

US EPA ARCHIVE DOCUMENT

JAMES FLORIO

Former New Jersey Governor and
Congressional Representative and
Author of the Superfund Law

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EPA Interviewer: It is September 12, 2005, and we are here to commence an interview with Governor James Florio. We're here in the Edward J. Bloustein School of Planning and Public Policy in Civic Square Building at Rutgers University in New Brunswick, New Jersey. Governor Florio, thank you very much for participating in our project.

Florio: My pleasure.

EPA Interviewer: The first question is, you are widely considered to be the father of the Superfund program. Why is that?

Florio: Well, I was the sponsor, the prime sponsor, of the legislation that was introduced in the Congress to deal with the Superfund program. Legislation was enacted into law, so I assume that's the major observation.

EPA Interviewer: When did you first become involved in developing legislation?

Florio: In the mid-'70s. Obviously, there were a whole lot of external factors and events that caused public attention to be focused on the problem of cleaning up abandoned toxic waste dump sites. I guess my particular interest came from New Jersey being one of the largest states with these problems. My Congressional district has more of them than most, largely because the state was the center, continues to be the center, of a whole lot of refineries and chemical, petrochemical industrial sites, and this was kind of the residual problem from those sites operating. Many of them don't operate any more, but the disposal practices of the past resulted in New Jersey being a place where these chemicals were dumped. A lot of people came to New Jersey from New York and Philadelphia into what then were regarded as open spaces, which subsequently became subdivisions. Then the waste products started to have negative impacts upon people.

EPA Interviewer: What were your original expectations when you started down the path of developing the bill?

Florio: At the same time [we were developing Superfund] in Congress, we were dealing with the Resource Conservation and Recovery Act [RCRA], and the two pieces of legislation are very symmetrical. In one sense, RCRA was designed to make sure that no new sites were created, because it spelled out the [rules for] disposing of these wastes prospectively. Superfund, theoretically, was supposed to be the program that systematically cleaned up the

old problem areas. The two of them were the ways that we could eliminate environmental problems associated with inappropriate disposal of hazardous and toxic wastes.

EPA Interviewer: What role, if any, did the 1976 New Jersey Spill Compensation and Control Policy Act have in your development of the bill?

Florio: Well, it did. It had an impact in the sense that it was an example of a problem. There was an accident at Chemical Control, which is in Elizabeth, which brought to everyone's attention the need to be able to raise revenues and have legal tools available for expeditious action, not only removal action but remediation action. New Jersey, as a state, was very sensitized to this problem.

EPA Interviewer: Was that an issue that you were dealing with as a General Assemblyman in the New Jersey General Assembly?

Florio: Well, I was out of the assembly by 1974. But I was interested in environmental issues in general. I was aware... As a matter of fact, I made my committee choice in Washington based upon my interest in the environment in general, and the industrial aspects of environmental concerns [in particular]. Environmental issues have been around for a long time in terms of conservation-oriented issues, but industrial pollution was something that really emerged in the early '70s. Earth Day, and the Cuyahoga River burning, and a lot of other issues brought this to the fore.

EPA Interviewer: What about the draft National Contingency Plan that was developed by EPA under Doug Costle? Did that help in developing the legislation?

Florio: It did. Obviously that was incorporated into what it is we do, and it was the mechanism by which we evaluated what sites rose to the level of seriousness so as to be able to be funded and remediated under the Superfund.

EPA Interviewer: What impact did the defeat of President Carter's re-election have on efforts to pass the bill?

Florio: It was traumatic. The new Administration came in with a pronouncement they didn't believe in the mission. The new EPA Administration came in saying there was no need to reauthorize the law even before the first law was launched. I think it fair to say, even objectively, that there wasn't a whole lot of environmental sensitivity for the eight years of the Reagan Administration. The implementation of the law—this was the last law that President Carter signed virtually going out of office—was under an Administration that was fundamentally hostile, and I would make the argument [it] perverted the law.

A good example of it is the concept that EPA could immediately go into removal activities, and immediately go to responsible parties, and give them the option of cleaning it up. If they didn't clean it up, you'd start cleaning it up yourself, and with the strong liability tool—strict liability, joint and several liability—you'd be able to get reimbursement after the fact of cleanup, or while cleanup was taking place. We had administrative order capability that would provide for triple damages that was never exercised. What you had was a semi-scandalous approach to the law by the people that were in charge of implementing the law.

