West Dallas, EPA is working with the City of Dallas, New Start, the West Dallas Neighborhood Development Corporation (WDNDC) and Laborers AGC to provide 40-hour Hazardous Materials Workers training to community residents. WDNDC and New Start are recruiting the students and working with the City of Dallas to provide transportation to the training site.

Albuquerque, New Mexico

In Albuquerque, New Mexico, EPA is working with the United Brotherhood of Carpenters (UBC), NIEHS, and Dolores Hererra, of the AT&SF site, to offer the SuperJTI classes there.

Agriculture Street Site, New Orleans, Louisiana

Several SuperJTI training initiatives are ongoing. Xavier Universitv provided EPA and the Army Corps of Engineers with names of past graduates of the Xavier Minority Workers Training Program. These certified students may be considered for work in the first phase of construction work at the community center.

Partnership in Chattanooga Chattanooga, Tennessee

The Southeast Tennessee Private Industry Council (PIC), the Tennessee Valley Authority (TVA), the Global Environmental Technology Foundation (GETF), and the National Association of Minority Contractors (NAMC) have agreed to partner with EPA on jobs training in Chattanooga. EPA Region 4 and NAMC will augment the PIC/TVA/GETF "Envirojobs" program with hazmat training and collaboration on a jobs fair. This SuperJTI effort for the Tennessee Products site will serve the Alton Park/Piney Woods communities, through the Community Advisory Group, by providing opportunities for jobs training and enhanced access to community services. This is the first SuperJTI project that does not rely upon NIEHS funding.

CONSISTENT PROGRAM IMPLEMENTATION

Reform in Brief

2-8. Guidance for Remedy Selection

To improve consistency and take advantage of streamlining opportunities in site characterization and remedy selection, EPA prepared the following documents: "Soil Screening Guidance"; "Land-Use Directive"; and several Presumptive Remedy Guidance documents.

SOIL SCREENING GUIDANCE — EPA issued final "Soil Screening Guidance" (OSWER Directive 9355.4-17A) on May 17, 1996. The soil screening levels established in the guidance will complement the ongoing Superfund Accelerated Cleanup Model (SACM) initiative and also provide the framework for other cleanup efforts, such as RCRA corrective actions, voluntary cleanup programs, and State/Tribal cleanup programs. Additionally, the development of soil screening levels will be useful in streamlining baseline risk assessment. The "Soil Screening Guidance: User's Guide," "Fact Sheet," and "Technical Background Document" also have been posted on the EPA/ Superfund Homepage on the Internet.

LAND-USE DIRECTIVE — On May 25, 1995, EPA issued a new directive entitled, "Land Use in the CERCLA Remedy Selection Process" (OSWER Directive 9355.7-04). This memorandum clarifies that land use should be considered in risk assessment and remedy selection. In addition, it describes how the assumptions about land use should be made by involving the community, considering the context of the site, and determining the site's potential for reuse. One of the memorandum's important messages is that an assumption of land use other than residential (e.g., industrial) may be appropriate in remedy selection. The impact of this memorandum will be to create more remedies tailored to the specific context of sites, improve community involvement, and more support for cleanup decisions.

PRESUMPTIVE REMEDIES — EPA issued a general presumptive remedy document, "Policy and Procedures," in September 1993. The Agency published the first Wood Treater presumptive remedy along with presumptive remedies for VOCs in soils and municipal landfills in December 1995. EPA completed the "Ground Water Presumptive Response Strategy" in October 1996. The Agency completed a "User's Guide for VOCs in Soil Presumptive Remedy" (OSWER Directive 9355.0-48FS) in July 1996. A final draft of a "User's Guide to Accompany the Wood Treaters Presumptive Remedy" (OSWER Directive 9200.5-162) was issued for review and comment in August 1996. Although EPA's primary focus is on the development of new presumptive remedies, it also has begun to evaluate existing presumptive remedies.

