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Resources, Community, and
Economic Development Division

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April 16, 1998

The Honorable John H. Chafee
Chairman, Committee on Environment
and Public Works
United States Senate

The Honorable Robert C. Smith
Chairman, Subcommittee on Superfund,
Waste Control, and Risk Assessment
Committee on Environment and Public Works
United States Senate

Subject: Superfund: Status of the Superfund Trust Fund

In 1980, the Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), which created the Superfund program to clean up hazardous waste sites. Under the act, the Environmental Protection Agency (EPA) has the authority to compel the parties responsible for the contamination to perform the cleanup. EPA may also pay for the cleanup and attempt to recover the cleanup costs from responsible parties. CERCLA also established the Hazardous Substance Superfund (commonly referred to as the Superfund Trust Fund) to provide EPA the resources needed to clean up hazardous waste sites. The Trust Fund has been financed primarily by a tax on crude oil and certain chemicals and by an environmental tax on corporations. However, these taxes expired in December 1995. Other sources of revenue for the Trust Fund include amounts recovered from the private parties responsible for the hazardous waste sites, interest earned on the unexpended balance in the fund, fines and penalties and appropriations made available from general revenues (i.e., from Treasury's General Fund).

Given the expiration of the crude oil, chemical, and environmental taxes in December 1995, you asked us to report on the status of the Trust Fund. Specifically, you asked us to report on (1) the amount of Trust Fund resources available for appropriation in future years if the taxes that expired in 1995 are

160233

not reinstated¹ and (2) the existence of any impediments to funding the Superfund program from general revenues.

In summary, we found the following:

- As of September 30, 1997, the unappropriated balance in the Trust Fund was about \$2.63 billion. For fiscal year 1998, the Congress made \$1.5 billion available for the Superfund program—\$1.25 billion from the unappropriated Trust Fund balance and \$250 million from general revenues—leaving a balance of about \$1.38 billion potentially available for future appropriations.² In addition, the Trust Fund is projected to receive income (primarily from interest and recoveries) during fiscal year 1998 of about \$396 million. With this projection, about \$1.78 billion may be available in the Trust Fund for future appropriations by the end of fiscal year 1998. The availability of Trust Fund resources for appropriation beyond fiscal year 1999 is less certain and depends on variables such as the amount actually made available to EPA for fiscal year 1999, and the actual amount of interest and recoveries realized in fiscal years 1998 and 1999.
- Our discussions with executive and legislative branch officials and our own research did not identify any provision in law or the congressional budget agreement that would preclude funding the Superfund program entirely from general revenues.

¹Pending reauthorization bills (including H.R. 3000 and S. 8) provide for the reinstatement of the expired taxes, and the President's fiscal year 1999 budget includes estimates for anticipated revenues from the reinstatement of these taxes. However, we did not include revenues from taxes in our analysis, since the legislation reauthorizing the Superfund program has not been enacted.

²For fiscal year 1998, the Congress actually appropriated \$2.15 billion for the program—\$1.9 billion from the Trust Fund and \$250 million from general revenues. However, \$650 million of the \$1.9 billion has not been made available to EPA because it is contingent on the enactment of Superfund reauthorization legislation by May 15, 1998, and in any event would not become available until fiscal year 1999. For the purposes of this report, we include this \$650 million as part of the amount potentially available for future appropriations.

BALANCES IN THE SUPERFUND TRUST FUND

EPA's audited financial statements for fiscal year 1997 show that, as of September 30, 1997, the Trust Fund had an unappropriated balance of \$2.63 billion.³ For fiscal year 1998, the Congress made \$1.5 billion available to the Superfund program (\$1.25 billion from the Trust Fund plus \$250 million from general revenues), leaving \$1.38 billion potentially available for future appropriations. Although the taxes that were the major source of income for the Trust Fund expired in December 1995, the fund continues to receive income, primarily from interest on the unexpended balance and recoveries from private parties who are responsible to reimburse EPA for cleanup costs at hazardous waste sites.⁴ The amount potentially available for appropriation from the Trust Fund for fiscal year 1999 includes the \$1.38 billion mentioned above plus income realized during fiscal year 1998.

