

# CRS Report for Congress

Received through the CRS Web

## **Superfund Taxes or General Revenues: Future Funding Issues for the Superfund Program**

**Updated March 15, 2006**

Jonathan Lee Ramseur  
Analyst in Environmental Policy  
Resources, Science, and Industry Division

Mark Reisch  
Analyst in Environmental Policy  
Resources, Science, and Industry Division

James E. McCarthy  
Specialist in Environmental Policy  
Resources, Science, and Industry Division

# Superfund Taxes or General Revenues: Future Funding Issues for the Superfund Program

## Summary

This report discusses the role of dedicated taxes and other sources of revenue in funding the Hazardous Substance Superfund Trust Fund. Congress makes annual appropriations to the Environmental Protection Agency (EPA) from this trust fund and from general Treasury revenues for the purpose of supporting the Superfund program, which addresses both short-term (emergency) and long-term cleanup activity of hazardous substances at contaminated sites.

Three dedicated taxes (on petroleum, chemical feedstocks, and corporate income) historically provided the majority of the trust fund's income. The taxes expired at the end of 1995, however, and the amount of unobligated money in the fund gradually dwindled. By the end of FY2003, the fund's unobligated balance was zero, down from a high of \$3.8 billion in 1996. The Administration's decision to not request reinstatement of the taxes has been supported by Congress, although some Members introduced legislation to do so. The annual budgets have compensated for the lack of dedicated tax revenue by increasing the contribution from the general fund of the U.S. Treasury. In fiscal years 2004-2006, virtually the entire Superfund program appropriation came from general Treasury revenues. The FY2007 budget request follows this course, proposing to fund the vast majority of the \$1.26 billion requested appropriation from general Treasury revenues.

Proponents of reinstating the dedicated taxes contend that the cleanup of hazardous waste sites and releases (e.g., spills and leaks) should rely on taxes paid by the chemical and petroleum industries and companies that used the hazardous substances being cleaned up, not taxpayers. Proponents refer to this as the "polluter pays" principle. They also contend that in the context of federal budget deficits, it may be difficult to maintain spending at needed levels without dedicated taxes. Opponents of reinstating the tax argue, for example, that the tax is overreaching and unfair, as it applies to all industry sectors and to both compliant and noncompliant companies. In general, this funding debate applies to 30% of the sites on the National Priorities List; the remaining 70% of the sites, according to EPA, are cleaned up by responsible parties.

The President proposed increases (FY2004-FY2007) for Superfund appropriations in otherwise tight budgets for domestic programs. Congress cut the Administration request for FY2006 by \$37 million. The FY2007 proposal is \$20 million less than the Administration's FY2006 request but \$17 million more than the amount Congress enacted in FY2006. Regarding the tax issue, the President's FY2007 budget submission is silent. Several reports, including one for the House and Senate Appropriations Committees and reports by the EPA Inspector General, have concluded that spending has fallen short of the program's needs.

This report, which will be updated as events warrant, provides background information on income sources for the fund and estimates of program needs through FY2009.

## Contents

Background .....	1
Superfund Taxes .....	2
Expiration of the Taxing Authority .....	3
The Decreased Fund Balance .....	4
Available Funds .....	5
General Treasury Revenue Requirement .....	7
Estimates of the Superfund Program's Future Funding Needs .....	7
Possible Evidence of Insufficient Funding .....	8
Increasing the Superfund Appropriation .....	10
Congressional and Administration Action .....	10
Congressional Action .....	10
Administration Position .....	11

## List of Figures

Figure 1. Hazardous Substance Superfund, Beginning of Year Unobligated Balance, FY1994-FY2006 .....	5
Figure 2. Superfund Appropriations: FY2001-FY2006 Enacted and FY2007 Requested Versus Resources for the Future Projections of Funding Needs (amounts in millions prior to transfers) .....	9

## List of Tables

Table 1. Superfund: Trust Fund Revenues and General Revenue Contributions, FY1991-FY1995 .....	2
---	---

# Superfund Taxes or General Revenues: Future Funding Issues for the Superfund Program

In February 2002, controversy erupted over the Bush Administration's proposal, which Congress accepted, to not request renewal of the Superfund taxes in its FY2003 budget submission<sup>1</sup> — a decision repeated in its FY2004, FY2005, FY2006, and FY2007 submissions. The tax authority expired in 1995, but the fund's balance remained positive until FY2003. Although several Members of Congress have introduced bills to reinstate the taxes during these years, such efforts have lacked the necessary support. The Superfund trust fund is used to clean up sites contaminated by releases of hazardous substances. Without dedicated taxes, and with a relatively small balance in the trust fund, Congress has been using general revenues for a larger percentage of cleanup funds. This report reviews income sources for the fund, provides Superfund program funding estimates for FY2007 and subsequent years, and discusses whether this funding will be adequate to meet projected program needs.

