

Chapter 1

Major Initiatives

The Agency continued to achieve progress in remediating our nation's hazardous waste sites under the Superfund program. The Agency also focused efforts on the anticipated reauthorization of the CERCLA taxing authority by Congress and opportunities to provide suggestions for changing provisions of the CERCLA statute to enhance its efficiency and equity. Also, continuing to implement administrative changes proposed in June 1993 by the Superfund Administrative Improvements Task Force, the Agency implemented measures for

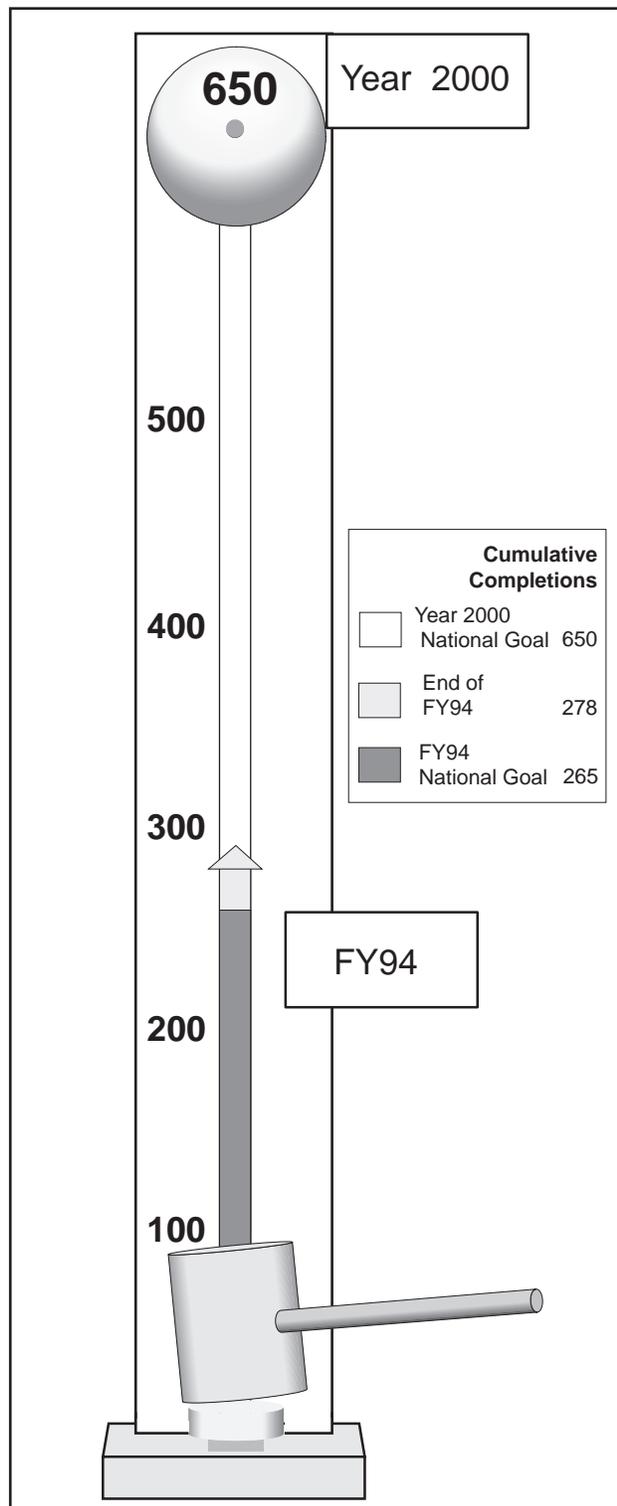
- Improving clean-up effectiveness and consistency;
- Expanding community involvement in cleanup;
- Expanding the role of states;
- Increasing enforcement fairness and reducing transaction costs;
- Ensuring environmental justice; and
- Continuing initiatives to streamline the clean-up process (e.g., the Superfund Accelerated Clean-Up Model (SACM)), achieve construction completions, strengthen contracts management, promote enforcement first, accelerate clean-up at closing military bases, promote the development and use of innovative technologies, enhance compliance monitoring, and improve the effectiveness of cost recovery.

The Agency's progress in these areas targeted by the Superfund Administrative Improvements Task Force is highlighted in this chapter. Most notably the Agency's progress during FY94 is evident in achieving construction completions, reaching

enforcement agreements with potentially responsible parties (PRPs) for cleanup, and increasing use of settlement tools, such as early de minimis settlements which resolve the liability of small-volume contributors, to reduce transaction costs for all involved PRPs.

- Fulfilling its commitment to accelerate the pace of cleanup at Superfund sites, EPA completed construction activities to place 61 additional National Priorities List (NPL) sites in the construction completion category during FY94. As shown in Exhibit 1.0-1, this achievement brought the total number of NPL sites classified as construction completions to 278, exceeding the Agency's national target of 265. Because of the Agency's aggressive efforts, more than 78 percent of the total sites were placed in the construction completion category in the past three years.
- Through aggressive use of the enforcement authority provided in CERCLA and SARA, the Agency has reached agreements with PRPs to undertake more than \$10 billion in response work at Superfund sites. Settlements for FY94 alone totalled over \$1.4 billion.
- The Agency's emphasis on earlier and increased use of de minimis settlements has resulted in 86 de minimis settlements in the last two years; more de minimis settlements than were achieved in the previous twelve years of the Superfund program. While enhancing fairness to all PRPs by reducing transaction costs, the Agency also resolved the liability of more than 5,500 de minimis PRPs in these 86 settlements.

**Exhibit 1.0-1
Progress in Classifying Sites
as Construction Completions**



Source: Office of Emergency and Remedial Response/
Office of Program Management and Hazardous Site
Control Division.

51-044-1

1.1 REAUTHORIZATION ACTIVITIES

With CERCLA’s taxing authority set to expire after December 31, 1994, Agency efforts during FY94 focused on identifying aspects of the program where legislative amendments would improve the efficiency and equity of the program. Seeking to involve all Superfund stakeholders, EPA established a committee of the National Advisory Council on Environmental Policy and Technology (NACEPT) as a forum to solicit input from the public, state and local governments, and private industry. The Agency also initiated internal and interagency workgroups to deliberate on specific aspects of the program. Using the recommendations of these groups, the Agency and other Federal Agencies and Offices, drafted legislation to be introduced in the House and Senate.

1.1.1 National Advisory Council on Environmental Policy and Technology

The Agency created a committee of the NACEPT, an advisory committee to the Administrator, as a forum to solicit input on views and concerns about Superfund and other environmental policies. The committee members reflect the diversity of stakeholders in the Superfund program, with representatives from state and local governments, private industry, environmental groups, local community organizations, and academia.

NACEPT provided a forum for the Agency to gain further perspective on Superfund stakeholder’s positions on various topics, such as community involvement, the role of states, liability of lenders, funding of “orphan shares,” concerns associated with municipal landfills, and remedy selection. In the course of seven meetings held from June through November of 1993, the committee reviewed the current performance of the Superfund program and suggested options for administrative and legislative improvements. In addition, NACEPT proposed changes that would help foster increased state and local involvement in Superfund decisions and actions. NACEPT documented its findings in a report published in December 1993.

