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McGill Guide 9th ed.

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## HAZARDOUS WASTE CONTAINMENT ACT OF 1980

JUNE 20, 1980.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ULLMAN, from the Committee on Ways and Means,  
submitted the following

### REPORT

[To accompany H.R. 7020]

The Committee on Ways and Means, to whom was referred the bill (H.R. 7020) to amend the Solid Waste Disposal Act to provide authorities to respond to releases of hazardous waste from inactive hazardous waste sites which endanger public health and the environment, to establish a Hazardous Waste Response Fund to be funded by a system of fees, to establish prohibitions and requirements concerning inactive hazardous waste sites, to provide for liability of persons responsible for releases of hazardous waste at such sites, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is a new title to be added at the end of the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce, and appears in the reported bill in boldface roman type.

### **WAYS AND MEANS COMMITTEE AMENDMENT TO H.R. 7020, THE HAZARDOUS WASTE CONTAINMENT ACT**

H.R. 7020, the Hazardous Waste Containment Act, has been considered and reported favorably by the Committee on Interstate and Foreign Commerce (H. Rept. 96-1016, part I). H.R. 7020 then was referred sequentially to the Committee on Ways and Means for consideration of the revenue aspects of this legislation, which properly fall within the jurisdiction of the Committee on Ways and Means. Specifically, the Committee on Ways and Means considered the revenue issues related to the establishment of taxes on crude oil, petrochemical feedstocks, and certain specified inorganic chemicals for use to provide revenues to clean up discharges of oil and hazardous substances in inactive waste sites. As a result of this consideration, the Committee on Ways and Means favorably reports H.R. 7020 with a committee amendment in the form of a new title.

## I. SUMMARY

The Ways and Means Committee amendment to H. R. 7020 imposes excise taxes on crude oil, specified petrochemical feedstocks, and specified inorganic substances. These excise taxes are expected to raise \$35 million a year from oil, \$108 million a year from petrochemical feedstocks, and \$36 million a year from inorganic substances. Revenues from these taxes are to be deposited into a "Hazardous Waste Response Trust Fund," the proceeds of which can be used to finance the costs of containing or cleaning up waste from inactive hazardous waste sites which are causing or threatening to cause harm to the public health and environment.

These excise taxes are to be imposed for the period October 1, 1980 through September 30, 1985. Payments out of the Trust Fund are prohibited after September 30, 1985, unless further action is taken by the Congress.

In addition, the committee amendment provides for a study by the Secretary of the Treasury, in consultation with the Environmental Protection Agency, the Department of Commerce and the Office of the United States Trade Representative, on various aspects of the taxes imposed under the amendment. The Secretary of the Treasury is to report to the Congress by January 1, 1985.

## II. EXPLANATION OF WAYS AND MEANS COMMITTEE AMENDMENT TO H.R. 7020

### A. Present Law

#### *Excise taxes*

Under present law, excise taxes are imposed upon the manufacture, production, removal, sale, supply, or use of various items or services. In some instances, revenues from these taxes are deposited into specially designated trust funds. Examples of such earmarked excise taxes and designated trust funds include the Black-lung coal tax (Code sec. 4121), which is deposited into the Black Lung Disability Trust Fund, aviation-related taxes (e.g., Code secs. 4261, 4271), which are deposited into the Airport and Airway Trust Fund, highway-related taxes (e.g., Code secs. 4041 and 4081 (fuels), 4071 (tires, etc.)) which are deposited into the Highway Trust Fund and inland waterway taxes (Code sec. 4042) which are deposited into the Inland Waterways Trust Fund.

Under present law, there is no general excise tax imposed with respect to substances, such as crude oil, petrochemical feedstocks, and inorganic chemicals, which may cause environmental pollution or other damage. However, charges (fees) are imposed under present law on oil produced on the Outer Continental Shelf and on Alaskan North Slope oil transported through the Trans-Alaska Pipeline System (TAPS).

#### *Funds*

Present law contains no specially designated trust fund, supported by taxes and appropriations, which is intended to provide monies for cleanup of all types of environmentally hazardous releases from inactive waste sites. However, there are various Federal and State funds designed to accomplish these purposes as to specific locations, damages or losses, and certain types of releases, spills, discharges and pollution. Some of these funds, and related provisions, are described below.

