

# GOP Proposal Would Repeal Key Superfund Component

## *Cleanup of Older Hazardous Waste Sites Is at Issue*

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Congressional Republicans, stepping up a drive to reshape U.S. environmental policy, have proposed repealing a key component of the nation's hazardous waste cleanup law that requires industry and other private-sector groups to pay for cleaning up the waste sites they created before 1980.

The draft plan, presented by Sen. Robert C. Smith (R-N.H.), has drawn criticism from the Clinton administration, community activists and environmentalists. "Such proposals are a fix for wealthy special interests," said Environmental Protection Agency Administrator Carol M. Browner. "They abandon the principle that the polluter must pay for the mess they make."

The plan is part of a proposed revision of the Comprehensive Environmental Response Compensation and Liability Act (also known as the Superfund law), passed in 1980 to establish guidelines for industry and the federal government to clean up disposal sites for hazardous materials.

In his role as chairman of the Senate subcommittee on Superfund, waste control and risk assessment, Smith has taken the lead in reshaping the Superfund statute. He distributed a copy of his draft to lawmakers and the media last week and plans to complete the bill later this summer. Rep. Michael G. Oxley (R-Ohio) is preparing to introduce a similar proposal in the House.

Smith's proposal has rekindled the debate about how the U.S. should clean the thousands of toxic waste dumps scattered around the country. The Superfund program, marred by legal disputes and delays, is widely regarded as one of the least successful federal anti-pollution initiatives. Of more than 1,200 waste sites on the EPA's national priority list, fewer than 200 have been cleaned up in the 15 years since Congress passed the statute.

Smith recommends the repeal of programs that allow state governments to pass on to industry the costs of cleaning up some waste dumps. He also recommends that the federal government assume responsibility

Smith's plan is a proposal to abolish the current Superfund statute's "retroactive liability" clause, which makes parties who created toxic waste dumps prior to 1980—when the law was passed—responsible for cleaning them up. That provision is hugely unpopular with chemical manufacturers and other industry groups, who have spent millions of dollars in lawsuits battling charges from community activists that they bear responsibility for creating hundreds of toxic waste sites.

"To say that you are now responsible for cleaning up something you did years ago that in most cases was legal raises a fairness question," said Mort Mullins, a senior official at the Chemical Manufacturers Association (CMA), which favors repealing the retroactive liability clause.

According to Smith's proposal, the federal government—not the polluters—should be responsible for the cleanup of dumps that existed before 1980. The burden of cleaning up pre-1980 sites would total \$1.3 billion, according to a Congressional Budget Office estimate.

Environmentalists attacked Smith's recommendation. "It does not address the fundamental question of who's going to pay for the cleanups," said Bill Roberts, a Superfund specialist with the Environmental Defense Fund. "If the federal government takes on responsibility, it would either mean increased taxes or a decrease in the number of sites cleaned up or a decline in the quality of cleanups," he added. "Either way, the result would be unfair."

An analysis prepared by EPA officials and made available to The Washington Post finds fault with several aspects of the Smith plan. It said the plan would cripple ongoing attempts to clean ground water supplies at Superfund sites, would undermine efforts to involve community leaders in cleanups and would slow the pace and impair the quality of cleanups.

If lawmakers want to repeal retroactive liability, they must address the key questions of how to pay for future cleanups and how companies that already have paid for cleaning pre-1980 sites should be compensated, said Paul Portnoy of Resources for the Future, co-author of a book on the Superfund law.

"In my view, the retroactive liability issue was flawed from the beginning," he said. "But that doesn't mean it will be that easily resolved."

for cleaning up Superfund sites designated after 1980 in cases where the question of who created the waste site is under dispute. He further recommends that the number of new sites added to the priority cleanup list be capped at 30 a year.

But the most controversial aspect of