Public participation was a critical component of the NACEPT meetings. The NACEPT committee invited the public to submit papers for presentation during its meetings, and all seven committee meetings were open to the public. Also, the meeting on community involvement was broadcast to the ten EPA Regions so that local citizens could express their views and present their proposals for improvements.

1.1.2 Agency Workgroups

The Agency established a number of workgroups to analyze reauthorization proposals, prepare legislative proposals, and develop the Administration's position on Superfund reauthorization. Focusing on such issues as liability, remedy selection, community involvement, and the role of states, the workgroups developed materials for the Agency's Legislative Task Force, chaired by the Director of the Office of Waste Programs Enforcement. The workgroups also reported directly to the Deputy Administrator, who served as chairman of the Superfund Steering Committee. The steering committee was charged with overseeing Agency task forces in evaluating the Superfund program and developing legislative reform proposals.

1.1.3 Interagency Workgroups

The Agency provided NACEPT's report and legislative suggestions to the Interagency Policy Committee, which was established and chaired by White House personnel. The committee included agencies and departments with an interest in Superfund legislation, such as EPA, the Department of Defense (DOD), the Department of Energy (DOE), the Department of Agriculture, the Department of Interior, and the National Oceanic and Atmospheric Administration. Using the NACEPT report and the legislative suggestions, the Interagency Policy Committee developed the Administration's position on Superfund reauthorization. The committee's deliberations resulted in the Administration's bill, the Superfund Reform Act of 1994.

1.1.4 Legislative Activities

The Administration's proposed Superfund Reform Act of 1994 was introduced in Congress on February 3, 1994. It was referred to the House Commerce Committee's Subcommittee on Transportation and Hazardous Materials as H.R. 3800 and the Senate Environment and Public Works Committee's Subcommittee on Superfund, Recycling, and Solid Waste Management as S. 1834. The proposed legislation was intended to produce a faster, fairer, and more cost-effective Superfund program. Suggested amendments focused on enhancing community involvement, expanding the role of states, reforming the remedy selection process, pursuing liability reforms to reduce transaction costs and increase fairness, and creating a fund titled, the Environmental Insurance Resolution Fund, to resolve coverage disputes between PRPs and their insurers.

The proposed Superfund Reform Act of 1994 completed 16 legislative milestones between February 1994 and September 1994, including hearings and mark-ups, but the House Rules Committee did not clear the proposed legislation for a final vote on the House Floor. The Administration believes the reforms contained in the compromise House bill represent the best package of reforms for Superfund; the Agency will use the bill to measure the effectiveness of future reform efforts.

1.2 ADMINISTRATIVE IMPROVEMENTS

In June 1993, EPA established the Superfund Administrative Improvements Task Force to examine and propose enhancements to the Superfund program that could be accomplished within the existing regulatory framework. During FY93 and FY94, the Agency implemented recommendations made by the task force; the Agency set and achieved its goal to implement most of the task force's recommendations by the end of FY94.

The Superfund Administrative Improvements Task Force proposed implementation of nine new or

enhanced initiatives and continuation of eight ongoing initiatives. The nine new or enhanced initiatives center around the five themes shown in Exhibit 1.2-1.

The eight ongoing initiatives include implementing the Superfund Accelerated Clean-Up Model (SACM), achieving construction completion at sites, strengthening contracts management, promoting “enforcement first,” accelerating cleanup at military bases slated for closure, promoting the development and use of innovative technologies, enhancing compliance monitoring, and improving the effectiveness of cost recovery.

The Agency published quarterly reports during FY94 on its progress in implementing each initiative. The Agency also developed a close-out report to provide a description of each initiative, summarize accomplishments, describe the resultant benefits, and identify “lessons learned.” Highlights of progress achieved in these initiatives are provided in the remainder of this chapter.

1.3 IMPROVING CLEAN-UP EFFECTIVENESS AND CONSISTENCY

Capitalizing on the experience gained during the 14 years of the program, the Agency examined the historical selection and performance of remedies to identify ways to standardize decision-making in remedy selection. Two of the most promising efforts are the development of presumptive, or standard, remedies and the development of soil screening levels (SSLs). Initial analysis of the results of presumptive remedy pilot efforts has already shown savings of time and money, as well as increased effectiveness and consistency in remedy selection.

1.3.1 Streamlining and Expediting the Clean-up Process

Following the recommendations of the Superfund Administrative Improvements Task Force, the Agency engaged in four specific efforts to

streamline and expedite cleanup: developing presumptive remedies, standardizing remedial design (RD) specifications, enhancing strategies to address technical complexities encountered with dense non-aqueous phase liquid (DNAPL) contamination, and improving strategies for addressing lead contamination. Through these efforts, the Agency shared information among sites to eliminate duplication of effort, facilitate site characterization, and simplify analysis of clean-up options.

Developing Presumptive Remedies

The Agency evaluated historical patterns of selecting and implementing remedies to identify presumptive or standard remedies for specific types of sites. Through site demonstrations, the Agency began testing the presumptive remedies.

During FY94, the Agency conducted seven demonstration projects to pilot presumptive remedies developed for municipal landfill sites and for sites with volatile organic compounds in soil. Observed benefits from the use of presumptive remedies in these demonstrations include streamlined feasibility study analyses, streamlined negotiations leading to PRP acceptance, focused sampling and risk assessments for municipal landfills, and shortened RDs. At one of the municipal landfill demonstration sites, the Agency estimates that use of the presumptive remedy will cut three to six years from the period between the start of the remedial investigation/feasibility study and construction of the remedy.

By the end of FY94, the Agency was examining additional presumptive remedies. These new remedies include presumptive remedies for wood-treater, ground-water, polychlorinated biphenyl (PCB)-contaminated, manufactured-gas-plant, and grain-storage sites.

Standardizing Specifications for Remedial Designs

Through an interagency agreement, EPA and the U.S. Army Corps of Engineers (USACE) developed standardized RD specifications for non-site-specific portions of remediation work. Throughout FY94, EPA and USACE produced 15 standardized design documents, including

standardized design components for air stripping systems, site clearing and grubbing, thermal treatment systems, and health and safety requirements. By using standardized specifications for these components, not only is the design process streamlined, but increased uniformity and consistency is achieved across projects. EPA has advertised the availability of the completed design specifications through the Agency's Engineering Forum.