#### *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 certain rules 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.

#### *Resource Conservation and Recovery Act.*

The Resource Conservation and Recovery Act provides for the regulation and control of the generation, treatment and disposal of hazardous wastes. Permits are required for treatment or storage facilities.

The Environmental Protection Agency may sue to require cleanup of an inactive disposal site if the site is posing an imminent and substantial hazard to public health. However, this provision does not provide funds for cleanup of inactive sites when the owner is unknown, is not responsible, or is financially unable to pay for these costs.

## B. Reasons for Change

The Committee on Ways and Means believes that it is important to establish a readily available source of funds to respond to releases of hazardous waste from inactive waste sites which endanger public health and the environment. The committee recognizes that the United States Government must bear some of the costs incurred for this purpose. However, it also believes that these costs generally should be borne by the party responsible for the waste, and alternatively by the industries which create the items most frequently located in inactive waste sites.

To accomplish these goals, the committee has decided that it is appropriate to impose excise taxes on certain items which may result in environmentally hazardous pollution from inactive waste sites or which are used to produce hazardous material. The committee also has decided that revenues from these taxes should be earmarked for inclusion in a newly constituted trust fund for payment of cleanup costs for hazardous waste sites. Because the precise scope of the hazardous waste site problem and the financial cost of the remedy are not readily ascertainable, the committee has decided to terminate the taxes and spending from the trust fund at the end of September 1985 (fiscal year 1985) so that Congress may reexamine the situation.

## C. Explanation of Provisions

### 1. Environmental excise taxes

#### *a. Petroleum tax (Sec. 211 of the amendment and new secs. 4611-4612 of the Code)*

The committee amendment imposes a specific excise tax (the "petroleum tax") of 0.6 cents a barrel on domestic crude oil and on petroleum products (including crude oil) entering the United States. The tax on domestic crude oil is imposed on the operator of any United States refinery receiving such crude oil. For this purpose, as under existing Treasury regulations, refining is defined as any operation by which the physical or chemical characteristics of crude oil or its products are changed, exclusive of such operations as passing crude oil through separators or placing crude oil in settling tanks.

If crude oil is used in, or exported from, the United States before imposition of the petroleum tax, then the user or exporter of the oil is subject to that tax to the same extent as it would have been imposed had a United States refiner received the oil. The committee amendment defines oil subject to tax as crude oil, including crude oil condensate and natural gasoline, but not other natural gas liquids. Thus, the term crude oil also does not include butane, ethane, or propane recovered from a natural gas stream; butane, however, is taxed as a specified petrochemical feedstock under the chemical tax described below. Moreover, taxable crude oil does not include oil used for extraction purposes on the premises where it was produced, such as for powerhouse fuel or for reinjection as part of a tertiary recovery process. In addition, the term crude oil does not include synthetic petroleum, e.g., shale oil, liquids from coal, tar sands, or biomass, or refined oil.

Petroleum products entered into the United States for consumption, use or warehousing, are subject to a tax of 0.6 cents a barrel. This tax is imposed upon the person who enters such products. Generally, the term petroleum products includes crude oil, crude oil condensate, natural and refined gasoline, refined and residual oil, and any other hydrocarbon product derived from crude oil or natural gasoline which enters the United States in liquid form. For purposes of determining whether crude oil or petroleum products have been produced in, entered into, or exported from the United States, the term United States means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any possession of the United States. The United States also includes the Outer Continental Shelf areas and foreign trade zones located within the United States. There is no exception for bonded petroleum products.

In the case of areas which are not subject to the general United States customs laws, an "entry" has occurred at any time that such an event would have occurred if the customs laws were applicable to

that area. However, an "entry" is deemed not to have occurred in the case of fuel stores on a ship or the casual use of items such as fuel in an automobile's gas tank.

In the case of refiners that recover natural gasoline, the gasoline so recovered is treated as received by that refiner at the time it is recovered. If natural gasoline is recovered in a gas separation plant rather than at a refinery, the tax is imposed when the gasoline is received at a refinery or when it is used or exported without passing through a refinery. Thus, a refiner must pay the same tax whether it purchases natural gasoline or wet gas from which it recovers natural gasoline.

