

inland and coastal waterways of the United States described in section 206 of the Inland Waterways Revenue Act of 1978, as in effect on the date of the enactment of this section.

**(2) Exception for certain projects**

Not more than ½ of the cost of any construction to which section 102(a) of the Water Resources Development Act of 1986 applies (as in effect on the date of the enactment of this section) may be paid from the Inland Waterways Trust Fund.

(Added Pub. L. 99-662, title XIV, §1405(a), Nov. 17, 1986, 100 Stat. 4271; amended Pub. L. 99-499, title V, §521(b)(3), Oct. 17, 1986, 100 Stat. 1778; Pub. L. 100-647, title I, §1018(u)(18), Nov. 10, 1988, 102 Stat. 3591.)

REFERENCES IN TEXT

Section 206 of the Inland Waterways Revenue Act of 1978, as in effect on the date of the enactment of this section, referred to in subsec. (c)(1), is classified to section 1804 of Title 33, Navigation and Navigable Waters. The date of the enactment of section 9506 of this title is the date of enactment of Pub. L. 99-662, which was approved Nov. 17, 1986.

Section 102(a) of the Water Resources Development Act of 1986 (as in effect on the date of enactment of this section), referred to in subsec. (c)(2), is classified to section 2212(a) of Title 33. The date of enactment of section 9506 of this title is the date of enactment of Pub. L. 99-662, which was approved Nov. 17, 1986.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-647 made technical corrections to directory language of Pub. L. 99-499, §521(b)(3), see 1986 Amendment note below.

1986—Subsec. (b). Pub. L. 99-499, as amended by Pub. L. 100-647, §1018(u)(18), inserted at end “The preceding sentence shall apply only to so much of such taxes as are attributable to the Inland Waterways Trust Fund financing rate under section 4042(b).”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-499 effective Jan. 1, 1987, see section 521(e) of Pub. L. 99-499, set out as a note under section 4041 of this title.

EFFECTIVE DATE

Pub. L. 99-662, title XIV, §1405(d), Nov. 17, 1986, 100 Stat. 4271, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section and repealing sections 1801 and 1802 of Title 33, Navigation and Navigable Waters] shall take effect on January 1, 1987.

“(2) INLAND WATERWAYS TRUST FUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Inland Waterways Trust Fund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Inland Waterways Trust Fund established by section 203 of the Inland Waterways Revenue Act of 1978 [former 33 U.S.C. 1801]. Any reference in any law to the Inland Waterways Trust Fund established by such section 203 shall be deemed to include (wherever appropriate) a reference to the Inland Waterways Trust Fund established by this section.”

**§ 9507. Hazardous Substance Superfund**

**(a) Creation of Trust Fund**

There is established in the Treasury of the United States a trust fund to be known as the

“Hazardous Substance Superfund” (hereinafter in this section referred to as the “Superfund”), consisting of such amounts as may be—

(1) appropriated to the Superfund as provided in this section,

(2) appropriated to the Superfund pursuant to section 517(b) of the Superfund Revenue Act of 1986, or

(3) credited to the Superfund as provided in section 9602(b).

**(b) Transfers to Superfund**

There are hereby appropriated to the Superfund amounts equivalent to—

(1) the taxes received in the Treasury under section 59A, 4611, 4661, or 4671 (relating to environmental taxes),

(2) amounts recovered on behalf of the Superfund under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this section referred to as “CERCLA”),

(3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act,<sup>1</sup>

(4) penalties assessed under title I of CERCLA, and

(5) punitive damages under section 107(c)(3) of CERCLA.

In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Hazardous Substance Superfund financing rate under section 4611(c).

**(c) Expenditures from Superfund**

**(1) In general**

Amounts in the Superfund shall be available, as provided in appropriation Acts, only for purposes of making expenditures—

(A) to carry out the purposes of—

(i) paragraphs (1), (2), (5), and (6) of section 111(a) of CERCLA as in effect on the date of the enactment of the Superfund Amendments and Reauthorization Act of 1986,

(ii) section 111(c) of CERCLA (as so in effect), other than paragraphs (1) and (2) thereof, and

(iii) section 111(m) of CERCLA (as so in effect), or

(B) hereafter authorized by a law which does not authorize the expenditure out of the Superfund for a general purpose not covered by subparagraph (A) (as so in effect).

**(2) Exception for certain transfers, etc., of hazardous substances**

No amount in the Superfund or derived from the Superfund shall be available or used for the transfer or disposal of hazardous waste carried out pursuant to a cooperative agreement between the Administrator of the Environmental Protection Agency and a State if the following conditions apply—

(A) the transfer or disposal, if made on December 13, 1985, would not comply with a State or local requirement,

(B) the transfer is to a facility for which a final permit under section 3005(a) of the

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

Solid Waste Disposal Act was issued after January 1, 1983, and before November 1, 1984, and

(C) the transfer is from a facility identified as the McColl Site in Fullerton, California.

