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[JOINT COMMITTEE PRINT]

DESCRIPTION OF REVENUE ASPECTS OF PROPOSALS

(S. 1480 and Proposed Amendments)

RELATING TO

HAZARDOUS SUBSTANCE POLLUTION AND LIABILITY

SCHEDULED FOR A HEARING

BY THE

COMMITTEE ON FINANCE

ON

SEPTEMBER 11, 1980

PREPARED FOR THE

COMMITTEE ON FINANCE

BY THE STAFF OF THE

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INTRODUCTION

This pamphlet provides descriptions of various legislative proposals relating to releases of oil and hazardous substances into the environment and funding mechanisms to pay for cleanup and damage costs associated with those releases. S. 1480 (the "Environmental Emergency Response Act"), which was reported by the Committee on Environment and Public Works on July 11, 1980 (S. Rept. 96–848), and proposed amendments numbered 1958 (the "Oil Spill Liability Act") and 1965 (the "Oil Pollution Liability and Compensation Act of 1980") are scheduled for a hearing by the Committee on Finance on September 11, 1980.

S. 1480 would establish fees on crude oil, primary petrochemicals (also referred to in the pamphlet as petrochemical feedstocks), and certain inorganic raw materials. These fees would be deposited in a "Hazardous Substance Response Fund." Revenues from the response fund which would be available to compensate for specified costs or damages that result from the release of a hazardous substance into the environment. As reported by the Committee on Environment and Public Works, S. 1480 applies to releases of hazardous substances. Amendments numbered 1958 and 1965 would extend S. 1480 to deal with releases of oil into navigable waters.

Provisions similar to those contained in S. 1480 and the proposed amendments have been considered by various committees of the House of Representatives.[1]

The first part of this pamphlet contains a description of present law. Part II follows with a description of the revenue-related provisions of S. 1480 and the proposed Senate amendments (numbered 1958 and 1965). Part III contains a summary of the similar revenue-related provisions considered by the House of Representatives; and Part IV contains a description of the Administration proposal (introduced as S. 1341, by request). Finally, an Appendix presents a comparison of selected features of State oil spill liability funds.

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[1] H.R. 85 (the "Comprehensive Oil Pollution Liability and Compensation Act") (H. Rept. 96–172, parts I, II, and III) and H.R. 7020 (the "Hazardous Waste Containment Act") (H. Rept. 96–1016, parts I and II) are scheduled for consideration by the House of Representatives on September 10, 1980. H.R. 85 deals with releases of both oil and hazardous substances into navigable waters. H.R. 7020 deals with releases of hazardous wastes into media other than navigable waters, such as air, land and ground water.

I. PRESENT LAW

Overview

Under present law, there is no specially designated fund intended to compensate for damages and economic losses resulting from discharges of environmentally hazardous substances and wastes, such as oil and various organic and inorganic chemicals. Similarly, there is no excise tax or general fee imposed with respect to such substances, and earmarked for use in compensating for damages from harmful discharges. However, there are various State and Federal funds designated to compensate for damages and economic losses resulting from specific types of spills, releases, and discharges. The existing Federal funds that may pay third-party damages apply only with respect to oil spills and not to discharges of hazardous substances. In addition, in some instances, particular fees are imposed under present law with respect to certain petroleum.

Although present law contains numerous provisions which prohibit, or impose liability for, environmentally hazardous discharges, some damages remain uncompensated. This is due, in part, to inadequacies in existing State tort laws and economic and procedural barriers to timely recovery.

Selected Statutes

Federal Water Pollution Control Act ("Clean Water Act"), Section 311

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1331) establishes a $35 million revolving fund maintained by fines, penalties and appropriations of general revenue. The fund may be used for cleanup of releases of oil and designated hazardous substances into navigable waters and restoration of accompanying natural resources. The Act also establishes strict, joint and several liability pertaining to responsibility for cleanup expenses, and authorizes the fund to seek reimbursement from parties who release oil or designated hazardous substances into navigable waters.

