

## Subtitle I—Trust Fund Code

### § 9500. Short title

This subtitle may be cited as the “Trust Fund Code of 1981”.

(Added Pub. L. 97-119, title I, §103(a), Dec. 29, 1981, 95 Stat. 1636.)

## CHAPTER 98—TRUST FUND CODE

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### Subchapter A—Establishment of Trust Funds

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#### CODIFICATION

The amendment by section 8033(b) of Pub. L. 99-509, which provided for adding item 9507 to the table of sections for subchapter A, did not take effect pursuant to section 8033(c)(2)(C) of Pub. L. 99-509 and the enactment of the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499).

#### AMENDMENTS

2010—Pub. L. 111-148, title VI, §6301(e)(1)(B), Mar. 23, 2010, 124 Stat. 743, added item 9511.

2005—Pub. L. 109-59, title XI, §11115(b)(2)(E), Aug. 10, 2005, 119 Stat. 1950, substituted “Sport Fish Restoration and Boating” for “Aquatic Resources” in item 9504.

1998—Pub. L. 105-178, title IX, §9011(b)(3), June 9, 1998, 112 Stat. 508, struck out item 9511 “National Recreational Trails Trust Fund”.

1991—Pub. L. 102-240, title VIII, §8003(c), Dec. 18, 1991, 105 Stat. 2206, added item 9511.

1987—Pub. L. 100-203, title IX, §9202(b), Dec. 22, 1987, 101 Stat. 1330-331, added item 9510.

1986—Pub. L. 99-662, title XIV, §§1403(c), 1405(c), Nov. 17, 1986, 100 Stat. 4270, 4271, added items 9505 and 9506.

Pub. L. 99-509, title VIII, §8033(c)(2)(C), Oct. 21, 1986, 100 Stat. 1962, added item 9509.

Pub. L. 99-499, title V, §§517(d), 522(b), Oct. 17, 1986, 100 Stat. 1774, 1781, added items 9507 and 9508.

1984—Pub. L. 98-369, div. A, title X, §1016(d), July 18, 1984, 98 Stat. 1020, added item 9504.

1983—Pub. L. 97-424, title V, §531(d), Jan. 6, 1983, 96 Stat. 2192, added item 9503.

1982—Pub. L. 97-248, title II, §281(c)(1), Sept. 3, 1982, 96 Stat. 566, struck out “Establishment of” before “Black Lung” in item 9501 and added item 9502.

### § 9501. Black Lung Disability Trust Fund

#### (a) Creation of Trust Fund

##### (1) In general

There is established in the Treasury of the United States a trust fund to be known as the “Black Lung Disability Trust Fund”, consisting of such amounts as may be appropriated or

<sup>1</sup> Section numbers editorially supplied.

ing of such amounts as may be appropriated or credited to the Black Lung Disability Trust Fund.

#### (2) Trustees

The trustees of the Black Lung Disability Trust Fund shall be the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services.

#### (b) Transfer of certain taxes; other receipts

##### (1) Transfer to Black Lung Disability Trust Fund of amounts equivalent to certain taxes

There are hereby appropriated to the Black Lung Disability Trust Fund amounts equivalent to the taxes received in the Treasury under section 4121 or subchapter B of chapter 42.

##### (2) Certain repaid amounts, etc.

The following amounts shall be credited to the Black Lung Disability Trust Fund:

(A) Amounts repaid or recovered under subsection (b) of section 424 of the Black Lung Benefits Act (including interest thereon).

(B) Amounts paid as fines or penalties, or interest thereon, under section 423, 431, or 432 of the Black Lung Benefits Act.

(C) Amounts paid into the Black Lung Disability Trust Fund by a trust described in section 501(c)(21).

#### (c) Repayable advances

##### (1) Authorization

There are authorized to be appropriated to the Black Lung Disability Trust Fund, as repayable advances, such sums as may from time to time be necessary to make the expenditures described in subsection (d).

##### (2) Repayment with interest

Repayable advances made to the Black Lung Disability Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the Black Lung Disability Trust Fund for such purposes.

##### (3) Rate of interest

Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding.