The first person who was in charge of the Superfund, specifically, Rita Lavelle, I think ended up going to jail as a result of perjury and conflicts and a whole bunch of other things.

EPA Interviewer: Is what you are describing here part of the pressure you felt to get passage during the lame duck Congress?

Florio: Well, the answer is that a lot of work had been put into place. [When] the House had passed the bill (my bill passed), the Senate was not as supportive. The real hang-up was the oil and chemical industry, which didn't like the idea of being called upon to finance it. They wanted an exemption through an oil spill provision that they had put in on the House side that would have held them responsible for oil spills. The compromise at the very end, to get the law passed, was to take the oil spill control provision out of the Superfund bill and deal with it in a different way.

EPA Interviewer: What was it like to manage all these different Members of Congress? I understand you were working with three different House committees to try and garner support for the bill.

Florio: Right. It was obviously interesting, and it's the nature of what legislative process is about. It was a little more acrimonious largely because you had opponents who were well funded. The chemical industry and the petrochemical industry are formidable. I had a particularly interesting time of it, because the major industries in my Congressional district were the petrochemical industry and the chemical industry. The major employers in the 1st Congressional district were those industries. They were not exactly supportive, but [we] were able to prevail.

EPA Interviewer: I understand that liability and the amount of the Fund were key issues, at least on the House side. Could you describe more of what the tensions were with respect to those?

Florio: Part of the philosophical debate was, "Who is going to pay for this?" The position that prevailed was that the polluting industries should be the prime targets for the initial money, and then whoever is the responsible party should be required to kick into the Fund—to continue the Fund going forward. The argument on the other side was this should be a cost of society, because society benefited from the products that were the generators of this toxic waste, and therefore the general taxpayer should pay. The countervailing argument to that, I think, carried the day, which was that this was not a criminal action, and therefore we weren't finding fault or criminal liability. We were finding what was the equitable argument: that those industries, even before laws were passed, got the benefit of the cheap, admittedly legal, but inappropriate ways of disposing these matters, and that therefore they should be the prime [parties] responsible for cleaning up those problems.

EPA Interviewer: What do you consider was the original scope of the problem, and what did you envision was going to be the duration, the cost of this whole program?

Florio: Well, we provided for reauthorizations, but it is fair to say that after just a couple of years, even with the hostile EPA, we came to realize the problem was much larger than what had been anticipated. We went forward, trying to implement it in an effective way in the

face of opposition from the executors of the program. But the scope started to expand, and therefore, there was a need for reauthorization. Ultimately, in 1986, if I recall, the law was reauthorized with some modifications to make it more efficient. There was a nominal reauthorization again in 1990, without a whole lot of major changes, but since that time there has been no reauthorization, and the law clearly needs to be reauthorized to take into account some of these unexpected contingencies. One good thing was that under EPA Director [Administrator] [Carol] Browner, we found someone that was willing to exercise discretion in a broad way so as to be able to cope with some of these unexpected contingencies.

EPA Interviewer: Cleanup standards were not specifically addressed in the original CERCLA [Comprehensive Environmental Response, Compensation, and Liability Act], right? Why was that?

Florio: It was because no one had a sense of what the cleanup standards would be. We expected EPA, as the administrative agency, to spell out those things. Those are the types of things that administrative agencies do. And, of course, the fundamental question is “How clean is clean?” When an agency doesn’t believe in the mission, it certainly doesn’t work very rapidly. As a matter of fact, I can recall vividly Ms. Lavelle coming to our committee and signing off on a site in southern New Jersey as clean. Then we had testimony from the National Academy of Sciences and the National Institutes of Health that the things—I think the contaminant was trichloroethylene—that she was willing to sign as clean, nobody who had any basis in science would acknowledge was the case. So, we had to then force the Administration to try to do that, and that went very slowly.

EPA Interviewer: And certainly that was the impetus for a lot of the changes put in the 1986 SARA [Superfund Amendments and Reauthorization Act] amendments. Do you think that placing in all those requirements with respect to cleanup standards, and requiring EPA to promulgate standards for different chemicals, had a significant impact on how the program had been operating?