## Background

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), which was greatly expanded by the Superfund Amendments and Reauthorization Act of 1986 (SARA, P.L. 99-499), created the Superfund program<sup>2</sup> to clean up the nation's worst hazardous waste sites and directed the Environmental Protection Agency (EPA) to prepare a National Priorities List (NPL) to identify sites that present the greatest risk to human health and the environment. The Superfund account in EPA's budget funds the agency's efforts to remove contamination that presents an immediate risk and to remediate contamination for which there is a potential pathway of exposure. Although federal facilities are subject to CERCLA provisions, the costs of remediation at federal facilities are paid by the federal agency that caused the contamination, rather than out of the Superfund account.

In a majority of cases, Superfund cleanups are paid for by potentially responsible parties (PRPs) — usually current or previous owners/operators of the site. According to EPA, PRPs conduct cleanup at more than 70% of the sites on the NPL.<sup>3</sup> At approximately 30% of the NPL sites, either EPA cannot locate PRPs for

---

<sup>1</sup> The Administration had not requested renewal of the taxes in its FY2002 budget submission either, but the issue did not become particularly contentious, in part, perhaps, because the fund had a larger balance at the time.

<sup>2</sup> For more information on the Superfund program, see CRS Report RL31154, *Superfund: A Summary of the Law*, by Mark Reisch.

<sup>3</sup> At many sites, however, EPA cannot immediately locate a financially viable PRP or there  
(continued...)

these properties or the PRPs located do not have the necessary financial resources to assist with cleanup. It is primarily at this group of NPL sites that EPA uses funds from the trust fund to conduct cleanup activities. The Superfund funding debate — that is, whether the trust fund should be supported by a dedicated tax or general Treasury revenues — applies to this subset of NPL sites.

## Superfund Taxes

The trust fund has had several sources of revenue over the years, the most important being dedicated taxes on petroleum, chemical feedstocks, and corporate income. The taxes on petroleum (9.7 cents per barrel) and on chemical feedstocks and imported chemical derivatives (varying amounts, depending on the chemical) were based on the assumption that many of the hazardous substances to be cleaned up were derived from these sources. The third tax (referred to as the Corporate Environmental Income Tax), pegged at 0.12% of corporate income in excess of \$2 million, was meant to raise funds from a wide range of companies that may have used and disposed of hazardous substances.

**Table 1. Superfund: Trust Fund Revenues and General Revenue Contributions, FY1991-FY1995**

Source	Amount (\$ million)	Percentage of total
<b>Trust Fund Revenues</b>		
Petroleum Tax	\$2,800	25.4
Chemical Feedstocks and Imported Derivatives Tax	1,327	12.1
Corporate Environmental Income Tax	3,121	28.4
Cost Recoveries from PRPs	901	8.2
Fines and Penalties	11	0.1
Interest on Investments	1,003	9.1
Subtotal, Trust Fund Revenues	\$9,163	83.2
<b>General Revenues</b>	\$1,845	16.8

**Source:** Funds Management Division, U.S. Treasury Department.

**Note:** FY1991-FY1995 represents the five-year period prior to the expiration of the Superfund taxes.

Proponents of the Superfund taxes argue that the taxes are justified based on the “polluter pays” principle. Both the Bush Administration and its critics say they support the “polluter pays” principle, but they mean different things when using that

---

<sup>3</sup> (...continued)

are disputes among the PRPs concerning their degree of responsibility. In such cases, the statute permits EPA to proceed with cleanup using the trust fund’s resources, locate PRPs after or during cleanup, and recover the cleanup costs from PRPs at a later date.

phrase. When Administration spokespersons support “polluter pays,” they mean cleanup funded by responsible parties at sites where such parties have been identified as owners, operators, or contributors of the waste requiring cleanup, rather than industrial sectors or corporations in general that may not have contributed directly to a specific site’s contamination.<sup>4</sup>

The Administration’s critics use the “polluter pays” term in a broader sense, however, to mean that the tax money that is used to clean up the other 30% of the sites should come from industries that profited from the sale or use of the chemicals being cleaned up, but who may not be directly related to a particular release of a hazardous substance. Thus, they support resumption of the dedicated taxes on petroleum and chemical feedstocks as well as the Corporate Environmental Income Tax, arguing that this approach is more appropriate than funding the trust fund through general Treasury revenues.

