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# **RCRA, Superfund & EPCRA Hotline Training Module**

**Introduction to:**

**Superfund Administrative  
Improvements/Reforms**

**Updated February 1998**

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# SUPERFUND ADMINISTRATIVE IMPROVEMENTS/REFORMS

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## 1. INTRODUCTION

Since the enactment of CERCLA in 1980, EPA and other Superfund stakeholders have taken on the enormous task of implementing a program to identify and clean up uncontrolled hazardous waste sites. What at first was expected to be a straightforward process at a discrete number of sites has evolved into a much larger and complex set of issues. EPA has had to contend with a greater and more diverse universe of sites than originally anticipated, develop an efficient process to investigate these sites, and implement efficient and effective remedial technologies. At the same time, the Agency has had to conduct enforcement actions and provide for state and public involvement. Responding to these challenges, EPA and stakeholders have made significant progress toward reducing risks to human health and the environment from releases of uncontrolled hazardous substances. The Agency has evaluated over 40,000 sites that may pose risks, conducted over 3,800 early actions to protect the public and the environment, and has completed construction of cleanup remedies at over 500 of the Nation's worst hazardous sites.

EPA recognizes, however, that certain aspects of the Superfund program have generated criticism. Specific complaints have focused on the pace and cost of cleanups, the degree to which sites are cleaned, the fairness of the liability approach, the role of states in the process, and the ability of local communities to have meaningful participation in the process, particularly disadvantaged and minority communities. While some of the criticism may be addressed by EPA administratively, some is beyond the scope of the Agency's statutory authority and will have to be considered by Congress in reauthorizing CERCLA.

The Agency has maintained an ongoing effort to address complaints and improve the Superfund program through a series of administrative improvements and reforms. This effort began in 1989, with the publication of A Management Review of the Superfund Program. Also known as the "90-day Study," the Management Review is a collection of facts and opinions contributed by EPA staff, as well as outside critics and supporters of Superfund. These observations were synthesized into a proposed strategy for the future implementation of the Superfund program. The proposed strategy comprised fifty specific recommendations that emphasized immediate control of threats to human health, efficient and effective cleanups, enforcement against PRPs, development and use of innovative technologies, improvement of Agency procedures, and encouragement of community participation.

In June 1991, EPA convened a 30-day Task Force to develop options for accelerating the rate of cleanup at Superfund sites and to examine the fundamental assumptions used in evaluating and managing risks at sites. The Task Force's report, Superfund 30-Day Study Task Force Implementation Plan: Accelerating Cleanups and Evaluating Risk at Superfund Sites (the "30-day Study"), was issued in October, 1991. The 30-day Study provided six categories of alternatives: setting aggressive cleanup goals; streamlining the response process; devoting more resources to site-specific issues that cause delay;

speeding private party cleanups; addressing the debate on cleanup progress; and reviewing risk assessment and risk management policies.

The results of the 90-day Study and the 30-day Study served as a framework for EPA's first set of administrative changes to the Superfund program. In May 1993, the Agency established the Superfund Administrative Improvements Task Force. The mission of the Task Force was to explore potential administrative methods of improving the Superfund program. The Task Force published its recommendations in a report containing specific goals and milestones to advance the Superfund program. Areas of focus included enhancing enforcement fairness, accelerating site cleanup, increasing community involvement, and increasing the role of states in the Superfund process. The Agency began piloting and implementing the recommendations immediately.

EPA continued its efforts to improve the Superfund program by implementing a series of Superfund Administrative Reforms. Announced in February 1995, the initial set of Administrative Reforms are organized into six general areas; enforcement, economic redevelopment, community involvement and outreach, environmental justice, consistent program implementation, and state empowerment. A third set of administrative changes was released in October 1995. EPA initiated this round of reforms to serve three objectives — make smarter cleanup choices that protect human health at less cost, reduce litigation by achieving common ground instead of conflict, and ensure that states and communities are more informed and involved in cleanup decisions.

For FY 1998, EPA decided to continue the implementation of existing reforms rather than develop a new round of reforms. The FY 1998 Superfund Reform Strategy prioritizes response action and enforcement fairness reforms, while describing how other reforms will be expanded beyond their original scope.

