



Updated February 14, 2025

## The Hazardous Substance Superfund Trust Fund

Decades of industrial and commercial activities involving various chemicals resulted in environmental contamination at thousands of sites in the United States, including federal facilities that served national defense and other purposes. Some of this contamination occurred prior to environmental regulation. Allocation of financial responsibility for remediating environmental contamination has been a long-standing issue. At the federal level, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA; P.L. 96-510) established the liability of certain categories of potentially responsible parties (PRPs) for the costs of remediating hazardous substances released into the environment, natural resource damages, and related federal public health studies. CERCLA authorized the Hazardous Substance Superfund Trust Fund to finance the remediation of sites without financially viable PRPs to fulfill their liability. The U.S. Environmental Protection Agency (EPA) administers and oversees the remediation of sites prioritized for federal involvement under the Superfund program, in coordination with the states in which the sites are located. Other federal laws apply to oil spills and petroleum contamination from underground tanks not covered under CERCLA. States also have established environmental remediation programs under their own laws.

Under CERCLA and subsequent law, Congress established a three-part tax system to finance the Superfund Trust Fund: (1) an excise tax on crude oil and imported petroleum products, (2) an excise tax on certain domestic chemical feedstocks and imported chemical derivatives, and (3) a special environmental tax on corporate income. These taxes accounted for most of the receipts for the Superfund Trust Fund until the taxing authority expired at the end of 1995. Since the taxes expired, the Superfund Trust Fund was primarily financed with transfers from the General Fund of the U.S. Treasury until Congress reauthorized two of the taxes in the 117<sup>th</sup> Congress.

Enacted November 15, 2021, Section 80201 of Title II of Division H of the Infrastructure Investment and Jobs Act (P.L. 117-58) reauthorized the Superfund chemicals excise tax through December 31, 2031, at double the rates that were in effect in 1995. Additionally, Section 13601 in Part 6 of Subtitle D of Title I of P.L. 117-169, known as the Inflation Reduction Act, permanently reauthorized the Superfund petroleum excise tax, increased the rate, and provided for annual inflation adjustments. The effective dates for these tax provisions are July 1, 2022, and January 1, 2023, for P.L. 117-58 and P.L. 117-169, respectively.

### Superfund Tax History

As enacted in 1980, CERCLA authorized Superfund excise taxes on crude oil, imported petroleum products, and domestic chemical feedstocks. Congress chose 42

feedstocks from which many other chemicals were made, as a matter of efficiency to tax chemical production. The Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499) expanded the Superfund chemicals excise tax to include imported chemical derivatives and added the special environmental tax on corporate income. Congress based the excise taxes on the premise that petrochemicals from crude oil, and other commercial chemicals, were common sources of contamination. The tax on corporate income applied to any corporation that met the income threshold regardless of whether its activities involved hazardous substances. Subsequent laws through the 101<sup>st</sup> Congress reauthorized Superfund taxes until the end of 1995. Prior to expiration, Superfund taxes were an excise tax on crude oil and imported petroleum products at a rate of 9.7 cents per barrel paid by U.S. refineries receiving crude oil and importers of petroleum products for consumption, use, or warehousing; an excise tax on 42 chemical feedstocks paid by the manufacturers, and imported chemical derivatives paid by the importers, at a rate that varied from \$0.22 per ton to \$4.87 per ton depending on the substance; and a special environmental tax on corporate income at the rate of 0.12% of alternative minimum taxable income in excess of \$2 million annually.

Superfund tax receipts were fully expended by the end of FY2003. General Fund transfers have since financed most of the annual appropriations from the Superfund Trust Fund. In addition to these transfers, the Superfund Trust Fund receives revenue from cost recoveries from PRPs, fines and penalties for violations of CERCLA, and interest on the balance of the trust fund. The Tax Increase Prevention Act of 2014 (P.L. 113-295) repealed the expired Superfund special environmental tax on corporate income.

### Eligible Uses of Receipts

Taxes and other receipts in the Superfund Trust Fund have been subject to annual appropriations prior to expenditure. Section 111 of CERCLA authorizes eligible uses of appropriated receipts from the Superfund Trust Fund to remediate contaminated sites. Section 111 excludes federal facilities from eligible uses of receipts because Congress funds their remediation with separate appropriations. The Internal Revenue Code (26 U.S.C. §9507) excludes natural resource damages from eligible uses of receipts to focus appropriations on remediation, but these damages remain subject to liability under CERCLA. The expenditure of Superfund appropriations for CERCLA “remedial actions” is limited to National Priorities List (NPL) sites on nonfederal land, subject to cost-sharing with the state in which the site is located. Less extensive “removal” actions may be fully funded with Superfund appropriations at NPL or non-NPL sites. Monies that EPA collects from PRPs under CERCLA settlements are held in site-specific

“special” accounts in the Superfund Trust Fund. Expenditures from these accounts are limited to uses covered under the settlements and are not subject to appropriations.