**(d) Authority to borrow**

**(1) In general**

There are authorized to be appropriated to the Superfund, as repayable advances, such sums as may be necessary to carry out the purposes of the Superfund.

**(2) Limitation on aggregate advances**

The maximum aggregate amount of repayable advances to the Superfund which is outstanding at any one time shall not exceed an amount equal to the amount which the Secretary estimates will be equal to the sum of the amounts appropriated to the Superfund under subsection (b)(1) during the following 24 months.

**(3) Repayment of advances**

**(A) In general**

Advances made to the Superfund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Superfund.

**(B) Final repayment**

No advance shall be made to the Superfund after December 31, 1995, and all advances to such Fund shall be repaid on or before such date.

**(C) Rate of interest**

Interest on advances made to the Superfund 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 and shall be compounded annually.

**(e) Liability of United States limited to amount in Trust Fund**

**(1) General rule**

Any claim filed against the Superfund may be paid only out of the Superfund.

**(2) Coordination with other provisions**

Nothing in CERCLA or the Superfund Amendments and Reauthorization Act of 1986 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Superfund.

**(3) Order in which unpaid claims are to be paid**

If at any time the Superfund has insufficient funds to pay all of the claims payable out of the Superfund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.

(Added Pub. L. 99-499, title V, §517(a), Oct. 17, 1986, 100 Stat. 1772; amended Pub. L. 99-509, title VIII, §8032(c)(4), Oct. 21, 1986, 100 Stat. 1959; Pub. L. 101-508, title XI, §11231(c), Nov. 5, 1990, 104 Stat. 1388-445.)

REFERENCES IN TEXT

Section 517(b) of the Superfund Revenue Act of 1986, referred to in subsec. (a)(2), is section 517(b) of Pub. L. 99-499, which is set out as a note under this section.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and CERCLA, referred to in subsecs. (b)(2), (4), (5), (c)(1)(A), and (e)(2), is Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§9601 et seq.) of Title 42, The Public Health and Welfare. Title I of CERCLA is classified to subchapter I (§9601 et seq.) of chapter 103 of Title 42. Sections 107(c)(3) and 111(a)(1), (2), (5), and (6), (c), and (m) of CERCLA are classified to sections 9607(c)(3) and 9611(a)(1), (2), (5), and (6), (c), and (m) of Title 42, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

Section 311(b)(6)(B) of the Clean Water Act, referred to in subsec. (b)(3), which was classified to section 1321(b)(6)(B) of Title 33, Navigation and Navigable Waters, and which related to civil actions by the Administrator to impose penalties for prohibited discharges was struck out by Pub. L. 101-380, title IV, §4301(b), Aug. 18, 1990, 104 Stat. 533, which added a new section 311(b)(6)(B) relating to classes of civil penalties imposed by the Secretary of the department in which the Coast Guard is operating or the Administrator for prohibited discharges or violations of regulations.

The date of the enactment of the Superfund Amendments and Reauthorization Act of 1986, referred to in subsec. (c)(1)(A)(i), is the date of enactment of Pub. L. 99-499, which was approved Oct. 17, 1986.

Section 3005(a) of the Solid Waste Disposal Act, referred to in subsec. (c)(2)(B), is classified to section 6925(a) of Title 42, The Public Health and Welfare.

The Superfund Amendments and Reauthorization Act of 1986, referred to in subsec. (e)(2), is Pub. L. 99-499, Oct. 17, 1986, 100 Stat. 1613. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 9601 of Title 42 and Tables.

AMENDMENTS

1990—Subsec. (d)(3)(B). Pub. L. 101-508 substituted “December 31, 1995” for “December 31, 1991”.

1986—Subsec. (b). Pub. L. 99-509 inserted at end “In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Hazardous Substance Superfund financing rate under section 4611(c).”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-509 effective on commencement date as defined in former section 4611(f)(2), see section 8032(d) of Pub. L. 99-509, set out as a note under section 4611 of this title.

EFFECTIVE DATE

Pub. L. 99-499, title V, §517(e), Oct. 17, 1986, 100 Stat. 1774, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section, amending section 9601 of Title 42, The Public Health and Welfare, and repealing sections 9631 to 9633 of Title 42] shall take effect on January 1, 1987.