After completing this module, you will be able to:

- Explain the impetus behind EPA's efforts to improve the Superfund program, and trace the history of these efforts
- Understand the significance of the Superfund Administrative Improvements, and recognize those initiatives that are continuing
- Explain the February 1995, and October 1995, Superfund Administrative Reforms and their respective roles within the Agency's overall efforts to improve the Superfund program.

Use this list of objectives to check your knowledge of this topic after you complete this training session.

## 2. ADMINISTRATIVE IMPROVEMENTS (ROUND 1)

Through the Superfund program, EPA has made significant progress in reducing risk posed to human health and the environment. However, both the statutory requirements of CERCLA and the Agency's implementation of the Superfund program have been criticized on a number of fronts. Such criticism, coupled with the pending lapse of CERCLA statutory authority on September 30, 1994, prompted EPA to establish the Superfund Administrative Improvements Task Force.

The Task Force consisted of representatives from the Office of Solid Waste and Emergency Response (OSWER); the Office of General Council, the Office of Enforcement; the Office of Policy, Planning and Evaluation; the Office of Research and Development; the Office of Administration and Resources Management; the Department of Justice; and EPA Regions 2, 5, and 9. The objective of the Task Force was to develop options for the Agency to improve the program under existing statutory authority. In this manner EPA could address certain issues using its administrative authority, while awaiting congressional reauthorization of CERCLA. Those criticisms that were related to statutory requirements would have to be addressed by Congress.

On June 23, 1993, EPA published the Task Force's recommendations in the Superfund Administrative Improvements Task Force Final Report (OSWER Directive 9200.0-14-2). The final report established major goals of the Superfund program and designated 17 specific initiatives to achieve these goals. Nine were new initiatives announced for the first time, the eight remaining initiatives were ongoing efforts that preceded the Task Force. The initiatives outlined in the report were developed to enhance enforcement fairness and reduce transaction costs, enhance cleanup effectiveness and consistency, increase public involvement, and expand the role of states in the Superfund program.

The Agency issued no regulations pursuant to any of these initiatives. Instead, EPA Regional and Headquarters Superfund offices implemented the administrative improvements through policy and decision-making. The Superfund Administrative Improvements Closeout Report (OSWER Directive 9202.1-24) details the Agency's efforts to achieve the goals of the Improvements between June 23, 1993, and September 30, 1994, the expiration date of the Task Force's charter. The following sub-sections briefly describe and give examples of the specific initiatives and their results, as reported in the Closeout Report, towards achieving those goals.

## 2.1 ENHANCE ENFORCEMENT FAIRNESS AND REDUCE TRANSACTION COSTS

To enhance enforcement fairness and reduce transaction costs associated with determinations of liability, the Agency conducted several efforts to expand the use of allocation tools, settle earlier with de minimis parties, encourage redevelopment of contaminated property, and enter into mixed funding settlements.

In an effort to reduce transactions costs resulting from CERCLA litigation, EPA sought to increase the use of Alternative Dispute Resolution (ADR), including Non-Binding Allocations of Responsibility (NBARs). To promote a better understanding of the uses of ADR, the Agency conducted a national Superfund ADR workshop in November 1993. The Agency also supported the use of NBARs at over 30 sites. Finally, on September 30, 1994, the Agency issued a report entitled Developing Allocations Among Potentially Responsible Parties for the Costs of Superfund Site Cleanups.

Many small volume waste contributors incur significant transaction costs as enforcement investigations progress. To help expedite the resolution of the liability of de minimis waste contributors and complete settlements earlier in the process, EPA issued guidance on streamlining the de minimis settlement process entitled Streamlined Approach for Settlements with De Minimis Waste Contributors Under CERCLA §122(g)(1)(A) (OSWER Directive 9834.7-1D).

Many people are afraid to purchase contaminated property for fear of incurring CERCLA liability. Thus the Agency produced a draft version of expanded criteria for evaluating circumstances in which EPA may provide an administrative covenant not to sue to a prospective purchaser of contaminated property. This initiative is a part of the Brownfields Action Agenda, and was completed as part of the Administrative Reforms (see Section 3.1).