Florio: The thing you have to keep in mind is that for the first, I would say 10 years—the first two Administrations of President Reagan and the first half of the Administration until Mr. [William] Reilly came to EPA [in 1989]—there was active opposition to enforcing the law. Since 1994, when the Contract with America Congress came into power, there has been no money of any substance provided. You have a law that’s been on the books for 25 years, and a good portion of that time there’s an active hostility to implementation—whether it be through failure to execute the law or defunding of the law. It’s not surprising that it has not worked in the way that one would have hoped it would have worked.

EPA Interviewer: Going back to the original bill, you mentioned the oil exclusion. What was the perspective of the Senate at this time? Clearly they changed quite a bit of language that was originally proposed. Where were they coming from?

Florio: They were coming in large measure from some of the Senators that were very much involved with the oil industry. The Louisiana Senators, other folks, were performing their functions as they saw them, trying to protect that industry. They were unhappy that we were even doing anything in terms of assessing the chemical industry and the petrochemical

industry, but if they were going to go along with that, they were going to ensure that that industry was not going to be held responsible.

EPA Interviewer: What was your reaction when you received the letter from Senator [Robert] Stafford requesting you to pass the Senate version without any amendment?

Florio: Well, again we were at the final stages of Congress going out of session. We obviously preferred the House bill, but as a practical matter, we ultimately concluded that nine-tenths of the loaf was better than nothing. We acquiesced and got the bill passed.

EPA Interviewer: What were the significant differences with the Senate version versus the House?

Florio: It was the oil spill provision, which was the major debating point.

EPA Interviewer: The final bill, at least in the House, passed with overwhelming support. Much of that success needs to be attributed to the work that you did there. How would you characterize all of that?

Florio: I've always thought that the legislative process works best if you can deal with the outside players to influence the inside players. We had hearings all around the nation just to say that this was not a New Jersey problem, this was not an industrial state problem, it was everywhere. This sort of stuff, as you can appreciate, is very vivid. We went to a place called the Valley of the Drums in Kentucky. We went to Pittston, Pennsylvania, where an old abandoned mine site is being used as a repository for these wastes, and it is very colorful seeing it all flow into the Susquehanna River. Stringfellow is a place in California. We made a special effort to say this is something that was serious, it was universal, and it required a national response.

EPA Interviewer: Did the Speaker of the House and the White House play a significant role?

Florio: Well, in the end of the Carter Administration, I got a lot of cooperation from the White House.

EPA Interviewer: I understand the President was making calls to various Members.

Florio: He may have. Woburn, Massachusetts, is a place of some prominence. The Speaker of the House, of course, was Tip O'Neill, so that was something that was brought to his attention as an important local problem. And he said, "Politics is local." This was something that was local for everyone. Just to give you New Jersey as an example—in New Jersey, we have over 100 wastes sites now, today—we have 21 counties in New Jersey, so every county in New Jersey has an average of five [sites]. You can drive 30 minutes from anywhere and find one of these localities today.

EPA Interviewer: The Speaker of the House, I understand, played an important role in suspending some of the House rules in order to get a vote in the last minute without there being a House/Senate conference. Is that an unusual practice?

Florio: Not that unusual. I mean, it is something that is done. You have to have it passed by two-thirds votes to get that done, but this happened to do that.

EPA Interviewer: Looking back at that time, before witnessing what happened afterwards, were you satisfied—you mentioned getting nine-tenths of the loaf—were you satisfied with the new law as it was originally enacted at that time?

Florio: Yes. Frankly, if there had been an Administration that wanted to carry out the law, it would have been more than satisfactory to achieve a substantial amount. There might have been modification later on, but the law, as it was configured, was a good piece of legislation but for the perversion of it by the folks who didn't believe in the law.

EPA Interviewer: What was the early implementation like? I guess from 1980 until the law was reauthorized in 1986.

Florio: Well, even a little bit beyond that. There still was the ability to bludgeon the Administration into doing the minimum things that were required of it. You may recall President Reagan regarded trees as polluters, so environmental sensitivity was not the high point of the Administration. And you had the [EPA] Administrator, Mrs. [Anne] Gorsuch [later Burford], who was fairly clear in saying that she didn't agree with the law and was hopeful to get the whole thing done so it wouldn't have to be reauthorized. You also had an OMB [Office of Management and Budget] Director who had been a Member of Congress, Mr. [David] Stockman, who was an opponent of the law, but who then also came to realize that if he could build up with Trust Fund and not spend money out of it in the unified budget, it would be very helpful in masking the deficit that existed as a result of the tax cuts. So you had multiple points of opposition.