The Trans-Alaska Pipeline Authorization Act (TAPAA)

The TAPAA (43 U.S.C. sec. 1651) established a $100 million Trans-Alaska Pipeline Liability Fund, and required the pipeline system (TAPS) to collect and deposit a $.05 charge for each barrel of oil passing through TAPS. The Liability Fund is a quasi-public entity, and the fund's revenues are intended to be used to compensate for damages, including cleanup, restoration of natural resources, and economic loss, resulting from spills of oil transported through TAPS. Owners and operators are strictly liable, and the fund may seek to recover its expenses from responsible parties. Because of a $100 million ceiling to which the Fund is subject, the fee will be suspended for such time as that maximum is achieved and maintained.

Outer Continental Shelf Amendments of 1978

A $200 million Offshore Oil Pollution Compensation Fund was established in the Treasury by the 1978 amendments to the Outer Continental Shelf Lands Act (43 U.S.C. sec. 1331). This Fund consists of monies generated by a fee of not more than $.03 a barrel imposed on owners of oil from the Outer Continental Shelf. The fee is collected by the Internal Revenue Service, and may be reduced when the balance in the Fund reaches the $200 million cap. The Fund may be used to compensate for damages, including cleanup, property damage and loss of income and tax revenue, resulting from spills of oil produced on the Outer Continental Shelf. Liability and financial responsibility requirements for facilities and vessels are defined, and the Fund may seek to recover its expenses from responsible parties. Collection of the fee is not subject to the generally applicable IRS enforcement powers.

Deep Water Port Act of 1974

The Deep Water Port Act of 1974 (33 U.S.C. sec. 1502) established a $100 million fund to compensate for damages resulting from oil pollution from vessels or facilities engaged in deepwater port operations. When operational, this fund will be maintained by a $.02 a barrel fee assessed on oil loaded at a deepwater port. A spiller of deep water port oil would be strictly liable for resulting damages.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act provides for the regulation and control of operating hazardous waste disposal facilities, as well as the transportation, storage, and treatment of these wastes. Permits are required for treatment or storage facilities. The Environmental Protection Agency may sue to require cleanup of an active or inactive disposal site if the site is posing an imminent and substantial hazard to public health and if there is a known, solvent responsible party. However, this provision does not provide funds for cleanup of hazardous waste disposal sites when the owner is unknown, is not responsible, or is financially unable to pay for these costs.

Black Lung Benefits Revenue Act of 1977

The Black Lung Benefits Revenue Act of 1977 (Pub. Law 95–227) imposes an excise tax on the sale of coal (other than lignite) by its producer. The tax is $.50 a ton in the case of coal from underground mines, and $.25 a ton in the case of coal from surface mines (Code sec. 4121(a)). However, the tax imposed on any ton of coal may not exceed 2 percent of the price at which the coal is sold. Receipts from this tax are earmarked for the Black Lung Disability Trust Fund.

The Act also allows coal mine operators to establish tax-exempt black lung trusts to finance liability for claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts (Code sec. 501(c)(21)).

Under the Act, the Federally established Black Lung Disability Trust Fund may be used to compensate for covered disability if a coal mine operator does not initiate or continue timely benefit payments or to reimburse coal mine operators for benefit payments made to miners whose last coal mine employment preceded January 1, 1970. The Secre-

tary of the Treasury is instructed to seek reimbursement for benefit payments from coal mine operators when the Secretary determines that an operator was required to pay all or a portion of the benefits.

State Statutes

States have responded to the specific problems of hazardous substance releases by the enactment of a variety of laws. Responding to a request from the Senate Committee on Environment and Public Works, the Library of Congress identified twelve States which had enacted laws recognizing a right of recovery for damages suffered by private persons. Most of these expressly impose strict liability. Those States were: Alaska, California, Florida, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, North Carolina, Oregon, South Carolina, and Washington. Pennsylvania also expressly imposes strict liability, though its statute apparently is restricted to escapes of oil from pipelines which pollute wells. (The Appendix contains a list of States which maintained oil spill liability funds as of 1979.)