Mixed funding agreements allow EPA to settle with some PRPs at a site while continuing to pursue non-settling PRPs for cost recovery. Unfortunately, concerns associated with liability, lengthy procedures, and documentation requirements had resulted in EPA reaching very few mixed funding settlements. Thus the Agency selected several sites for mixed funding settlement pilot projects to analyze procedures for streamlining the mixed funding process and revising mixed funding policy.

## 2.2 ENHANCE CLEANUP EFFECTIVENESS AND CONSISTENCY

The second major goal of the Administrative Improvements is to clean sites more effectively and consistently, with the anticipated benefits of savings in time and money. Towards this goal, EPA has implemented the use of presumptive remedies, a Superfund Accelerated Cleanup Model (SACM) concept (detailed in the training module titled The Superfund Accelerated Cleanup Model). In September 1993, EPA issued guidance on

presumptive remedies for municipal landfills, and on sites with volatile organic compounds (VOCs) in soils. Several additional draft presumptive remedies were developed as well.

In a separate initiative, EPA began developing a way of expediting site investigations while saving time and money. In December 1994, EPA issued draft guidance for calculating soil screening levels, which would identify and focus investigatory efforts on those areas of a site where contaminant levels may be of concern. This effort was completed in May 1996, with the publication of the final soil screening level guidance (Soil Screening Guidance: User's Guide, OSWER Directive 9355.4-23 and Soil Screening Guidance: Technical Background Document, OSWER Directive 9355.4-17A).

The Closeout Report details other EPA efforts to enhance effectiveness and consistency in cleanups. One such effort is an interagency partnership with the U.S. Army Corps of Engineers to set standardized design specifications for various hazardous waste remediation activities. The Agency also issued guidance for two common site contaminants; dense non-aqueous phase liquids, and lead. Finally, to help Remedial Project Managers select remedial actions appropriate for the intended future use of a site, the Agency began the development of guidance for the consideration of future land use(s) in the remedy selection process. This initiative was completed as part of the Superfund Administrative Reforms (see Section 3.1).

## 2.3 ENHANCE PUBLIC INVOLVEMENT

To further community involvement and address issues raised concerning inequities in low income and minority communities, the Agency is pursuing initiatives to implement an environmental justice strategy and to provide for early and more effective community involvement. To implement EPA's environmental justice goals, the Office of Solid Waste and Emergency Response (OSWER) developed its own environmental justice strategy (for more information see the Brownfields Economic Redevelopment Initiative/Environmental Justice training module). EPA also began to pilot the use of community advisory groups to expand public participation in the Superfund remedial process, publishing Guidance for Community Advisory Groups at Superfund Sites (OSWER Directive 9230.0-28).

## 2.4 ENHANCE STATE ROLE

Although the NCP contains provisions for state involvement, EPA has made an effort to expand the role of states in the Superfund process. As part of the Superfund Administrative Improvements, EPA established a work group to pilot and develop guidance for the deferral of low and medium NPL-caliber sites to state cleanup programs. The result was Guidance on Deferral of NPL Listing Determinations While

States Oversee Response Actions (OSWER Directive 9375.6-11) which was released as part of the Administrative Reforms (see section 3.1).

## 2.5 ON-GOING INITIATIVES

In addition to introducing the nine new initiatives, the Closeout Report also reflected EPA's position on several existing administrative improvements developed in response to both the 90- and 30-day Studies. These initiatives had already been implemented and had a positive effect on the Superfund program.

The first and most prominent of the on-going administrative improvements is SACM. At the time of the Closeout Report, EPA was still piloting SACM, and had developed several guidance documents to support SACM implementation. SACM is described in detail in the training module titled The Superfund Accelerated Cleanup Model (SACM).

In a second initiative intended to show Superfund program successes, EPA is continuing its Construction Completion initiative. By December 1997, EPA had placed 500 NPL sites in the construction completion category.