Lesser sources of income to the fund have included interest on the fund’s balance (which is invested in government securities until expended); cost recoveries from PRPs; reimbursements to EPA from other federal agencies for emergency removal activities; and collection of fines and penalties. There has also generally been an annual contribution to the program from general Treasury revenues.

**Table 1** shows the sources of revenue to the fund from 1991 to 1995 (the last five years before the taxes expired). The three dedicated taxes provided an average of \$1.45 billion per year, 65.8% of total revenues during the period. The taxes generated nearly four times as much as the contribution from general revenues, which averaged \$369 million per year, or 16.8% of total Superfund revenues during the period. The remainder of the fund’s income came from interest on investments (\$200 million per year) and cost recoveries (\$180 million per year).

## Expiration of the Taxing Authority

The taxes that supported the trust fund expired at the end of 1995. The Republican leadership, notably the Chairman of the House Ways and Means Committee during the 104<sup>th</sup> through 106<sup>th</sup> Congresses, opposed reinstating the taxes except as part of a comprehensive CERCLA reauthorization that would remove or modify Superfund’s liability provisions.<sup>5</sup> No consensus was reached on reauthorization, and the taxes were not reinstated.

---

<sup>4</sup> In a June 2005 press conference discussing various environmental issues, including the Superfund taxes, EPA Administrator Stephen L. Johnson stated that he will “keep the focus on responsible parties,” noting that they are the ones who should pay, “not the taxpayers.” Bureau of National Affairs, “EPA Chief Will Pursue President’s Policies, Including Push for ‘Clear Skies’ Legislation,” *Environment Reporter*, June 10, 2005, p. 1191.

<sup>5</sup> See, for example, “CBO Reports Trust Fund Can Survive Through 2000 Without CERCLA Taxes,” *Daily Environment Report*, July 16, 1996.

When the taxes expired, the Office of Management and Budget (OMB) reported that the fund had an unobligated balance of nearly \$4 billion<sup>6</sup> and, even after expiration of the taxes, money continued to be added to it from interest payments, cost recoveries, and other sources. Thus, the lapse in taxing authority initially had little effect on the ability to fund the program. The Clinton Administration requested reinstatement of the taxes annually in its budget submission, but Congress took no action on these requests. Congress continued to fund the program through a combination of the existing unobligated trust fund balance and general revenues.

To make the fund last longer, the contribution of general revenues to the annual appropriation was increased from \$250 million annually in FY1993 to FY1998 to \$634 to \$700 million in FY2000 to FY2002. The Bush Administration requested \$700 million from general revenues in FY2003 and \$1.1 billion in FY2004. In FY2005, the entire appropriation (\$1.25 billion) came from general revenues. Although the Administration's FY2007 budget shows an improvement in the FY2006 starting balance, nearly all of the appropriation came from general revenues in FY2006. Similarly, OMB estimates that the FY2007 starting balance (\$170 million) will be higher than in its preceding year (\$97 million), yet the vast majority of the appropriation will continue to come from general revenues.

## The Decreased Fund Balance

In recent years, attention has focused on the dwindling amount of unobligated funds in the Superfund Trust Fund. As shown in **Figure 1**, this balance began a steady decline starting in FY1998. By the end of FY2001, the fund's unobligated balance had declined to \$860 million. The President's FY2003 and FY2004 budgets projected further declines, to \$427 million at the end of FY2002 and to \$159 million at the end of FY2003. These numbers were revised in the FY2005 budget submission (and in **Figure 1**) to reflect actual cost recoveries and other transactions in FY2002 and FY2003. The actual amounts show a balance of \$564 million at the beginning of FY2003 and a zero balance at the beginning of both FY2004 and FY2005.