II. DESCRIPTION OF S. 1480 AND PROPOSED AMENDMENTS

A. S. 1480—Environmental Emergency Response Act

S. 1480, as reported by the Senate Committee on Environment and Public Works, applies to the release of hazardous chemicals onto land, into ground or surface water or into the air (hereinafter referred to collectively as the environment). It would establish a "Hazardous Substance Response Fund" (hereinafter referred to as the "response fund") for the purpose of providing funds necessary to pay for removal and cleanup costs and certain damage claims resulting from release of hazardous substances (including waste oil but not other petroleum oil) into the environment. However, the bill does not apply to releases giving rise to claims for which an employer is liable under workmen's compensation laws, normal field application of fertilizer, emissions from the exhaust of a motor vehicle, and releases of certain radioactive materials. The bill also would create a permanent "Post-closure Liability Fund" which, under specified conditions, would assume responsibility for liabilities arising in connecton with waste disposal facilities operated and later closed in accordance with permits issued under present law (subtitle C of the Solid Waste Disposal Act).

Purposes of the response fund

The response fund could be used to pay for the costs listed below.

(1) The costs of removal and certain damages resulting from releases if a person liable is not known, cannot be identified, or if a person liable has been presented a claim and has not satisfied it. Covered damages include:

(a) any injury, destruction or loss of government-controlled natural resources, including reasonable damage assessment costs,

(b) loss of income or profits or impairment of earning capacity due to personal injury or injury or destruction of real or personal property or natural resources (limited to 100 percent of lost income in the first year after the incident and 80 percent in the second year) ; and

(c) all out-of-pocket medical expenses within six years following discovery of exposure due to personal injury in cases in which there is a reasonable likelihood that the release significantly contributes to the injury.

(2) All costs of removal and other costs of carrying out the National Contingency Plan, as amended, including removal costs incurred and approved under the plan.

(3) The costs of establishing and maintaining Federal strike forces, emergency task forces or other response teams under the National

Contingency Plan, including the costs of equipment, similar overhead, and damage assessment capabilities.

(4) The costs of assessing injury, destruction or loss of natural resources.

(5) The costs of Federal or State restoration, rehabilitation or replacement of injured, destroyed or lost natural resources.

(6) Reimbursement of States that use monies they collected or appropriated to pay claims for costs of removal or damages for injury to resources, medical expenses or loss of income, providing such payments are pursuant to the National Contingency Plan and a contract under the Act.

(7) The costs of a program to identify, investigate and take abatement action under the Act.

(8) The costs of research related to the natural resource protection purposes of the Act and section 311 of the Clean Water Act, up to a maximum of $10,000,000 per fiscal year.

(9) The costs of research to develop methods and technology for removal and remedial actions, including portable onsite technology.

(10) The administrative and personnel costs of administering the fund and the Act.

(11) The costs of epidemiologic studies, a victim registry for long-term health effect studies, and diagnostic services not otherwise available to determine the presence of long-latent diseases in exposed populations.

(12) The reasonable costs of expert witnesses to assist victims and the fund in recovering damages.

(13) Payment for loss of income or capital loss due to destruction. loss, condemnation, or restriction on use of fish, seafood or agricultural products and resources when sustained by agricultural producers or processors or commercial fishermen or fish or seafood processors.

(14) The costs of a program to protect the health and safety of response personnel.

