OTA (Congress's Office of Technology Assessment) believes the consequences are even worse: when PRPs do the RIFS work, instead of EPA doing it, non-permanent land disposal and containment techniques are used in place of permanent destruction technologies, untested technologies are selected, and less stringent cleanup goals are selected (clean isn't quite so clean).

OTA studied cleanups at four kinds of sites: wood preserving sites, PCB sites, lead battery sites, and big landfills. OTA said, "...we conclude that there is substantial difference in cleanup technology for sites in the enforcement program [where the work is done by PRPs] compared to sites in the fund program [where EPA is doing the work]." (pg. 163) For example, during fiscal year 1988, land disposal or containment was selected as a remedy in 42% of sites where PRPs did the work, vs. 12% where EPA did the work. OTA then observes, "There has been wide agreement for some time that land disposal and containment are not permanent remedies, are bound to fail eventually, and pose uncertain long-term costs and threats to health and environment. Indeed, many of EPA's RODs that have rejected land disposal and containment cite these reasons for doing so." (pg. 163)

The other side of this coin is that during the same period, permanent destruction techniques (incineration and biological treatment) were selected in 14% of the cases where PRPs did the work and in 44% of cases where EPA did the work.

OTA has suggested that Congress consider restricting the role of responsible parties to implementation of remedies and paying for remedies. After the social and political decisions are made (How clean is clean? Is non-permanent land disposal good enough for this community?), then it may be appropriate for a responsible party to perform the selected remedy. But the responsible party has a clear conflict of interest in deciding what should be done at a site they must pay to clean up; their goal, generally, will be to minimize their own costs, at the expense of the community. OTA considers this idea "ONE OF THE MOST IMPORTANT THAT IT HAS OFFERED IN THIS REPORT FOR CONGRESS'S CONSIDERATION" (pg. 54; emphasis in the original).

OTA says "A key goal of this [suggestion] is to BALANCE THE PARTICIPATION BY RESPONSIBLE PARTIES PRIOR TO RODS WITH THAT OF SITE COMMUNITIES" (pg. 55; emphasis in the original). The responsible party that conducts an RIFS has a major advantage over the community—the responsible party gets to control what information is collected, evaluated, and presented, and in what way. A responsible party doing an RIFS gains an inside track in the decision-making process leading up to the ROD. This is obviously unfair to the community that must live with decisions that are made on the basis of the RIFS.

Furthermore, says OTA, the current EPA oversight process, whereby EPA tries to see that responsible parties are doing a good job on RIFS, lacks accountability and provides "nearly no information to affected communities (e.g., critiques of responsible party contractor work)" (pg. 53).

--Peter Montague
