

APPENDIX A

KEY INTEREST GROUPS AND POLICY POSITIONS

American Banking Association

- Supports secured creditor provisions of Clinton Administration's proposal.
- Pushing for quick passage of amendments to overrule D.C. Circuit ruling invalidating EPA's lender liability rule.

American Insurance Association

- Coalition of insurance companies providing property and casualty insurance.
- Wants to abolish CERCLA's liability system in favor of a public works trust fund approach.

American Petroleum Institute

- Opposes any proposal which would increase the environment tax.

Chemical Manufacturers Association

- Supports the retention of the strict, joint and several liability scheme, but prefers a binding allocation scheme under which federal administrative law judges would allocate cleanup responsibilities among PRPs.

Coalition on Superfund

- Committee comprising insurance, manufacturing, environmental service, natural resources and chemical companies.
- Supports allocation system and insurance trust fund to cover pre-1986 contamination liability.

Hazardous Waste Action Coalition

- Association of response action contractors ("RACs").
- Seeks greater liability protections for RACs and greater incentives for innovative technology.

Hazardous Waste Treatment Council

- Association of hazardous waste treatment firms, remedial response companies and equipment manufacturers.
- Supports contractor liability protection and incentives for innovative technology.

National Association of Manufacturers

- Opposes the capping of municipal liability and other measures that would increase liability for "deep pocket" interests.

National Commission on Superfund

- Committee of chief executives from manufacturing, oil, chemical and insurance companies, as well as municipal governments, small business and labor organizations.
- Concerned mainly with cost-savings provisions.

APPENDIX B

103rd Congress - Status of Superfund-Related Bills

U.S. HOUSE OF REPRESENTATIVES

BILL	Title	Sponsor	Summary	Current Status
HR 540	Toxic Pollution Responsibility Act of 1993	Rep. Christopher Smith (R-NJ)	Provides that municipalities and other persons shall not be liable for the generation or transportation of municipal solid waste	Pending in the Committee on Energy and Commerce
HR 541	Toxic Pollution Responsibility Act of 1993	Rep. Christopher Smith (R-NJ)	Establishes a maximum limit on liability for municipalities for the generation or transportation of municipal solid waste	Pending in the Committee on Energy and Commerce
HR 570	Innocent Landowner Defense Amendment of 1993	Rep. Curt Weldon (R-PA)	Provides a specific definition of the requirement that a purchaser of real property make all appropriate inquiry into the previous ownership and uses of the real property in order to qualify for the "innocent landowner" defense	Pending in the Committee on Energy and Commerce
HR 768	CERCLA Amendments	Rep. Glenn English (D-OK)	Requires certain states to contribute to other states' share of cleanup costs	Pending in the Committee on Energy and Commerce and the Committee on Public Works and Transportation

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APPENDIX B (Continued)

Bill	Title	Sponsor	Summary	Current Status
HR 870	Toxic Cleanup Equity and Acceleration Act of 1993	Rep. Robert Torricelli (D-NJ)	Provides relief to local taxpayers, municipalities and small businesses regarding the cleanup of hazardous substances	Pending in the Committee on Energy and Commerce and the Committee on Public Works and Transportation
HR 1125	CERCLA Amendments	Rep. Rick Santorum (R-PA)	Requires a preference for interim measures in carrying out response actions consistent with the protection of public health, welfare and the environment	Pending in the Committee on Energy and Commerce and the Committee on Public Works and Transportation
HR 1358	CERCLA Amendments; Solid Waste Disposal Act Amendments	Rep. Norman Mineta (D-CA)	Provides a specific definition of the innocent landowner defense, limits municipal liability for the generation or transportation of solid waste and regarding the management of used oil	Pending in the Committee on Energy and Commerce and the Committee on Public Works and Transportation
HR 2137	Toxic Cleanup Equity Act of 1993	Rep. Robert Torricelli (D-NJ)	Provides relief to local taxpayers, municipalities and small businesses regarding the cleanup of hazardous substances	Pending in the Committee on Energy and Commerce and the Committee on Public Works and Transportation

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APPENDIX B (Continued)

Bill	Title	Sponsor	Summary	Current Status
HR 2462	CERCLA Amendments; Solid Waste Disposal Act Amendments	Rep. John LaFalce (D-NY)	Limits the liability of fiduciaries and lending institutions	Pending in the Committee on Energy and Commerce and the Committee on Public Works and Transportation
HR 2709	Expedited Hazardous Site Cleanup Act of 1993	Rep. Mike Kreidler (D-WA)	Encourages owners and operators of contaminated sites to clean up those sites	Pending in the Committee on Energy and Commerce and the Committee on Public Works and Transportation
HR 2718	CERCLA Amendments; Solid Waste Disposal Amendments	Rep. Christopher Cox (R-CA)	Limits the liability of lenders and fiduciaries	Pending in the Committee on Energy and Commerce and the Committee on Public Works and Transportation
HR 2737	Risk Assessment Study of Superfund Sites	Rep. Dean Gallo (R-NJ)	Requires EPA to study Superfund sites to assess the progress in reducing health and environmental risks, and to prioritize the need to clean up remaining sites	Pending in the Committee on Energy and Commerce
HR 3043	Industrial and Commercial Land Recycling Act	Rep. Tom Ridge (R-PA)	Encourages voluntary environmental cleanup of industrial sites; clarifies liability of new industries, financial institutions, and tenants; and provides for the registration of environmental consulting professionals	Pending in the Committee on Energy and Commerce and the Committee on Public Works and Transportation