Under the contracts management initiative, EPA focused on two areas for improved performance. First, the Agency continued implementation of the Superfund Long-Term Contracting Strategy for the next generation of Superfund contracts. Second, EPA developed and issued guidance to improve cost planning and cost oversight.

The 90-day Study made several recommendations involving increased use of enforcement and settlement authorities. EPA is continuing its "enforcement first" approach by monitoring PRP compliance with existing consent decrees, administrative orders and unilateral orders. This initiative has been carried through the Administrative Reforms efforts.

As part of the Superfund Administrative Improvements, EPA completed several activities to revitalize communities impacted by military base closures. EPA assisted the Department of Defense (DoD) with guidance covering several elements of the Fast Track Cleanup Program, including a Finding of Suitability to Lease, and Finding of Suitability to Transfer. EPA, DoD, and the Department of Energy also developed guidance to institutionalize accelerated cleanup approaches already in place at federal facilities, and to further encourage efforts by federal agencies to develop streamlined approaches to hazardous waste cleanup.

Effective cleanup technologies are needed to achieve the desired results at Superfund sites. There have been several initiatives involving the testing of innovative technologies at federal facilities and encouraging private companies to develop innovative cleanup technologies. EPA's Technology Innovation Office is also reviewing

the existing and potential technology databases. These on-going efforts will help Superfund identify technologies that are most efficient and cost effective.

To ensure that PRPs perform cleanups satisfactorily and in a timely manner, EPA must have an effective compliance monitoring and enforcement program. In November 1992, OSWER implemented a long-term strategy for facilitating implementation of Regional compliance monitoring and enforcement programs. The strategy focuses on the development of Regional compliance monitoring and enforcement procedures and the installation of enhanced compliance tracking systems.

While CERCLA §107 provides that responsible parties are liable for cleanup costs, it does not specify which costs are recoverable. EPA published proposed regulations in the Federal Register to clarify what costs are recoverable, how costs are determined, and what information will support the Agency's cost recovery efforts (57 FR 34742; August 6, 1992). While this proposed rule has been withdrawn, EPA expects to make a future effort to clarify recoverable costs.



### 3. ADMINISTRATIVE REFORMS

The Administrative Improvements initiatives were a significant Agency response to criticism of the Superfund program, though EPA could not address all of the criticism administratively. While it was making administrative changes to the Superfund Program in 1993 and 1994, the Agency was also involved in discussions regarding the reauthorization of CERCLA. September 30, 1994, marked the expiration of both CERCLA statutory authority and the charter of the Superfund Administrative Improvements Task Force. Though CERCLA had not been reauthorized, Congress continued to appropriate money for its operation, allowing EPA to continue implementing Superfund. Thus the Agency had another opportunity to make administrative changes while awaiting reauthorization.

This section describes the Superfund Administrative Reforms, a series of initiatives designed to continue advance the Superfund Program and to build upon the Superfund Administrative Improvements. Some of the Administrative Reforms were actually not-yet-complete initiatives originally announced as Administrative Improvements; others were conceived during reauthorization hearings and discussions. The Administrative Reforms were first introduced in February 1995. EPA announced a second set of administrative reforms in October 1995. Each reform may be implemented under existing CERCLA statutory authority, and using the current National Contingency Plan.

#### 3.1 FEBRUARY 1995 REFORMS (ROUND 2)

The February 1995, set of Administrative Reforms were derived in part from the Clinton Administration's proposal to reauthorize CERCLA. This round of 12 reforms was organized into six general areas: enforcement, economic redevelopment, community involvement and outreach, environmental justice, consistent program implementation, and state empowerment. In March 1996, EPA issued the FY 1995 Superfund Reforms Semiannual Report, February - December 1995, which provided the first summary of the status and objectives of each initiative. The most current update of Round 2 of the reforms is found in the Superfund Reforms Annual Report Fiscal Year 1997, which was published in January 1998. The following summarizes each Round 2 reform.

##### ENFORCEMENT REFORMS

Seeking to accelerate the enforcement process, reduce transaction costs, and promote fair and effective settlements, EPA has implemented procedures to facilitate PRP searches, expedite settlements, and make greater use of allocation tools.

