

authorization for this program expired in 1994, leaving it susceptible to the whims of the budget and appropriations process. As evidence of this, one need only look at the President's proposal for the SRF in the FY 2000 budget. If enacted, his proposal of \$800 million would amount to a \$550 million cut compared to the enacted FY 99 level of \$1.35 billion. A significant cut such as this would be particularly problematic at a time when the need for this investment is enormous. The Environmental Protection Agency estimates that in the next 20 years the country faces wastewater infrastructure needs of more than \$139.5 billion, a figure acknowledged by most to be a conservative estimate. These documented needs exist in rural and urban areas in every state. The expense to our environment and the taxpayers will only increase the longer we procrastinate in addressing these needs.

We need to demonstrate a strong commitment to safe and livable communities. I feel this legislation marks an important stride in this effort. I would like to thank my good friend and colleague, Representative ELLEN TAUSCHER of California, for her assistance on this legislation, and I certainly hope that our colleagues will join us in the effort to reauthorize the Clean Water State Revolving Fund.

THE BROWNFIELDS REMEDIATION
WASTE ACT OF 1999

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1999

Mr. OXLEY. Mr. Speaker, today, along with Mr. TOWNS, the distinguished ranking member of the Subcommittee on Finance and Hazardous Materials, I am introducing H.R. XX the Brownfields Remediation Waste Act of 1999. This Act reflects a bipartisan effort that will do a number of things to improve the Nations' cleanup program and, most important, remove barriers and disincentives that have been problems for Brownfields and voluntary cleanup programs in all States.

These problems were not fully understood or thought through when Congress passed the 1984 Amendments to the Resource Conservation and Recovery Act (RCRA). We should not let broken legislation stand in the way of remediation activities. Overall, the bill will remove barriers and disincentives and tap the expertise of EPA and state programs to tailor effective solutions without the straightjacket that has inhibited actions for 15 years. We have worked on this bill with the input of State agencies and the cleanup contractors, both of whom want to see more remediation activity.

The brownfields problems has many sources and many proposals to help bring new life to these areas. Brownfields, loosely defined as abandoned or underutilized former industrial properties where actual or potential environmental contamination hinders redevelopment or prevents it altogether. The U.S. Environmental Protection Agency ("EPA") estimates that there may be as many as 450,000 such sites nationwide.

This epidemic poses continuing risks to human health and the environment, erodes

States and local tax bases, hinders job growth, and allows existing infrastructure to go to waste. Moreover, the reluctance to redevelop brownfields has led developers to undeveloped "greenfields," which do not pose any risk of liability. Development in these areas contributes to suburban sprawl, and eliminates future recreation and agricultural uses.

In the view of many, Federal law itself can be a culprit. The fundamental flaw in RCRA that hinders cleanup is that the law was primarily designed to regulate process wastes, not cleanup wastes. As a result, the law requires stringent treatment standards, usually based on combustion, for most wastestreams; establishes lengthy permit requirements; and otherwise presumes that process wastes are continuously generated and disposed of at an ongoing manufacturing facility. RCRA's requirements are awkward, expensive, and hinder and prevent cleanup.

EPA has stated: ". . . EPA has long believed that changes in the application of certain RCRA requirements to remediation waste are appropriate. While the Agency has not endorsed any specific legislative proposal, we continue to believe reform to application of RCRA requirements to remediation waste, especially RCRA land disposal restrictions, minimum technology, and permitting requirement if accomplished appropriately, could significantly accelerate cleanup actions at Superfund, Brownfield, and RCRA Corrective Action sites without sacrificing protection of human health and the environment."—Letter from Michael Shapiro, Director, Office of Solid Waste, U.S. EPA to Doug MacMillan, Executive Director, Environmental Technology Council dated January 27, 1997.

"Perhaps the largest expense of RCRA is the enormous cleanup costs associated with the corrective action program. Although the RCRA corrective action cleanups could have been limited to address failures of the RCRA prevention program for as-generated wastes, Congress drafted the statute more broadly to capture old, historic wastes as well. RCRA corrective action and closures, state cleanups, CERCLA actions and voluntary cleanups often involve one-time management of large quantities of wastes. Under RCRA, management of these wastes may trigger obligations to comply with RCRA procedural and substantive requirements. For example, RCRA permits may be required for voluntary cleanups or state cleanups. Obviously this could seriously delay cleanups and dramatically increase their costs.

In addition, RCRA substantive standards are designed primarily for wastes generated from ongoing industrial processes and may not fit well in remedial situations. For example, requirements for pretreatment of cleanup wastes may foreclose other cost-effective yet protective cleanup options. . . ."—Don Clay, Assistant Administrator U.S. EPA before the House Committee on Transportation, March 10, 1992.

State cleanup agencies have also noted these problems: "At some voluntary sites, on-site management of contaminated soils triggers the application of RCRA management requirements. While volunteers should use best management practices and comply with RCRA for offsite management of soil, meeting RCRA requirements onsite only serves to increase costs without providing any commensurate

benefits to the cleanup."—Don Schregardus, Director Ohio, EPA, February 14, 1997.

". . . The objectives for site cleanups versus ongoing hazardous waste management differ markedly. The RCRA Subtitle C hazardous waste regulatory framework is designed to ensure the long-term safe management and disposal of as-generated hazardous wastes (sometimes termed "Process wastes"). RCRA Subtitle C is a prevention-oriented program containing many detailed procedural (permitting) and substantive requirements (land disposal restrictions and minimum technology requirements). Conversely, the objective of site cleanups is to achieve an effective, environmentally protective solution to existing contaminated sites. For this reason, application of RCRA Subtitle C requirements to wastes that have already been released to the environment (i.e. contaminated media) can, in many cases, increase costs and delay site remediation efforts without significant environmental benefit."—Catherine Sharp, Environmental Programs Administrator, Waste Management Division, Oklahoma department of Environmental Quality, on behalf of the Association of State and Territorial Waste Management Officials before the House Committee on Commerce Transportation and Hazardous Materials on, July 20, 1995.

Indeed, State cleanup agencies have asked to make this legislation a priority and the legislation builds and principles adopted by the National Governors Association.

Cleanup contractors have also asked us to pursue this legislation: "The Hazardous Waste Action Coalition (HWAC) the association of leading engineering, science and construction firms practicing in multimedia environmental management and remediation, strongly encourages [Congress] to make RCRA legislative reform a top priority . . . to [produce] a sound bipartisan approach to removing impediments under RCRA. . . . For example, RCRA's land disposal restriction requirements can completely eliminate many technically practicable remedies from even being considered. HWAC strongly believes that only legislative reform of RCRA [will] remove this and other disincentives to cleanup of RCRA contaminated waste sites."—Letter from the Hazardous Waste Action Coalition dated January 6, 1998.

Clearly the Brownfields Remediation Waste Act of 1999 addresses a real set of problems. The bill is tailored to do a number of things to address these problems. First, the bill provides EPA new authority to tailor regulations for the management of remediation wastes from brownfields, voluntary, State and other site cleanups without applying the often rigid and inappropriate regulations designed for newly generated process waste—thus, allowing EPA to remove barriers to fast and efficient cleanups. Second, the Act shields EPA's recent common-sense regulations concerning remediation wastes from unnecessary and disruptive litigation. Third, the bill will provide needed flexibility for offsite remediation waste management units. Finally, the Act allows State programs, subject to EPA review and approval, to run protective remediation waste programs tailored to their brownfields, voluntary response or other programs.