Uses of the fund would be restricted further by the requirement that at least two-thirds of the fees and appropriations to the fund ($2.7 billion over six years) be available to finance governmental costs. These costs are defined, in effect, as expenditures of the fund other than for items 9, 12 and 13 above, for item 1 (to the extent it relates to loss of income or profits or medical expenses) or administrative costs described in item 10 (to the extent attributable to uses of the fund which are not chargeable to governmental costs). The Fund could not be used for damage claims under items 1, 3, 4, 5, and 6 resulting from the field application of a registered pesticide. Individuals could not receive compensation for the same damages both under this act and under other laws. Except for items 1, 6, and 13, spending from the Fund would be subject to amounts provided in appropriations acts.

The bill establishes rules for liability of parties responsible for releases, and, generally, the Fund could recover its expenses from responsible parties. However, the Fund could not recover when the responsible party is not known or financially unable to pay, or when the release is caused by an act of God or an act of war. In addition,

the Fund could not recover damages under this act in cases in which emergency response or remedial action was not undertaken unless there were a significant amount of damages or a substantial danger to public health and welfare. Further, the Fund could not recover costs or damages resulting from the field application of a pesticide or from releases due to activities which have received a permit under various Federal environmental laws.

The third-party damages which may be compensated from the fund (items (1)(ii) and (iii), above) are fewer and of narrower scope than the damages for which a discharger of hazardous substances may be liable under other provisions of the bill. For example, a victim would have a Federal cause of action based on the principles of strict, joint and several liability to recover for damages to real and personal property from the discharger of a hazardous substance but could not recover these property damages from the fund.

The response fund would not be liable for any claim in excess of the total monies available in the response fund. These claims could be paid as additional monies are collected from fees or recoveries from responsible parties, etc. In addition, the response fund, if short of money, could borrow from the Treasury up to the amount of the fees and appropriations expected during the next fiscal year. The fees and response fund would terminate after September 30, 1986, unless the Congress took further action.

Financing of the response fund

The response fund would be financed by industry fees, appropriations, penalties, recoveries from responsible parties, transfers of the Clean Water Act section 311 and section 504 funds, and interest on any invested monies. The industry fees could not exceed $250 million in fiscal year 1981, $525 million in fiscal year 1982, and $700 million in subsequent years through fiscal year 1986. Thus, the fees could generate a total of up to $3.575 billion over a six-year period. These fees would be imposed on the producer, manufacturer, importer, or exporter of any of 11 specified primary petrochemical (i.e., feedstocks) or 34 specified inorganic substances. A fee also would be levied on each barrel of petroleum oil received at a U.S. refinery or imported to, or exported from, the United States. (Thus, fees would be imposed on a total of 46 substances.)

During fiscal year 1981, the fees imposed on these substances would be those specified in the bill. The amount of the fee varies with the substance involved. These fees would continue in effect until the Secretary of the Treasury, in consultation with the Administrator of the Environmental Protection Agency, established a rate schedule. This schedule of fees could not result in fees in excess of 2 percent of the price of the taxable chemicals. In addition, the fee on primary petrochemicals feedstocks could not exceed $20.00 a ton, the fee on inorganic substances could not exceed $10.00 a ton, and the fee on petroleum oil could not exceed $.03 a barrel. Further, the total revenues for any particular fiscal year may not exceed the limits specified in the following table:

[In millions of dollars; fiscal years]

Source of revenue	1981	1982	1983 and each year through 1986	Total 1981–86
Fees				
All primary petrochemicals	162	338	450	2,300
All inorganic raw materials	50	112	150	762
All petroleum oil	38	75	100	513
Subtotal	250	525	700	3,575
Appropriations	35	75	100	510
Total	285	600	800	4,085

In establishing fee rates based upon production volumes of the taxable substances, the bill also would permit the Secretary of the Treasury, beginning in the fourth year, to take into account the frequency with which particular chemicals are released into the environment. Additional provisions are included exempting fees on taxable primary petrochemicals and inorganic raw materials produced by recycling, used as a fuel used in the production of fertilizer, or produced solely as a by-product of pollution controls. The fee could be collected only once on any given quantity of a substance.