Continuing the enforcement first approach, the Agency tested streamlined PRP search procedures at pilot sites during fiscal years 1995 and 1996. These procedures improve the quality and the timeliness of PRP searches, while providing a foundation for the

allocation process. EPA expects to publish a revised PRP Search Manual in 1997 incorporating the results of the search pilots.

Building upon the Administrative Improvement goal to expedite de minimis settlements, EPA piloted an approach to identify, offer, and finalize such settlements before the Record of Decision. To facilitate early de minimis settlements, the Agency issued a summary of ability to pay guidance and models, a guidance document standardizing the premium that de minimis settlers must pay, and a revised de minimis model consent decree and administrative order on consent.

In response to Agency findings from the Administrative Improvements initiative to promote the greater use of allocation tools, the Agency is continuing to examine the use of a neutral third party to allocate shares of responsibility for cleanup costs among all parties at a site, at a select number of allocation pilot sites. The orphan share, that portion of response costs attributable to insolvent or defunct parties, would be assumed by the Trust Fund. This non-binding process continues to be implemented and evaluated at pilot sites.

## ECONOMIC REDEVELOPMENT

In an effort to encourage the redevelopment of contaminated and unused properties, EPA has initiated a series of initiatives described in the Brownfields Action Agenda. The Action Agenda includes the funding of redevelopment pilots and grants, purging EPA's inventory of Superfund sites (CERCLIS) of sites which are no longer of federal interest, and identification of uncontaminated portions of NPL sites.

The Agency has removed more than 30,500 sites from its inventory of sites investigated under CERCLA, known as CERCLIS. These sites, at which EPA had planned no further remedial action, were removed from CERCLIS and archived. This initiative is ongoing, and is intended to eliminate any stigma associated with these properties and promote economic redevelopment.

Regions have been authorized to identify those areas on or adjacent to NPL sites which are uncontaminated. This information will then be communicated to the public in an effort to return these uncontaminated areas to productive uses despite their proximity to NPL sites. Note that this initiative is currently being implemented as part of Round 3 of the Superfund Reforms (Partial Deletions).

The Agency has issued an enforcement policy towards owners of property containing contaminated aquifers, and guidance for agreements with prospective purchasers of a contaminated property. EPA also clarified its NPL listing policy describing the geographical extent of an NPL site and developed a model comfort letter to assure recipients of transferred federal property that the federal government has or currently is meeting its obligations under CERCLA §120(h). Finally, the Agency has published a policy on the issuance of comfort or status letters to purchasers and/or users of brownfields property.

## COMMUNITY INVOLVEMENT AND OUTREACH

Several of the Administrative Reforms provide opportunities for earlier, direct, and regular community involvement in the Superfund process. EPA has issued guidance supporting Community Advisory Groups (CAGs), and the Regions have established 33 CAGs at selected NPL and federal facility sites. Regions have been asked to consider other means of promoting community involvement, including providing Technical Assistance Grants (TAGs) earlier in the process and authorizing training for TAG recipients. Additionally, EPA plans to propose a revised TAG rule in 1998. The Agency is studying several ways to increase community participation in enforcement activities at a site. Proposals include inviting public comment on draft statements of work and actively disseminating information to the community. Innovative methods are being tested at pilot sites.

## ENVIRONMENTAL JUSTICE

EPA has joined with other federal agencies to provide training and medical assistance to low-income and minority communities living near Superfund sites. Growing out of the Administrative Improvement goal to establish an environmental justice strategy at NPL sites, EPA and the U.S. Public Health Service have piloted the Medical Assistance Plan (MAP) program. MAP provides for physician training and placement, testing to assess health effects of hazardous substance exposure, technical assistance to local agencies and health care providers, referral services for specialists or specialty clinics, and medical follow-up for those who have documented exposure to hazardous substances or adverse health conditions related to possible exposure.

EPA, the Department of Housing and Urban Development, and the National Institute for Environmental Health Sciences are cooperating on a program to share the economic benefits of site cleanup with minority and low-income communities. Known as the Step-Up program, the agencies will develop strategies for recruiting and training people who live in or near Superfund sites to work in the environmental field. A related initiative, the Superfund Job Training Initiative, focuses on job training for residents living near Superfund sites. EPA will encourage contractors to hire individuals who complete the training program.

