

Rachel (Brittany) Mayo

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## Amplifying Dumping and Hazardous Chemical Waste Policy in the U.S

**Goal:** The goal of this policy is to improve existing policies governing the disposal of hazardous chemical waste and other contaminants across the United States, as well as to address productive enforcement.

**Scope:** According to the Environmental Protection Agency, there are 1,866 sites that have been identified as having been contaminated by hazardous waste. There are approximately 21 million people, collectively, who live within one mile of these sites. (Environmental Protection Agency, 2021.) This toxic waste comes from various sources including, but not limited to: development of energy, agriculture practice, and other industrial activity. (Smith, 2018). There are about 2,000 new chemicals being introduced each year. (Scialla 2016). Most often, waste is disposed of illegally and improperly. While there are federal acts (for various types of substances) in place to attempt to control improper disposal, there are also regulatory problems that come along with them including, but not limited to, cost of cleanup, lack of incentives, and simple misunderstanding of the true extent of the harm that dumping causes both humans and the environment. (Environmental Protection Agency, 2022).

**Past Policy:** In 1965, Congress passed the first major federal law to manage waste disposal: the Solid Waste Disposal Act (SWDA). This act was only advisory as it only provided standards

for waste management, promoted new technology for mitigating waste, and charged municipalities with responsibility for disposal of solid waste. Because this attempt was too broad in nature and came with little penalty, it was amended in 1970 by the Resource Recovery Act (RRA) to call on increased government involvement by providing funding to the Environmental Protection Agency to implement new programming. Still, there wasn't ample management of the disposal of hazardous waste and not enough enforcement. In 1976, a further amendment, the Resource Conservation and Recovery Act was implemented, allowing for a more hands-on approach, enabling authorities to control hazardous waste from cradle to grave.. This amendment allowed states to take the lead in implementing their own waste programs and also placed much responsibility on the generators of waste. Similarly, The Superfund Act of 1980 required responsible parties to clean up sites (and the amended ACT of 1986) gave citizens the right to determine how the sites are cleaned up. The proposed solution is to directly fine companies that are found to be dumping hazardous waste before these sites have the opportunity to become abandoned. In 1984, the Hazardous and Solid Waste Amendment required the EPA to evaluate and amend sanitary landfill requirements, slowly phasing out land disposal, as well as an underground storage tank program. Finally, the RCRA was amended in 1992 and again in 1996. In 1992, the Federal Facility Compliance Act was passed and waived sovereign immunity of the government or its employees in regard to waste management, as they were once unable to be penalized. (Gordon 2021) The Land Disposal Program Flexibility Act of 1996 exempts hazardous waste that has been treated and is no longer considered to be a contaminant, so long as the disposal methods were properly followed. (H.R. 2036, 1996)

**Current Policy:** Because hazardous waste is far-reaching, extensive, and deeply complex, ensuring responsible waste management is a huge challenge at all levels: EPA headquarters, regions, state agencies, tribes and local governments, as well as everyone who generates waste. Today, there is a wide array of policies in place from regulation of disposal, recycling,

import and export, and the list goes on, most still under the Resource Conservation Recovery Act and the Superfund Act. (Environmental Protection Agency, 2021) Also, addressing the full life cycle of materials, from raw material to final disposition, has become a critical focus of today's program. The EPA has made improvements over the decades to combat contaminated waste and improve human health and the environment, including stricter fines and enforcing regulation. For example, a manufacturing company in E. Greenwich, Rhode Island was found to be in violation of the Act, and in a court settlement with the EPA, agreed to pay a penalty of over \$100,000. (Deegan, 2022).

As recently as May 2017, The Superfund Task Force was commissioned to ensure that the program operated according to its own set of standards and according to its intended vision. This task force created five recommended goals of the Superfund Act: expedited cleanup of waste sites, reinvigorating responsible-party cleanup and reuse, encouraging private investment, promoting redevelopment and community revitalization, and engaging partners and stakeholders to implement these recommendations. This task force was also held accountable by being required to provide quarterly updates of achievements. (Environmental Protection Agency, 2022).

Although there have been some improvements following the efforts of this group, there are structural flaws that remain. One of the biggest flaws of both the Superfund Act and the Resource Conservation Recovery Act, is that they have been largely underfunded. There is a lot of controversy over who should be held responsible for the cleanup of hazardous waste sites. This is where the Superfund Tax comes into play. The Superfund Tax is an excise tax imposed on manufacturers, producers and importers of specified chemicals and on importers of specified taxable substances that contain specified chemicals. This tax was initially enacted in 1980 with the onset of the Act and expired in 1995. It has now been reinstated as of July 1, 2022. The biggest issue with this newly reinstated tax is that the IRS has not yet provided a procedure filing for refunds and has not yet provided exemption certificates for exports or other

nontaxable uses. Until exemptions and filing procedures are made clear, many entities may not file. Another big flaw of both Acts is the concern of liability. For instance, cases in which property is leased or operated by a government contractor, determining where property owner responsibility for hazardous waste ends and the contractor's responsibility begins is complex. It is often determined on a case-by-case basis according to the terms of the contract in place. (Beyer, 2019)

**Proposed Solutions:** I suggest that if manufacturers are allowed to decide between two options: 1) pay a higher tax and be responsible for cleaning up the after-effects of their contamination; or 2) pay a reduced tax and implement a very strict system of recycling and reusing their products, placing them directly back into processing. This would not excuse any company from responsibility for contamination, but I believe there would be a greater incentive to be mindful of waste and dumping. Because the chemical and manufacturing industries generate trillions of dollars, they are more than financially capable of mitigating or even preventing the harm done to people and ecosystems across the country. They should be required to bear the majority of the financial burden of cleaning up their own waste or to fund the appropriate organizations to do so. Because every battle has two sides, and there will undoubtedly be opponents to paying a higher tax, I propose a second solution. Companies could be offered a very low tax rate in exchange for implementing an amplified recycling program within their own facilities. This would ensure that instead of being discarded, products are reintroduced into the manufacturing process. When it comes to products that must be disposed of, strict guidelines should be followed. This could be accomplished by assigning required personnel solely to this process. The bottom line is that, while there are rules and regulations in place, they are not being strictly enforced as they should be. I am confident that we as a country can improve.

**Key Organizations:** Government: Environmental Protection Agency, IRS

**Glossary:**

- Hazardous Waste: a waste with properties that make it dangerous or capable of having a harmful effect on human health or the environment
- Environmental Protection Agency: an independent executive agency of the United States federal government tasked with environmental protection matters.
- Dumping: the disposal of waste in the sea or on land

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