Addressing DNAPL Contamination

Because of their complex fate and transport characteristics, DNAPLs in the ground water present difficulties in site characterization and cleanup. Reflecting advances in the understanding of these complexities, the Agency released two technical guidance documents on characterizing DNAPL sites and on providing technical impracticability (TI) waivers for sites where complete restoration is not feasible. The Agency's guidance on characterizing

Exhibit 1.2-1 Superfund Administrative Improvements: Highlights of New and Continuing Initiatives

<p>Improving Clean-up Effectiveness and Consistency</p> <ul style="list-style-type: none"> · Streamlining and expediting the clean-up process through the use of presumptive remedies and standardized remedial design specifications; · Enhancing strategies to address technical complexities encountered with DNAPL and lead contamination; and · Developing soil screening levels to provide more consistent standards for soil study and cleanup.
<p>Enhancing Community Involvement</p> <ul style="list-style-type: none"> · Pursuing activities for increased and earlier community involvement in clean-up actions; and · Facilitating public access to site information and site decision-makers.
<p>Enhancing the Role of States</p> <ul style="list-style-type: none"> · Expanding the role of states in Superfund cleanups, allowing more effective and efficient use of available federal and state resources; and · Deferring NPL-caliber sites to states for cleanup.
<p>Increasing Enforcement Fairness and Reducing Transaction Costs</p> <ul style="list-style-type: none"> · Increasing use of settlement tools such as ADR, early <i>de minimis</i> settlements, and mixed funding to reduce transaction costs and expedite settlements; and · Increasing fairness for owners of Superfund property, including prospective purchasers who will clean up the site and return it to productive use.
<p>Environmental Justice</p> <ul style="list-style-type: none"> · Ensuring health risks from environmental hazards are adequately addressed for low-income and minority populations; and · Improving communication with and involvement of communities in clean-up areas with environmental justice concerns.

sites with DNAPL contamination presents a strategy for locating and evaluating the extent of the DNAPL contamination, and provides advice on initiating appropriate responses. The guidance for TI waivers addresses situations, such as are found at some DNAPL sites, where ground-water remediation will not achieve performance standards. Both guidance documents place special emphasis on early actions to prevent exposure, to contain contaminant ground-water plumes and DNAPL sources, and to prevent migration of DNAPLs. Implementation of the recommended strategies has resulted in better technical evaluations, more consistency among remedial approaches, and greater protection of public health and the environment due to better site management.

During FY94, the Agency conducted seminars involving more than 2,500 participants to further examine policy issues for addressing DNAPL contamination. The Agency also continued to encourage development of innovative technologies that can effectively address DNAPL contamination.

Improving the Strategy to Address Lead Contamination

EPA continued to work to assist risk managers in making accurate risk estimates and selecting effective clean-up methods for sites with lead contamination. Lead is a highly toxic metal that can adversely affect the nervous and reproductive systems, and can retard cognitive and behavioral development in children. It contaminates many Superfund sites, particularly large-area mine-tailing or smelting sites. Lead contamination is also a primary concern in urban areas not associated with Superfund sites. At such sites, lead exposure may result from inhalation or ingestion of lead in air, soil, dust, drinking water, or paint.

During FY94, the Agency issued a guidance document titled, Revised Interim Soil-Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities, to assist risk managers at lead-contaminated sites. This guidance considers the activities and requirements of Agency offices, such as the Office of

Pollution Prevention and Toxics, which is working to promulgate health-based standards for lead in soil, paint, and dust. The guidance also reflects careful consideration of strategies for large-area lead sites and preliminary results from EPA's analysis, the Three City Study, that concerns blood-lead levels in children who were exposed to the contaminant in Baltimore, Boston, and Cincinnati.

1.3.2 Developing Soil Screening Levels

EPA continued to develop SSLs to address the need for more consistent standards in soil cleanup. Historically, soil clean-up levels for contaminants have been set on a site-specific basis, requiring a detailed examination of each Superfund site. By using established SSLs, EPA intends to streamline soil investigations, thereby reducing the time and cost to accomplish cleanup. The use of SSLs will also enhance consistency across soil cleanups.

SSLs identify contaminant levels below which there is no concern and above which further site-specific evaluation is warranted. Thus, the SSLs can be used to identify soils that pose little risk and soils that require additional study to determine the actions required for cleanup. During the fiscal year, EPA continued to develop draft guidance for developing risk-based, site-specific SSL values. The draft soil screening guidance, released in August 1994, provided SSLs for 100 common contaminants in soil.

As part of its effort to develop the draft SSL guidance, EPA solicited comments from Superfund stakeholders and initiated projects to evaluate the proposed exposure pathways and sampling methods used in establishing the SSLs. During the fiscal year, EPA completed a pilot study, involving ten sites, and determined that exposure pathways proposed in the soil screening guidance are sufficient to model exposure in a residential area. The Agency also initiated a SSL demonstration project to evaluate the proposed sampling methods.

1.4 ENHANCING COMMUNITY INVOLVEMENT

Community awareness and involvement is often crucial for achieving effective and speedy implementation of Superfund clean-up actions and for ensuring that communities are satisfied with the results of these actions. Early involvement of communities in the process is important so that they can agree on the scope and nature of clean-up actions. Moreover, better informed communities can provide more input for site decision-making and, in many cases, enable clean-up efforts to take place earlier. To increase and enhance community involvement, the Agency improved public access to site information and site decision-makers, revised outreach materials, and used innovative techniques to involve and inform communities. As discussed later in this chapter, the Agency also expanded its commitment to, and efforts in, addressing environmental justice concerns at Superfund sites.

To make information more accessible to people near Superfund sites, EPA has worked with affected citizens to set up community advisory groups (CAGs) and participated in site-specific advisory boards at DOD sites. By the end of FY94, the Agency had selected 11 CAG pilot sites. CAGs and advisory boards, comprised of Regional environmental groups, PRPs, and city, county, and Regional planning boards, allow the stakeholders and regulating agencies to work together to understand each other's needs and requirements during site cleanup. Each CAG and advisory board is designed to fit the needs of the particular community.

The Agency also implemented simplified procedures for obtaining technical assistance grants (TAGs). TAGs provide funds that the communities can use to hire a technical advisor. To facilitate TAG awards to communities, EPA reduced the paperwork involved in obtaining a TAG and revised TAG materials and application forms to make them easier to use. During the fiscal year, EPA convened a series of community involvement focus groups, comprising community members, TAG recipients and applicants, and local government officials, to get direct feedback on the TAG program and on proposals for enhanced

community involvement activities. Using footage from the focus groups, EPA began producing a video to summarize the main points made by the participants. The Agency completed the video during FY94 for distribution to the Regional community involvement offices for their use in community outreach.

To communicate the technical nature of the Superfund program in a way that all parties can comprehend, EPA also worked to improve its outreach materials.

- EPA revised a course that informs community members about the goals of the Superfund program and the stages a site must go through before cleanup is completed. The course is designed for community groups of less than 20 people. Initially designed by Region 6, it has been modified to apply to all Regions. The course also incorporates SACM and the Superfund administrative improvements initiatives.
- The Agency published fact sheets to explain Superfund topics in non-technical terms, answer commonly asked questions, and identify contacts at EPA Headquarters and Regional offices. One fact sheet series describes common contaminants, their health effects, and recommendations for protecting human health. Also, the Agency has developed fact sheets describing common treatment technologies and the site assessment process.
- EPA developed a short guide and 10-minute video about the Superfund program entitled, *This is Superfund: A Citizen's Guide to EPA's Superfund Program*. The guide and video were sent to the Regions for their use in community outreach.
- EPA translated numerous documents, guides, fact sheets, and site-specific materials into Spanish to increase the involvement of Spanish-speaking communities near Superfund sites. The Agency also translated site-specific materials into other languages, such as Vietnamese and Portuguese, to meet the needs of specific communities.