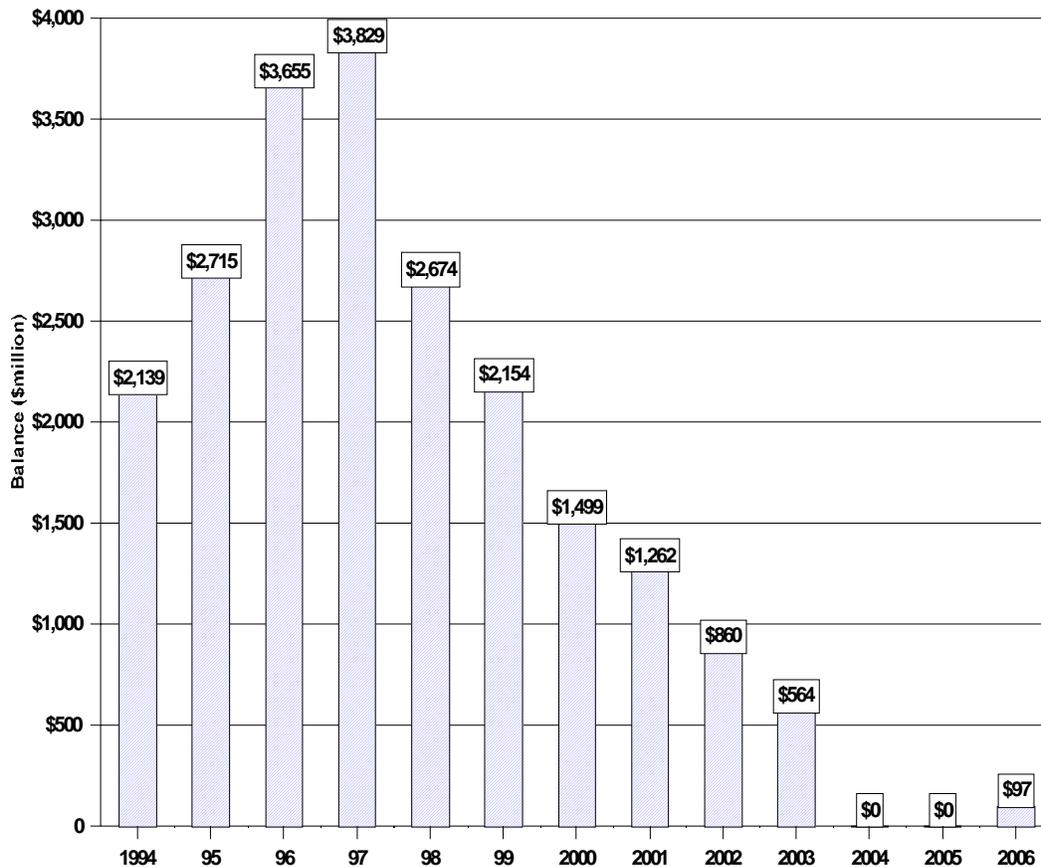
Although FY2005 started with a zero balance, it ended with \$97 million in the account, creating a starting balance of \$97 million in FY2006.<sup>7</sup> Moreover, the FY2007 budget estimates that FY2007 will start with a balance of \$170 million and FY2008 with \$197 million. While these estimates, which are subject to variation (in either direction), represent higher starting balances than in recent years, they do not approach the balances that existed when the trust fund was supplied mainly by the Superfund taxes. Based on OMB estimates of starting balances in FY2007 and FY2008, general Treasury revenues will continue to supply the vast majority of the program needs.

---

<sup>6</sup> According to the Office of Management and Budget's *Budget of the United States Government*, fiscal years 1996-2003, the unobligated balance of the fund peaked at \$3.829 billion at the end of FY1996.

<sup>7</sup> Note that the FY2006 budget estimated a FY2006 starting balance of \$64 million.

**Figure 1. Hazardous Substance Superfund, Beginning of Year Unobligated Balance, FY1994-FY2006**



**Source:** Prepared by the Congressional Research Service, with information provided by OMB *Budget of the United States Government*, Appendix, Fiscal Years 1996-2007.

## Available Funds

The Office of Management and Budget (OMB) produces annual estimates of the Superfund trust fund's starting and ending fiscal year balances and revenue from its funding sources. OMB includes these estimates in the Appendix to the annual *Budget of the United States Government* (hereafter referred to as the President's budget request for a particular fiscal year). As shown in the annual budget request, funds that contribute to the trust fund fall into five categories: (1) corporate income taxes, (2) interfund transactions, (3) cost recoveries, (4) interest and profits on investments, and (5) fines and penalties.