The President's fiscal year 1999 budget estimates that the Superfund Trust Fund will earn about \$396 million during fiscal year 1998—\$217 million in interest and \$175 in recoveries, plus \$4 million in fines and penalties. We obtained actual income information from the Department of the Treasury, which maintains the Trust Fund accounts and processes all of EPA's receipts and disbursements. The income statement for the Trust Fund shows that in the first 5 months of fiscal year 1998 (October 1997 through February 1998), the Trust Fund earned about \$226 million in interest, recoveries, and fines and penalties (or 57 percent of the amount estimated for the entire year). While there is uncertainty about the amount of income that the Trust Fund will earn for the remainder of fiscal year 1998, particularly from recoveries, which flow into the fund on an uneven basis, it appears that the total income may be somewhat higher for fiscal year 1998 than projected in the budget estimate.

In addition to the amount potentially available for appropriations from the Trust Fund (\$1.38 billion) and the income being earned in fiscal year 1998, the President's budget for fiscal year 1999 estimates additional support of \$250 million from general revenues. Taken together, these revenue sources total over \$2 billion that may be available to fund the Superfund program for fiscal

³EPA's Fiscal 1997 and 1996 Financial Statements, EPA, Office of the Inspector General, Audit Report No. E1AML7-20-7008-8100058.

⁴There is a lag between the appropriation of funds, the obligation of funds, and the actual disbursement of funds. Until funds are actually disbursed, they remain in the Superfund Trust Fund earning interest. The total undisbursed balance in the Trust Fund at the end of fiscal year 1997 was about \$5.6 billion.

year 1999. The President's fiscal year 1999 budget anticipates that \$2.093 billion will be available for the program for fiscal year 1999.⁵

The amount of the unappropriated balance in the Trust Fund to fund the program beyond fiscal year 1999 is uncertain. The balance depends on whether the additional \$650 million provided for in the fiscal year 1998 appropriations act is made available to EPA in 1999, the actual level of appropriations for fiscal year 1999, and the actual amount of income (primarily, interest and recoveries) that will be realized in fiscal years 1998 and 1999.

FUNDING THE SUPERFUND PROGRAM FROM GENERAL REVENUES

Our discussions with officials from the Congressional Budget Office, EPA, and the Office of Management and Budget did not identify any provisions of law or the congressional budget resolution that would preclude funding the Superfund program entirely from general revenues. Similarly, in July 1996, the Congressional Budget Office reported to the Congress that if the Trust Fund runs short of cash, the Congress could choose to fund the program from the General Fund indefinitely. Additionally, our review of pertinent legislation and the concurrent resolution on the budget for fiscal year 1998 (which established budget levels for fiscal years 1998 through 2002) confirmed these views.

AGENCY COMMENTS

We provided EPA with a draft of this report for its review and comment. We met with EPA officials, including the Branch Chief of the Trust Funds and Administration Analysis Branch in EPA's Office of the Comptroller, to obtain their comments. These officials said that overall the report provides a fair treatment of the facts. EPA also provided a few technical clarifications, which have been incorporated in this report, as appropriate.

⁵If Superfund reauthorization legislation is enacted by May 15, 1998, the fiscal year 1998 appropriations act provides for making an additional \$650 million available to EPA in fiscal year 1999. Under this scenario, the fiscal year 1999 budget request is \$1.443 billion (\$2.093 billion less the \$650 million). Alternatively, if Superfund reauthorization does not occur by May 15, 1998, the \$650 million will not be made available to EPA under the provisions of the fiscal year 1998 appropriations act, but according to an EPA budget official, EPA intends to submit a budget amendment increasing the fiscal year 1999 budget request by \$650 million—from \$1.443 billion to \$2.093 billion.

SCOPE AND METHODOLOGY

To prepare this report, we held discussions with, and obtained and analyzed information provided by, officials from EPA, the Department of the Treasury, the Office of Management and Budget, and the Congressional Budget Office. To identify the amount of Superfund Trust Fund resources available for future appropriations, we reviewed the audited financial statements prepared by EPA's Office of Inspector General for the end of fiscal year 1997. To update these figures, we obtained the most current income statement for the Trust Fund from the Department of the Treasury. To identify projected recoveries, we spoke to EPA's Office of Enforcement and Compliance Assurance. We also discussed other line items in the Superfund Trust Fund budget with an official at the Office of Management and Budget. We discussed our methodology with the Congressional Budget Office's Division of Natural Resource and Commerce, Division of Budget Analysis, and Division of Tax Analysis.

To address the issue of funding the program entirely out of general revenues, we spoke to the same officials at the Congressional Budget Office, the Office of Management and Budget, and EPA. We also reviewed pertinent Superfund legislation and congressional budget resolutions. We conducted our review in March and April 1998 in accordance with generally accepted government auditing standards.

If you have any further questions, please call me at (202) 512-6111. Major contributors to this report were Charles Barchok, Karen Kemper, and Richard Johnson.



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