#### (d) Expenditures from Trust Fund

Amounts in the Black Lung Disability Trust Fund shall be available, as provided by appropriation Acts, for—

(1) the payment of benefits under section 422 of the Black Lung Benefits Act in any case in which the Secretary of Labor determines that—

(A) the operator liable for the payment of such benefits—

(i) has no commenced payment of such benefits within 30 days after the date of an initial determination of eligibility by the Secretary of Labor, or

(ii) has not made a payment within 30 days after that payment is due,

except that, in the case of a claim filed on or after the date of the enactment of the Black Lung Benefits Revenue Act of 1981, amounts will be available under this subparagraph only for benefits accruing after the date of such initial determination, or

(B) there is no operator who is liable for the payment of such benefits,

(2) the payment of obligations incurred by the Secretary of Labor with respect to all claims of miners of their survivors in which the miner's last coal mine employment was before January 1, 1970,

(3) the repayment into the Treasury of the United States of an amount equal to the sum of the amounts expended by the Secretary of Labor for claims under part C of the Black Lung Benefits Act which were paid before April 1, 1978, except that the Black Lung Disability Trust Fund shall not be obligated to pay or reimburse any such amounts which are attributable to periods of eligibility before January 1, 1974,

(4) the repayment of, and the payment of interest on, repayable advances to the Black Lung Disability Trust Fund,

(5) the payment of all expenses of administration on or after March 1, 1978—

(A) incurred by the Department of Labor or the Department of Health and Human Services under part C of the Black Lung Benefits Act (other than under section 427(a) or 433), or

(B) incurred by the Department of the Treasury in administering subchapter B of chapter 32 and in carrying out its responsibilities with respect to the Black Lung Disability Trust Fund,

(6) the reimbursement of operators for amounts paid by such operators (other than as penalties or interest) before April 1, 1978, in satisfaction (in whole or in part) of claims of miners whose last employment in coal mines was terminated before January 1, 1970, and

(7) the reimbursement of operators and insurers for amounts paid by such operators and insurers (other than amounts paid as penalties, interest, or attorney fees) at any time in satisfaction (in whole or in part) of any claim denied (within the meaning of section 402(i) of the Black Lung Benefits Act) before March 1, 1978, and which is or has been approved in accordance with the provisions of section 435<sup>1</sup> of the Black Lung Benefits Act.

For purposes of the preceding sentence, any reference to section 402(i), 422, or 435<sup>1</sup> of the Black Lung Benefits Act shall be treated as a reference to such section as in effect immediately after the enactment of this section.

(Added Pub. L. 97-119, title I, §103(a), Dec. 29, 1981, 95 Stat. 1636; amended Pub. L. 97-248, title II, §281(c)(2), Sept. 3, 1982, 96 Stat. 566.)

<sup>1</sup> See References in Text note below.

#### REFERENCES IN TEXT

The Black Lung Benefits Act, referred to in subsecs. (b)(2)(A), (B) and (d), is title IV of Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 792, as amended. Part C of the Act is classified generally to part C (§931 et seq.) of subchapter IV of chapter 22 of Title 30, Mineral Lands and Mining. Sections 402(i), 422, 423, 424(b), 427(a), 431, 432, and 433 of the Act are classified to sections 902(i), 932, 933, 934(b), 937(a), 941, 942, and 943, respectively, of Title 30. Section 435 of the Act was classified to section 945 of Title 30, prior to repeal by Pub. L. 107-275, §2(c)(1), Nov. 2, 2002, 116 Stat. 1926. For complete classification of this Act to the Code, see section 901(b) of Title 30 and Tables.

The date of enactment of the Black Lung Benefits Revenue Act of 1981, referred to in subsec. (d)(1)(A), is the date of enactment of Pub. L. 97-119, which was approved Dec. 29, 1981.

The enactment of this section, referred to in subsec. (d), probably means the date of enactment of Pub. L. 97-119, which enacted this section and which was approved Dec. 29, 1981.

#### AMENDMENTS

1982—Pub. L. 97-248 struck out “Establishment of” before “Black Lung” in section catchline.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 effective Sept. 1, 1982, see section 281(d) of Pub. L. 97-248, set out as an Effective Date; Savings Provisions note under section 9502 of this title.