In other efforts, Regions continued to simplify the ways in which they interact with the public. Some Regions invited community members to short discussions on the nature of clean-up activities at a site, followed by site tours. For several sites, the Agency set up a toll-free number that citizens could call to hear a recording about the clean-up progress EPA was making. Throughout the year, Regions shared information about successful community involvement efforts and targeted several sites where they will initiate additional innovative community involvement techniques.

1.5 EXPANDING THE ROLE OF STATES

Greater state involvement in Superfund cleanups allows states and the Agency to use available resources more effectively and efficiently and to clean up hazardous waste sites more quickly. EPA has historically supported state Superfund programs by providing funding and technical assistance. With this support, many states have developed clean-up programs under their own laws and have addressed contamination at a large number of non-NPL-caliber sites. To expand the role of qualified states to include responsibility for oversight of PRP-financed cleanups at NPL-caliber sites, as recommended by the Superfund Administrative Improvements Task Force, the Agency began implementing a deferral program. Under the program, EPA defers listing of a site on the NPL while interested and qualified states enforce and oversee PRP response actions. The Agency offers a similar opportunity for involvement in the program to qualified territories, commonwealths, and federally recognized Indian tribes.

During FY94, a State Deferral Workgroup, comprised of representatives from every Regional office and several Headquarters offices, developed draft guidance outlining the criteria that a state, or other qualified governing body, must meet in order to participate in the deferral program. The guidance establishes the characteristics necessary for including a site in the program and addresses procedural

requirements, EPA oversight, the availability of financial assistance, clean-up levels that must be achieved to protect human health and the environment, and community involvement.

Piloting the deferral program, EPA deferred 22 NPL-caliber sites in seven states for state oversight of the cleanup, including three sites added to the deferral program during FY94. Initially, to assess the success of the deferral program, EPA will evaluate four measures at the pilot sites: the existence of an agreement between EPA and the state specifying roles, responsibilities, and schedules of performance; the existence of an agreement between the state and PRPs describing work to be performed; the response action(s) taking place at the site; and community support for the deferral. The Agency will monitor experiences at pilot sites through the State Deferral Workgroup.

1.6 INCREASING FAIRNESS IN ENFORCEMENT AND REDUCING TRANSACTION COSTS

Through effective use of enforcement authority provided by CERCLA and SARA, EPA has reached settlements with PRPs for response work cumulatively worth more than \$10 billion. In FY94 alone, PRPs were financing 75 percent of new RDs and remedial actions (RAs). Although it recommended that the Agency continue its “enforcement first” approach to maximize PRP involvement in financing and conducting cleanups, the Superfund Administrative Improvements Task Force also suggested that the Agency take steps to ensure fairness in its enforcement and look for ways to reduce transaction costs. The task force outlined specific measures for

- Promoting greater use of allocation tools;
- Fostering more settlements with small-volume waste contributors;
- Increasing fairness for owners of Superfund property; and
- Evaluating the Agency’s mixed-funding policy.

An overview of efforts in each of these four areas is provided below; a more detailed discussion of these efforts can be found in Chapter 5 this Report.

1.6.1 Promoting Greater Use of Allocation Tools

Under CERCLA, PRPs are responsible for the cost of cleaning up sites. When more than one PRP is responsible for paying clean-up costs, settlement negotiations include allocation of the clean-up costs among the PRPs. PRPs frequently incur high transaction costs when efforts to allocate clean-up costs are unsuccessful or prolonged. To facilitate allocation of clean-up costs, the Superfund Administrative Improvements Task Force recommended that EPA increase its use of alternative dispute resolution (ADR) tools for creating proposed allocations. The task force also suggested that the Agency take steps to facilitate the sharing of information that can be used in allocations with and among the PRPs and to provide guidance for developing allocations.

In response to task force recommendations, the Agency has sought to increase the use of ADR for creating proposed allocations. ADR involves the use of a neutral third party to organize negotiations, facilitate settlement deliberations, and provide an opinion to the parties in negotiation. During FY93 and FY94, the Agency assisted PRPs in employing ADR and non-binding allocation techniques at approximately 30 sites. To communicate the uses of ADR to support Superfund program activities, the Agency held a national Superfund ADR Workshop in November 1993. This workshop was attended by nearly 100 government and private parties.

The Agency also worked to facilitate PRP access to site information that can be used to develop a cost allocation, such as information about PRPs' waste-in contributions. Implementing a June 1993 memorandum, Regions worked to make such information available to PRPs as soon as possible, preferably before the special notice letter is issued requesting that the PRPs undertake the response action. By sharing the information with PRPs early in the Superfund process, the Agency seeks to develop

cost allocations more efficiently.

To provide guidance for developing cost allocations, the Agency evaluated historical cost allocation efforts and began identifying factors to be considered in developing the allocations. In August 1994, the Agency issued a white paper on the availability of waste-in volumetric information at NPL sites and its impact on site settlements. In September 1994, the Agency issued a report on currently used allocation methods and common implementation issues. The Agency will incorporate the findings of these studies in developing guidance on factors to consider in allocating costs.

1.6.2 Fostering More Settlements with Small-Volume Waste Contributors

To provide greater fairness for small-volume (de minimis and "de micromis") waste contributors, the Agency encourages more, early, and expedited settlements with these parties. Early settlements not only reduce transaction costs for such PRPs but also for PRPs who remain in later, more intensive negotiations, because fewer PRPs are involved.

To encourage settlements with the small-volume contributors, the Agency streamlined the de minimis settlement process, established a new policy protecting "de micromis" parties (extremely small-volume waste contributors, and developed a communications strategy to assist PRPs in understanding the settlement process. EPA, as a matter of enforcement discretion, has typically not pursued "de micromis" parties, but they have increasingly been subject to lawsuits from major contributors. The Agency also issued guidance on "de micromis" settlements in FY93. Implementing the streamlined de minimis process, which was outlined in a July 1993 guidance, the Agency reached 86 de minimis settlements involving 5,500 PRPs during the past two years. This total includes 43 de minimis settlements reached with more than 4,000 PRPs at 39 sites in FY94.

The Agency's communication strategy was key to the Agency's success in reaching de minimis settlements. The strategy recommends a variety of

approaches to ensure successful communication with parties prior to, during, and following de minimis settlement negotiations. To inform de minimis parties who may be unfamiliar with the Superfund program and the de minimis settlement process, the Agency developed a model notice letter and prepared a brochure describing the process. EPA has also used innovative communications tools, such as a toll-free telephone information line that parties can use to ask questions and request information from EPA.