The fees would be assessed and collected by the Secretary of the Treasury through the Internal Revenue Service as if the fee were a manufacturers excise tax.

S. 1480 would authorize appropriations to the response fund in the amount of $35 million in fiscal year 1981, $75 million in fiscal year 1982 and $100 million in each of the succeeding four years. Thus, $510 million in appropriations would be authorized over a six-year period.

Post-closure Liability Fund

The bill also would establish a separate Post-closure Liability Fund which would assume completely the liability of owners and operators of hazardous waste disposal facilities granted permits and properly closed under subtitle C of the Hazardous Waste Disposal Act (the Resource Conservation and Recovery Act). This fund would pay for monitoring and maintaining closed sites and assume liability for damages and cleanup expenses of such sites only if the facility meets three requirements. First, the facility must have been issued an individual permit under subtitle C of the Hazardous Waste Disposal Act. Secondly, the facility must have complied with each condition of the permit and the applicable regulations relating to closure or affecting the performance of the facility after closure. Finally, the facility and surrounding area must have been monitored by the taxpayer for up to five years after closure to demonstrate that there is no substantial risk of a release of hazardous waste into the environment.

The post-closure liability revolving fund would be financed by fees imposed on each unit of hazardous waste which is received by a per-

mitted or interim status hazardous waste facility and which will remain at the facility after its closure. The precise level of the fee on any particular substance would be determined by the Administrator of the Environmental Protection Agency who would also be required to conduct a study on the adequacy of the size of the fund. Initially, the fee is to be established at levels adequate to provide $200 million, five years after fee collection begins. The post-closure fees would be separate from the response fund fees, and the post-closure liability fund would be permanent.

Effective date

The bill generally would be effective upon enactment except that fees would not be imposed until 180 days after enactment. However, claims could be paid with respect to loss of income or capital loss involving agricultural producers or processors with respect to releases after January 1, 1974, or involving commercial fishermen or fish or seafood processors with respect to releases after January 1, 1978. The Fund could also pay claims for medical expenses and for loss of income resulting from personal injury due to releases after January 1, 1977, or for diseases discovered after that date. Authority to collect fees or make expenditures from the response fund (but not the Post-closure Liability Fund) would expire on October 1, 1986.

B. Senate Amendments to S. 1480—Oil Pollution Funds

1. Amendment No. 1958 ("Oil Spill Liability Act")

Senate amendment No. 1958 (proposed by Senator Magnuson) deals with issues relating to the discharge of oil into navigable waters. It would establish an "Oil Spill Compensation Fund" to provide the funds necessary for cleanup of, and compensation for damages resulting from, releases of oil into the navigable waters of the United States or the high seas.

The fund would be constituted from fees on crude oil received at any U.S. refinery or exported from or entered into the United States. The Secretary of the Treasury would set the fee at a level not in excess of 3 cents a barrel. The fee would be designed to maintain the fund at the level of $250 million. In addition to the industry fees, fund assets would include monies recovered from parties responsible for spills and interest earned on any invested fund balance.

The fund would be available to pay claims for damages resulting from any discharge of oil including (1) cleanup costs; (2) personal injury; (3) injury to, or destruction of, real or personal property; (4) loss of use of any real or personal property; (5) injury to, or destruction of, natural resources; (6) loss of use of natural resources; (7) loss of profits or impairment of earning capacity resulting from damage to property or natural resources; and (8) loss of Federal, State, or local governmental revenues for a period not to exceed one year.

The new Oil Spill Compensation Fund would replace or absorb other existing Federal funds relating to oil spill liability, including the Offshore Oil Pollution Compensation Fund, the Trans-Alaska Pipeline Liability Fund, the Deep Water Port Fund, and the section 311 revolving fund of the Clean Water Act.

Effective date

The amendment would be effective upon enactment.