The Hazardous Materials Training and Research Institute has received a grant from the Agency to develop environmental work force training programs and conduct workshops for community colleges located near Superfund sites. Two pilot projects have been chosen as part of a greater effort to increase the number of community colleges offering environmental training.

## **CONSISTENT PROGRAM IMPLEMENTATION**

Seeking to improve consistency in remedial actions and to streamline the response process, the Agency has completed two Administrative Reforms, and is continuing a third. EPA published final guidance on the use of soil screening levels, considering future land use in the remedy selection process, and the use of presumptive remedies. The Agency is also studying ways to further the application of innovative technologies in remedial actions. EPA will share financial risk with PRPs who select remedies employing low-cost, high performance technologies. The Agency released a directive extending contractor indemnification coverage to include both the prime contractor and the innovative technology contractor.

## **STATE AND TRIBAL EMPOWERMENT**

EPA has implemented one initiative and is piloting two others which are designed to increase the role of states and tribes in the implementation of the Superfund program. As mentioned in Round 1, the Agency has published a policy on the deferral of certain NPL-caliber sites to states, territories, commonwealths, and federally recognized tribes where they would oversee PRP responses. In Round 2, EPA continued to empower states and tribes by identifying ways to assist and fund state or tribal voluntary cleanup programs which address lower risk sites. Finally, EPA and selected states and tribes are piloting the use of flexible block funding agreements, rather than prescriptive cooperative agreements, to transfer monies to states and tribes for the purpose of conducting response actions.

### **3.2 OCTOBER 1995 REFORMS (ROUND 3)**

EPA's latest efforts to make Superfund faster, fairer, and more efficient include 20 Administrative Reforms announced on October 2, 1995. This set of initiatives is based upon three principles; select remedies that are cost-effective and protective, reduce litigation by achieving common ground instead of conflict, and ensure that states and communities stay more informed and involved in cleanup decisions. Figure 1 summarizes the goal and status of each initiative.

**Figure 1**  
**October 1995, Superfund Administrative Reforms Checklist**

	<b>Topic/Results</b>
√	<p><b>National Remedy Review Board</b> EPA established a National Remedy Review Board to provide for senior management review of proposed high cost remedies.</p> <ul style="list-style-type: none"> <li>Reviewed 20 proposed decisions as of November 1997</li> </ul>
√	<p><b>Establish New Remedy Selection Management Flags/Rules of Thumb</b> The document titled Rules of Thumb for Superfund Remedy Selection (PB97-963 301) was published in October 1997 and describes key principles and expectations on administrative reforms based on program experience, that should be considered during the Superfund remedy selection process.</p>
√	<p><b>Update Remedy Decisions at Select Sites</b> Taking advantage of new remedial technologies or updated site information could result in significant cost saving while remaining protective</p> <ul style="list-style-type: none"> <li>EPA issued Superfund Reforms: <u>Updating Remedy Decisions</u> (OSWER Directive 9200.0-22)</li> </ul>
√	<p><b>Clarify the Role of Cost in the Remedy Selection Process</b></p> <ul style="list-style-type: none"> <li>Consolidated various policies and guidance in <u>The Role of Cost in the Superfund Remedy Selection Process</u> (OSWER Directive 9200.3-23FS)</li> </ul>
√	<p><b>National Consistency in Remedy Selection</b></p> <ul style="list-style-type: none"> <li>Issued directive <u>National Consistency in Superfund Remedy Selection</u> (OSWER Directive 9200.0-21)</li> </ul>
√	<p><b>Clarify Information Regarding Remedy Selection Decisions</b> Developed interim remedy selection summary sheet</p>
	<p><b>Community Participation in Designing Risk Assessments</b> EPA will pilot a process for involving stakeholders early in the risk assessment process</p>
√	<p><b>PRP Performance of Risk Assessments</b></p> <ul style="list-style-type: none"> <li>Published <u>Revised Policy on Performance of Risk Assessments during Remedial Investigations/Feasibility Studies Conducted by PRPs</u> (OSWER Directive 9340.1-02)</li> </ul>
	<p><b>Establish National Criteria for Risk Assessments</b> The Agency is developing a generic Statement of Work including an outlined technical approach to risk assessment, standardized reporting tables, and quality assurance checklists</p>
	<p><b>Standardize Risk Assessments</b></p> <ul style="list-style-type: none"> <li>EPA established a workgroup, meeting with stakeholders and issuing a draft key issue report to develop focus areas for further work</li> </ul>
√	<p><b>Utilize Expert Workgroup on Lead</b> A workgroup has been established as a resource for risk assessments involving lead contamination.</p> <ul style="list-style-type: none"> <li>The expert lead workgroup is planning an analysis of residential lead risk assessments</li> </ul>