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APPENDIX B (Continued)

Bill	Title	Sponsor	Summary	Current Status
HR 3620	CERCLA Amendments	Rep. Fred Upton (R-MI)	Clarifies the innocent landowner defense, encourages voluntary cleanups, establishes a remediation credit program, and limits the liability of "owner-operators"	Pending in the Committee on Energy and Commerce, the Committee on Public Works and Transportation and the Committee on Ways and Means
HR 3624	Superfund Liability Reform Act	Rep. Rick Boucher (D-VA)	Provides a system for allocating shares of liability to liable parties at Superfund sites	Pending in the Committee on Energy and Commerce and the Committee on Public Works and Transportation
HR 3800	Superfund Reform Act of 1994	Rep. Al Swift (D-WA)	Contains Clinton Administration's proposed amendments	Hearings held in the Committee on Public Works and Transportation. Also pending in the Committee on Energy and Commerce
HR 3865	CERCLA Amendments	Rep. Nancy Johnson (R-CT)	Provides for the cleanup of municipal waste landfill Superfund sites	Pending in the Committee on Energy and Commerce and the Committee on Public Works and Transportation

APPENDIX C

103rd Congress - Status of Superfund-Related Bills

U.S. SENATE

Bill	Title	Sponsor	Summary	Current Status
S.343	Toxic Cleanup Equity and Acceleration Act of 1993	Sen. Frank Lautenberg (D-NJ)	Provides liability relief to local taxpayers, municipalities, and small businesses	Pending in the Committee on Environment and Public Works
S.965	Toxic Cleanup Equity Act of 1993	Sen. Frank Lautenberg (D-NJ)	Provides liability relief to local taxpayers, municipalities, and small businesses	Pending in the Committee on Environment and Public Works
S.1124	Depository Institutions Regulatory Improvements Act of 1993	Sen. Alfonse D'Amato (R-NY)	Amends CERCLA to limit lender liability if property was acquired in the ordinary course of business	Incorporated into S.1275 the Community Development Banking bill which has been reported out by the Banking Committee
S.1139	Responsible Environmental Management Act of 1993	Sen. Frank Lautenberg (D-NJ)	Provides for reform of environmental contracting	Hearings held by the Governmental Affairs Committee
S.1834	Superfund Reform Act of 1994	Sen. Max Baucus (D-MT)	Contains Clinton Administration's proposed amendments	Hearings held by the Committee on Environment and Public Works

ADDENDUM INSURANCE TRUST FUND (SECTION III)

This addendum to the Insurance Trust Fund discussion of Section III of the *Superfund Legislative Alert: A Primer on the 1994 Reauthorization of CERCLA* summarizes the major elements of a newly-released insurance/industry consensus proposal under which defendants at Superfund sites could be reimbursed based on their insurance coverage for a portion of liability stemming from pre-1986 contamination. The new proposal, offered by a consortium of insurance and industry executives known as the Coalition on Superfund, increases the stakes for various parties affected by Superfund liability -- favorably for some and unfavorably for others. The Coalition's proposal was examined during hearings in mid-March before the Subcommittee on Transportation and Hazardous Materials of the House Energy and Commerce Committee.

Under the Clinton Administration's proposal, proceeds from a tax on insurance companies would be deposited into a trust fund known as the Environmental Insurance Resolution Fund ("EIRF"), which would be used to pay for a portion of the cleanup costs at certain Superfund sites. The Coalition's proposal would restructure the Administration's plan to force greater participation by insureds in the trust fund process, in return for a sizeable increase in the amount which insurers would contribute to the fund. Insurance companies' contribution to the fund would increase from a total of \$2.5 billion per year over five years under the Administration's proposal to \$8.1 billion over 10 years. The proposal includes these major elements:

Minimum Participation Requirement: If more than 15 percent of all insureds engaged in litigation concerning coverage for liabilities at National Priorities List Superfund sites reject an offer to participate in the EIRF within 45 days after acceptances are due, the program would be terminated and all fees paid by insurance companies refunded.

Disincentive for Rejection of Offer: If an eligible participant rejects an offer and does not recover a greater amount in litigation, it would be required to pay 50% of the defendant insurers' defense costs, as well as the "direct costs incurred thereafter by the insurance companies which are attributable to eligible sites." This amount cannot exceed, however, 200% of all attorneys fees, other litigation costs, and direct costs reasonably incurred by a company in pursuing insurance coverage.

Graduated Recovery Scheme: Under the President's proposal, the amount which a party could recover from the Fund would depend on the relative success of insureds in coverage litigation in a given state. The Coalition's proposal would in fact actually categorize the states according to the percentage of recovery that an insured would be able to recover under its applicable insurance policies. In addition, an insured's recovery would be further adjusted on the basis of a formula accounting for the state of venue, where venue has been established, and the number of sites located in other states. As a result, insureds could recover 60% of their covered liability if all their sites were located in: California, Colorado, Georgia, Illinois, New Jersey, Washington, West Virginia, or Wisconsin. The following states would be placed in the 20% recovery category: Florida, Maine, Maryland, Massachusetts, Michigan, New York, North Carolina, and Ohio. All other states would fall in the 40% recovery category.

Eligibility: Eligibility could be denied to anyone who has not filed a claim against or engaged in settlement discussions with an insurer before January 1, 1994, unless the person had not received notice of its potential liability as of January 1, 1993.