Early and effective communication with major parties has also been demonstrated to be essential in ensuring that they will support, and not oppose, a de minimis settlement. The major parties have substantial interest in ensuring that the Agency obtains a fair and reasonable settlement with small-volume contributors, so that their total liability will be appropriately reduced.

1.6.3 Increasing Fairness for Owners of Superfund Property

The Superfund Administrative Improvements Task Force recommended that EPA seek ways to increase fairness for owners of Superfund property, including prospective purchasers intending to redevelop the property. Under CERCLA, past and current owners of properties where there has been a release or threatened release of a hazardous substance are liable for cleanup of the property. Prospective purchasers of contaminated property may be reluctant to purchase the property with associated but undefined liabilities. In some cases, however, prospective purchasers are willing to purchase the property and conduct or finance some clean-up work in return for a covenant-not-to-sue from EPA.

During FY94, the Agency drafted expanded criteria for evaluating circumstances in which EPA may provide an administrative covenant-not-to-sue in agreements with prospective purchasers. Where the Agency can successfully reach agreements with prospective purchasers, the Agency, local communities, and the regulated community will benefit from the cleanup and redevelopment of a site as well as the creation of jobs and the return of the property to productive use. The prospective

purchasers also will benefit by gaining access to a prime business location.

As a defense to CERCLA liability, a property owner can claim that it is an “innocent landowner” and had no knowledge of releases or threatened releases at the property prior to its acquisition. To claim this defense, the property owner must show that it made “all appropriate inquiry” into the previous ownership and uses of the property. To assist prospective property purchasers in conducting “all appropriate inquiry,” the Agency developed a report describing publicly available information sources that can be used to research prior ownership and use. EPA also reviews “all appropriate inquiry” standards and related materials developed by other federal agencies, states, and organizations. Through this effort, the Agency is supplementing efforts of private professional organizations that are developing standards for conducting property assessments.

In other efforts, the Agency continued to implement supplemental guidance on federal liens that was issued in FY93. Under the guidance, when EPA intends to file a federal lien to secure reimbursement of response costs that the Agency has incurred at a property, the Agency provides notice to the owner thereby expanding the opportunity for the owner to comment on the lien before it is filed. These actions are designed to increase fairness to a Superfund property owner.

1.6.4 Evaluating Mixed-Funding Policy

The Agency uses mixed funding in situations where it is appropriate to recover less than 100 percent of the site costs from PRPs. EPA uses three types of mixed-funding approaches: preauthorization, in which PRPs perform the work and the Agency agrees to reimburse them for a portion of the costs; cashouts, in which the PRPs fund a portion of the work that EPA performs; and mixed work, in which the PRP and the Agency perform different aspects of the cleanup.

In response to a recommendation by the Superfund Administrative Improvements Task Force, the Agency identified measures to streamline the

mixed-funding decision-making process and the requirements for preauthorization mixed-funding. The Agency assessed the proposed streamlining measures at seven mixed-funding demonstration sites during FY94. At six of the seven sites, the Agency and PRPs reached settlements. Results of the demonstrations indicated that the use of mixed funding was instrumental in helping the Agency reach the settlements. Further, the Regions found that the streamlined processes used in the demonstration projects simplified the use of mixed funding. To streamline the decision-making component of the process, the Regions obtained Headquarters approval to use mixed funding for the demonstration projects earlier than in the standard process (i.e., pre-approval). The Agency also streamlined application and documentation requirements for preauthorized mixed funding by using model preauthorization language in the settlement and decision documents, by providing guidance to PRPs on preauthorized response actions, and by conducting training for EPA staff on the preauthorization process.

The demonstration projects were the second of a two-phase evaluation of mixed funding. The demonstrations follow a first-phase study conducted in FY93 to evaluate different mixed-funding options and estimate the cost implications to the Trust Fund if EPA routinely paid for the "orphan share" of clean-up costs.

1.7 ENSURING ENVIRONMENTAL JUSTICE

Studies have indicated that low-income and minority groups may be exposed to greater health risks from environmental hazards than the general population. The increased risks have been attributed to disproportionate exposure to multiple contaminant sources, such as industrial pollution, vehicle emissions, hazardous waste sites, and lead-based paint.

To ensure that these risks to low-income and minority populations are adequately addressed by EPA's waste programs, the Agency convened the

Environmental Justice Task Force in November 1993. The Environmental Justice Task Force included representatives from all Office of Solid Waste and Emergency Response program areas, the Regions, and other EPA offices with an interest in waste programs and environmental justice. The task force produced a report in April 1994 that included recommendations to ensure environmental justice in each of the waste programs, including Superfund.

Based on the task force's recommendations, the Agency began developing a series of initiatives to address environmental justice concerns. In one initiative, the Agency began a demographic analysis of Superfund sites using geographic information systems. The analysis is intended to ensure identification of sites in areas with low-income and minority populations that warrant Superfund attention. Also, the Agency analyzed site assessment priority-setting to ensure that environmental justice concerns are considered. In other efforts, the Regions began identifying geographic areas where community groups have expressed concerns about potential environmental justice issues. The Regions will work with state and local governments to assess the impacts of the Superfund sites within these geographic areas and develop strategies for appropriate actions.

To improve communications and build trust between EPA and affected communities, EPA established the National Environmental Justice Advisory Council (NEJAC) under the Federal Advisory Committee Act. The NEJAC subcommittee on waste and facility siting held meetings in August and October 1994. As of the end of the fiscal year, the subcommittee was reviewing draft EPA guidelines for identifying and aiding communities with environmental justice concerns.

The Agency also helped communities in areas with environmental justice concerns to participate more fully in the Superfund remedial process. The Agency drafted guidance on the formation of CAGs and, in cooperation with the Regions, identified 14 potential environmental justice sites where CAGs will be established. To enhance the ability of Native Americans to respond to hazardous waste sites, the Agency co-sponsored the second National Tribal Conference on Environmental Management in May

1994. The Agency also sponsored a teacher's institute to educate teachers from areas where there are hazardous waste concerns about key environmental issues. The teacher's institute provides instruction on developing an environmental action plan and obtaining scientific information. To enhance public outreach to communities in areas of environmental justice concerns, the Agency translated informational materials into the common languages of the communities.

In other efforts, the Agency developed interagency partnerships to address environmental justice concerns:

- EPA worked with the Department of Health and Human Services (HHS), the Agency for Toxic Substances and Disease Registry (ATSDR), and the National Institute of Environmental Health Sciences to conduct community outreach in low-income and minority areas with serious health concerns. As of the end of the fiscal year, EPA, HHS, and ATSDR were working on three medical assistance pilots at the Del Amo/Montrose site in California, the Old Reichold Bros. site in Missouri, and the Southern Wood/Piedmont site in Georgia. Through these pilots, the agencies are providing technical assistance, health education, medical testing, and medical monitoring.
- EPA worked with the Department of Housing and Urban Development (HUD) Lead Abatement Program to address lead problems in housing in low income and minority communities. EPA initiated a one-year detail for an Agency employee to HUD's Lead Abatement Program. The Agency also began developing a list of Superfund sites eligible for HUD lead abatement grants.
- The Agency explored ways to employ residents in conducting clean-up activities around certain environmental justice sites. EPA examined an apprenticeship program sponsored by HUD and HHS as a model for an apprenticeship program for site cleanup.