EPA Interviewer: I also read that part of the explanation, or at least part of the Administration's policy, was not to use the Trust Fund money as a means to argue that there was no need to reauthorize it, since there was still plenty of money still available.

Florio: Ultimately, when they got down to it, they changed their mind, because the public was outraged that there had been so little progress on their watch. If I recall, as I said, Ms. Lavelle went to jail, and Mrs. Burford was flirting with impeachment. There was also Mr. [James] Watt, who was the Secretary of Interior, so this was something that, politically, the Administration wasn't able to do what they wanted to do.

EPA Interviewer: What was the impact of not having explicit reference to strict, joint and several liability in the original legislation?

Florio: Everyone understood it. They were going to go forward with it. The impact was not that great, because there wasn't any enforcement interest. The way the system was supposed to work, as you know, is that EPA shows up on the site, does a removal if there is an imminent hazard, and then starts the process of inducing or coercing the responsible party to start planning. If they don't, then EPA has the authority to start the cleanup. This EPA, the Reagan EPA, just said, "No. We're not going to do cleanup. We're going to enter into discussions and negotiations with the responsible party." Responsible parties, for the most part, have a direct interest in not ever coming to a conclusion. So the observation was

correct that the lawyers and engineers and consultants were making the money at the expense of cleanup, but that was a conscious policy decision by EPA to not comply with what the law intended.

EPA Interviewer: And Congress responded in 1986 with tightening up of requirements?

Florio: Tightening up of requirements and through a whole lot of other things. We tried to have it more self-enforcing through something we call “the hammer”—a mechanism to have responsible parties sign off that they are in full compliance, with [imposed] criminal penalties if they’re wrong. You have those folks face more pressure not to just stall; they are going to have to certify. The Right-to-Know provision provided for peer pressure on potential responsible parties to be able to come forward with information, and local people had access to it. So what you were doing was putting pressure on the responsible parties to self-enforce.

EPA Interviewer: My perception is that the 1986 law was more prescriptive than the earlier law, which seems to be in response to potentially recalcitrant EPA.

Florio: Well, it was attempting to be more prescriptive, but in fact it was attempting to be more self-enforcing. I mean, understanding that these folks in positions of authority were not ever going to be vigorous, we had to figure out some ways of getting the public more engaged in the process, and to try to have more criminal penalties imposed for people who would be required to certify, and so they would be a little more cautious to what they certified to.

EPA Interviewer: Do you think that Congress’s role in developing the legislation has changed over time since that period in terms of technical and specific implementation issues?

Florio: I think it was an educational process for a lot of folks, including myself, who thought that when you passed a law you were done, and the law would get implemented. This was a graphic and dramatic example of the authority of the administrative branch of government to consciously thwart the clear intent of the Congress. We’ve seen that happen since that time in a lot of different areas, but it was an educational experience for a lot of Congressmen (some more than others), but it also provided that if your job was going to be performed, you had to go the extra step to try to close some of the ambiguities. There were always going to be ambiguities in the law, but you assumed that there would be a good faith effort on the part of the regulators to close those ambiguities and correct the provisions that were problematic in a way that was compatible with the overall mission of the statute. This was an example of where that was not the case.

EPA Interviewer: Do you think that that kind of perception has carried forward in new Congresses?

Florio: I think it some respects it has. Although in the more conservative era that we’re in, they have gone in the other direction so as to limit the implementation of the administrative agencies and to try more and more to prescribe what the [agencies] can do to implement the law. Again, 1994 was a good example. The new Congress came in promising to undo laws that they didn’t like—many environmental laws—but the public would not tolerate that. And therefore, what’s happened down to this day is that legislative people lean on the regulators so as to more narrowly interpret regulations in a way that is going to thwart the clear impact.

The Clean Air Act sole source review is an issue that's current that is an example of that sort of thing.

EPA Interviewer: Going back a little bit to the early years of implementation. What role did the states and local governments have in implementing either the national or their own Superfund programs?

