

Joint Committee on Taxation
May 17, 1990
JCX-13-90

REVENUE-RELATED PROVISIONS OF H.R. 3030

for consideration by
the

COMMITTEE ON WAYS AND MEANS

May 17, 1990

Background

On April 5, 1990, the Committee on Energy and Commerce approved a bill (H.R. 3030) that would amend the Clean Air Act to provide significant improvements in the quality of the Nation's air. The bill may be sequentially referred to the Committee on Ways and Means for consideration of various revenue measures, denominated "fees," and other provisions that are within the Committee's jurisdiction.

The staff has been unable to obtain a copy of H.R. 3030 as it is expected to be reported today by the Committee on Energy and Commerce, but was permitted to review a draft in the Energy and Commerce offices last night. This document describes the various fees and other provisions of H.R. 3030 that the staff has identified as within the jurisdiction of the Committee on Ways and Means. In addition, this document contains a possible option to amend H.R. 3030 for consideration by the Committee on Ways and Means.

Description of Provisions Identified As Within the Jurisdiction of the Committee on Ways and Means

A. National Ambient Air Quality Standards (Title I of H.R. 3030)

1. Summary.--Title I of H.R. 3030 contains several provisions designed to achieve and maintain compliance with national ambient air quality standards. In general, areas that have not attained each ambient air quality standard ("nonattainment areas") would be required to establish implementation plans and specific pollution controls designed to bring the areas into compliance with each standard by a particular date.

2. Description of fees.--Title I of H.R. 3030 contains the following four fees:

a. After the submission of a report to Congress relating to products (other than fuels or vehicles) that may emit volatile organic compounds (generally hydrocarbons), the Environmental Protection Agency ("EPA") would be authorized to promulgate regulations designed to decrease the emission of volatile organic compounds from consumer or commercial products. These regulations could include imposition of "fees" as well as other economic incentives. Any fees collected under these regulations would be deposited in a special fund of the United States Treasury to be used by the EPA to carry out its activities.

b. The EPA would be authorized to promulgate an implementation plan if the State implementation plan were inadequate. The implementation plan promulgated by the EPA could include economic incentives, such as Federally imposed fees.

c. If an area classified as a "severe" or "extreme" ozone nonattainment area failed to attain the national ambient air quality standard for ozone by 2010, then each major stationary source of volatile organic compounds located in the area would be required to pay a Federally imposed fee. (A major source is defined under present law as a source that emits more than 100 tons of volatile organic compounds per year.) The amount of the fee would be \$5,000 (adjusted for inflation) per year for each ton of emissions in excess of 80 percent of a baseline amount. The baseline amount would be the emissions allowed to be emitted in the attainment year, or, if lower, the amount of emissions actually emitted in the year that the fee was imposed. The fees would be collected by the State in which the source is located. If a State failed to collect the fees, the EPA would be required to collect the fees. Any fees collected by the EPA would be deposited in a special fund of the United States Treasury to be used by the EPA to carry out its activities.

d. Under certain circumstances, States would be authorized to establish economic incentive programs that are designed to achieve the ambient air quality standards. These economic incentive programs could include the imposition of State fees on the import of products that contribute to the formation of ozone.

B. Permits (Title IV of H.R. 3030)

1. Summary.--Title IV of H.R. 3030 would require the owner or operator of certain sources of specified air pollutants to obtain a permit specifying the maximum amount of such pollutants that could be emitted by the source. The

pollutants specified for this purpose generally would include volatile organic compounds, pollutants for which the bill establishes national ambient air quality standards (except carbon monoxide), hazardous air pollutants as defined in the bill, and other pollutants currently listed in the Clean Air Act. Each State generally would be required to administer a separate permit program, which would become operational only after approval by the EPA.

2. Description of fee.--Each State would be required to collect a fee from each person required to obtain a pollution permit under the bill. The amount of the fee would be determined by the State, at an amount sufficient to cover the costs of developing and administering the permit program. The EPA, however, generally could not approve a permit program unless the State established that the aggregate amount of fees to be collected under the permit program would not be less than (a) \$25 per year for each ton of specified pollutant (with a 4,000 ton annual cap per pollutant per source and an annual adjustment to the \$25 amount to reflect inflation) or (b) such other amount as determined by the EPA to reflect the costs of the permit program.

If the fees of any State were inadequate or a State did not adequately enforce an approved fee program, the EPA would be authorized to collect reasonable fees from the persons required to obtain pollution permits under the bill. Any fees collected by the EPA would be deposited in a special fund of the United States Treasury to be used by the EPA to carry out the permit program.

C. Acid Deposition Control (Title V of H.R. 3030)

1. Summary.--Title V of H.R. 3030 would limit the amount of sulfur dioxide and nitrogen oxides that could be emitted by certain major sources of such pollutants (generally coal-fired utilities).

2. Description of fee.--The owner or operator of any source that emitted sulfur dioxide or nitrogen oxides in excess of the amount permitted under Title V of H.R. 3030 would be required to pay a fee equal to \$2,000 per ton of such excess emissions. Any fees collected by reason of this provision would be deposited in the general fund of the United States Treasury.

Possible Option

Unless the jurisdictional concerns of the Committee are otherwise adequately resolved, the Chairman would be authorized to take to the Committee on Rules an amendment to H.R. 3030. This amendment would:

1. In general, delete or modify any provision of the bill that would impose a Federal fee or that would authorize the EPA to impose a Federal fee, unless the fee is designed solely to compensate the Federal Government for the provision of services to the person that is required to pay it or the fee is properly characterized as a penalty.
2. Delete the provision that authorizes States to impose a fee on the import of products that contribute to the formation of ozone.
3. Change the \$2,000 per ton charge on excess emissions of sulfur dioxide or nitrogen oxides from a fee to a penalty imposed for noncompliance.

Direct the staff on a bipartisan basis to review H.R. 3030 as reported by the Committee on Energy and Commerce to determine whether any not yet identified provisions of the bill contain revenue or trade measures that are within the jurisdiction of the Committee on Ways and Means. Require the staff to report to the Chairman on any such provisions so that the provisions may be addressed in any amendment to H.R. 3030 to be offered by the Chairman.