√	<p><b>Establish Lead Regulator for Federal Facilities</b></p> <p>To sort various overlapping regulatory authorities, EPA has published the “Lead Regulator Policy for Cleanup Activities at Federal Facilities on the National Priorities List”</p>
√	<p><b>Consider Response Actions Prior to NPL Listing</b></p> <p>Issued <u>Revision to OSWER NPL Policy “The Revised HRES: Evaluating Sites After Waste Removals”</u> (OSWER Directive 9345.1-25)</p>
√	<p><b>Delete Clean Parcels from the NPL</b></p> <ul style="list-style-type: none"> <li>• In an effort to communicate cleanup successes, EPA issued a Notice of Policy Change and <u>Procedures for Partial Deletions at NPL Sites</u> (OSWER Directive 9320.2-11)</li> <li>• Six sites have been partially deleted</li> </ul>
	<p><b>Promote Risk-Based Priority Setting at Federal Facility Sites</b></p> <p>To aid decisionmakers facing budget constraints, the Agency will issue guidance for prioritizing cleanup of federal facilities</p>
√	<p><b>Promote Risk-Based Priority Setting for NPL Sites</b></p> <ul style="list-style-type: none"> <li>• A National Risk-Based Priority Panel evaluates projects and recommends priorities for funding</li> </ul>
√	<p><b>Orphan Share Compensation</b></p> <ul style="list-style-type: none"> <li>• The Agency published <u>Interim Guidance on Orphan Share Compensation for Settlers of Remedial Design/Remedial Actions and Non-Time Critical Removals</u>. Since FY 97, the Agency offered over \$100 million in forgiveness of past cost and future oversight costs in recognition of the orphan share</li> </ul>
√	<p><b>Site Specific Special Accounts</b></p> <ul style="list-style-type: none"> <li>• EPA established site-specific special accounts accruing interest on settlement funds, and ensuring that settlement money would be used at the site at which the settlement was reached</li> </ul>
√	<p><b>Equitable Issuance of Unilateral Administrative Orders</b></p> <ul style="list-style-type: none"> <li>• The Agency issued <u>Documentation of Reason(s) for Not Issuing CERCLA §106 UAOs to All Identified PRPs</u></li> </ul>
√	<p><b>Revised De Micromis Guidance</b></p> <ul style="list-style-type: none"> <li>• EPA doubled the de micromis waste contributor cut-off in <u>Revised Guidance on CERCLA Settlements With De Micromis Waste Contributors</u></li> </ul>
√	<p><b>Adopting Private Party Allocations</b></p> <ul style="list-style-type: none"> <li>• The Agency adopted private party allocations at several sites, and has determined that current policies are adequate</li> </ul>
√	<p><b>Reduce Oversight of Cooperative PRPs</b></p> <ul style="list-style-type: none"> <li>• EPA issued <u>Reducing Federal Oversight at Superfund Sites With Cooperative and Capable Parties</u> (OSWER Directive 9200.4-15)</li> </ul>
	<p><b>Authorize Remedy Selection by Selected States</b></p> <ul style="list-style-type: none"> <li>• The Agency continues to pilot a process shifting remedy selection to the state agency</li> </ul>
	<p><b>Pilot Community-Based Remedy Selection Process</b></p> <ul style="list-style-type: none"> <li>• Based on pilot results, EPA is developing guidelines on empowering local citizens and stakeholders in the remedy selection process</li> </ul>