2. Amendment No. 1965 ("Oil Pollution Liability and Compensation Act of 1980")

Amendment No. 1965 (proposed by Senator Gravel) deals with issues relating to the discharge of oil into navigable waters. It would establish an "Oil Spill Liability Fund" to provide the funds necessary for cleanup of, and compensation for damages resulting from, releases of oil into the navigable waters of the United States or the high seas.

The fund would be constituted, in part, from a tax of 0.8 cents a barrel on crude oil received at any U.S. refinery or exported from the United States and on petroleum products entered into the United States. If the fund balance is $150 million or less on September 30 of any year, the tax imposed during the following calendar year would be 1.6 cents a barrel. Similarly, if the fund balance exceeds $250 million on September 30, no tax would be imposed during the following

calendar year. The Secretary of Treasury also could impose a surcharge of up to 1.4 cents a barrel if necessary to retire the fund's obligations to the Treasury.

In addition to the tax revenues, fund assets would include monies recovered from parties responsible for spills, interest earned on any invested fund balance, and any assets received from absorbed or replaced funds.

The fund would be available to pay claims for damages resulting from any discharge of oil including (1) cleanup costs; (2) personal injury; (3) injury to, or destruction of, real or personal property; (4) loss of use of any real or personal property; (5) injury to, or destruction of, natural resources; (6) loss of use of natural resources; (7) loss of profits or impairment of earning capacity resulting from damage to property or natural resources; and (8) loss of Federal, State, or local governmental revenues for a period not to exceed one year.

The new Oil Spill Liability Fund would replace or absorb other Federal funds relating to oil spill liability, including the Offshore Oil Pollution Compensation Fund, the Trans-Alaska Pipeline Liability Fund, the Deep Water Port Fund, and the section 311 revolving fund of the Clean Water Act.

Effective date

The amendment would be effective for discharges occurring after December 23, 1979. The taxes would be effective upon enactment.

III. SUMMARY OF HOUSE OF REPRESENTATIVES ACTION

A. H.R. 85—Comprehensive Oil Pollution Liability and Compensation Act [1]

H.R. 85 deals with issues related to the discharge of oil and hazardous chemicals into navigable waters. It would establish a Comprehensive Oil Pollution Liability Trust Fund and a separate Hazardous Substance Pollution Liability Trust Fund for the purpose of providing the funds necessary to expedite the clean-up of, and the compensation for certain damages resulting from, releases of oil or hazardous substances which may occur in the navigable waters of the United States or the high seas. Except for Treasury regulations, regulations issued under this bill would be subject to a one-House veto.

Excise taxes and trust funds

H.R. 85 imposes excise taxes on crude oil, specified petrochemical feedstocks, and specified inorganic substances. These excise taxes are expected to raise $75 million a year from oil, $50 million from petroleum feedstocks and $25 million from inorganic chemicals. Revenues from the excise tax on crude oil (1.3 cents a barrel) are to be deposited into a new "Comprehensive Oil Pollution Liability Trust Fund," the proceeds of which can be used to finance cleanup costs and pay claims for certain damages resulting from the discharge of oil into the navigable waters of the United States. Similarly, revenues from the excise taxes on petrochemical feedstocks ($1.18 a ton) and on specified inorganic chemicals ($0.31 a ton) are to be deposited into a new "Hazardous Substance Pollution Liability Trust Fund," the proceeds of which can be used to finance cleanup costs and to pay certain claims arising from discharges of hazardous substances into the navigable waters of the United States.