The committee amendment also provides that the petroleum tax is imposed only once (under new Code section 4611) with respect to any petroleum product. Anyone who otherwise is liable for the tax may establish that it already has been imposed with respect to that product.

The committee amendment contains no special administrative or compliance provisions relating to the petroleum tax. Instead, the existing rules relating to excise taxes apply. Thus, the Internal Revenue Service has its full range of administrative and compliance powers available in administering and collecting the tax. Similarly, the penalties contained in existing law apply, as appropriate, to the petroleum tax.

#### *Effective date*

The petroleum excise tax imposed by the committee amendment applies for the period October 1, 1980, through September 30, 1985.

#### ***b. Chemical tax (Sec. 211 of the amendment and new secs. 4661-4662 of the Code)***

The committee amendment imposes specific excise taxes (the "chemical tax") on specified petrochemical feedstocks and on specified inorganic substances. The tax, which is similar to existing excise taxes, is imposed on any taxable chemical sold by the taxpayer, i.e., the manufacturer, producer, or importer of the chemical. If the taxpayer uses a taxable chemical prior to its sale the tax is imposed as if the chemical had been sold.

The chemical tax on specified petrochemical feedstocks is \$2.54 a ton. The feedstocks subject to tax are: ethylene, propylene, butylene, butadiene, butane, benzene, toluene, xylene, naphthalene, and methane. These feedstocks are subject to the chemical tax regardless of the source from which the feedstock is derived. As a result, feedstocks derived from synthetic petroleum are subject to the chemical tax.

There is no exemption from the chemical tax for petrochemical feedstocks used as fuel. Because petroleum fuels typically pass through the hands of numerous persons before they are burned by the ultimate consumer, it is unclear how such an exemption could be effectively administered. The cost of documenting ultimate fuel use under such circumstances might well cost more than the taxes saved. The committee amendment does require the Secretary of the Treasury to study the feasibility of providing an exemption for petrochemical feedstocks which are used as fuel.

The tax on specified inorganic substances is \$2.33 a ton. The inorganic substances subject to the tax are:

- (A) arsenic and the equivalent weight of arsenic in arsenic trioxide;
- (B) cadmium;
- (C) chromium and the equivalent weight of chromium in chromite, sodium dichromate, and potassium dichromate;
- (D) lead and the equivalent weight of lead in lead oxide;
- (E) mercury;
- (F) the equivalent weight of barium in barium sulfide;
- (G) antimony and the equivalent weight of antimony in antimony trioxide and antimony sulfide;
- (H) cobalt;
- (I) nickel;
- (J) the equivalent weight of tin in stannic chloride and stannous chloride;
- (K) chlorine;
- (L) the equivalent weight of fluorine in hydrofluoric acid;
- (M) bromine;
- (N) the equivalent weight of hydrogen in phosphoric acid, sulfuric acid, hydrochloric acid, or nitric acid; and
- (O) elemental phosphorus.

In the case of a taxable chemical which is a gas (e.g., methane), the tax is imposed on the number of cubic feet of such gas which is equivalent to 2000 lbs. on the basis of molecular weight.

The committee amendment provides an exemption from the tax for chemicals which are used in producing fertilizer if the use occurs with the taxpayer or with the first or second purchaser of the chemical from the taxpayer. Subsequent purchasers of tax-paid chemicals used in producing fertilizer may obtain refunds of the tax paid on the item used.

The committee amendment also provides that the Secretary of the Treasury is to promulgate regulations necessary to avoid imposition of the chemical tax imposed by this Act more than once upon the same substance. Specifically, a system would be provided such that if a taxable chemical is used to manufacture or produce a second taxable chemical, then a credit against the amount of tax on the second chemical would be permitted for the amount of tax imposed on the first substance.

For purposes of the chemical tax, an importer is anyone who enters taxable chemicals into the United States for consumption, use, or warehousing. For purposes of the chemical tax, the term United States means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Trust Territory of the Pacific, and any possession of the United States, as well as the Outer Continental Shelf and any foreign trade zones of the United States. There is no exception for bonded items.