(continued see *Remedies*)

Results

The Agency has completed a supplemental bulletin which discusses the time and estimated future cost reductions demonstrated by the municipal landfill pilot sites. EPA estimates **time savings ranging from 36 percent to 56 percent,** and future cost reductions up to 60 percent at the municipal landfill pilots. In addition, "Municipal Landfill on Military Bases Presumptive Remedy," (OSWER Directive 9355.0-62FS) developed by the Office of Federal Facilities Enforcement, appears to be widely utilized.

Remedies continued...

EPA published the "Manufactured Gas Plant Presumptive Response Strategy" in February 1997, and the presumptive remedy for PCB sites in April 1997. EPA has been engaged in a dialogue with the Department of Agriculture to produce a Grain Storage presumptive remedy that would bridge to the existing VOC and Ground Water presumptive remedies. The Agency developed a Metals in Soils presumptive remedy in partnership with DOE in FY97. Currently, EPA is developing a presumptive remedies supplemental bulletin for future beneficial uses of municipal landfills. The Agency also is preparing a supplemental bulletin for dual- or multi-phase extraction (MPE) to assist site managers using the VOCs presumptive remedy. Additionally, OERR is developing a list to track the universe of presumptive remedy sites. This list will aid in evaluating the time and future cost reductions for presumptive remedies. Future supplemental bulletins that will document time and future cost reductions, as well as other benefits associated with the use of presumptive remedies are planned. ■

SUCCESS — **Presumptive Remedy Process Region 9**

Region 9 reports they have nine sites that selected the remedy recommended by the presumptive remedy guidance, or which are in the presumptive remedy process.

The EPA Office of Inspector General (OIG) conducted an independent review of the use of presumptive remedies entitled, "Review of Cleanup and Pilot Project at South Indian Bend Wash Superfund Site in Tempe, Arizona." In the summary of OIG's major findings, the report concluded: "Use of a *Presumptive Remedy* increased consistency in decision-making by taking advantage of lessons learned at similar sites, and allowed speedup of the Feasibility Study process." The report acknowledged that the use of "presumptive remedies is expected to create greater consistency, certainty and quality of remedy decisions in the near term. Time and cost savings are expected to increase over time. . . ."

Next Steps

- Issue a supplemental bulletin for multi-phase extraction to assist site managers using VOCs presumptive remedy
- Develop additional bulletins to document time and future cost reductions
- Continue evaluating existing presumptive remedies

BENEFITS

- EPA estimates that recommendations from these guidance documents have been implemented at an increasing number of sites, resulting in significant cost and time savings.

Contacts

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Reform Evaluation

The presumptive remedies for municipal landfills and VOCs in soil were issued in September 1993. The presumptive remedy for woodtreater sites was issued in December 1995. OERR is evaluating the degree to which they are being implemented, the effectiveness of the presumptive remedy approach for these site categories, and any benefits resulting from implementation of the presumptive remedies. In order to make this evaluation, OERR is developing data sets on sites where the presumptive remedy has been implemented and candidate presumptive remedy sites in the pipeline. Also OERR is incorporating an RPM notification system for presumptive remedy sites into WASTELAN (CERCLIS 3).

Reform in Brief

2-9.a. Risk Sharing: Implementing Innovative Technology

EPA will agree to share the risks associated with implementing innovative technologies for a limited number of approved projects by "underwriting" the use of certain promising innovative approaches.

In order to encourage PRPs to try new approaches, EPA may agree to reimburse up to 50 percent of the cost of selected innovative remedies if the remedy fails and subsequent remedial action is required. EPA has agreed to risk-sharing at one site.

The Agency is in the process of preparing guidance on implementing the risk-sharing initiative, which is expected by February 1998. Also, given the increased State role in remediation, EPA is interested in engaging State agencies in this initiative. ■

BENEFITS

- Promotes use of innovative technologies that may achieve faster, less costly cleanups by mitigating the risks associated with implementing these projects.

Results

EPA has entered a risk-sharing agreement with a PRP at one site. The Agency has begun preparing guidance that will direct future risk-sharing initiatives.