## Reauthorization Issues

Whether to reinstate Superfund taxes to increase resources for remediating contaminated sites has been an issue for the past quarter century. The reauthorization debate has centered upon funding needs at sites without viable PRPs and how to allocate financial responsibility for remediation in a fair manner. Some proponents of Superfund taxes have observed that the taxes reflect the “polluter pays principle” having those who may become PRPs contribute to the costs of remediation if they may be bankrupt or otherwise less financially capable in the future. Others have observed that Superfund taxes are not based on whether a company released any hazardous substances, and that a PRP subject to both liability under CERCLA and Superfund taxes may be required to pay an amount exceeding the costs of remediating contamination that it caused or contributed at a site. Some also have raised various other issues associated with financial responsibility for remediation.

## Superfund Chemical Tax

P.L. 117-58 reinstated the Superfund excise tax on domestically produced chemical feedstocks and imported chemical derivatives through December 31, 2031, and decoupled the application of this tax from the Superfund petroleum excise tax. Under prior law, the chemicals tax was in effect any time that the petroleum tax was in effect. P.L. 117-58 doubles the tax rate for each chemical feedstock that applied in 1995. For example, the highest tax is increased from \$4.87 to \$9.74 per ton for acetylene and several other chemicals, and the lowest tax is increased from \$0.22 to \$0.44 per ton for potassium hydroxide. P.L. 117-58 increased the penalty tax on importers from 5% to 10% of the value of the substance if information on the constituency of taxable chemicals in an imported chemical substance is not provided in a timely manner. Under prior law, the Treasury Secretary, in consultation with the EPA Administrator and the Commissioner of U.S. Customs and Border Protection, had authority to designate additional taxable substances for which taxable chemicals constituted more than 50% of the weight or value of the imported substance. P.L. 117-58 reduced this threshold to 20% of the weight or value, expanding the potential applicability of the tax to a greater number of substances that contain a lower proportion of taxable chemicals. If information on the composition of an imported substance is limited, identifying the proportion of taxable chemicals may present challenges to determine the tax owed. The Superfund tax amendments in P.L. 117-58 took effect on July 1, 2022. Division J, Title VI, Section 613 of P.L. 117-58 authorized the expenditure of future tax receipts from the Superfund Trust Fund without further appropriation. Division J, Title VI also provided \$3.5 billion in emergency appropriations from the Superfund Trust Fund through a transfer from the General Fund to increase resources for Superfund remedial actions while the reinstated excise tax ramps up. The \$3.5 billion is exempt from state cost-share requirements.

## Superfund Tax on Oil and Petroleum Products

P.L. 117-169 permanently reinstated the Superfund excise tax on crude oil and imported petroleum products beginning on January 1, 2023, increased the tax rate to 16.4 cents per barrel, and annually adjusted the rate for inflation. P.L. 117-169 authorized borrowing for the Superfund Trust Fund through repayable advances from the General Fund until the end of 2032. Repayable advances could initially supplement the tax receipts, but P.L. 117-169 requires the full amount borrowed plus interest to be repaid to the General Fund by the end of 2032. This borrowing power would alter the timing of the funds, but not increase the total amount. The \$3.5 billion in emergency appropriations provided in P.L. 117-58 may lessen the need for advances.

## FY2025 Tax Receipts and Appropriations

For several fiscal years prior to the reauthorization of these two taxes, appropriations from the trust fund have been roughly \$1.2 billion annually. President Biden’s FY2025 budget request reported estimated FY2024 collections available from the chemical excise and oil and petroleum taxes as \$473 million and \$732 million, respectively. In total, these amounts were roughly half of the estimated receipt collections reported in the FY2024 budget request (\$1.69 billion and \$858 million, respectively). As such, for FY2025 EPA requested \$300 million in annual appropriations to supplement available tax receipts to carry out the Remedial Program. EPA did not request annual appropriations for the Emergency Response and Removal Program and the Enforcement Program. According to EPA, “The FY 2025 President’s Budget proposes to transition the Superfund Emergency Response and Removal and the Superfund Enforcement programs solely to the Superfund tax receipts, while Superfund Remedial will be partially transitioned to the tax receipts. EPA anticipates sufficiently funding these programs from the tax receipts to support mission critical functions.”

During the 118<sup>th</sup> Congress, the House Committee Report accompanying Department of the Interior, Environment, and Related Agencies Appropriations Act, 2025 (H.Rept. 118-581), would have provided the following in annual appropriations to supplement the programs’ activities funded by the excise tax receipts: \$0 for the Superfund Emergency Response and Removal Program, \$21.1 million for the Enforcement Program, and \$300 million for the Remedial Program. The Senate Committee Report accompanying Department of the Interior, Environment, and Related Agencies Appropriations Act, 2025 (S.Rept. 118-201), would have provided \$59 million for the Superfund Emergency Response and Removal Program, \$17.1 million for the Enforcement Program, and \$191 million for the Remedial Program. FY2025 full-year appropriations have not been enacted to date. For FY2025, EPA estimated the chemical excise and oil and petroleum receipts to increase to \$1.15 billion and \$1.02 billion, respectively.

---

**Anthony A. Cilluffo**, Analyst in Public Finance  
**Lance N. Larson**, Analyst in Environmental Policy

## Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.