As discussed above, the corporate income taxes category, originally a dedicated source of program revenue, expired at the end of 1995. Therefore, this category is listed at zero. The next category, interfund transactions, represents the estimated contribution from general Treasury revenues, which is a function of both the level of congressional appropriation and the trust fund's fiscal year starting balance. Similar to recent years, the Administration's FY2007 budget request proposes \$1.26 billion for the Superfund appropriation to consist of "sums available in the Trust Fund on

September 30, 2006” (i.e., the end of FY2006, therefore the FY2007 starting balance) and “up to [\$1.26 billion] as a payment from general revenues,”<sup>8</sup> if the trust fund balance is not sufficient to fund the total appropriation. Therefore, any remaining balance from FY2006 would go toward the FY2007 appropriation, and general Treasury revenues would fund the remainder of the appropriation, up to the maximum level enacted by Congress.

The other three fund categories — cost recoveries, interest and profits, and fines and penalties — help generate the end-of-year balance that is used in the next fiscal year.

Cost recoveries represent payments to the fund from potentially responsible parties to reimburse the government for cleanup expenditures at sites for which these private parties are legally responsible. Recoveries vary from year to year; projecting them in advance is difficult and may have a larger potential margin of error than other categories of revenue. Actual recoveries have been declining in recent years. During the six-year period of fiscal years 1997-2002, they averaged \$272 million per year, but they declined to \$147 million in FY2003, \$74 million in FY2004, and \$63 million in FY2005. OMB estimates recoveries of \$54 million in both FY2006 and FY2007.

Like other government trust funds, the Superfund trust fund earns interest on its current balance until the money is actually expended. Expenditures can lag obligations by several years, so there can be a substantial difference between the unexpended and unobligated balances in the fund. The unexpended Superfund balance totaled \$2.5 billion at the beginning of FY2006. Due to the size of the unexpended balance, the fund is still earning substantial amounts of interest — \$48 million in FY2005. According to the President’s FY2007 budget request, OMB estimates \$91 million in interest earned for FY2006 and an estimated \$52 million in FY2007. These projections assume an interest rate that is historically low. If interest rates are higher in FY2006 and FY2007 than OMB expects, interest earned on the unobligated balance would be higher.

Fines and penalties have generally contributed only a minor portion to the Superfund trust fund. EPA collected \$2 million in FY2005, and OMB assumes \$2 million in fines and penalties for both FY2006 and FY2007.

OMB estimates that FY2006 and FY2007 will end with a balance of \$170 million and \$197 million, respectively. Considering the sum of the fiscal year estimates from the three sources that contribute to these balances,<sup>9</sup> OMB’s projections might be considered optimistic. However, it should be noted that the Administration’s FY2007 budget request includes a proposed \$8 million increase<sup>10</sup>

---

<sup>8</sup> Appendix to the *Budget for Fiscal Year 2007*, p. 1032.

<sup>9</sup> For FY2006, the estimated value of interest earned, cost recoveries, and fines/penalties is \$147 million. For FY2007, the estimated value is \$108 million.

<sup>10</sup> The proposal would increase the account from \$180 million to \$188 million, a 4.8% (continued...)

to the Superfund enforcement account. Arguably, the enforcement account increase could bolster cost recoveries and the collection of fines and penalties.

## General Treasury Revenue Requirement

The Administration requests a \$17 million increase in program funding, to \$1.26 billion in FY2007 compared with the \$1.24 billion appropriated in FY2006. As mentioned above, OMB estimates that of the total FY2007 appropriation, \$1.20 billion would come from general Treasury revenues in FY2007. If the appropriation language were enacted as proposed, the actual amount of general Treasury revenues would depend on the fund's starting balance and the appropriation ceiling enacted by Congress.<sup>11</sup> Thus in FY2007, the vast majority of the appropriation<sup>12</sup> would come from general Treasury revenues.

## Estimates of the Superfund Program's Future Funding Needs

To estimate general revenue funding needs for the Superfund in 2007 and later years, it is first necessary to identify future program needs. In July 2001, Resources for the Future (RFF), as directed by Congress in the FY2000 VA-HUD-Independent Agencies appropriation (P.L. 106-74) conference report, released a comprehensive study to Congress identifying those needs and projecting future costs for fiscal years 2000-2009. The study looked at all major elements of the Superfund program, including the removal program (for emergency and short-term cleanups); the remedial program (long-term cleanup); site assessment activities; program staff, management, and support costs; program administration; and Superfund-related work of other programs and agencies. The authors developed alternative scenarios for estimating the number, type, and cost of sites likely to be added to the program in coming years.