Next Steps

- Issue guidance on implementing the risk-sharing initiative
- Explore ways to involve State agencies in risk-sharing agreements.

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SUCCESS

Somersworth Sanitary Landfill Site, Somersworth, New Hampshire

Under a risk-sharing agreement with a PRP, EPA agreed to pay half the cost of the innovative technology, not to exceed $3.5 million, if the technology does not fulfill expectations and additional remedial action is necessary. The technology involved, an innovative "funnel and gate," helps to restore ground water by channeling the flow to a permeable wall containing iron filings. Contaminants are removed as they pass through the gate. If successful, this *in situ* technology may serve as an alternative to costly and protracted "pump and treat" approaches.

Reform in Brief

2-9.b. Risk Sharing: Identifying Obstacles to Using Innovative Technology

EPA developed programs to share implementation risks associated with the use of innovative technologies.

Following discussions with some members of the Response Action Contractor (RAC) community, EPA learned that the lack of indemnification for prime contractors is hampering the use of innovative technology. Prime contractors are unwilling to recommend innovative technologies for fear that they will be sued for negligence in not recording "tried and tested" technologies. Without indemnification, there is little incentive for the prime contractors to select an innovative technology. Furthermore, a prime contractor may not choose to test an innovative technology if, again, there is a fear of lawsuits if the technology does not perform as expected.

BENEFITS

- Promotes the use of innovative cleanup technologies.

To address these concerns, EPA is expanding indemnification coverage to include both the prime contractor and the innovative technology contractor when indemnification is offered. Thus, both the technology vendor and the prime will be provided protection from third party negligence claims that may result from a pollution release. A statement on EPA's offering of indemnification is presented in an "Innovative Technology Policy Directive" (OSWER Directive 9380.0-25) published by OSWER on April 29, 1996. To date, this protection has not been requested by any vendors or primes. Implementation of this reform is considered complete. ■

Results

EPA has expanded indemnification coverage to include both the prime contractor and the innovative technology contractor. The Agency's 1996 document, "Innovative Technology Policy Directive," provides a clear statement of EPA's indemnification policy.

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Next Steps

- Implementation of this reform is complete.

STATE AND TRIBAL EMPOWERMENT

Reform in Brief

2-10. Voluntary Cleanup Program

EPA seeks to support and promote effective State/Tribal voluntary cleanup programs, and, in conjunction with the Brownfields Initiative, provide limited financial assistance to such programs.

Approximately 35 States have implemented voluntary cleanup programs (VCP). Eleven States (Missouri, Michigan, Minnesota, Wisconsin, Indiana, Illinois, Texas, Colorado, Delaware, Rhode Island and Maryland) signed Memoranda of Agreement (MOAs) with their respective Regions concerning how EPA and the States will work together to support protective cleanups of voluntary cleanup program sites and sustainable redevelopment of Brownfields sites.

On September 9, 1997, EPA issued draft guidance on developing Superfund Regional/State Memoranda of Agreement concerning State voluntary cleanup programs. EPA reviewed the 78 comments submitted to the docket for this draft guidance as well as other communications and outreach efforts with stakeholders. Based on this review, it is clear that there is currently no consensus among various stakeholders on critical aspects of the guidance or on the appropriate course of action for EPA. It does not seem likely that the Agency could issue a final guidance in a timely manner. Therefore, EPA has withdrawn the proposed final draft guidance it published in the Federal Register. EPA/State MOAs concerning State VCPs continue to be a good way for EPA to promote effective programs and their success. For negotiation of future MOAs, Regions should look to the November 14, 1996, memorandum entitled "Interim Approaches for Regional Relations with State Voluntary Cleanup Programs" as a framework for these negotiations. This will enable Regions and States to negotiate MOAs on a case-by-case basis that can be customized to better fit the State's voluntary cleanup program and legislation. ■

Next Steps

- EPA anticipates signing up to $15 million in cooperative agreements during FY98

Contact

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Results

35 States have implemented voluntary cleanup programs (VCP) since the program's inception. **11 States have signed Memoranda of Agreement (MOAs)** with their respective Regions. A November 1996 memorandum, "Interim Approaches for Regional Relations with State Voluntary Cleanup Programs," provides a framework for MOA negotiations.