In the case of areas which are not subject to the general United States customs laws, an "entry" has occurred at any time that such an event would have occurred if the customs laws were applicable to that area. However, an "entry" is deemed not to have occurred in the case of fuel stores on a ship or the casual use of items such as fuel in an automobile's gas tank.

The committee amendment contains no special administrative or compliance provisions relating to the chemical tax. Instead, the existing rules relating to excise taxes apply. Thus, the Internal Revenue Service has its full range of administrative and compliance powers available in administering and collecting the tax. Similarly, the penalties contained in existing law would apply, as appropriate, to the chemical tax.

*Effective date*

The chemical excise tax imposed by the committee amendment applies for the period October 1, 1980, through September 30, 1985.

## **2. Trust fund (secs. 212-213 of the amendment)**

### ***Establishment of the trust fund***

The committee amendment establishes a "Hazardous Waste Response Trust Fund" (hereinafter referred to as the Trust Fund). The Trust Fund consists of any amount that is appropriated or credited to it pursuant to the committee's amendment, or transferred to it under any other provision of the Act. Therefore, the Trust Fund will consist of: (1) excise taxes paid pursuant to the Act (new Code secs. 4611 and 4661), (2) amounts recovered or collected on behalf of the Trust Fund under Title I of the Act, (3) amounts reimbursed to the Trust Fund under section 3041(a)(3) of the Solid Waste Disposal Act, (4) any penalties imposed under the Act, and (5) amounts of general revenue authorized to be appropriated to the Trust Fund. Disbursements from the Trust Fund may not be made (1) for any purpose other than those specified in Title I of the Act, (2) to pay any costs which are incurred with respect to an inactive waste site owned or operated by any agency of the United States, or (3) in excess of ten times the amount of general revenue appropriated to it for that fiscal year. No expenditures may be made from the Trust Fund after September 30, 1985, unless the Trust Fund is extended.

Expenditures from the Trust Fund may be made, to the extent provided in appropriations Acts, only for purposes of emergency response, removal, containment, cleanup, or other action taken under subpart C of part 2 of subtitle C of the Solid Waste Disposal Act, as in effect on the date of enactment of the committee amendment.

The Act authorizes appropriations of general revenues to be made to the Trust Fund in the following amounts: for fiscal year 1981, \$50 million, for fiscal year 1982, \$75 million, for fiscal year 1983, \$75 million, and for fiscal year 1984, \$100 million. For fiscal year 1985, the Act authorizes an appropriation of general revenue to the Trust Fund in an amount equal to the sum of any of the appropriations authorized by the Act which have not been appropriated prior to that time.

### ***Administrative provisions and reports***

Under the committee amendment, amounts received by the Treasury attributable to the specified excise taxes, penalties, etc., are to be transferred to the Trust Fund at least monthly. Proper adjustments must be made in subsequently transferred amounts to the extent that prior estimates were in excess of or less than the amounts required to be transferred. In addition, the Secretary must report to Congress on the condition of the Trust Fund for each year ending after September 30, 1980. These reports must include a description of the financial condition of the Trust, the results of its operation during the preceding fiscal year, and on its expected fiscal condition and operation during the following five fiscal years.

The Secretary may invest such portion of the Trust Fund as is reasonably determined not to be required to meet current withdrawals. Such investments may be made only in public debt securities. The Trust Fund has no authority to borrow from the general fund of the Treasury or from any other fund.

***Effective date***

The Trust Fund established by the committee amendment is for the period October 1, 1980 through September 30, 1985.

### **3. Coordinating provisions (sec. 231 of the amendment)**

The committee's amendment contains a number of provisions intended to coordinate its amendment with other provisions of the Act. Generally, the amendment provides that nothing in the Act, or in any provision of the Act (other than in the committee amendment) authorizes the creation of any fund, the payment of moneys out of the Trust Fund created by the committee amendment, or the levy or collection of any fee. In addition, the committee amendment clarifies that its references to named Acts limit the incorporation of all relevant provisions of those Acts to their terms on the date of enactment of the committee amendment, without regard to subsequent amendment or modification.

To the extent not inconsistent with the committee's amendment, any reference in Title I of the Act to a "fund" is deemed to be a reference to the Trust Fund.