RFF estimated the FY2007 program needs to be \$1.7 billion. This was the report's "base case" — described as "our best judgement of the future cost of the Superfund program, given the full body of our research, analyses, and interviews." The report also estimated a high and low case, to reflect uncertainties about the factors used in their cost models. The low estimate for FY2007 is \$1.5 billion; the high estimate is \$1.9 billion. Funding needs remain above \$1.6 billion annually through FY2009 (using RFF's base case), the last year for which RFF estimated future costs.

---

<sup>10</sup> (...continued)  
increase.

<sup>11</sup> Precise figures are difficult to achieve, given the uncertainties concerning starting balances and other variables. If \$170 million is indeed available at the start of FY2007, and Congress sets the appropriation as proposed (\$1.260 billion), only \$1.09 billion would be transferred from general Treasury revenues to make up the difference, not the OMB estimate of \$1.20 billion.

<sup>12</sup> Assuming Congress provides an appropriation of \$1.26 billion, the estimated percentage of appropriation coming from general Treasury revenues would be either 86% or 95%, depending on which OMB estimate (starting balance or interfund transfer) is used.

In years beyond FY2006, RFF estimates that Superfund program needs will remain just below their projected FY2005 level through at least FY2008, with the FY2009 amount dropping to \$1.6 billion (see **Figure 2**). The amounts needed to meet these needs from general revenues (in the absence of Superfund taxes) would be higher than amounts provided in past years. There are at least three factors contributing to RFF's increased need projections.

First, the fund's unobligated balance, which remained relatively high (see **Figure 1**) during the years of Superfund taxes (and the two fiscal years following the tax expiration), has decreased steadily since FY1997, reaching zero at the end of FY2003. As discussed earlier, the current sources of the balance — cost recoveries, interest, and fees — provided significantly less funding support than the Superfund taxes. OMB estimates that \$170 million is projected to remain unobligated at the end of FY2006 and \$197 million at the end of FY2007. As noted above, these estimates might be viewed as optimistic.

Second, the amounts needed for cleanup were projected to increase beginning in FY2002, as numerous "mega sites" moved beyond the analysis and design phases and into actual construction of remedies. (Mega sites are sites at which the projected cleanup cost is \$50 million or more. The average cost at mega sites is projected to be \$140 million.) In the RFF analysis, the cost of remedial action was projected to remain above historic levels through FY2007, and the cost of the Superfund program as a whole was projected to remain above FY2001 levels through at least FY2009.<sup>13</sup>

Third, EPA's Office of Inspector General (IG) highlighted the concern that hardrock mining sites may have a significant financial impact on the trust fund. The IG identified "156 hardrock mining sites nationwide that have the potential to cost between \$7 billion and \$24 billion to cleanup." Although the IG points out there is uncertainty regarding the risks to human health and the environment at these sites,<sup>14</sup> there is also uncertainty concerning PRPs and their ability to pay for cleanup.<sup>15</sup>

## Possible Evidence of Insufficient Funding

In FY2002 through FY2004, cleanup was delayed at numerous sites because of a lack of funds. According to a report from the EPA IG, "EPA obligated a total of \$320 million" to remedial action construction activities in FY2002, "a difference of \$97 million from the Regions' total need of \$417 million." The IG report identified seven sites for which the Regions requested construction funding but got none, and five other sites that together received only \$15 million of the \$38 million requested. In addition, the Agency obligated only \$43 million of the \$60 million requested for