BENEFITS

- Promotes cooperation between States/Tribes and Regions.
- Provides limited financial assistance to State/Tribal voluntary cleanup programs.

Reform Evaluation

Through core cooperative agreements, EPA distributed $10 million of FY97 funding to support State Voluntary Cleanup Program infrastructure. EPA's FY98 budget is $15 million for VCP infrastructure support. The November 14, 1996 memorandum completes this reform.

Reform in Brief

2-11. Integrated Federal/ State/Tribal Site Management Program

EPA and States are working together to develop a pilot program under which States, Territories, Commonwealths, and Federally recognized Tribes would oversee and compel PRP actions at selected NPL-caliber sites.

On May 2, 1995, EPA issued final guidance on the deferral program. The deferral program allows EPA to defer listing considerations for NPL-caliber sites while States and Tribes initiate and oversee PRP responses. The Agency originally expected to evaluate the pilots to determine how to improve the guidance to facilitate greater State empowerment and more effective cleanups.

In addition to implementing the deferral program, EPA Regional offices worked to increase State participation through innovative site characterization cooperative agreements (CA) and new funding for Tribes. ■

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Next Steps

- Evaluate OIG review of State deferrals and determine appropriate followup actions.

BENEFITS

- Facilitates State empowerment and more effective cleanups by deferring sites from NPL listing and handing cleanup responsibilities to State or Tribal environmental agencies.

Results

EPA has signed **deferral agreements with 12 States, covering 30 sites.** 12 of these sites have completed the remedy selection phase. The Agency's Regional offices have also increased State participation through characterization cooperative agreements (CA) and additional Tribal funding.

SUCCESS — Remedies

The FY95 and FY96 EPA appropriations reports required EPA to obtain Governors' concurrence as a prerequisite to listing sites on the NPL, and this had the effect of reducing the importance and effectiveness of this reform. Also, the need for the reform has been reduced as a result of the growing importance of State voluntary cleanup programs. Still, as of November 1997, EPA has signed deferral agreements, covering 30 sites, with 12 states, and four of those agreements have been signed over the past two years. Remedies have been selected at 12 of the sites.

Reform Evaluation

In 1997, the Office of Inspector General (OIG), with support from OERR, initiated a review of Superfund deferral sites, including State deferrals. OERR will be working with the OIG to evaluate the results of the review and determine appropriate followup actions.

Reform in Brief

2-12. State/Tribal Superfund Block Funding

Superfund Block Funding offers ways for States and Tribes to realize greater flexibility in their use of Cooperative Agreement (CA) resources. EPA, working in conjunction with States and Tribes, has developed recommendations to enhance State and Tribal involvement through improved administration of assistance agreements.

In March 1995, EPA's Office of Emergency and Remedial Response (OERR) formed the Superfund Block Funding Workgroup to explore ways in which States and Tribes could realize greater flexibility in their use of Cooperative Agreement resources. EPA currently enters into several types of site- and non-site-specific cooperative agreements with States to conduct or assist Superfund response actions. The Workgroup has developed recommendations to enhance State involvement in Superfund through improved administration of assistance agreements. The intent of this initiative is to incorporate block funding recommendations into program operational procedures. The Block Funding Workgroup report is complete and was distributed.

