
violations in areas such as record keeping and reporting can receive field citation penalties of up to \$5000 per day. To spread its reach, the EPA can award up to \$10 thousand to anyone furnishing information leading to a criminal conviction or judicial penalty.

There is some debate in the U.S. regarding whether environmental audits should provide grounds for subsequent criminal prosecution. While the legislative history suggests that audit results would normally not be used in a criminal prosecution - if remedial action is taken promptly - it is likely that civil and administrative enforcement may result from information discovered through audits.

Superfund Liability Concerns

There are various statistics pertaining to the Superfund, not always consistent in magnitude, although always consistent in the message. Namely that the fund designed to clean up old toxic-waste sites has been a disaster.

A recent study by the Rand Institute, for example, suggests that 88 cents of every dollar spent by insurers on sites in 1989 went to cover legal fees and the like, rather than on dealing with dumps and remediation. From its searches of 420 hazardous sites, the EPA has identified 14 thousand "potentially responsible parties". Sorting out these PRPs and allocating costs to the guilty parties entails substantial cost - both in time and money. A full decade after the establishment of the Superfund, fewer than 5 percent of the National Priority List of 1240 sites (expanding at 100 per year) have been fully cleaned up. The average site is taking 6-8 years from the time it is first investigated until the time cleanup is completed - the average cost is \$26 million.

The delays in most environmental projects stem from the confusion regarding which party will be paying for a cleanup. There is general agreement that the party responsible for the waste pays to clean it up. However, the debate over liability continues. Some argue that local governments who haul household garbage to Superfund sites should share in the cost of cleaning them up. The banking community has objected to being held liable through their holding title, as lenders, to contaminated property. A recent ruling (July, 1992) in Los Angeles, for example, stipulated that the state which licensed a pollution-generating site should bear 75-85 percent of the ultimate remediation liability. The ruling pleased industry and displeased the California government which claimed that because it was acting as a regulator, it should have blanket protection from liability. Rulings such as these are made and appealed frequently - each shapes the future of who should pay for such cleanups although each also introduces substantial delays into the system.