1.8 CONTINUING INITIATIVES

As recommended by the Administrative Improvements Task Force, EPA continued several ongoing efforts designed to improve the effectiveness and efficiency of the Superfund program. Exhibit 1.8-1 highlights these initiatives.

1.8.1 Implementing the Superfund Accelerated Clean-Up Model

SACM accelerates cleanup and risk reduction at Superfund sites by

- Consolidating site-assessment functions into a single, continuous process;
- Using early actions to address the worst threats to people and the environment first;
- Carrying out early actions while Regional decision teams (RDTs) assess the need for long-term actions;
- Implementing presumptive remedies, where appropriate; and
- Initiating earlier enforcement and community involvement activities.

Early actions may include removing soil and waste, preventing access to contaminated areas, capping landfills, relocating people, and providing alternative drinking water supplies. Long-term actions may include addressing contaminated ground water and preserving wetlands and estuaries. Exhibit 1.8-2 illustrates the SACM process.

During FY94, EPA completed a series of SACM pilots. The Agency documented the performance and benefits of the pilots in Status of Superfund Regional Pilots: End-of-Year Report, published in December 1993. Through the pilots, the Agency explored forming RDTs to prioritize sites and select appropriate actions. Actions included integrating site assessments, taking early actions, and choosing

Exhibit 1.8-1 Superfund Administrative Improvements: Highlights of Continued Initiatives

<p>Superfund Accelerated Clean-Up Model</p> <ul style="list-style-type: none"> · Accelerating cleanup and more rapidly reducing risks to human health and the environment; and · Allowing for earlier and more meaningful community involvement, encouraging earlier enforcement, and increasing the role of states.
<p>Construction Completions</p> <ul style="list-style-type: none"> · Increasing number of sites where any necessary remedial construction has been completed (from 61 at the beginning of FY92 to 278 in FY94).
<p>Contract Management</p> <ul style="list-style-type: none"> · Enhancing cost controls and tools and saving government monies; and · Increasing flexibility and strengthening contract management through decentralization.
<p>Enforcement First</p> <ul style="list-style-type: none"> · Majority of new remedial actions are being financed by PRPs (75 percent in FY94); and · PRP response settlements reached over \$1.5 billion in FY94, achieving more than \$10 billion in total PRP commitment under the program.
<p>Base Closure</p> <ul style="list-style-type: none"> · Enabling more than 50 parcels of base property to be leased for reuse and property at six bases to be transferred by deed; and · Focusing on accelerating cleanup at closing bases.
<p>Innovative Treatment Technologies</p> <ul style="list-style-type: none"> · Enhancing efforts to assemble and distribute information about technologies to users; and · Increasing use of federal facilities as testing grounds for new technologies.
<p>Compliance Monitoring</p> <ul style="list-style-type: none"> · Minimizing delays in cleanup due to PRP non-compliance with orders and agreements.
<p>Cost Recovery</p> <ul style="list-style-type: none"> · Prioritizing cases where the statute of limitations is an issue to recovering the costs; and · Proposing a rule that will aid in resolving common cost recovery issues, reducing transaction costs and minimizing potential for litigation.

51-044-38A

appropriate long-term actions. The pilots demonstrated the effectiveness of SACM concepts through measurable time and cost savings. For example, Region 8 shortened the timeframe for site assessment at a site in Utah from three years to one year. In another pilot, Region 10 saved more than 15 months and \$100,000 at a site in Washington by using an early action. In addition to time and cost

savings, the SACM pilots achieved more rapid reduction of risk to human health and the environment, earlier community involvement in cleanup, and an increased role for states.

In addition to the pilots, the Agency undertook a number of other actions to carry out the implementation of SACM. In June 1994, the Agency sponsored a national workshop in Dallas, Texas, to

communicate the success of the SACM pilots and to discuss full implementation of the model. The Agency issued various guidance documents to support implementation efforts, including Focusing Resources on Worst Sites First, Site Inspection Prioritization Guidance, Guidance on Conducting Non-Time-Critical Removal Actions Under CERCLA, SACM Coordination Strategy, Integrating Removal and Remedial Site Assessment Investigations, and the SACM Update. The Regions prepared supplementary guidance to foster their efforts. In other efforts, some Regions invited state representatives to act as members of RDTs and conducted cross-training activities between On-Scene Coordinators (OSCs) and Remedial Project Managers (RPMs). Finally, EPA revised its program management measures to reflect SACM accomplishments.

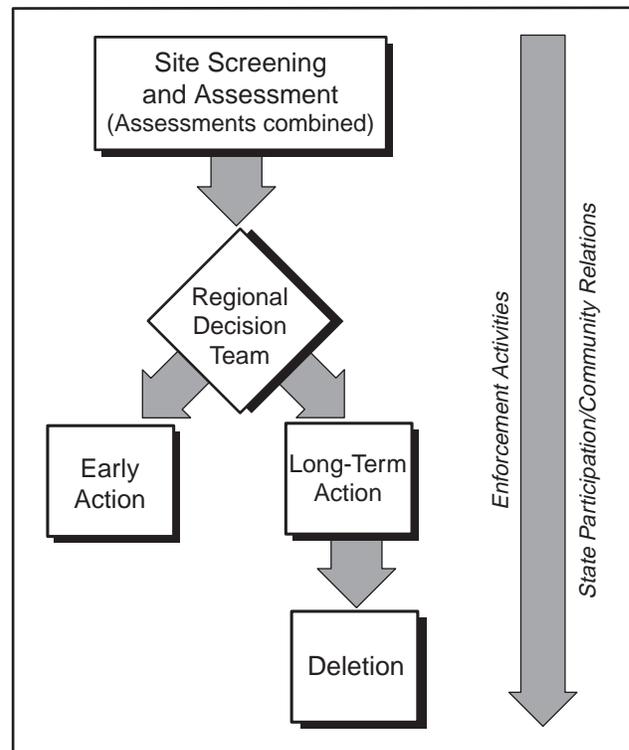
The Agency expects that full implementation of SACM will cut years off the clean-up process at sites. Although Regions are finding that SACM implementation requires more front-end resources, the end result is that cleanups are completed more quickly. SACM's initiative to involve communities early in the clean-up process also assists the Agency and citizen groups in arriving at a clean-up plan that is acceptable to both parties.

1.8.2 Achieving Construction Completions

The Agency's focus on activities to complete remedial construction resulted in the Agency placing its 278th NPL site in the construction completion category during FY94. A site is placed in the construction completion category when

- Any necessary physical construction is complete, whether or not final clean-up levels or other requirements have been achieved;
- EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or
- The site qualifies for deletion or has been deleted from the NPL.