Florio: Well, obviously, states—New Jersey had always been on the cutting edge, because we've had more of a problem than other states have had—had to have matching monies, so that gave them a vested interest in seeing the process work reasonably well. EPA, over the years, has evolved this policy of having state-run Superfund sites or state-lead Superfund sites, where [EPA] finds a state with the capacity and the interest to be able to do that. That's sort of paying appropriate lip service to local implementation when the local people are up to it and can stand to be monitored. There is no problem with that.

EPA Interviewer: Speaking of local implementation, you were certainly a very strong advocate of the Community Right-to-Know Act portion of SARA, as well as the whole thing. Could you speak about that a little bit?

Florio: Well, New Jersey actually had a Right-to-Know Act before the Federal Government did. The rationale coming out of Bhopal [India] was that people in the neighborhood ought to know what is going on. The emergency response people ought to know what they are going to be dealing with. Therefore, what we are going to do is require those folks who deal with these types of products and chemicals to publicize what is there, particularly for the purposes of giving advance notice to the emergency responders. We had a situation down in south Jersey, Logan Township, where a company blew up. The emergency responders showed up, and I think somebody got killed because they didn't know exactly what to do. A catastrophe was avoided just by luck. There was a tank full of cyanide, which, if it had blown up, you would have had a cyanide cloud, depending on the winds, potentially going across Philadelphia. The whole idea of knowing what's there allows for firefighters to be able to use foam, water, or whatever's appropriate. Also, implicitly there is the idea that if you have people in the neighborhood who know what's there, there is going to be some pressure on the manufacturer, warehouse, whatever, to start taking some actions to minimize risk.

EPA Interviewer: How well do think that has played out?

Florio: I think that it has worked reasonably well. I can think of a couple of examples where people decided to take stuff out of their warehouse and start reducing the storage of certain types of materials. I think also in some instances property values have been a major factor in causing people to not to want to have these things in residential neighborhoods.

EPA Interviewer: EPA is currently strongly promoting redevelopment of sites.

Florio: Of course, EPA has minimal involvement with local land use planning. That may be regrettable or not, but I think it's the reality. The Brownfields Initiative came out of Superfund, in some respects, spelling out, particularly in SARA, that the appropriate remedial response was, in some respects, contingent upon what the anticipated end use was to be. That's the

heart of Brownfields, which ultimately came to New Jersey and other states as freestanding pieces of legislation.

EPA Interviewer: With respect to the 1986 reauthorization, did you feel you'd solved the problems that had been present in 1980, or did you feel there were still issues left unresolved?

Florio: There was still the absence of interest in carrying out the functional law by folks in positions of authority. And while we tried to tighten the [laws] up to reduce discretion so that discretion would not be misused, you'll never be able, through statutes, to spell out what the appropriate cleanup standard is. That's not the job of the legislature. It proved to me that a recalcitrant agency always has the opportunity to be a problem. We work from the assumption that there'll be good faith. When that good faith is not there, there's a certain thwarting of the intent of Congress.

EPA Interviewer: Moving away from your experience as a Congressman... In 1990, you took a completely different perspective of what the Superfund program meant. How, as Governor, did you view the national legislation?

Florio: Well, what we were doing from the Governor's standpoint was really focusing on getting these sites cleaned up. I used the Governor's position as a pulpit to try to go and get people to be sensitive to the impact of toxic waste dump sites in a limited space of time. I talked about economics, saying that the whole idea of environment versus jobs is an artificial polarization that is an interesting debate but is irrelevant to reality. New Jersey has many industries that are water-intensive—chemicals, pharmaceuticals, farming, whatever. Unless we clean up these sites, we're not going to have job growth. The Jersey shore is likewise a very important economic generator of jobs, and therefore, if we are unmindful of the aspects of pollution that are associated with that, that is not a good thing. Coming into office at a time of economic recession, which I did, the job component became a more effective driving force for getting environmental things done.

EPA Interviewer: Did the state participate in redevelopment efforts as well, and how did brownfields play...?

