NATURAL RESOURCES
COMMITTEE • DEMOCRATS
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Press Release

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Markey, Blumenauer and Pascrell Introduce Bill to Close Tar Sands Tax Loophole

Treasury Dept. Agrees Tar Sands Gets Tax-Free Ride from Paying into Oil Spill Fund

WASHINGTON (September 20, 2012) – Rep. Ed Markey (D-Mass.) and other House Democrats today introduced the Tar Sands Tax Loophole Elimination Act to close yet another tax loophole given to the oil industry, this time giving tar sands oil a free ride from paying into an oil spill response and cleanup fund. Rep. Markey introduced this legislation following an ill-informed decision by the Internal Revenue Service and a subsequent admission to Rep. Markey by the U.S. Treasury Department that this loophole needed Congressional action to fix.

“Tar sands oil shouldn’t get a tax-free ride, especially when it can be more expensive to clean up when spilled,” said Rep. Markey, the Ranking Member of the Natural Resources Committee. “Oil companies already enjoy their billions in tax breaks every year. They don’t need another one for the dirtiest oil on the planet.”

In July, Rep. Markey asked the Treasury Dept. about this tar sands tax loophole and released a report on the loophole. In response to Rep. Markey, the Treasury Dept. said that the Obama administration “shares your policy concerns,” and that a solution should be reached “legislatively.” Treasury’s full response to Rep. Markey can be found HERE.

The decision by the IRS, originally reached in May of 2011, says that tar sands oil is not crude oil, and therefore importers of tar sands oil do not have to pay into the Oil Spill Liability Trust Fund. That fund is used to pay for the costs of cleaning up oil spills and for paying damages for a company's spill. This tax loophole could cost taxpayers $50 million a year and send the fund into the red. The spill response fund is already at risk of running out of money because of the combined costs of BP's Deepwater Horizon spill and the 2010 Kalamazoo River spill of tar sands oil, according to the Government Accountability Office. The Kalamazoo River disaster resulted in more than 20,000 barrels of tar sands oil spilling into the Kalamazoo River in Michigan, the largest and costliest pipeline spill in American history, with cleanup costs topping an estimated $800 million.

Rep. Markey introduced the legislation today with Rep. Earl Blumenauer (D-Ore.) and Rep. Bill Pascrell, Jr. (D-NJ). The legislation would amend the law to make it clear that the definition of crude oil includes tar sands, and that tar sands is subject to the excise tax that funds the Oil Spill Liability Trust Fund.

"We should be moving as quickly as possible and through every legislative avenue to reduce the tax breaks and exemptions that we give to Big Oil, which has raked in record profits in recent years," said Rep Blumenauer, a member on the Committee on Ways and Means Committee. "This bill ensures that we don't let tar sands -- which are a costly, environmentally destructive source of oil -- to slip through the cracks and avoid fair taxation."

Enbridge's 2010 tar sands oil spill in Michigan proved that this type of oil is more difficult and expensive to cleanup than conventional crude oil. Cleanup crews found that because of its unique properties, the tar sands oil had to be cleaned up at every level of the river -- the top, the middle, and at the bottom, where it sunk into the sediment.

The IRS ruling that tar sands is not crude oil was done to satisfy one refiner and flies in the face of other government experts who say that tar sands is essentially crude oil. The IRS concluded that the generic terms crude oil and petroleum products, as contained in the statute, do not clearly include or exclude tar sands. Instead of attempting to understand the plain meaning of the words in the statute, the IRS based its decision entirely on a House Committee Report with curious language excluding tar sands from the definition of crude oil for the purposes of the Hazardous Waste Containment Act of 1980.