**Exhibit 1.8-2
Superfund Accelerated Clean-Up Model**



Source: Office of Emergency and Remedial Response. 51-037-14

FY94 is the third consecutive year in which the Agency has exceeded its targets for construction completion. In FY92, the Agency more than doubled the number of construction completion sites from 61 to 149, exceeding the target of 130 sites. By the end of FY93, the Agency had more than tripled the original number of construction completion sites to 217, exceeding its target of 200 sites. The Agency quadrupled the number of construction completion sites to 278 by the end of FY94, exceeding its target of 265 sites.

To support Regions in completing construction activities, EPA maintained a comprehensive list of all potential construction completion sites and monitored the status of each site. Regional efforts to achieve construction completions were aided by Agency efforts to streamline the documentation requirements for completions and to clarify the completion procedures.

1.8.3 Strengthening Contracts Management

In its ongoing effort to strengthen its management of Superfund contracts, the Agency focused on continued implementation of the Superfund Long-Term Contracting Strategy (LTCS) and development of guidance to improve cost planning and cost oversight. From these efforts, the Superfund program began to realize benefits of cost savings in areas such as program management and improved contractor performance.

LTCS supports a “one program” approach to assessment, enforcement, and cleanup at Superfund sites by basing contract design on functional rather than program-specific lines. The strategy also decentralizes contracts management functions from Headquarters to the Regions to increase flexibility and strengthen oversight, management, and accountability. Moving forward with the LTCS during FY94, the Agency awarded new Regionally based Enforcement Support Services Contracts and issued solicitations for other new Regionally based contracts. In March 1994, EPA also completed the Long-Term Contracting Strategy Review Final Report, making adjustments to the strategy. For example, specific adjustments include allocating additional resources for contract management in the Regions.

To improve cost planning and oversight, EPA completed the Cost Management Manual for Superfund in June 1994. The manual describes procedures for preparing detailed statements of work, conducting thorough reviews of contractor invoices, reducing program management costs, and applying more stringent contract controls. The manual also incorporates guidance for preparing and using independent government cost estimates. The Agency has incorporated these procedures into the contract management procedures for the new Enforcement Support Services Contracts and will also include them in the new Regionally based Response Action Contracts.

1.8.4 Promoting Enforcement First

The 1989 Management Review of the Superfund Program, also known as the 90-Day Study, recommended measures to strengthen enforcement and increase PRP response. These measures involved increased use of CERCLA and SARA enforcement and settlement authorities, better integration of enforcement and Fund-financed clean-up activities, improved case management and case support, enhanced PRP oversight and cost recovery, and better interagency coordination. As a result of the emphasis on enforcement, PRP involvement in Superfund response work increased. The percentage of RAs financed by PRPs increased from 30 percent in FY87 to 60 percent in FY90 and to 75 percent in FY94. During that same seven-year period, the value of PRP response settlements increased from less than \$0.5 billion a year to over \$1.4 billion per year.

As recommended by the Superfund Administrative Improvements Task Force, EPA continued to identify ways to encourage, or if necessary, to compel PRPs to undertake cleanup. The Agency

- Encouraged the use of settlement tools such as ADR, mixed funding, de minimis settlements, and cashouts to reduce the time required to achieve settlements;
- Increased the use of CERCLA Section 106 unilateral administrative orders (UAOs) to compel PRP response;
- Improved case support by increasing the comprehensiveness of the administrative record and cost recovery documentation for each case;
- Emphasized bringing PRPs into negotiations as early as possible;
- Worked closely with the Department of Justice and other governmental bodies to facilitate administrative decision-making and expedite settlements; and

- Emphasized more complete communication among EPA offices to coordinate and speed up enforcement activities.

EPA's effective use of the enforcement and settlement authorities provided in CERCLA and SARA has encouraged greater PRP participation in response work. The strict, joint, and several liability scheme of CERCLA has proven to be a strong incentive for settlement. Likewise, through the treble damages provision of CERCLA Section 107(c)(3), PRPs are encouraged to comply with UAOs. The Agency's successful enforcement efforts result in the saving of taxpayer dollars, allow for more cleanups, and conserve government resources. Cumulatively, PRP commitments for response work at Superfund sites exceeded \$10 billion through FY94.

1.8.5 Accelerating Cleanup at Closing Military Bases

Closure or realignment of military bases has a potentially significant impact on the economies of states and local communities. Responding to the need for quick transfer of the base properties to non-federal owners for reuse, the Agency worked with DOD to accelerate cleanup of these properties. FY94 was the first year of EPA's implementation of the five-year Model Accelerated Clean-up Program to "fast-track" cleanup at installations selected for closure or realignment.

By the end of FY94, DOD had identified 77 major base closure installations to receive priority attention. EPA, DOD, and state representatives formed a base realignment and closure team (BCT) at each installation to oversee clean-up efforts and to integrate the environmental cleanup with reuse needs. EPA worked with DOD in developing guidance and issuing policy to provide direction to the BCTs. Efforts included guidance on leasing base property, transferring title to base property, and accelerating cleanup.

- EPA provided input to DOD for "Finding of Suitability to Lease" (FOSL), a guidance document that was issued in late FY93. The

FOSL guidance defines a process for identifying parcels of land suitable to lease, preventing leases from interfering with ongoing clean-up actions, and ensuring compliance with applicable environmental requirements. In some cases, leasing has provided a means to allow reuse of base property prior to remediation; more than 50 parcels of land were leased under FOSL leasing procedures by the end of FY94.

- During FY93 and FY94, EPA provided input to DOD for "Finding of Suitability to Transfer" (FOST) guidance. Similar in scope to FOSL, this guidance defines a process for identifying parcels of land suitable to transfer. Under FOST, parcels suitable for transfer are those with no contamination that requires remediation or those that have been remediated. Although DOD issued the final FOST guidance in June 1994, EPA continued working with DOD to more fully integrate the position developed jointly by EPA and DOD into the guidance. By the end of FY94, title transfer by deed had occurred at six bases.
- EPA, DOD, and DOE issued policy on improving outreach and coordination efforts with federal, private, and community stakeholders. This policy was documented in Guidance on Accelerating CERCLA Environmental Restoration at Federal Facilities, which was signed by the three agencies in August 1994. The guidance institutionalizes accelerated clean-up approaches already in place at federal facilities and encourages further efforts by federal agencies to develop streamlined clean-up approaches and use innovative technologies. Incorporating SACM, the guidance recommends using removal actions and interim response actions, conducting sampling to support both the site investigation and response investigation, and applying standardized technical and field methodologies.

By the end of FY94, several federal facilities had been selected for demonstrating ways to expedite cleanup. DOE had selected four sites: the Hanford site in Washington, the Mound site in Ohio, the Oak Ridge site in Tennessee, and the Savannah River site in South Carolina. At the Langley site in Virginia,

the National Aeronautics and Space Administration signed an interagency agreement for cleanup before the site was listed as final on the NPL; work is proceeding at the site at an accelerated pace.