Florio: The key piece of legislation, EPCRA [Emergency Planning and Community Right-to-Know Act], provided that you would have to turn over cleaned up property when you sold industrial property. The point was made, "What level do you clean up to?" The brownfields concept was that somebody in the position of authority—DEP in our case, Department of Environmental Protection—should be able to spell out what the remedial standards should be. You should not have to clean up abandoned industrial waste to child care center standards, if it's not going to be a child care center. That, I think, was really one of the first pieces of legislation in the nation to deal with that. Subsequently, my successor actually saw through passage of a freestanding Brownfields piece of legislation.

EPA Interviewer: You just mentioned the whole issue of not creating a child care center where there had been a toxic dump. Do you see this issue as a consequence of EPA's implementation of the changes in CERCLA? Do you think EPA is imposing overly stringent standards?

Florio: No, I think it's almost the opposite. I think the concern that many of us have, and have had, is that you have to have somebody in good faith who can spell out what the appropriate remedial action is, and that is the atmosphere that has prevailed over the last number of years. The real concern is about giving somebody a blank check and not cleaning up to even the level that you are supposed to clean up. It's sort of the Rita Lavelle issue I gave before—where somebody in the position of authority just comes in to sign off on something being clean, notwithstanding the fact that, objectively, it is not clean for the anticipated use.

EPA Interviewer: And that certainly argues for greater community participation in the development of land-use perspective for the sites. How do competing interests within a community, especially when there is a large industrial base in some of these communities?

Florio: It's called democracy. What we do is solve these problems with input from everyone, and then use our best judgment of what is the public interest. In New Jersey, we have the Smart Growth Initiative that has become fairly forceful, and we are balancing between the developers and the folks who want appropriate development and the folks who want no development. Trying to come to the midpoint is through the democratic process, the thing we strive for.

EPA Interviewer: How has the role of the New Jersey government and the New Jersey public regarding Superfund cleanup evolved since the 1970s through the 1990s?

Florio: I think what has happened is the issue has fallen off the radar screen. One of the things that [EPA Administrator] Carol Browner did, which I thought was good, was to, first of all, take Superfund sites, and divide the sites into containment areas. If you are talking about a landfill, there are cells, and one cell is more benign than nothing. By using that discretion, you don't use our limited resources to clean up the whole thing; you go pick and identify hot areas. That's what has been done, and that's diffused the matter in some respects.

Over and above that, environmental issues are no longer resonating with people in the same way that they were in the past, largely because we have labeled them as something else. Childhood asthma epidemic is a public health issue, notwithstanding the fact that it has very significant environmental components. Traffic gridlock is an issue, but it has environmental components in terms of energy efficiency and air pollution. We don't label it that, because, in some respects, some in the business community (although the business community has changed dramatically) have been successful in somehow positing environmental sensitivity as an impediment to economic development and jobs.

EPA Interviewer: What is your most memorable story about your involvement in the whole history of Superfund?

Florio: A situation at Lipari Landfill—which was a high priority landfill operation—got the community engaged, and I saw something from the beginning to the end. Ultimately it was cleaned up, we had good community participation, and the system worked reasonably well in a way that it was supposed to work. I am sure that people at EPA were not totally happy about [my] personal involvement in those types of things, but I couldn't do that for thousands of sites. No Congressman can do it that way. The tools are there, if, in fact, you have good

faith implementation and you have oversight from the Congress. Oversight from the Congress seems to have disappeared dramatically. Now, of course, there is no money from a secure system, and that effectively precludes good planning for the allocation and implementation of the law.

EPA Interviewer: What would you say was the highest point of your involvement in the Superfund program?

Florio: It was nice being there when President Carter signed the bill and, again, seeing some successful implementation and execution of the law.

EPA Interviewer: What would you say is the lowest point for you?

Florio: There was frustration every once in a while, but I think the lowest point is just having seen the perversion of the law to the point where many folks [believed] the law was deficient, and in fact we haven't had the cleanup. We still have over 100 sites in New Jersey that have not been cleaned up, and it was [frustrating] just seeing successful thwarting of a needed public interest piece of legislation by a committed group of ideologues able to thwart the law through defunding and through malfeasance.

EPA Interviewer: Is there any particular anecdote that describes how that happened?

Florio: Well, I think the one I gave you before about people in charge of the law coming in and totally and inappropriately certifying that the law was being complied with when it was objectively demonstrable that it wasn't being complied with. If you can't trust the woman who's in charge of the program, how do you have a whole lot of confidence in the program?