#### EFFECTIVE DATE

Pub. L. 97-119, title I, §103(d)(1), Dec. 29, 1981, 95 Stat. 1639, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [enacting this section and sections 9500, 9601, and 9602 of this title, amending section 501 of this title, and repealing section 934a of Title 30, Mineral Lands and Mining] shall take effect on January 1, 1982. Section 9501(c)(3) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a)) shall only apply to advances made after December 31, 1981.”

#### SAVINGS PROVISION

Pub. L. 97-119, title I, §103(d)(2), Dec. 29, 1981, 95 Stat. 1639, provided that: “The Black Lung Disability Trust Fund established by the amendments made by this section [enacting this section and sections 9500, 9601, 9602 of this title, amending section 501 of this title, and repealing section 934a of Title 30, Mineral Lands and Mining] shall be treated for all purposes of law as the continuation of the Black Lung Disability Trust Fund established by section 3 of the Black Lung Benefits Revenue Act of 1977 [former section 934a of Title 30]. Any reference in any law to the Black Lung Disability Trust Fund established by such section 3 shall be deemed to include a reference to the Black Lung Disability Trust Fund established by the amendments made by this section.”

#### RESTRUCTURING OF TRUST FUND DEBT

Pub. L. 110-343, div. B, title I, §113(b), Oct. 3, 2008, 122 Stat. 3825, provided that:

“(1) DEFINITIONS.—For purposes of this subsection—

“(A) MARKET VALUE OF THE OUTSTANDING REPAYABLE ADVANCES, PLUS ACCRUED INTEREST.—The term ‘market value of the outstanding repayable advances, plus accrued interest’ means the present value (determined by the Secretary of the Treasury as of the refinancing date and using the Treasury rate as the discount rate) of the stream of principal and interest payments derived assuming that each repayable advance that is outstanding on the refinancing date is due on the 30th anniversary of the end of the fiscal year in which the advance was made to the Trust Fund, and that all such principal and interest pay-

ments are made on September 30 of the applicable fiscal year.

“(B) REFINANCING DATE.—The term ‘refinancing date’ means the date occurring 2 days after the enactment of this Act [Oct. 3, 2008].

“(C) REPAYABLE ADVANCE.—The term ‘repayable advance’ means an amount that has been appropriated to the Trust Fund in order to make benefit payments and other expenditures that are authorized under section 9501 of the Internal Revenue Code of 1986 and are required to be repaid when the Secretary of the Treasury determines that monies are available in the Trust Fund for such purpose.

“(D) TREASURY RATE.—The term ‘Treasury rate’ means a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

“(E) TREASURY 1-YEAR RATE.—The term ‘Treasury 1-year rate’ means a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States with remaining periods to maturity of approximately 1 year, to have been in effect as of the close of business 1 business day prior to the date on which the Trust Fund issues obligations to the Secretary of the Treasury under paragraph (2)(B).

“(2) REFINANCING OF OUTSTANDING PRINCIPAL OF REPAYABLE ADVANCES AND UNPAID INTEREST ON SUCH ADVANCES.—

“(A) TRANSFER TO GENERAL FUND.—On the refinancing date, the Trust Fund shall repay the market value of the outstanding repayable advances, plus accrued interest, by transferring into the general fund of the Treasury the following sums:

“(i) The proceeds from obligations that the Trust Fund shall issue to the Secretary of the Treasury in such amounts as the Secretaries of Labor and the Treasury shall determine and bearing interest at the Treasury rate, and that shall be in such forms and denominations and be subject to such other terms and conditions, including maturity, as the Secretary of the Treasury shall prescribe.

“(ii) All, or that portion, of the appropriation made to the Trust Fund pursuant to paragraph (3) that is needed to cover the difference defined in that paragraph.

“(B) REPAYMENT OF OBLIGATIONS.—In the event that the Trust Fund is unable to repay the obligations that it has issued to the Secretary of the Treasury under subparagraph (A)(i) and this subparagraph, or is unable to make benefit payments and other authorized expenditures, the Trust Fund shall issue obligations to the Secretary of the Treasury in such amounts as may be necessary to make such repayments, payments, and expenditures, with a maturity of 1 year, and bearing interest at the Treasury 1-year rate. These obligations shall be in such forms and denominations and be subject to such other terms and conditions as the Secretary of the Treasury shall prescribe.

