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INTRODUCTION

This pamphlet was prepared at Headquarters to help EPA librarians and the public locate information on the Superfund.

The bibliographies provided in this publication represent only a sampling of the information available on this issue. They include sources that are easily located through the EPA library system or that are generally accessible. Master copies of items cited will remain on file at the EPA Headquarters Library and will be distributed whenever possible. Because a comprehensive report on the issue was unavailable for duplication, an analysis of Superfund has also been included.

If additional information is desired or if further assistance in finding information is needed, please contact us.

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SUPERFUND

The Comprehensive Environmental Response, Compensation and Liability Act of 1980, commonly known as "Superfund", is a law addressing the problem of searching out and cleaning up hazardous waste spills and problem dumpsites. Behind Superfund is the idea that the public needs protection from the effects of hazardous waste dumps that, before August 1978 and the disaster of Love Canal, were unforeseen. The Superfund was introduced as a self-sustaining national trust fund established to pay for cleaning up abandoned sites and active sites where the magnitude of the disaster would demand immediate response. In a report by the Subcommittee on Oversight and Investigation of the House Committee on Interstate and Foreign Commerce, the problem of hazardous waste was stressed. "Proper disposal of hazardous materials is the exception rather than the rule. Even extraordinary effort, commenced immediately, cannot achieve adequate protection for the American public for years to come." Superfund, then, is only a beginning.

REGULATING WASTE MANAGEMENT

Management of the billions of pounds of material wastes disposed of in the past will be one of the major environmental problems of the 80's. As legislators' and the public's awareness of this issue has escalated with the explosion of several hazardous waste disasters, legislation and laws have surfaced to deal with the disposal and transport practices of the chemical industry. In 1975 the Resource Conservation and Recovery Act (RCRA) was developed to encourage technical innovation in the management of the three to four billion tons of discarded materials generated in the U.S.

every year. The RCRA regulations sought to do two things: determine which wastes were hazardous and subject these wastes to detailed standards governing labeling, transportation, storage treatment and disposal. In the spring of 1980, EPA issued the final regulations to provide for what it termed "cradle-to-grave" (from the point of generation to the point of disposal and for 30 years thereafter) tracking of hazardous wastes. These regulations began a Federal initiative to control hazardous wastes through monitoring the existence and management of chemical wastes produced every day in the United States.

THE PROBLEM OF UNFORESEEN DISASTER

In August 1978 President Carter declared a state of emergency at Love Canal, New York, where a chemical waste dump was posing a serious threat to the health of the community. Some new and very difficult problems were born because of the crisis. How was the nation to deal with the potential catastrophes caused by the improper burial and management habits of the past? Who should have the responsibility or liability for cleaning up the noxious mess? With Love Canal came the realization that such an incident was not an isolated event but that others would follow.

Because a hazardous waste disaster was previously unforeseen, no legislation existed to provide the prompt response needed for cleanup and compensation. An emergency code of regulations existed for remedial action in the case of oil spills and natural disaster, but the gap in existing laws was sure to handicap the effectiveness of any cleanup operation involving hazardous wastes. Nor in any way did the new regulations of RCRA mandate such a needed response.

The aftermath of Love Canal led to the idea of a fund to protect the public from damages occurring after hazardous waste disposal facilities have closed and where site ownership was transferred or relinquished making legal liability and responsibility difficult to establish.

CONGRESSIONAL ACTION

The legislative process for what many viewed as the number one environmental priority of the 96th Congress began with the introduction in the House on May 16, 1980, of H.R. 7020 — a bill on abandoned landfills. Out of all the proposals for Superfund type legislation, this bill remained largely intact and passed the House on September 23, 1980. It was later incorporated with a Senate version (S. 1480) for a Superfund to clean up hazardous waste pollution as compromise legislation. Passed on December 3, 1980, the compromise bill established a \$1.6 billion fund, financed over a five year period by fees levied on industrial chemicals and feedlots (87.5%) and general appropriations (12.5%). The bill covers spills or releases on land and into navigable waters and ground water. It was signed into law by President Carter on December 11, 1980, as Public Law 96-510.

Its main features include:

- A broad authority given to the President to use the fund at his discretion for cleanup and remedial action.
- An authority given to the U.S. Environmental Protection Agency to clean up any waste site in the country any time a release of hazardous wastes presents a real or potential threat to public health.
- Provisions on liability stating that those who own or operate waste disposal sites, produce wastes or transport them are liable

for the full costs of cleanup and for up to \$50 million for each incident of damage to government owned natural resources.