EPA Interviewer: How do you view the program in its later years?

Florio: Well, it's been very frustrating that there's been no reauthorization since, I think, 1990. Funding sources expired. The funding sources expired because of no reauthorization. Under President Clinton's Administration, the President tried to get it renewed, but did not. When President Bush came in, he zeroed it out and hasn't even requested authorization or funding from that stable source.

EPA Interviewer: If you could have changed one thing about the program since your initial involvement, what would it have been?

Florio: Probably President Carter getting re-elected [*laughing*] in 1980 would have been a good thing to do.

One example of something that no one foresaw was that we specifically left municipalities and local solid waste landfills out of the program for being responsible parties. Since these were not going to be major contributors, we just didn't include them. What we did not foresee was responsible parties impleading those entities. That caused aggravation, because local folks said, "We didn't do anything. How come we're now in the lawsuit? How come we have to pay lawyers' fees and engineers' fees to prove that we were not responsible?"

EPA Interviewer: What shaped your experience in how you view the Superfund program? You mentioned some of the early years and some of the toxic waste issues. How, more broadly, would you describe your views or how they were generated?

Florio: Much of what we've talked about has shaped my views on the program. It has also enhanced my education. I have learned a lot of things. A lot of them have been bad. I can say that of the 16 years I spent in Congress, for the first six years—up until 1980—I was very satisfied doing very aggressive, very activist positive things to improve the economy. The next number of years in Congress, I was doing defensive work, stopping bad things from happening—just as important, but not as satisfying as being able to achieve goals. My whole concept of government has been enhanced in terms of my own education. I teach here at the Bloustein School. I teach public policy, so all of those experiences have been very helpful in being able to convey my views about how policy is formulated.

EPA Interviewer: As Governor, were you able to be proactive, or were you on the defensive?

Florio: I was very proactive as Governor. We made a lot of changes in terms of ocean dumping, spent a lot of money cleaning up sewage treatment plants. In the '80s, as you may recall, beaches of New Jersey were closed—hypodermic needles, hospital waste, sludge dumping, things of that sort. If you talk to people in New Jersey now, for the last 10 years the shore has been very good. We don't have those types of problems. We imposed criminal sanctions on people that polluted. We have done a lot of important environmental things here in New Jersey.

EPA Interviewer: We talked a little bit about how Superfund's liability policy has provided relief to certain parties such as prospective purchasers or contiguous property owners or innocent landowners. Do you think those have had a positive effect on...?

Florio: They have. Again, that flows right into brownfields in terms of having appropriate incentives for people to go clean up and redevelop. So it's a good example of bringing marketplace forces to the table to advance good public interest goals.

EPA Interviewer: Notwithstanding the expiration of the tax, do you think the dual funding scheme between private and federal has been a successful one?

Florio: If, in fact, you have folks that are going to be vigorous in carrying out the law, and if they have the legal tools, and if they are willing to use them. It's an alternative, but it's an alternative after the fact. You need the money up front, and you have to have a stable source of funding so you're not doing, planning on, annual appropriations that come in.

EPA Interviewer: Do you think that any innovations can be attributed to the Superfund program—legal, program management, or technologies?

Florio: Yes, technology is clearly the case. These have been the result of all the engineers engaged. There has been new remediation structures put in place. There are whole new

technologies that are available now to be able to cope with the problem of remediation. There is a whole new industry that's evolved as a result of Superfund.

EPA Interviewer: What about in terms of the whole legislative approach toward hazardous waste management?

Florio: I guess, unfortunately, much of what's happened since then has not been good. When [House] Speaker [Newt] Gingrich came into office, he not only wanted to get rid of the "polluter pays principle," he wanted to reimburse responsible parties, which was an idea that immediately came and went when people started discussing it. This whole idea of the misuse of the regulatory process to thwart the clear intent of the law (like New Source Review) is offensive. There are all kinds of laws right now that are in the process of being undermined through misuse of regulatory authority, driven by decision makers who really don't have the nerve to go to the public through legislative changes. If the public wants to change the law, change the law. If you want to eliminate or repeal the Clean Air Act, repeal the Clean Air Act. Don't do it in a subterranean way, out of sight. That is not the way democracy is supposed to work.