#### **4. Study (sec. 241 of the amendment)**

The committee amendment requires the Secretary of the Treasury to submit a report to Congress by January 1, 1985, on various aspects of the taxes imposed by the Act. The report is to include the results of a study on the feasibility and desirability of establishing a schedule of taxes which is based on the disposal or generation of hazardous waste, and which would reflect the degree of hazard and risk of harm to the public and the environment posed by the various hazardous wastes.

The study also must examine the impact of the taxes on the balance of trade, and the feasibility and desirability of (1) imposing taxes similar to those established by the Act on substances, such as coal and biomass, which are not taxable under the Act but which might cause disposal problems similar to those caused by the taxed substances, (2) structuring the taxes to promote the recycling, incineration, and neutralization of hazardous waste, and (3) providing a tax exemption for the fuel use of taxable feedstocks.

The study is to be conducted in consultation with the Environmental Protection Agency, the Department of Commerce, and the U.S. Trade Representative.

### III. BUDGET EFFECTS OF THE COMMITTEE AMENDMENT

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made about the effect on the the budget of the provisions of the committee's amendment to H.R. 7020.

The excise taxes imposed under the committee's amendment will increase budget receipts by \$164 million in fiscal year 1981 and by \$179 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. 7020 AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

(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

The Treasury Department agrees with this statement.

## **IV. VOTE OF THE COMMITTEE AND OTHER MATTERS TO BE DISCUSSED UNDER HOUSE RULES**

### **A. Vote of the Committee**

In compliance with clause 3(1)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made about the vote of the committee on the motion to report H.R. 7020, as amended. The bill, as amended by the committee, was ordered favorably reported by a roll call vote of 33 ayes and 0 noes.

### **B. Other Matters**

In compliance with clauses 2(1)(3) and 2(1)(4) of Rule XI of the Rules of the House of Representatives, the following statements are made with respect to the action on H.R. 7020, as amended.

#### ***Oversight Findings***

With respect to subdivision (A) of clause 2(1)(3) (relating to oversight findings), the committee advises that it was a result of the committee's hearing and deliberation with respect to the proposed fees and Fund included in the "Hazardous Waste Containment Act" as reported by the Committee on Interstate and Foreign Commerce, that the committee concluded that it is appropriate to enact the provisions contained in the bill as amended. The committee held a public hearing on the subject on June 2, 1980, and approved the bill with a committee amendment on June 18, 1980.

#### ***New Budget Authority and Tax Expenditures***

With respect to subdivision (B) of clause 2(1)(3), after consultation with the Director of the Congressional Budget Office, the committee states that the changes made to existing law by the committee amendment involve no new budget authority or new or increased tax expenditures.

#### ***Consultation with Congressional Budget Officials on Budget Estimates***

With respect to subdivision (C) of clause 2(1)(3), the committee advises that the Director of the Congressional Budget Office has examined the committee's budget estimates (as indicated in part III of this document) and agrees with the budget estimates.

#### ***Oversight by Committee on Government Operations***

With respect to subdivision (D) of clause 2(1)(3), the committee advises that no oversight findings or recommendations have been submitted to the committee by the Committee on Government Operations regarding the subject matter of the committee amendment.

### ***Inflationary Impact***

In compliance with clause 2(l)(4), the committee states that the enactment of the committee amendment is not expected to have a significant inflationary impact on prices and costs in the operation of the national economy.

The committee amendment imposes excise taxes on crude oil (0.6 cents a barrel), specified petrochemical feedstocks (\$2.54 a ton), and specified inorganic substances (\$2.33 a ton). The revenues from these taxes are to be deposited into a newly established Hazardous Waste Response Trust Fund to finance the costs of containing or cleaning up waste from inactive hazardous waste sites which are causing or threatening to cause harm to the environment.

Since these excise taxes are deductible for income tax purposes, the net impact on overall prices in the economy should be minimal. The increased costs attributable to the excise taxes will be small, and will be offset in savings to the nation's environment and health from the clearing up of hazardous wastes provided for under the Trust Fund.

