

United States  
Environmental Protection  
Agency

Office of Solid Waste  
and Emergency Response  
Washington, DC 20460

9202.1-24  
PB95-963203  
EPA 540-R-94-069  
February 1995

---

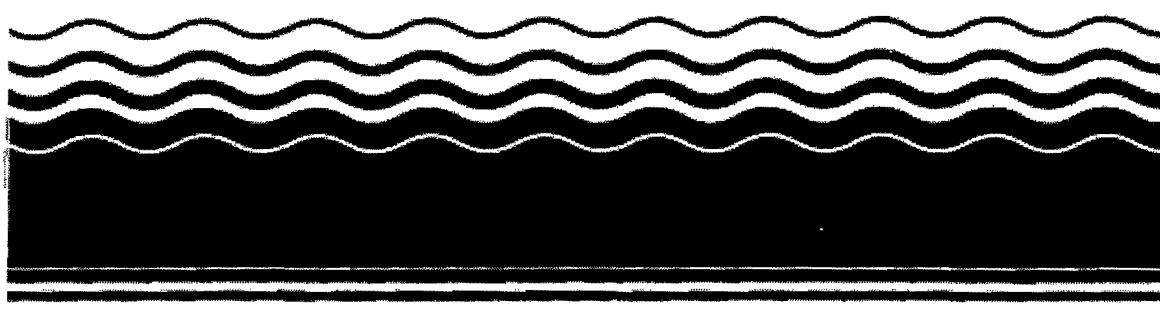
Superfund

---



# **Superfund Administrative Improvements Closeout Report**

## **June 23, 1993 – September 30, 1994**



 Printed on Recycled Paper

## **Initiative 9: State Deferral of Certain Site Categories**

### **Description**

The state deferral initiative presents an opportunity for states and EPA to coordinate the use of their limited resources more effectively and efficiently in addressing the large universe of hazardous waste sites potentially requiring cleanup. EPA and states have long agreed that the number of contaminated sites is larger than either level of government alone can address in the near future.

Over the past several years, many states have been developing increasingly sophisticated and experienced cleanup programs, and several states already address significant numbers of non-National Priorities List (NPL) sites under their own laws. Under the deferral program currently being developed, EPA will be able to defer consideration of certain NPL-caliber sites while interested and qualified states, territories, commonwealths, and federally recognized Indian Tribes compel and oversee potentially responsible party (PRP) response actions. The deferral program expects financially viable, cooperative PRPs to implement response activity. By deferring NPL-caliber sites, EPA will encourage both more cleanups and quicker cleanups than would occur if these sites were left in the queue for listing on the NPL. The deferral program does not anticipate using Superfund money to conduct response actions at deferred sites.

To implement the deferral initiative, the Agency established a work group to develop guidance for the program and to pilot the deferral concept at NPL-caliber sites. Representatives from every Regional office and several Headquarters offices were members of the work group. State officials also provided input on implementation issues and were responsible for conducting deferral pilots in their respective states.

### **Performance**

During FY 1994, the work group developed draft guidance, currently under final review, to ensure that responses at deferred sites protect human health and the environment, foster public involvement, and balance competing needs for flexibility and accountability. The guidance addresses

- Criteria states and other applicants should meet to participate in the program
- Criteria for determining site eligibility for deferral
- Cleanup levels that must be achieved at deferred sites
- Procedural requirements
- EPA oversight of deferral programs
- Financial assistance for deferral programs
- Community participation
- Response completion or termination

Deferral pilots are ongoing at 22 sites located in 7 different states. The workgroup initially identified 26 sites in 8 states for potential deferral pilots; 8 of the original sites were dropped from the pilot program and were replaced by 4 alternate sites. The Agency provided \$225,000 in financial assistance to Kansas and Maryland to facilitate the implementation of the deferral pilots for 15 of the pilot sites (\$15,000 per site). The 22 deferral pilot sites are

**Region 3:**

Healthways, DE  
Chicago Bridge and Iron, DE  
Harvey Knott Landfill, DE  
Anne Arundel County Landfill, MD  
Black and Decker, MD  
Bausch and Lomb, MD  
North Carroll Shopping Center, MD  
Bata Shoe, MD

**Region 4:**

Kentucky Industrial Haulers, KY

**Region 5:**

Canton Wood, OH

**Region 6:**

Terrero Mines, NM  
Blackwell Zinc, OK

**Region 7:**

Almena Agra Service, KS  
Deluxe Specialties, Inc., KS  
Gilbert-Mosley, KS  
Lakeside Hills, KS  
Scoular Grain, KS  
Fourth and Carey, KS  
ALLCO Chemical Corp., KS  
Third and Osage, KS  
Koch Chemical Co., KS  
Chevron Chemical, KS

The pilot sites were selected during development of the deferral guidance and were intended to provide experience in implementing the deferral concept. Experiences at the deferral pilot sites have been diverse. The Agency has identified four measures to assess progress at the pilot sites

- The presence of an agreement between EPA and the state specifying roles, responsibilities, and schedules of performance for the deferred site(s)
- The presence of an agreement(s) between the state and PRPs describing work to be performed
- Response action taking place at the deferred site
- Community support for the deferral

Ultimate measures of success for the deferral program would include levels of risk reduction, timeliness of response, cost, and community satisfaction. Such measures, however, are beyond the scope of evaluation for the pilots at this time.

