

POLICY POSITION

23. The Superfund Law

Background

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) created a \$1.6 billion "superfund" to clean up abandoned hazardous waste sites around the nation. To pay for the superfund, CERCLA imposed taxes on industries according to a Congressional correlation of waste generation they accounted for: primary petrochemicals provided sixty-five percent of the fund, inorganic raw materials twenty percent, and petroleum fifteen percent.

The Act was authorized in 1980 for a five-year period. The government has recently begun to implement a CERCLA requirement for the creation of a new federal agency to document the relationship between toxic substance exposure and disease. A CERCLA-mandated comprehensive report assessing the superfund's operation and its future needs is due at the end of 1984. This report is timed to coincide with Congressional review of the superfund during the planned 1985 reauthorization.

Representative James Florio of New Jersey introduced a bill, HR 5640, to reauthorize and expand the superfund. The House passed the bill on August 10, 1984 and a similar bill, S 2892, was favorably reported by the Senate Environment and Public Works Committee. The bill was sent to the Senate Finance Committee where it died without being considered. The bill was never scheduled for mark-up due to disputes over the funding formula.

The House bill would have increased the superfund tax on crude oil from .079 cents per barrel to 7.86 cents per barrel. The tax on petrochemical feedstocks also would have increased substantially, varying according to the chemicals involved but averaging about 400 percent.

There are eleven targeted waste cleanup sites in Texas, two percent of the national total of waste sites to be treated by the superfund. Under the House tax formula, Texas would pay twenty-seven percent of the total crude oil tax and sixty-two percent of the petrochemical tax. In contrast, Representative Florio's state, New Jersey, has eighty-five targeted cleanup sites, representing sixteen percent of the national total. Under Representative Florio's bill, New Jersey would pay only three percent of the total tax on crude oil and two percent of the petrochemical tax.

Currently, Louisiana and Texas petrochemical and refining industries enjoy very slight price advantages over foreign competition. At risk under Representative Florio's approach to superfund taxes are nearly 30,000 jobs in the Gulf States. Representative Florio's bill would raise the annual amount of superfund tax paid by Louisiana refiners from the present level of \$4,921,000 to \$57,059,000 and collections from Texas refiners would increase from \$9,742,000 to \$112,963,000.

Recommendation

The member states of the Southern Legislative Conference recognize the significant threats to human health posed by abandoned hazardous waste disposal sites. Although the United States Environmental Protection Agency has spent several years studying abandoned hazardous waste disposal sites, it has performed remedial action on just a few sites. The Southern Legislative Conference calls on the United States Environmental Protection Agency to expeditiously and diligently carry out its responsibility under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 by identifying and cleaning up abandoned hazardous waste sites.

The Southern Legislative Conference urges Congress to carefully scrutinize the entire superfund program prior to the expiration of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 at the end of 1985. Further, the Southern Legislative Conference calls on Congress to insure that, if the Act is reauthorized, the taxing formula will be fairly apportioned among the states which will be the beneficiaries of the superfund and those responsible for the generation of hazardous waste, including down-stream manufacturers. The taxing formula should not place an undue burden on any regional industry.

The Southern Legislative Conference joins the Southwest Regional Energy Council in supporting a reauthorized Superfund. Both SLC and SWREC support Senator Lloyd Bentsen's broad-based manufacturers' excise tax, as reported by the Senate Finance Committee on May 16, 1985, to provide the majority of the funding and urge Congress not to increase the crude oil or petroleum feedstocks tax.

Adopted by the Southern Legislative Conference on July 24, 1985.