“(C) AUTHORITY TO ISSUE OBLIGATIONS.—The Trust Fund is authorized to issue obligations to the Secretary of the Treasury under subparagraphs (A)(i) and (B). The Secretary of the Treasury is authorized to purchase such obligations of the Trust Fund. For the purposes of making such purchases, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such Trust Fund obligations under this subparagraph.

“(3) ONE-TIME APPROPRIATION.—There is hereby appropriated to the Trust Fund an amount sufficient to pay to the general fund of the Treasury the difference between—

“(A) the market value of the outstanding repayable advances, plus accrued interest; and

“(B) the proceeds from the obligations issued by the Trust Fund to the Secretary of the Treasury under paragraph (2)(A)(i).

“(4) PREPAYMENT OF TRUST FUND OBLIGATIONS.—The Trust Fund is authorized to repay any obligation issued to the Secretary of the Treasury under subparagraphs (A)(i) and (B) of paragraph (2) prior to its maturity date by paying a prepayment price that would, if the obligation being prepaid (including all unpaid interest accrued thereon through the date of prepayment) were purchased by a third party and held to the maturity date of such obligation, produce a yield to the third-party purchaser for the period from the date of purchase to the maturity date of such obligation substantially equal to the Treasury yield on outstanding marketable obligations of the United States having a comparable maturity to this period.”

#### FUNDS TO REMAIN AVAILABLE

Pub. L. 111–8, div. F, title I, Mar. 11, 2009, 123 Stat. 757, provided in part that: “In fiscal year 2009 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund (‘Fund’), to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (4), and (7) of the Internal Revenue Code of 1954 [now 1986]; and interest on advances, as authorized by section 9501(c)(2) of that Act.”

Similar provisions were contained in the following appropriation acts:

Pub. L. 112–74, div. F, title I, Dec. 23, 2011, 125 Stat. 1058.

Pub. L. 111–117, div. D, title I, Dec. 16, 2009, 123 Stat. 3233.

Pub. L. 110–161, div. G, title I, Dec. 26, 2007, 121 Stat. 2162.

Pub. L. 109–149, title I, Dec. 30, 2005, 119 Stat. 2839.

Pub. L. 108–447, div. F, title I, Dec. 8, 2004, 118 Stat. 3118.

Pub. L. 108–199, div. E, title I, Jan. 23, 2004, 118 Stat. 231.

Pub. L. 108–7, div. G, title I, Feb. 20, 2003, 117 Stat. 303.

#### MORATORIUM ON INTEREST ACCRUALS ON INDEBTEDNESS OF BLACK LUNG DISABILITY TRUST FUND

Pub. L. 99–272, title XIII, §13203(b), Apr. 7, 1986, 100 Stat. 312, provided that: “No interest shall accrue for the period beginning on October 1, 1985, and ending on September 30, 1990, with respect to any repayable advance to the Black Lung Disability Trust Fund.”

#### PROVISIONS RELATING TO PAYMENT OF BENEFITS TO MINERS AND ELIGIBLE SURVIVORS OF MINERS TO TAKE EFFECT AS RULES AND REGULATIONS OF SECRETARY OF LABOR

Pub. L. 95–239, §20(b), Mar. 1, 1978, 92 Stat. 106, provided that: “In the event that the payment of benefits to miners and to eligible survivors of miners cannot be made from the Black Lung Disability Trust Fund established by section 3(a) of the Black Lung Benefits Revenue Act of 1977 [former section 934a(a) of Title 30, Mineral Lands and Mining], the provisions of the Act relating to the payment of benefits to miners and to eligible survivors of miners, as in effect immediately before the date of the enactment of this Act [Mar. 1, 1978], shall take effect, as rules and regulations of the Secretary of Labor until such provisions are revoked, amended, or revised by law. The Secretary of Labor may promulgate additional rules and regulations to carry out such provisions and shall make benefit payments to miners and to eligible survivors of miners in accordance with such provisions.”

### § 9502. Airport and Airway Trust Fund

#### (a) Creation of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the “Airport and Airway Trust Fund”, consisting of such amounts as may be appropriated, credited, or paid into the Airport and Airway Trust Fund