

## Toxic Soup and the 106th US Congress

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PBT, IPM, CERCLA, EPCRA, CAS, FIFRA<sup>1</sup>—If this toxic soup sounds complicated to you, think what it must be like for a legislator who must deal with a multitude of issues. How has the current 106th Congress tackled the issues related to this soup? How are the many views on such a complex issue reflected in congressional actions? The “dance of legislation” is a fascinating, often confusing and frustrating process. It can be especially difficult for legislation concerning complex scientific and environmental topics. Many environmental topics have scientific uncertainty, as well as often competing corporate, public health and political interests involved.

This year the House considered several bills reforming Superfund. Two competing bills, HR 1300 and HR 2580, passed out of committee and were waiting to go to the full House of Representatives when the session ended in late November 1999. They could be resurrected when the Congress returns in January, or merged into a new bill.

HR 1300, introduced by Representative Boehlert (R-NY) and co-sponsored by 143 other representatives, is called the Recycle America's Land Act of 1999. The House Transportation and Infrastructure Committee approved this bill in September by a margin of 69 to 2, and sent it to the House. Concurrently, the House Committee of Commerce approved HR 2580, introduced by Representative Greenwood (R-PA) with 16 cosponsors.

Senate committees also were reviewing some Superfund bills when the session ended. These included S 1105, introduced by Senator Baucus (D-MT) and S 1537, introduced by the late Senator Chafee (R-RI), but this article will focus on the House bills

which passed out of committee before the end of the 1999 session.

These bills address the reform of Superfund, especially the issues of liability, control of states over the cleanup program, cleanup standards and remedy selection procedures, as well as the reauthorization and continued funding of Superfund. Until now the Superfund has been funded by an excise tax on petroleum and specified chemicals as well as a corporate income tax. This tax expired at the end of 1995, leaving the fund with enough money to last until about the year 2001, assuming a continuation of money from the general fund and the same appropriation level. This fund is used when a financially viable party cannot be found to pay for a cleanup. Environmental groups want the tax reinstated so that the “polluter pays” principle of toxic cleanups can continue. Without the tax, Congress will use more general fund monies to pay for cleanups.<sup>2</sup> However, industry groups and others argue that the tax should not be reinstated without reform of the Superfund law (CERCLA). The Ways and Means Committee must reinstate the tax. HR 1300 recommends the tax be reinstated at least for eight years. HR 2580 does not.

These bills also address the cleanup of so-called brownfield sites. They are less serious industrial and commercial hazardous waste sites, not included in CERCLA, but included in Superfund authority. These sites are idle or underused because redevelopment is complicated by potential environmental contamination. These bills would put into law the brownfield programs for assessment grants and for revolving loan fund grants.

Industry groups, such as the U.S. Chamber of Commerce, support both HR 1300 and HR 2580 because they begin to address long standing issues that cause cleanup of sites to become long, drawn out and expensive propositions. They want to see reforms in the liability and cleanup standards sections

of the law. Both the National Governor's Association and U.S. Conference of Mayors support them because they want action soon on the issue of brownfields. Cities want these old industrial sites “recycled” so that new businesses can contribute to their tax base and provide jobs in the city.

In some respects, HR 1300 appears more environmental friendly than HR 2580, since the latter exempts more businesses and organizations from liability, relaxes cleanup standards, and assigns more of the costs of cleanups to the general treasury. It also limits the Environmental Protection Agency's (EPA's) ability to list a site on its National Priorities List without the permission of the governor of the affected site, and does not recommend the reinstatement of the Superfund excise tax.

However, the Clinton Administration, the EPA, and environmental groups such as the Environmental Defense Fund and the Sierra Club oppose both the House bills. They are concerned that extensive re-vamping of the law after 20 years of implementation may result in the delay of cleanups as all parties deal with the new law. They are also concerned about the exemptions from liability for “small” businesses, (defined as less than 75 people and less than \$3 million in gross revenues), used oil generators and transporters, recyclers and municipalities. The issue of cleanup standards is another concern, particularly whether on-site containment of pollutants is preferred to removal of pollutants, and whether remedies must meet “relevant and appropriate requirements” of other laws.

The Environmental Defense Fund supports a different bill, HR 2956, called the Children's Protection and Community Cleanup Act and introduced in October by Representative Pallone (D-NJ) with 33 sponsors. This bill, according to the Environmental Defense Fund, “strengthens protections, gives communities a stronger voice in Superfund decisions, closes liabil-

ity loopholes, and improves community right-to-know." At the end of session, this bill was still in subcommittee.

In addition to Superfund issues, members of Congress introduced other bills related to toxics and bioaccumulation this session. All were still in committee at the end of the session in November. Action on any of them could happen in the year 2000. Senator Murray (D-WA) and Senator Torricelli (D-NJ) introduced a bill to amend FIFRA to require local schools to implement Integrated Pest Management, thus reducing the use of pesticides on school grounds. S 1716, the School Environmental Protection Act of 1999 was referred to the Committee on Agriculture in October of 1999. Senators Boxer (D-CA) and Lautenberg (D-NJ) introduced S 1112, the Children's Environmental Protection Act. The bill asks the EPA to ensure that each environmental and public health standard for a pollutant adequately protects children and other vulnerable populations. In the House, Representative Waxman (D-CA), with 137 cosponsors, introduced a similar bill, HR 1657. Called the Children's Environmental

Protection and Right to Know Act, it expands the information included in toxic chemical release forms, and asks the EPA to establish thresholds for toxic chemicals which may be a risk to children's health.

Congress is dependent on environmental professionals for accurate and up-to-date information on toxics, Superfund and other environmental issues. Keep in touch with your member of Congress. Search the web for information on current legislation. Try <<http://thomas.loc.gov>> for status and text of bills. Try <[www.cnie.org](http://www.cnie.org)> for access to government reports on current legislation. Help Congress digest its toxic soup!<sup>3</sup>

### Notes

1. A common vocabulary is essential for communication. Yet one indication of the complexity of toxics is the number of acronyms, as well as the need for new words and concepts. My dictionaries, for instance (both in my computer spell check and my old fashioned hard-bound volume) do not have the word bioaccumulation in them. Neither do they like the word toxics (as opposed to toxic chemical) or brownfields! So, as a first step in dissecting current legislation and

actions concerning toxic chemicals, let me explain the acronyms at the beginning of this article. PBT stands for "persistent bioaccumulative toxics", IPM is integrated pest management, CERCLA is the so-called Superfund bill, the Comprehensive Response, Liability and Compensation Act of 1980. EPCRA is the Emergency Planning and Community Right-to-Know Act of 1986. CAS is "Chemicals Abstract Service Registry", the Environmental Protection Agency's list of toxic chemicals. FIFRA is the Federal Insecticide, Fungicide, and Rodenticide Act.

2. Congress approved slightly less than Clinton's request for the Superfund program for fiscal year 2000 (\$1.4 billion, rather than \$1.5 billion). Half of the money comes from the Superfund Trust Fund and half from general revenues. In 1999 the appropriation of \$1.5 billion, included \$1.175 from the fund and only \$325 million from general revenues.

3. Most of the material for this article came from Congressional Research Service Issue Brief, IB10011, *Superfund Reauthorization Issues in the 106th Congress*, accessed through the Committee for the National Institute for the Environment, <[www.cnie.org](http://www.cnie.org)>.

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