

the expert is expected to testify at trial. The executive agency need not provide any written justification for the use of procedures other than competitive procedures when procuring such expert services under this chapter and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solicitation or synopsis with respect to such procurement.

**(f) Savings clause**

Action taken by the President pursuant to this section shall not affect or limit the President's authority to enforce any provisions of this chapter.

(Pub. L. 96-510, title I, §109, Dec. 11, 1980, 94 Stat. 2787; Pub. L. 99-499, title I, §109(c), Oct. 17, 1986, 100 Stat. 1633.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (d) to (f), was in the original "this Act", meaning Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, known as the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of this title and Tables.

AMENDMENTS

1986—Pub. L. 99-499 amended section generally. Prior to amendment, section read as follows: "Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of section 9608 of this title, the regulations issued thereunder, or with any denial or detention order shall be liable to the United States for a civil penalty, not to exceed \$10,000 for each day of violation."

COORDINATION OF TITLES I TO IV OF PUB. L. 99-499

Any provision of titles I to IV of Pub. L. 99-499, imposing any tax, premium, or fee; establishing any trust fund; or authorizing expenditures from any trust fund, to have no force or effect, see section 531 of Pub. L. 99-499, set out as a note under section 1 of Title 26, Internal Revenue Code.

**§ 9610. Employee protection**

**(a) Activities of employee subject to protection**

No person shall fire or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has provided information to a State or to the Federal Government, filed, instituted, or caused to be filed or instituted any proceeding under this chapter, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this chapter.

**(b) Administrative grievance procedure in cases of alleged violations**

Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person, who shall be the respondent. Upon receipt

of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions are subject to judicial review under this chapter.

**(c) Assessment of costs and expenses against violator subsequent to issuance of order of abatement**

Whenever an order is issued under this section to abate such violation, at the request of the applicant a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) determined by the Secretary of Labor to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

**(d) Defenses**

This section shall have no application to any employee who acting without discretion from his employer (or his agent) deliberately violates any requirement of this chapter.

**(e) Presidential evaluations of potential loss of shifts of employment resulting from administration or enforcement of provisions; investigations; procedures applicable, etc.**

The President shall conduct continuing evaluations of potential loss of shifts of employment which may result from the administration or enforcement of the provisions of this chapter, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement. Any employee who is discharged, or laid off, threatened with discharge or layoff, or otherwise discriminated against by any person because of the alleged results of such administration or enforcement, or any representative of such employee, may request the President to conduct a full investigation of the matter and, at the request of any party, shall hold public hearings, require the parties, including the employer involved, to present information relating to the actual or potential effect of such administration or enforce-

ment on employment and any alleged discharge, layoff, or other discrimination, and the detailed reasons or justification therefore.<sup>1</sup> Any such hearing shall be of record and shall be subject to section 554 of title 5. Upon receiving the report of such investigation, the President shall make findings of fact as to the effect of such administration or enforcement on employment and on the alleged discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the President or any State to modify or withdraw any action, standard, limitation, or any other requirement of this chapter.

(Pub. L. 96-510, title I, § 110, Dec. 11, 1980, 94 Stat. 2787.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), (d), and (e), was in the original "this Act", meaning Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, known as the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of this title and Tables.

### § 9611. Uses of Fund

#### (a) In general

For the purposes specified in this section there is authorized to be appropriated from the Hazardous Substance Superfund established under subchapter A of chapter 98 of title 26 not more than \$8,500,000,000 for the 5-year period beginning on October 17, 1986, and not more than \$5,100,000,000 for the period commencing October 1, 1991, and ending September 30, 1994, and such sums shall remain available until expended. The preceding sentence constitutes a specific authorization for the funds appropriated under title II of Public Law 99-160 (relating to payment to the Hazardous Substances Trust Fund). The President shall use the money in the Fund for the following purposes:

(1) Payment of governmental response costs incurred pursuant to section 9604 of this title, including costs incurred pursuant to the Intervention on the High Seas Act [33 U.S.C. 1471 et seq.].

(2) Payment of any claim for necessary response costs incurred by any other person as a result of carrying out the national contingency plan established under section 1321(c)<sup>1</sup> of title 33 and amended by section 9605 of this title: *Provided, however*, That such costs must be approved under said plan and certified by the responsible Federal official.

(3) Payment of any claim authorized by subsection (b) of this section and finally decided pursuant to section 9612 of this title, including those costs set out in subsection 9612(c)(3) of this title.

(4) Payment of costs specified under subsection (c) of this section.

(5) GRANTS FOR TECHNICAL ASSISTANCE.—The cost of grants under section 9617(e) of this title

(relating to public participation grants for technical assistance).

(6) LEAD CONTAMINATED SOIL.—Payment of not to exceed \$15,000,000 for the costs of a pilot program for removal, decontamination, or other action with respect to lead-contaminated soil in one to three different metropolitan areas.

The President shall not pay for any administrative costs or expenses out of the Fund unless such costs and expenses are reasonably necessary for and incidental to the implementation of this subchapter.

#### (b) Additional authorized purposes

##### (1) In general

Claims asserted and compensable but unsatisfied under provisions of section 1321 of title 33, which are modified by section 304 of this Act may be asserted against the Fund under this subchapter; and other claims resulting from a release or threat of release of a hazardous substance from a vessel or a facility may be asserted against the Fund under this subchapter for injury to, or destruction or loss of, natural resources, including cost for damage assessment: *Provided, however*, That any such claim may be asserted only by the President, as trustee, for natural resources over which the United States has sovereign rights, or natural resources within the territory or the fishery conservation zone of the United States to the extent they are managed or protected by the United States, or by any State for natural resources within the boundary of that State belonging to, managed by, controlled by, or appertaining to the State, or by any Indian tribe or by the United States acting on behalf of any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation.

##### (2) Limitation on payment of natural resource claims

###### (A) General requirements

No natural resource claim may be paid from the Fund unless the President determines that the claimant has exhausted all administrative and judicial remedies to recover the amount of such claim from persons who may be liable under section 9607 of this title.

###### (B) Definition

As used in this paragraph, the term "natural resource claim" means any claim for injury to, or destruction or loss of, natural resources. The term does not include any claim for the costs of natural resource damage assessment.

##### (c) Peripheral matters and limitations

Uses of the Fund under subsection (a) of this section include—

(1) The costs of assessing both short-term and long-term injury to, destruction of, or loss of any natural resources resulting from a release of a hazardous substance.

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

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