## V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

### INTERNAL REVENUE CODE OF 1954

\* \* \* \* \*

#### Subtitle D—Miscellaneous Excise Taxes

- CHAPTER 31. Special fuels.  
CHAPTER 32. Manufacturers excise taxes.  
CHAPTER 33. Facilities and services.  
CHAPTER 34. Policies issued by foreign insurers.  
CHAPTER 35. Taxes on wagering.  
CHAPTER 36. Certain other excise taxes.  
CHAPTER 37. Sugar.  
CHAPTER 38. *Environmental taxes.*
- \* \* \* \* \*

#### Chapter 38—Environmental Taxes

- Subchapter A. Tax on petroleum.*  
*Subchapter B. Tax on certain chemicals.*  
*Subchapter A—Tax on Petroleum.*  
*Sec. 4611. Imposition of tax.*  
*Sec. 4612. Definitions and special rules.*

#### **SEC. 4611. IMPOSITION OF TAX.**

(a) *GENERAL RULE.*—There is hereby imposed a tax of 0.6 cents a barrel on—

- (1) *crude oil received at a United States refinery, and*
- (2) *petroleum products entered into the United States for consumption, use, or warehousing.*

(b) *TAX ON CERTAIN USES AND EXPORTATION.*—

(1) *IN GENERAL.*—If—

(A) *any domestic crude oil is used in or exported from the United States, and*

(B) *before such use or exportation, no tax was imposed on such crude oil under subsection (a),*

*then a tax of 0.6 cents a barrel is hereby imposed on such crude oil.*

- (2) *Exception for use on premises where produced.*—Paragraph (1) shall not apply to any use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced.

(c) *PERSONS LIABLE FOR TAX.*—

(1) *CRUDE OIL RECEIVED AT REFINERY.*—The tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

(2) **IMPORTED PETROLEUM PRODUCTS.**—The tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

(3) **TAX ON CERTAIN USES OR EXPORTS.**—The tax imposed by subsection (b) shall be paid by the person using or exporting the crude oil, as the case may be.

(d) **TERMINATION.**—The taxes imposed by this section shall not apply after September 30, 1985.

## **SEC. 4612. DEFINITIONS AND SPECIAL RULES.**

(a) **DEFINITIONS.**—For purposes of this subchapter—

(1) **CRUDE OIL.**—The term “crude oil” includes crude oil condensates and natural gasoline.

(2) **DOMESTIC CRUDE OIL.**—The term “domestic crude oil” means any crude oil produced from a well located in the United States.

(3) **PETROLEUM PRODUCT.**—The term “petroleum product” includes crude oil.

(4) **UNITED STATES.**—

(A) **IN GENERAL.**—The term “United States” means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(B) **UNITED STATES INCLUDES CONTINENTAL SHELF AREAS.**—The principles of section 638 shall apply for purposes of the term “United States”.

(C) **UNITED STATES INCLUDES FOREIGN TRADE ZONES.**—The term “United States” includes any foreign trade zone of the United States.

(5) **UNITED STATES REFINERY.**—The term “United States refinery” means any facility in the United States at which crude oil is refined.

(6) **REFINERIES WHICH PRODUCE NATURAL GASOLINE.**—In the case of any United States refinery which produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced.

(7) **PREMISES.**—The term “premises” has the same meaning as when used for purposes of determining gross income from the property under section 613.

(8) **BARREL.**—The term “barrel” means 42 United States gallons.

(9) **FRACTIONAL PART OF BARREL.**—In the case of a fraction of a barrel, the tax imposed by section 4611 shall be the same fraction of the amount of such tax imposed on a whole barrel.

(b) **ONLY 1 TAX IMPOSED WITH RESPECT TO ANY PRODUCT.**—No tax shall be imposed by section 4611 with respect to any petroleum product if the person who would be liable for such tax establishes that a prior tax has been imposed by such section with respect to such product.

### **Subchapter B—Tax on Certain Chemicals**

Sec. 4661. Imposition of tax.

Sec. 4662. Definitions and special rules.

**SEC. 4661. IMPOSITION OF TAX.**

(a) *GENERAL RULE.*—There is hereby imposed a tax on any taxable chemical sold by the manufacturer, producer, or importer thereof.

(b) *AMOUNT OF TAX.*—The amount of the tax imposed by subsection (a) shall be—

(1) \$2.54 a ton in the case of specified petrochemical feedstocks, or

(2) \$2.33 a ton in the case of specified inorganic substances.

