

## Who enforces CERCLA?

The EPA is and has been the chief enforcer of CERCLA, although the President is authorized to enter into agreements with states who wish to enforce the provisions of the Act. Also, the EPA must consult with the relevant state and local officials before deciding upon remedies for pollution at federal facilities, especially where the facilities or the remedies chosen fall within the reach of state environmental law.

## Who Investigates CERCLA violations?

The Administrator of the Act has authority to begin investigations whenever there is reason to believe that a release has occurred or may occur. The EPA, or a state or local authority acting under agreement with the EPA, may require the person or entity under investigation to provide them with information about the nature and handling of all hazardous materials on the site, as well as information related to the subject's ability to pay for the cleanup.

The Act also authorizes entry, at reasonable times, to any site dealing with hazardous materials and further authorizes the taking of samples from the site. If EPA requests are denied during the investigation phase, the agency may issue compliance orders to compel cooperation. The EPA can enforce these orders with civil fines of up to \$25,000 per day.

## What does a cleanup involve?

If the investigation confirms that a hazardous substance (or a pollutant or contaminant with the potential to pose an imminent threat to public health) has been released or may be released, the EPA may exercise any combination of several response options; removal action, remedial action, or enforcement. Permanent, cost-effective measures are encouraged by the Act wherever possible. Also, the cleanup must be in accordance with other appropriate federal or state environmental acts. The EPA, or the state in many cases, is empowered to undertake the cleanup, although the responsible parties may be permitted to begin a private cleanup if they can demonstrate to the EPA that it will be as effective as the proposed EPA measures. This option may be much less costly for parties who would otherwise be forced to pay for any EPA cleanup.

## Who is liable for the cleanup costs?

CERCLA is aimed at four types of potentially responsible parties:

1. owners of sites,
2. operators of sites,
3. transporters of hazardous substances, and
4. those who arrange for such transportation.

It is important to note that owners may be held liable even if they purchased land without knowledge of hazardous waste buried there. This has been a source of great concern to land buyers, foreclosing banks and others on the verge of acquiring land.

CERCLA requires that the location of any site containing hazardous materials be reported to the EPA. Additionally, prompt notification is also required after any spill or release of contaminated materials into the environment. Failure to report in either case may result in fines and or imprisonment.

CERCLA imposes strict liability and, therefore, does not require a specific finding of negligence before penalties may be imposed. Also, joint and several liability allows the EPA to force a party who may be responsible for only part of the damage to pay the entire cost of