



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Comprehensive Environmental Response Compensation Liability Act/Superfund: U.S. House of Representatives Energy and Commerce Committee Oversight Hearing

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The United States House of Representatives Committee on Energy and Commerce ("Committee") is holding a hearing today titled "*Oversight of CERCLA Implementation*".

The Comprehensive Environmental Response Compensation Liability Act ("CERCLA") was enacted in 1980.

CERCLA's objective is to clean up sites or facilities, where hazardous substances are released or potentially could be released in the environment. Despite the fact that CERCLA has not been the subject of significant amendments for many years, it is still an occasional focus of congressional oversight/interest.

As a side note, former United States Senator Blanche Lincoln (Arkansas) was a principal architect of one of the set of amendments a number of years ago. The legislation crafted a common sense exemption from Section 107(a)(3) for the sale of recyclables such as metal, paper, plastics, glass, textiles and rubber. She drafted the original set of amendments in 1994 during her tenure as a United States Representative from Arkansas's First District. The legislation was subsequently incorporated into a bill jointly introduced by the Senate Majority and Minority leaders (Omnibus Spending Bill) and signed by President Clinton in 1999.

CERCLA has not been solely a concern for generators of hazardous substances sent offsite for disposal. Its liability provisions have also been a material issue for those considering financing, leasing or purchasing various improved or unimproved properties. The potential purchaser, lessee, or secured creditor of a facility with even limited historical contaminations sometimes faces a dilemma. They must assess or consider the possibility that the breadth of jurisdictional terms provide a governmental enforcement agency the ability to order an investigation or remediation if it so chooses. As a result of these concerns, certain limited exemptions from CERCLA and analogous state superfund statutes (including Arkansas) and brownfield programs have been developed to address these real and/or perceived risks.

The Committee hearing is addressing issues such as:

- Were these problems associated with EPA's implementation of CERCLA?
- What improvements can be made to make the program more efficient and effective?
- Is there too much process associated with cleanups under CERCLA?
- Does the existing CERCLA process encourage or impede timely cleanups?

- Are there process changes that would facilitate more timely and efficient cleanups under CERCLA?
- Is the process that EPA has set out being followed?
- Is the level of delegation of decision-making authority for CERCLA cleanups from EPA headquarters of the regions appropriate?
- Is the role of the States in CERCLA cleanups appropriate?
- Would it make CERCLA cleanups more effective and efficient to have a more substantial role for the States?
- Many of the “easy” cleanups have been completed and what remains are the complex sites – is the statute adequate to direct EPA to implement a cleanup program that can effectively and efficiently address these cleanups?

The non-member witnesses at the hearing will include:

- Mathy Stanislaus, Assistant Administrator for the Office of Land and Emergency Management, United States Environmental Protection Agency
- Amy Brittain, Environmental Programs Manager, Site Remediation Section, Land Protection Division, Oklahoma Department of Environmental Quality (on behalf of the Association of State and Territorial Solid Waste Management Officials)
- Steve Nadeau, Partner, Honigman
- Marianne Horinko, President, The Horinko Group
- Robert Spiegel, Executive Director, Edison Wetlands Association

[A link to the witness statements can be found here.](#)