---

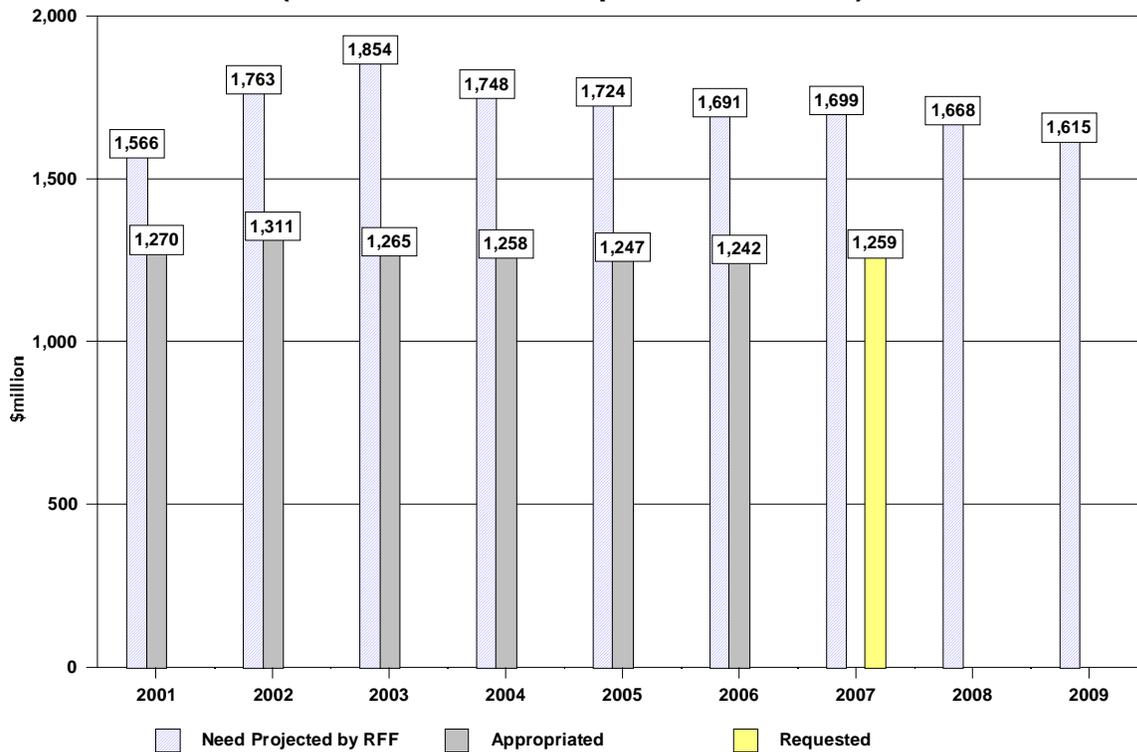
<sup>13</sup> Ibid., pp. 127, 266.

<sup>14</sup> This factor is important because sites must be on the NPL to qualify for long-term cleanup (remedial) assistance from the trust fund.

<sup>15</sup> EPA Office of Inspector General, *Annual Superfund Report to Congress for Fiscal Year 2004*, EPA-350-R-05-001, Aug. 2005, p. 3.

Long-Term Response Actions at sites where construction was complete but a need for continuing treatment activities (most likely for ground water) remained.<sup>16</sup>

**Figure 2. Superfund Appropriations: FY2001-FY2006 Enacted and FY2007 Requested Versus Resources for the Future Projections of Funding Needs (amounts in millions prior to transfers)**



**Sources:** Prepared by the Congressional Research Service with information from the following sources: FY2001-FY2005 enacted amounts are from prior year funding comparisons in committee reports on annual appropriations bills from FY2002-FY2006; FY2006 enacted and FY2007 requested amounts are from EPA's FY2007 budget justification; projected funding levels are from a Resources for the Future report, *Superfund's Future: What Will It Cost?*

In FY2003, the remedial action program was \$175 million short of the Regions' total needs, according to the IG. The IG identified an additional 11 sites that could not begin construction because of a funding shortfall, and at least five other sites that did not receive their full funding request in that year.<sup>17</sup>

Although the IG did not report on the subject in FY2004, a survey of EPA staff by the House Energy and Commerce Committee Democratic staff found a reported

<sup>16</sup> Letter of October 25, 2002, from Nikki L. Tinsley, EPA Inspector General, to Senator James Jeffords, Chairman, Committee on Environment and Public Works, and Senator Barbara Boxer, Chair, Superfund, Toxics, Risk, and Waste Management Subcommittee, pp. 1-3.

<sup>17</sup> U.S. EPA, Office of Inspector General, *Congressional Request on Funding Needs for Non-Federal Superfund Sites*, Report 2004-P-00001, Jan. 7, 2004, pp. 4, 8-9.

shortfall of \$263.1 million.<sup>18</sup> EPA challenged some of the committee data, but it confirmed in letters to House and Senate Democrats that it did not start construction at 19 sites that were ready for construction in FY2004 because of a lack of funding.<sup>19</sup>

## Increasing the Superfund Appropriation

Congress could increase appropriation levels, in order to meet the increased funding needs, such as those identified by RFF. The Administration notes that it requested increases in funding in both its FY2004 request for \$1.39 billion and its FY2005 request for \$1.38 billion, which Congress did not provide. Congress cut the FY2004 and FY2005 requests by \$132 million and \$134 million, respectively. Although the Administration's request in FY2006 (\$1.28 billion) was lower than in previous years, Congress cut the proposal by \$40 million, enacting \$1.24 billion. The Administration requested \$1.26 billion for FY2007, a \$20 million decrease from its previous request but \$20 million above the amount enacted by Congress in FY2006.