### **Benefits**

Progress at the pilots has varied, but the deferral experiences so far confirm the value of the deferral concept and the draft deferral guidance developed by the work group. At the majority of the pilot sites, states have agreements with PRPs and investigations or remedial activities are underway. The states and EPA have also entered into formal deferral agreements for nearly all the sites. Finally, community reaction has generally been positive, although the extent of state interaction with communities has not been fully determined. At the majority of deferral pilot sites, EPA expects that environmental threats, risks to communities, and PRP uncertainty about liability will be addressed more quickly than if these sites remained in the NPL listing queue.

## **Lessons Learned**


The most significant factor influencing site progress has been the presence of an agreement with PRPs at a site. At a few sites, financially viable PRPs have not yet been identified or state negotiations with PRPs have not yet been successfully concluded. Without state/PRP agreements, timely responses at deferred sites and effective implementation of the deferral program could be precluded. Experience suggests that state/EPA agreements that clarify the respective roles of each agency and the expected outcomes at deferred sites facilitate response implementation.

The pilot experiences confirm the usefulness of the draft deferral guidance. In particular

- Site eligibility criteria, which include the presence of financially viable, cooperative PRPs, should be used to maximize the possibility of a successful deferral
- States and EPA should enter into formal agreements to clarify and document mutual understanding, identify site-specific project milestones, and encourage continuing site progress

## **Contact**

Alan Youkeles  
US EPA  
Office of Emergency and Remedial Response  
(703) 603-8784

	United States Environmental Protection Agency	Office of Solid Waste and Emergency Response	February 1995
	<b>Blackwell Zinc - Region 6</b>		

### Background

Over the past several years, many states have been developing increasingly sophisticated and experienced cleanup programs, and several states already address significant numbers of non-National Priorities List (NPL) sites under their own laws. Under the deferral program currently being developed, EPA will be able to defer consideration of certain NPL-caliber sites while interested and qualified states, territories, commonwealths, and federally recognized Indian Tribes compel and oversee potentially responsible party (PRP) response actions. By deferring NPL-caliber sites, EPA will encourage both more cleanups and quicker cleanups than would occur if these sites were left in the queue or listing on the NPL. The deferral program also expects financially viable, cooperative PRPs to implement response activity.

### Description of Site

The Blackwell Zinc site, one of the 22 pilot deferral sites, is located in Blackwell Industrial Park, on the western edge of Blackwell, Kay County, Oklahoma, a city with a population of 12,000. The site is approximately one-square mile in size. A zinc smelter operated on the Blackwell site from the mid-1930s until the mid-1970s.

During the business activities conducted on the site, an acid pond with a concrete liner was built. This liner has since cracked, and as a result, acid and contaminants entered the ground water. A drainage

ditch that runs through the site may have spread contamination to off-site sediment. In addition, people living in the area have used contaminated soil from the site as fill material in their yards and driveways. A bag house was installed during the operation of the zinc smelter to recover emissions and minimizing contamination of the air.

The contaminants of concern at the site are lead and cadmium. Sampling revealed that several locations have elevated concentrations of either lead or cadmium. The highest soil concentrations of lead encountered to date are approximately 2,000 parts per million (ppm), and the highest soil cadmium concentrations are approximately 250 ppm. Blood lead data collected by the Kay County Health Department showed that approximately three percent of the children screened have elevated blood lead concentrations.

### Implementation

Under the state deferral initiative, the State of Oklahoma is addressing contamination at the Blackwell Zinc site by compelling and overseeing PRP response actions. The Blackwell Zinc site was a good deferral candidate because the PRPs have been full and enthusiastic participants and are cooperating with the State.

A memorandum of understanding between the Oklahoma Department of Environmental Quality (ODEQ) and EPA was signed on April 19, 1994. The memorandum, which is based on Region 6 pilot deferral criteria, designates the Blackwell

Zinc site as a state deferral pilot. The PRPs at the site are Cyprus-AMAX and the Blackwell Industrial Authority (i.e., the City of Blackwell). ODEQ has entered into a consent order with these two parties to investigate and remediate the site.

The City of Blackwell is very concerned about the contamination at the site, and is pushing the PRPs to complete the work quickly. The local citizens are supportive of the deferral and site work is currently on schedule. The PRPs have conducted small scale removals at a city park and a local school. The equipment at an on-site softball field also has been removed. The methods of soil treatment currently being considered include: soil removal for disposal in a federally permitted land-fill; soil tillage to a predetermined depth; and use of a phosphate fertilizer to bind the lead.

Oklahoma prefers to perform its studies in phases and has completed approximately ten separate site studies that will culminate in a remedial

investigation (RI). The draft document is due to EPA in March 1995, and the final document must be submitted in May 1995.

### Findings

Because the RI will not be submitted to EPA until 1995, there are no definitive results of the process at the Blackwell Zinc site. Preliminary indications are that the initiative is a success. Deferring the site to Oklahoma's jurisdiction has expedited the involvement of the PRPs, the City, and the citizens living in the area.

### Contact

Ky Nichols  
US EPA Region 6  
(214) 665-6783