EPA Interviewer: Are there other changes you've observed either for better or for worse in the program over its course?

Florio: I think so. The thing I mentioned before about Carol Browner. [She asked,] "How can I use my regulatory discretion in a positive way so as to maximize the clear intent of the legislation?" It's clear the difference between Administrators who want to use their discretion to thwart the law versus people who want to use their discretion to implement the law.

EPA Interviewer: So you are referring to the—at least three sets of—administrative reforms from the 1990s. Are there any ones in particular that strike you as having been particularly effective?

Florio: I think the one I mentioned before. You go and analyze [a site]. You have so much money. [You ask,] "Do I want to go clean up this site entirely, or do I want to go find the part of the site that needs to be cleaned up?" That then gives you that much more money to go do things [elsewhere]. But it also leaves you with the problem of opponents being able to say, "All these sites, and you never cleaned them up. There was never a total cleanup." The answer is that it's a result of not having the resources to clean it up. The best cost-effective approach has been to go clean up the parts most in need of cleaning up.

EPA Interviewer: Do you think the Superfund program has had an actual impact on environmental protection in the U.S.?

Florio: Yes, I think it has. I think the impact has been to make sure that potentially responsible parties are now much more aware and sensitive to the problems associated with inappropriate disposal practices. Not only is it the law, it affects the bottom line in terms of your stock rating, peer pressure, public appreciation of who's a good corporate citizen. That's dramatically changed. That has been for the good.

EPA Interviewer: Do you think that the Superfund program has an impact on emergency response and preparedness?

Florio: Yes, I think it has. It has been a tool for emergency response and removal. I saw in the paper that part of the problem in New Orleans with the water contamination is that there are three uncleaned Superfund sites that are located there. The sense, in some people's minds, is that the extraordinary amount of toxics—beyond human sewage and things of that sort—is somehow associated with the failure to clean up those sites. There's a mysterious high level of lead in the water in New Orleans. No one knows, but some people suspect it might be associated with one of these sites.

EPA Interviewer: Do you think the challenges the Superfund program faces today are the same as when you first began with this?

Florio: No, I don't think they are the same. I think funding is the major challenge. And then [the challenge for] the folks in office who are knowledgeable enough, who want to do something, and who will attempt to make the mid-course corrections that should have taken place through reauthorizations every two or three or four years. It is now 15 years since the last reauthorization took place.

EPA Interviewer: What do you see as the biggest challenge facing the Superfund program into the future?

Florio: Probably a recognition of the fact that the work is not done. That's going to take some monies. Effectively, what the people in Washington are saying to the states is, "It's your responsibility, and if you don't have the money, then the problem won't get taken care of. And if it's such an extreme problem that you think it should be taken care of, you do it." Now, all the states have their own fiscal problems without a whole lot of extra money sitting around. That's not reality.

EPA Interviewer: What do you see as the role of the states in the future?

Florio: At this point, it should be to lobby the Federal Government to do what they were supposed to be doing. The alternative is to face the fact that these sites will not be cleaned up unless the states become engaged.

EPA Interviewer: Do you think the cost share and the operation-and-maintenance provisions in CERCLA have been effective in engaging the states to participate in the process?

Florio: I really don't know how effective that's been.

EPA Interviewer: Do you see a day when hazardous waste will actually be cleaned up?

Florio: Theoretically we have in place through RCRA and Superfund a way to solve this problem. No new sites and systematic cleanup of the ones that are there. Theoretically that should resolve the problem.

EPA Interviewer: You participated in the 20th anniversary of the Superfund program. You're part of this project for the 25th anniversary. Clearly, you've had decades of experience in this. What kind of advice would you offer to new civil servants who are trying to enter in this field?

Florio: A lot of it is ideological. You've got to do your job, and you've got to do it in a good faith way in accordance within the parameters which you've been assigned. The hopes are that you've been assigned parameters for carrying out your responsibility that comport—even when there's discretion—with the major thrust of the law. I think it's fairly clear and objectively acceptable to say that at least for the first eight years that was not the case.

EPA Interviewer: Are there any other messages that you would like to transmit as part of this?

Florio: No, I think that was a very thorough analysis.

EPA Interviewer: Thank you so much. It was a pleasure meeting you.

Florio: It's my pleasure.