√	<b>Establish Superfund Ombudsman in Every Region</b> <ul style="list-style-type: none"> <li>Regional Ombudsmen have been named to provide a Forum for stakeholders' concerns</li> </ul>
√	<b>Improve Communication with Superfund Stakeholders</b> <ul style="list-style-type: none"> <li>Created Superfund Home Page</li> </ul>

Three and a half years have passed since CERCLA's statutory authority expired, and administrative reform continues in lieu of Congressional restructuring of the program. Given the large number of past reforms still being implemented, and the uncertainty of Superfund reauthorization in the near future, EPA decided to focus for the coming year on improving the implementation and effectiveness of existing reforms, rather than beginning new ones. The Final FY 1998 Superfund Reforms Strategy does, however, prioritize the existing reforms to help Regions focus their limited resources. It also lists 5 general implementation and evaluation goals for the year: commitment to the reforms in the Regions and Headquarters; refining reforms based on experience; communicating effectively the scope, goal and successes of the reforms; evaluating each reform to determine the most successful efforts; and measuring the progress of each reform and "telling the story" behind the numbers.

The reform priorities are divided between response action reforms and enforcement reforms. Under the rubric of response action reforms, the highest priority reforms are those that are designed to control remedy costs and promote cost effectiveness. Examples of this include the National Remedy Review Board, the updating of remedy decisions based on new information, science, or technology, and the use of presumptive remedies. Additional response action reforms of high priority are those that reduce transaction costs, enhance community and state involvement, and promote economic redevelopment.

The main focuses of the enforcement fairness reforms are the evaluation of enforcement pilots and the incorporation of successful ideas into the program, and the consistent integration of enforcement reforms such as the use of de minimis settlements, orphan share compensation, alternative dispute resolution, and expanded PRP searches, into the base program.

In addition to the continuance of reforms, some past ideas will be expanded. In 1998 the National Remedy Review Board will start reviewing non-time-critical removals that exceed \$30 million. Updating Records of Decision will also be expanded upon, though no concrete goals are being set by headquarters. It is up to the Regions to describe their plan for choosing remedies to update. EPA will also seek additional ways to reduce oversight of cooperative and capable PRPs that perform work at a site.

Among the enforcement reforms to be expanded is the orphan share reform, which will now allow PRPs that do not perform the work at the site to also receive orphan share compensation from the Trust Fund. Special accounts, which accrue interest on settlement funds at a given site, will soon be used to entice PRPs to perform work by

offering a share of the proceeds. Finally, the de micromis guidance has been revised, the cutoff levels doubled, and the use of this tool is to be increased in the future.

Two other efforts have been made to improve the program recently, though neither arose directly from a reform. One was the *Municipal Solid Waste Settlement Policy*, whereby the liability for generators and transporters of municipal solid waste, as well as the municipalities themselves, would be limited. Additionally, efforts have been made to increase coordination with states that have voluntary cleanup programs. The basic goal with this initiative is to encourage state voluntary cleanup programs to address lower risk sites and streamline the process for cleaning up these sites.

## 4. SUMMARY

In response to criticism of various aspects of Superfund, EPA has implemented and continues to implement a series of administrative initiatives intended to improve the Superfund program as it exists under the current statute. The Superfund Administrative Reforms focused on increasing enforcement fairness and reducing transaction costs, improving cleanup effectiveness and consistency, expanding public involvement, and enhancing the state role. A second round of Superfund Administrative Reforms, announced February 13, 1995, seeks to reform enforcement, encourage economic redevelopment, expand community involvement and outreach, promote environmental justice, ensure consistent program implementation, and empower states in the CERCLA process. The third round of Administrative Reforms, announced October 2, 1995, is designed to improve Superfund by making smarter cleanup choices that protect human health at less cost, reducing litigation by achieving common ground instead of conflict, and ensuring that states and communities stay more informed and involved in cleanup decisions. While some initiatives have been completed, work on others will continue as EPA awaits statutory reauthorization of CERCLA by Congress.