(c) *TERMINATION.*—The taxes imposed by this section shall not apply after September 30, 1985.

**SEC. 4662. DEFINITIONS AND SPECIAL RULES.**

(a) *DEFINITIONS.*—For purposes of this subchapter—

(1) *TAXABLE CHEMICAL.*—Except as provided in subsection (b), the term “taxable chemical” means any substance—

(A) which is a specified petrochemical feedstock or a specified inorganic substance, and

(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

(2) *SPECIFIED PETROCHEMICAL FEEDSTOCK.*—The term “specified petrochemical feedstock” means any of the following substances from whatever source derived:

Ethylene

Propylene

Butylene

Butadiene

Butane

Benzene

Toluene

Xylene

Napthalene

Methane

(3) *SPECIFIED INORGANIC SUBSTANCE.*—The term “specified inorganic substance” means any of the following substances:

(A) arsenic and the equivalent weight of arsenic in arsenic trioxide;

(B) cadmium;

(C) chromium and the equivalent weight of chromium in chromite, sodium dichromate, and potassium dichromate;

(D) lead and the equivalent weight of lead in lead oxide;

(E) mercury;

(F) the equivalent weight of barium in barium sulfide;

(G) antimony and the equivalent weight of antimony in antimony trioxide and antimony sulfide;

(H) cobalt;

(I) nickel;

(J) the equivalent weight of tin in stannic chloride and stannous chloride;

(K) chlorine;

(L) the equivalent weight of fluorine in hydrofluoric acid;

(M) bromine;

(N) the equivalent weight of hydrogen in phosphoric acid, sulfuric acid, hydrochloric acid, or nitric acid; and

(O) elemental phosphorus.

(4) *UNITED STATES.*—The term “United States” has the meaning given such term by section 4612(a)(4).

(5) *IMPORTER.*—The term “importer” means the person entering the taxable chemical for consumption, use, or warehousing.

(6) *TON.*—The term "ton" means 2,000 pounds. In the case of any taxable chemical which is a gas, the term "ton" means the amount of such gas in cubic feet which is the equivalent of 2,000 pounds on a molecular weight basis.

(7) *FRACTIONAL PART OF TON.*—In the case of a fraction of a ton, the tax imposed by section 4661 shall be the same fraction of the amount of such tax imposed on a whole ton.

(b) *EXCEPTION FOR USE IN PRODUCTION OF FERTILIZER.*—

(1) *IN GENERAL.*—For purposes of this subchapter, the term "taxable chemical" shall not include any substance—

(A) used in a qualified use by the manufacturer, producer, or importer,

(B) sold for use by the purchaser in a qualified use, or

(C) sold for resale by the purchaser to a second purchaser for use by such second purchaser in a qualified use.

(2) *QUALIFIED USE.*—For purposes of this subsection, the term "qualified use" means any use in the manufacture or production of a fertilizer.

(3) *REGISTRATION.*—The provisions of section 4222 (relating to registration) may be extended to, and made applicable with respect to, the exemption provided by paragraph (1) to the extent provided by regulations prescribed by the Secretary.

(c) *USE BY MANUFACTURER, ETC., CONSIDERED SALE.*—If any person manufactures, produces, or imports a taxable chemical and uses such chemical, then he shall be liable for tax under section 4661 in the same manner as if such chemical were sold by him.

(d) *REFUND OR CREDIT FOR CERTAIN USES.*—Under regulations prescribed by the Secretary, if—

(1) a tax under section 4661 was paid with respect to any taxable chemical, and

(2) such chemical was used by any person in the manufacture or production of—

(A) any other substance the sale of which by such person would be taxable under such section, or

(B) a fertilizer,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by such section. In any case to which paragraph (2)(A) applies, the amount of any such credit or refund shall not exceed the amount of tax imposed by such section on the other substance so manufactured or produced.













ENVIRONMENTAL EMERGENCY  
RESPONSE ACT

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REPORT

OF THE

COMMITTEE ON  
ENVIRONMENT AND PUBLIC WORKS  
UNITED STATES SENATE

TO ACCOMPANY

S. 1480

together with

MINORITY, ADDITIONAL, AND SUPPLEMENTAL VIEWS



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