“(2) SUPERFUND TREATED AS CONTINUATION OF OLD TRUST FUND.—The Hazardous Substance Superfund established by the amendments made by this section shall be treated for all purposes of law as a continuation of the Hazardous Substance Response Trust Fund established by section 221 of the Hazardous Substance Response Revenue Act of 1980 [former 42 U.S.C. 9631].

Any reference in any law to the Hazardous Substance Response Trust Fund established by such section 221 shall be deemed to include (wherever appropriate) a reference to the Hazardous Substance Superfund established by the amendments made by this section.”

#### AUTHORIZATION OF APPROPRIATIONS

Pub. L. 99-499, title V, §517(b), Oct. 17, 1986, 100 Stat. 1773, as amended by Pub. L. 101-508, title XI, §11231(d), Nov. 5, 1990, 104 Stat. 1388-445, provided that: “There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund for fiscal year—

- “(1) 1987, \$250,000,000,
- “(2) 1988, \$250,000,000,
- “(3) 1989, \$250,000,000,
- “(4) 1990, \$250,000,000,
- “(5) 1991, \$250,000,000, and [sic]
- “(6) 1992, \$250,000,000,
- “(7) 1993, \$250,000,000,
- “(8) 1994, \$250,000,000, and
- “(9) 1995, \$250,000,000,

plus for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this subsection (and paragraph (2) of section 221(b) of the Hazardous Substance Response Act of 1980 [probably means section 221(b)(2) of the Hazardous Substance Response Revenue Act of 1980, which was classified to 42 U.S.C. 9631(b)(2) before its repeal by section 517(c)(1) of Pub. L. 99-499], as in effect before its repeal) as has not been appropriated before the beginning of the fiscal year involved.”

[Pub. L. 101-508, title XI, §11231(d), Nov. 5, 1990, 104 Stat. 1388-445, directed that section 517(b) of Pub. L. 99-499, set out above, be “amended by striking ‘and’ at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ‘, and’, and by adding at the end thereof” new pars. (6) to (9), with par. (9) ending in a period. Pub. L. 104-188, title I, §1704(t)(44), Aug. 20, 1996, 110 Stat. 1889, provided that section 11231(d) of Pub. L. 101-508 “shall be applied as if ‘comma’ appeared instead of ‘period’ [in the directory language amending section 517(b)(5) of Pub. L. 99-499] and as if the paragraph (9) proposed to be added ended with a comma”.]

### § 9508. Leaking Underground Storage Tank 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 “Leaking Underground Storage Tank Trust Fund”, consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

#### (b) Transfers to Trust Fund

There are hereby appropriated to the Leaking Underground Storage Tank Trust Fund amounts equivalent to—

- (1) taxes received in the Treasury under section 4041(d) (relating to additional taxes on motor fuels),
- (2) taxes received in the Treasury under section 4081 (relating to tax on gasoline, diesel fuel, and kerosene) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section,
- (3) taxes received in the Treasury under section 4042 (relating to tax on fuel used in commercial transportation on inland waterways) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section, and
- (4) amounts received in the Treasury and collected under section 9003(h)(6) of the Solid Waste Disposal Act.

For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4081 on diesel fuel sold for use or used as fuel in a diesel-powered boat.

#### (c) Expenditures

##### (1) In general

Except as provided in paragraph (2), amounts in the Leaking Underground Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out sections 9003(h), 9003(i), 9003(j), 9004(f), 9005(c), 9010, 9011, 9012, and 9013 of the Solid Waste Disposal Act as in effect on the date of the enactment of the<sup>1</sup> Public Law 109-168.

##### (2) Transfer to Highway Trust Fund

Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated \$2,400,000,000 to be transferred under section 9503(f)(3) to the Highway Account (as defined in section 9503(e)(5)(B)) in the Highway Trust Fund.

#### (d) Liability of the United States limited to amount in Trust Fund

##### (1) General rule

Any claim filed against the Leaking Underground Storage Tank Trust Fund may be paid only out of such Trust Fund.

##### (2) Coordination with other provisions

Nothing in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or the Superfund Amendments and Reauthorization Act of 1986 (or in any amendment made by either of such Acts) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Leaking Underground Storage Tank Trust Fund.

##### (3) Order in which unpaid claims are to be paid

If at any time the Leaking Underground Storage Tank Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1), be paid in full in the order in which they were finally determined.

#### (e) Limitation on transfers to Leaking Underground Storage Tank Trust Fund

##### (1) In general

Except as provided in paragraph (2), no amount may be appropriated to the Leaking Underground Storage Tank Trust Fund on and after the date of any expenditure from the Leaking Underground Storage Tank Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

(B) whether such provision of law is a subsequently enacted provision or directly or

<sup>1</sup> So in original.