These new trust funds will absorb or replace other Federal funds relating to oil and hazardous substance liability—including the Offshore Oil Pollution Compensation Fund, the Trans-Alaska Pipeline Liability Fund, the Deep Water Port Fund, and the section 311 revolving fund of the Clean Water Act. In addition to financing cleanup and removal costs, both Trust funds could pay (1) claims for property damage, (2) certain claims for loss of profits or impairment of earning capacity, and (3) claims for destruction of natural resources (if the claim is asserted by the President or by a State). The Trust Funds cannot borrow from the United States Treasury except that, to the extent necessary to accomplish the purposes of the fund, each fund

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[1] H. Rept. 96–172, parts I, II, and III. This description refers to a substitute for H.R. 85 printed in the Congressional Record for August 27, 1980 (pp. H8029–8040). This substitute is made in order under the rule reported by the House Committee on Rules.

may borrow up to $75 million duing the first year of operation. No claim against a Trust Fund constitutes an entitlement from the United States. Claims against a Trust Fund will be payable only to the extent the Trust Fund has assets in excess of a $30 million "cleanup reserve." Claims which are unpaid due to this reserve requirement will be deferred until excise tax revenues become available to pay them. The excise taxes will terminate after September 30, 1985.

In addition, the bill requires annual reports to the Congress by the Secretary of the Treasury on the operation and status of the trust funds.

Effective date

The provisions imposing excise taxes and establishing the trust funds would be effective October 1, 1980. The excise taxes would terminate after September 30, 1985. The liability and other provisions with respect to oil would be effective 180 days after enactment. Those relating to hazardous substances would be effective upon enactment.

Revenue effect

The excise taxes imposed under H.R. 85 would raise $138 million in fiscal year 1981 and $150 million per year in fiscal years 1982–1985, as shown in the following table.

ESTIMATED REVENUE EFFECTS FROM EXCISE TAXES ON PETROLEUM AND SPECIFIED CHEMICALS IN H.R. 85

[Millions of dollars]

	Fiscal years				
	1981	1982	1983	1984	1985
Excise tax on—					
Petroleum	69	75	75	75	75
Petrochemical feedstocks	46	50	50	50	50
Inorganic feedstocks	23	25	25	25	25
Total	138	150	150	150	150

B. H.R. 7020—Hazardous Waste Containment Act[1]

Trust fund purposes

H.R. 7020 creates a Hazardous Waste Response Trust Fund to address the release of hazardous waste from inactive waste sites to land, air, or ground water. The bill does not deal with the release of oil or other pollutants into the navigable waters of the United States. The trust fund may be used, to the extent provided in appropriations, to pay for (1) containment or removal of hazardous wastes released or in danger of being released into the environment, (2) emergency assistance to minimize the damages resulting from the release or threat of release, and (3) the reimbursement of expenses incurred in cleanup of hazardous waste releases. Rules for liability are provided, and the trust fund may seek to recover its expenses from responsible parties.

In addition, the bill as amended requires annual reports to the Congress by the Secretary of the Treasury on the operation and status of the trust fund.

Trust fund revenues

The trust fund would be constituted from excise taxes, appropriations, and from recoveries from, and penalties imposed on, persons liable for the release of hazardous wastes. An estimated $1.2 billion would go into the trust fund over a 4-year period. Appropriations to the trust fund in the amount of $300 million over 4 years would be authorized. The remaining $900 million would be raised by excise taxes on crude oil, specified petrochemical feedstocks and specified inorganic substances. These excise taxes are expected to raise $164 million in fiscal year 1981 and $179 million per year in fiscal years 1982 through 1985 as shown in the table below.

ESTIMATED REVENUE EFFECTS FROM EXCISE TAXES ON PETROLEUM AND SPECIFIED CHEMICALS IN H.R. 7020

[Millions of dollars]

	Fiscal years				
	1981	1982	1983	1984	1985
Excise tax on—					
Petroleum	32	35	35	35	35
Petrochemical feedstocks	99	108	108	108	108
Inorganic feedstocks	33	36	36	36	36
Total	164	179	179	179	179

Effective date

The excise tax and other provisions of H.R. 7020 would be effective October 1, 1980. The excise taxes would terminate after September 30, 1985, and payments out of the trust fund would be prohibited after September 30, 1985, unless further actions are taken by the Congress.