Given RFF's projected funding needs for the Superfund program and the relatively minimal amounts available to the fund from sources other than general revenues, Congress will face competing interests if it attempts to appropriate all of Superfund's needs. RFF estimates that general Treasury revenue contributions as high as \$1.5 billion per year would be needed to finance Superfund through the rest of the decade in the continued absence of Superfund taxes. This could prove difficult in light of current interest in deficit reduction.

## Congressional and Administration Action

**Congressional Action.** The adequacy of funding for Superfund and whether to reinstate the Superfund taxes have generated substantial debate over the last four years<sup>20</sup> and may continue to do so in the second session of the 109<sup>th</sup> Congress.

As of March 2006, the 109<sup>th</sup> Congress has seen three bills seeking reinstatement of the Superfund taxes, one bill concerning the appropriation level (not including the actual appropriation bill, H.R. 2361), and one recorded vote regarding Superfund funding.

---

<sup>18</sup> U.S. House, Committee on Energy and Commerce Democrats, "Dramatic Funding Shortfalls Revealed in Superfund Program," Press Release, Aug. 16, 2004.

<sup>19</sup> See "FY04 Cleanup Delays Renew Democrats' Criticism of Superfund Budget," *Inside EPA Superfund Report*, Oct. 25, 2004. The data in the article were confirmed by EPA in a personal communication Mar. 3, 2005.

<sup>20</sup> There were four recorded votes on these issues in the 108<sup>th</sup> Congress. Senator Lautenberg offered three amendments regarding funding or tax reinstatement: S.Amdt. 192 was defeated 53-45 on January 23, 2003; S.Amdt. 408 failed, 56-43, on March 25, 2003; and S.Amdt. 2703 was defeated on March 11, 2004, on a vote of 52-44. Representative Markey offered H.Amdt. 345 (to increase funding), which was defeated 309-114 on July 25, 2003. Three stand-alone bills were introduced in the 108<sup>th</sup> Congress: H.R. 610 (Rep. Pallone) would have reinstated the Superfund taxes as they were in 1995; H.R. 3655 (Rep. Kucinich) would have extended the taxes through FY2013; S. 173 (Sen. Boxer) would have reinstated the Superfund taxes until January 1, 2014. No action was taken on any of these bills.

In the first session, Representative Terry introduced H.R. 434, which would transfer \$124 million from EPA's Science and Technology account in FY2005 to fund additional cleanups and would authorize additional cleanup funds through 2009 by limiting authorizations for Science and Technology.

Representative Terry offered an amendment (H.Amdt. 175) to the House appropriations bill that includes funding for EPA (H.R. 2361). The amendment sought to increase the Superfund appropriation by \$130 million, while eliminating an equal amount from EPA's Science and Technology account. The amendment failed May 19, 2005, on a vote of 76-344.

Three other bills introduced in 2005 were H.R. 3584, introduced by Representative Pallone and similar to the legislation introduced by Senator Boxer in the 108<sup>th</sup> Congress, which would reinstate the Superfund taxes until 2016; H.R. 4199, introduced by Representative Boehlert, which would reinstate the corporate environmental income tax until 2014; and H.R. 4481, introduced by Representative Hinchey, which would permanently reinstate Superfund's dedicated taxes. The bill would also temporarily increase the tax rate by 50% for two years to establish and fund a "Gulf Hurricanes Cleanup Account." Funds within this Superfund account would address the hazardous substance releases caused or exacerbated by Hurricanes Katrina and Rita.

**Administration Position.** During a briefing for reporters on June 8, 2005, recently appointed EPA Administrator Stephen L. Johnson said that he opposed reimposing the tax on the chemical industry that was formerly used to fund the trust fund. Instead, Johnson said he will seek to fund additional cleanups through "additional efficiency to be gained in the program." Johnson stated he will "keep the focus on responsible parties," noting that these are who should pay, "not the taxpayers."<sup>21</sup>

---

<sup>21</sup> Bureau of National Affairs, "EPA Chief Will Pursue President's Policies, Including Push for 'Clear Skies' Legislation," Environment Reporter, June 10, 2005, p. 1191.