Superfund is essentially a cleanup bill with a liability clause that is limited to cleanup and restoration of property; compensation for personal injury is left to the state courts.

HOW SUPERFUND WORKS

The Act was designed to provide prompt emergency response and to avoid delays in implementing cleanup by being non-regulatory in nature. The Federal government and the states will begin to inventory all inactive hazardous waste sites, placing these sites on a priority list so that those posing the most serious threats will receive the earliest attention. The government, however, will give immediate attention to any site where an emergency situation exists. The Federal government seeks a limited role but will apply itself to cases where the party responsible does not or has not the financial wherewithal to take proper action or where the situation is serious enough so that responsive action must come first and questions of responsibility later.

The U.S. Environmental Protection Agency has a number of important roles to play in the implementation of this legislation. It will be the primary Federal agency responsible for managing the abandoned hazardous waste disposal site problem for which a new division under an Assistant Administrator for Solid Wastes was created. It will work with states and local governments to develop inventories and a priority waste site list. It will supervise site cleanup where the state or responsible parties do not act and

it will work with the U.S. Justice Department to recover the cleanup costs whenever Superfund monies are expended.

MERITS VS. DEFICIENCIES

Criticism of Superfund centers mainly on its limitations in providing total protection from hazardous waste pollution. The fact that it ignores the human factor, lacking as it does compensation for personal injury, suggests that the issue is not yet resolved and will undoubtedly be reconsidered by the next Congress. Also expected is legislation on an oil-spill superfund which had been under serious consideration by the 96th Congress but died with the closing of the lame-duck session.

Despite its deficiencies, Superfund, and the legislation that preceded it, should introduce a new era of accountability and careful operation by the chemical industry. And most important, the public can anticipate that after years of waiting for someone else to pick up the tab, genuine health hazards will finally be cleaned up.

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A BRIEF LOOK AT PUBLIC LAW 96-510

The Comprehensive, Environmental Response, Compensation and Liability Act of 1980

Signed into law by President Carter on December 11, 1980, it is an act "to provide for liability, compensation, cleanup and emergency response for hazardous substances released into the environment and cleanup of inactive hazardous waste disposal sites." Its major provisions are as follows.

REPORTABLE QUANTITIES AND ADDITIONAL DESIGNATION:

- The U.S. Environmental Protection Agency is required to revise and promulgate regulations designating hazardous substances that may present substantial danger to public health or the welfare of the environment.
- Within 180 days of enactment the owners and operators of hazardous waste facilities are required to report all knowledge of known, suspected, or likely releases of hazardous substances from their facility.

RESPONSE AUTHORITIES:

- The President is authorized to act to remove or arrange for the removal of and provide for remedial action or take any other response measure he deems necessary whenever any hazardous substance is released or there is substantial threat of such a release.
- State governments will assure: (a) adequate offsite storage, treatment, and disposal capacity for any hazardous substance removed from a site; (b) assure future operation and maintenance of such sites; (c) be responsible for payment of 10% of the costs of remedial action, including future maintenance of sites where Federal cleanup operations have commenced and are found under their jurisdiction.
- The U.S. Environmental Protection Agency shall have the primary Federal responsibility of handling the hazardous waste disposal problem. This Act creates an Assistant Administrator for Solid Waste and requires a reorganization of the agency to effectively carry out the powers thereby created.

NATIONAL CONTINGENCY PLAN:

- Within 180 days of enactment the President shall revise and republish the national contingency plan for the removal of oil and hazardous substances to include a section to be known as the national hazardous substance response plan which shall establish procedures and standards for responding to releases of hazardous substances and pollutants.

LIABILITY:

- Those who own or operate waste disposal sites, or produce or transport them shall be liable for all costs of removal and remedial action and for up to \$50 million for each incident of damage to government owned natural resources.

FINANCING:

- A \$1.6 billion superfund is established and financed over five years by: (a) taxes levied on industrial chemicals and feedlots, amounting to 87.5% of the fund; (b) general appropriations, amounting to 12.5% of the fund.
- The fund is to be constantly replenished when responsible parties are found liable and compensation costs are recovered by actions taken through the U.S. Department of Justice.

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