[1] H. Rept. 96–1016, parts I and II. This description refers to the bill as amended by the Committee on Ways and Means.

IV. ADMINISTRATION PROPOSAL

The Administration's proposal for a comprehensive fund (or "superfund") to compensate for environmental damages from hazardous discharges is substantially embodied in S. 1341 (introduced by request). The bill would create an "Oil, Hazardous Substances and Hazardous Waste Liability Fund," that would be used, to the extent provided in appropriations, to pay for cleanup costs; and, in the case of spills, (1) damages resulting from injury to, or destruction of, real or personal property; (2) damages resulting from injury to, or destruction of, natural resources; and (3) damages resulting from loss of opportunity to harvest marine life due to injury to, or destruction of, natural resources.

The fund would be constituted from $1.625 billion in fees and appropriations (over a 4-year period), from recoveries from, and penalties imposed on, persons liable for releases of oil and hazardous substance, and from amounts presently held in other environmental funds that would be merged into the single fund contemplated in the bill. Appropriations to the fund in the amount of $325 million over 4 years ($50 million in fiscal 1981) would be authorized.

The Secretary of the Treasury would be required to impose fees (within specific limits) on oil refiners and exporters, petrochemical feedstock suppliers, and suppliers of inorganic elements and compounds to generate $1.3 billion in revenue over a 4-year period ($200 million in fiscal 1981). The precise amount of the fee with respect to any particular substance would be set by regulations prescribed by the Secretary of the Treasury. Assessment and collection of the fees would be accomplished by the Treasury and the Internal Revenue Service under the same rules as apply in assessment and collection of manufacturers excise taxes.

The fee and other provisions of S. 1341 would become effective with the first month beginning on or after the 180th day after enactment, and would be the subject of a comprehensive report to Congress within three years of the effective date.

APPENDIX

State Oil Spill Liability Funds

State	Authorizing State statute	Fund name	Method of financing	Size of fund
Alaska	Alaska Statutes, Title 22, 46.03.50 et. seq.	Oil Mitigation Coastal Protection Fund Account.	Annual risk charge, penalties, appropriations.	$30 million.
California	California Codes, 13440.	State Water Pollution Cleanup and Abatement Account.	Appropriations, criminal and civil assessments.	No established size.
Florida	Florida Statutes Annotated, 14:376.11.	Florida Coastal Protection Trust.	Excise tax of 2 cents per barrel, plus registration fees, penalties, judgments.	$35 million.
Maine	Maine Revised Statutes Annotated, Title 38, 551.	Maine Coastal Protection Fund.	Annual license fees based on ½ cents per barrel.	$4 million.
Maryland	Maryland Code Annotated, Natural Resources, 8:1411.	Maryland Oil Disaster Containment, Cleanup and Contingency Fund.	Annual fees ranging from $250 to $5,000.	$1 million.
New Jersey	New Jersey Statutes Annotated, C.23: 11a–3.	New Jersey Spill Compensation Fund.	1 cent per barrel	$25 million.

New York	New York Navigation: 180.	New York Environmental Protection and Compensation Fund.	1 cent per barrel fee	$25 million.
North Carolina	North Carolina General Statutes, 143–483.	Oil Pollution Protection Fund.	Penalities and appropriations funds.	No established size.
Oregon	Oregon Revised Statutes, 468.810.	Oil Spillage Control Fund.	All penalties	No established size.
Texas	Texas Code Annotated, Water, 26. 265.	Texas Coastal Protection Fund.	Appropriations	$5 million.
Virginia	Virginia Code 62.1–44.34:2.7 (1978 Com. supp.).	Oil Spill Contingency Fund.	Appropriations	No established size.
Washington	Washington Revised Code, 90.48.390.	Coastal Protection Fund.	Civil penalties, fees, charges, and 1 cent per gallon from marine use refund.	No established limit.

Source: Library of Congress, Congressional Research Service, March 1979.

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