1.8.6 Promoting the Development and Use of Innovative Technologies

Innovative technology solutions can improve the timeliness and consistency of remedy selection and facilitate cleanup. Comprehensive, readily accessible information on innovative treatment technologies is needed, however, to obtain market, regulatory, and public acceptance for their use.

To promote the use of innovative treatment technologies, the Agency engaged in efforts to test these technologies in large-scale demonstrations and to improve access to data on their cost and performance. To overcome the shortage of facilities available for full-scale testing of innovative technologies, the Agency has increasingly encouraged the use of federal facilities, "orphan" sites, and, where appropriate, PRP-lead sites as candidates. EPA Policy for Innovative Environmental Technologies at Federal Facilities, issued in August 1994, reaffirmed EPA policy that federal facilities, in particular, should be used as test and demonstration centers, and encouraged their use.

At federal facilities, the Agency emphasized the use of public-private partnerships to demonstrate and evaluate innovative treatment technologies. The partnerships involve federal agencies such as EPA, DOD, and DOE; states; and private parties in demonstrations of innovative technologies that focus on contamination problems of mutual concern. The demonstrations are designed to test innovative technologies, determine their capabilities and limitations, and identify any required modifications, based on the operating experience. EPA's Technology Innovation Office sponsors the partnership project through a cooperative agreement (CA), and EPA's Risk Reduction Engineering Laboratory provides technical support. At the end of FY94, there were six active sites where public-partnerships were in place. Technology demonstrations were underway at one of the sites, McClellan Air Force Base.

- At McClellan, EPA's first public-private partnership continued with numerous participants. In addition to EPA and DOD, private companies included AT&T, Beazer East, Dow, DuPont, Monsanto, Southern California Edison, and Xerox. Two demonstrations were implemented at the site between July and October 1994. The demonstration of a two-phase extraction process for treating soil and ground water contaminated with volatile organics successfully extracted the contaminants, minimizing the need for surface treatment of extracted water. The demonstration of a photolytic destruction process to treat off-gases from soil vapor extraction was suspended due to mitigating factors at the site. The process will be modified, however, for future demonstration. In outreach efforts to communicate the results of the demonstrations, the McClellan site held a public visitors' day in October 1994 that was attended by 250 people.
- Together with the Remedial Technology Development Forum, EPA, DOE, and private parties were working to demonstrate an innovative remediation technology at DOE's Paducah Gaseous Diffusion Plant in Kentucky. Private parties in the partnership included General Electric, Dupont and Monsanto. This consortium is currently developing the treatment train testing electrosmosis and is identifying a second site to test other components of the process. [Verify that "currently" refers to the end of FY94.] DOE was providing significant funding for the Paducah test.
- As of the end of FY94, efforts were underway to establish partnerships with the Joliet Army Ammunition Plant in Illinois, the Massachusetts Military Reservation, and the Otis Air National Guard Site and the Naval Air Station North Island in California.
- Also in FY94, EPA concluded an agreement with DOE at the Pinellas Plant in Florida, and the partnership project involving General Electric, Exxon, and Phillips Petroleum, reached the implementation phase.

EPA continued ongoing activities to assess technology information systems and to generate reports about the cost and performance of innovative treatment technologies. Currently, the Agency maintains the Alternative Treatment Technology Information Clearinghouse and the Vendor Information System of Innovative Treatment Technologies for information on remediation technologies. The Agency also worked to develop the Decision Document Database to address information shortcomings in the existing databases.

To provide reports about the cost and performance of innovative technologies, EPA began preparing summaries of 17 completed Superfund RAs that used innovative technologies. DOD was sponsoring similar efforts for 17 remediation projects at military facilities. The reports will be prepared using a consistent set of cost and performance data elements developed in conjunction with the Federal Remediation Technologies Roundtable.

1.8.7 Enhancing Compliance Monitoring

In order to ensure that PRP cleanups are being performed satisfactorily and in a timely manner, the Agency must be effective in its compliance monitoring and enforcement activities. During the fiscal year, the Agency continued to implement a long-term strategy for developing Regional compliance monitoring and enforcement capabilities. The strategy calls for each Region to develop compliance monitoring and enforcement procedures, and to install an enhanced tracking system for monitoring PRP compliance with consent decrees (CDs), administrative orders on consent (AOCs), UAOs, and enforceable work-plan milestones. Under the strategy, Regions may develop their own procedures, as long as the procedures define roles and responsibilities for staff; provide documentation of non-compliance and recommended Agency responses; allow for management review; and provide notification to Regional financial management staff when a stipulated penalty assessment is made.

Each Region has issued compliance monitoring guidance. These guidances explain how OSCs and

RPMs should conduct compliance monitoring and the level and type of tracking required to monitor PRP compliance. Each Region also issued enforcement response guidance that specifies the Regional procedures for handling non-compliance.

To evaluate Regional compliance monitoring efforts, the Office of Enforcement and Compliance Assurance (OECA) began a review in FY94 of Regional compliance reporting measures. As part of this review, OECA's Office of Site Remediation Enforcement was also reviewing each Region's compliance monitoring approach to ensure that the Regions were tracking the most appropriate compliance indicators.

The Agency has found that aggressive compliance monitoring and enforcement has reduced the time required to clean up a site by minimizing the number of delays due to PRP non-compliance with AOCs, UAOs, and CDs. Region-specific compliance monitoring and enforcement guidance has clarified the roles and responsibilities, methods, and procedures to be used within each Region. The development of Regional guidance has also increased the inter-Regional exchange of information, further enhancing the efficiency and effectiveness of Regional compliance monitoring and enforcement capabilities.

1.8.8 Improving the Effectiveness of Cost Recovery

CERCLA provides for recovery of federal monies spent at a site. EPA is responsible for recovering the monies, as fully and expeditiously as possible. During FY94, EPA engaged in several activities to increase the efficiency, timeliness, and effectiveness of the Agency's cost recovery efforts. Fiscal year activities focused on improving systems to track cost recovery data and prioritize cost recovery cases, and continuing to develop a regulation to standardize the cost recovery process.

EPA developed the Cost Recovery Targeting Report that combines CERCLA Information System planning obligations with Integrated Financial Management System expenditure data to present a complete picture of the statute of limitations date and past costs associated with each site. Thus, the

Agency is readily able to identify sites where the statute of limitations is near expiration. The Agency is using the report to provide a more complete picture of recoverable past costs and the status of all past, ongoing, and planned efforts to address those costs. Using the report as a tool, the Agency revised the cost recovery prioritization process to target all cases greater than \$200,000 where expiration of the statute of limitations is an issue.

To standardize cost recovery documentation requirements, clarify the duration of the statute of limitations, and specify the types of recoverable indirect costs, the Agency also continued to work toward finalizing its proposed cost recovery rule. Through the rule, the Agency aims to resolve common cost recovery issues, thus reducing transaction costs by minimizing the potential for litigation.

