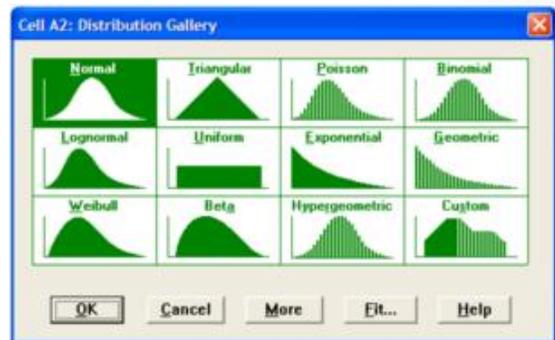


Divisibility & Liability Apportionment

Overview

The value of information related to the nature and sources of contamination at CERCLA and similar sites has increased as a result of the Supreme Court's 2009 ruling in Burlington Northern. The Court held that a potentially responsible party (PRP) can avoid joint and several liability if it demonstrates a "reasonable basis" for determining its contribution to the site contamination. While the reasonable basis standard will continue to evolve, this ruling further opens the door for PRPs to present science-based evidence for establishing their share of contaminant inputs to terrestrial and sediment sites, and in doing so, to limit their liability.



Exponent scientists have been supporting clients in developing technically sound apportionment strategies and obtaining appropriate evidence for more than 20 years. This work has resulted in successful, quantitative apportionment of chemical inputs to CERCLA sites as determined by the courts.

One of our core "signature" areas of business and technical excellence is our practice of [Environmental Forensics](#), in which a group of senior practitioners have developed, published, and applied scientific methods for developing technical bases for apportioning chemical contributions at sediment and terrestrial sites. The need for Environmental Forensic investigations frequently arises when there are successive owners of a contaminated property, multiple operations at a site and/or over time, commingled groundwater plumes, or baseline conditions that need to be factored into apportionment. Our Environmental Forensics project experience includes historical reconstruction of releases, geospatial analyses, fate-and-transport expertise coupled to a deep chemical expertise with chlorinated solvents, dioxins, metals, PAHs, PCBs, oil spills, pesticides, petroleum hydrocarbons, MTBE and other product additives, chlorinated phenols, and many other compounds.

Technical apportionment results are then used with other factors as part of [Cost Allocation](#) approaches to arrive at reasonable and fair results for all parties.

Working with our colleagues from [Environmental Cost Consulting](#), [Site Investigation & Remediation](#), [Natural Resource Damages](#), and related practice areas, we provide an integrated approach to apportionment investigations. Such an assignment may combine historical documentation such as aerial photographs, maps, facility engineering, and other company records, with fact-witness accounts and recent environmental monitoring data. The tools we use are many, including chemical fingerprinting, probability cost analysis, transport modeling, and chemical contribution reconstruction. When existing data are insufficient, we can design and implement site assessment programs. We work with our clients to integrate such information into a reasonable, defensible basis for liability apportionment and cost allocation.