In order to insure the benefits derived from the Block Funding recommendations are realized, OERR has developed a block funding implementation plan that includes the following activities:

- OERR is working with the Office of the Comptroller to insure that regions are allowed to shift funds from existing cooperative agreements to block funding cooperative agreements. FY98 deobligation guidance allows for this procedure.
- Class Deviations from parts of 40 CFR Part 31 and 40 CFR Part 35 have been submitted.
- Monitoring, evaluating, and refining implementation.
- Documenting Agency-wide and State government savings in full-time equivalents (FTE), as well as, in increased improvement of program implementation. ■

Next Steps

- Issue final report documenting obstacles in awarding and utilization of Superfund resources (12/97)
- Evaluate ongoing pilots in FY98

Results

EPA established a 50-member workgroup on block funding which included input from 17 States and Tribes. Block Funding Pilot projects launched under the recommendations developed by the workgroup are already manifesting resource savings to both levels of government. For example, the State of Illinois is reporting an **85 percent reduction in preparation and processing of paperwork** due to regulatory deviations received under their Block Funding Pilot. Regulatory deviations from portions of 40 CFR Part 31, procured under the auspices of the Block Funding Reform, allowed the State of Illinois to cut at least three months out of the remedial process for one Superfund site and insured that construction would not be delayed into

(continued see *Results*)

Results, continued

the next construction season. The following nine States and three Tribes are currently piloting the Block Funding reform: Colorado, Illinois, Hawaii, Massachusetts, Minnesota, Missouri, Nevada, Ohio, Utah, the Hoopa Tribe, the Tohono O'Odham Tribe, and the Gila River Tribe.

BENEFITS

- Allows States and Tribes to direct CA funds between sites and activities to the extent allowed by the Advice of Allowance.
- Insures that States have the ability to transfer funds from site and activity, within the approved tasks for the cooperative agreement, without prior EPA approval.
- Reduces specific administrative budget and reporting requirements, where appropriate, which can produce resource saving for both levels of government.

SUCCESS

Block Grant Illinois

In January 1996, Illinois EPA and USEPA began work on the Block Grant concept as a way to streamline the state role and its linkage to Federal funding. Both agencies agreed that this pilot should cover as many sites as possible while leaving fiscal safeguards in place. USEPA also was seeking some relief in the number of CA amendments that it was processing.

By the end of 1996, Illinois EPA had completed status reports and budgets for each site, the Core Grant, and the Site Assessment Grant, which were included as part of the Block Grant. Illinois EPA's application was fairly straightforward and not as difficult as originally anticipated. USEPA-Superfund seemed to have the more difficult job of convincing other segments of USEPA to loosen control and oversight. They also were faced with deobligation, reobligation, deviation requests and Headquarters concerns. Nevertheless, the Block Grant was awarded in February 1997.

The Block Grant has resulted in far fewer CA amendments in 1997 as compared to 1996. In that year, USEPA processed 7 Illinois EPA CA applications. With only one quarter left in FY97, Illinois EPA had only submitted one CA application. This is a dramatic 85 percent drop in the preparation and processing of fiscal paperwork due to the Block Grant. This has saved both USEPA and Illinois EPA a great deal of time, effort, and resources which are better spent on cleanups.

The Block Grant also has allowed Illinois EPA to go from quarterly reporting to bi-yearly reporting. While Illinois EPA continues to send quarterly financial statements for cost recovery purposes, project status updates are now sent on a bi-yearly basis. This has resulted in a 50 percent drop in the effort expended in reporting.

The Block Grant allows Illinois EPA to transfer money from one project to another based on need and changing program priorities. Illinois EPA is required to report on each budget shift, but prior USEPA approval is not needed and delays associated with CA application preparation and processing are largely eliminated.

Illinois EPA has recently decided to use the Block Grant's flexibility to transfer additional money into the Parsons Casket project. The Parsons Casket ROD was completed by Illinois EPA in September 1996. USEPA decided at that time to pursue a settlement with a former owner of the site. In October 1997, USEPA announced a tentative cash-out settlement with the PRP. Instead of waiting until the next fiscal year for available funds, this settlement allows Illinois EPA to immediately begin design work on the remedy. The Block Grant's use has cut at least three months out of the remedial process and has insured that the remedy is constructed in the next construction season. Without the Block Grant, design and contractor procurement would have prevented construction in FY98.

Illinois EPA continues to believe that the Block Grant is a necessity for the State role in a reauthorized Superfund Program.

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