

## Superfund Special Accounts

Special accounts are an important part of the Superfund program and play a critical role in achieving cleanup of contaminated sites nationwide.

### *Introduction*

Special accounts are site-specific, interest-bearing sub-accounts housed within EPA's Hazardous Substances Superfund (Superfund Trust Fund). The Superfund law authorizes EPA to retain and use funds received in settlement with a potentially responsible party (PRP) to carry out that settlement agreement. The special account is established as a sub-account within the Superfund Trust Fund – a "special" account. EPA uses the money deposited in special accounts for cleanup and enforcement activities at particular sites.

### *Establishment of Special Accounts*

EPA often establishes special accounts when PRPs "cash out" their liability at a site rather than perform the cleanup work. The funds received in settlement can be money the PRP pays for future work at the site or to reimburse EPA for its previous costs at the site. EPA policy is that funds from a settlement should be deposited into a special account only if future work remains at that site. The intention of the special account is to fund the work remaining at the site.

### *Use of Special Accounts*

EPA uses special account funds at the site for which the payment was made, and the settlement agreement specifies how the money can be used. Special accounts are to be used only for work related to Superfund sites and cannot be used for other purposes or at sites that are not designated in the settlement. Typically, EPA uses the money deposited in special accounts for cleanup and enforcement activities at the site.

Special accounts not only provide site-specific cleanup funds, but also provide resources to incentivize other PRPs at the site to perform work while preserving scarce government resources. In accordance with guidance, EPA may use the funds from special accounts:

- to partially reimburse other parties performing work at the site,
- to pay for EPA's future cleanup related costs at the site,
- for other needs at the site specified in the settlement agreement, or
- to pay for EPA's past cleanup related costs at the site (i.e., reclassification).

EPA reviews account utilization and updates current and future plans for each special account at a minimum of twice a year. If EPA determines that the amount available in a special account is more than what is needed for future cleanup work, then those funds are first considered for reclassification, where EPA pays itself back for prior site cleanup work that was initially paid with funds appropriated to EPA by Congress. If there are still funds available in the special account after reclassification is completed, then those funds are made available for future appropriation by Congress.

### *Timeframe for Using Special Accounts*

Special accounts can be used only for the specific site for which the funds were collected. In many cases, the investigation, design, and construction phases of site cleanup may take many years to be completed. For this reason, the amount available in special accounts is typically not equivalent to annual funding needs for a site but often will be an amount intended to fund work occurring over multiple years.

First and foremost, EPA uses special account funds to address immediate or near-term work necessary to address human health and environmental concerns. If sufficient funds are available, EPA will also retain special account funds for long-term cleanup work and monitoring needs, even after a site achieves construction completion or is deleted from the Superfund National Priorities List (NPL). And as discussed above, if the funds in a particular special account are no longer required for future work at the site, they are reclassified or made available for appropriation by Congress.

### ***Management of Special Accounts***

Each EPA region is responsible for the establishment, use, and management of individual special accounts, while Headquarters exercises oversight of the regional programs. The Special Accounts Senior Management Committee was established in 2009 as the entity responsible for EPA's national oversight and management of special accounts. Through the Special Accounts Senior Management Committee, EPA ensures appropriate management, transparency, and accountability for special accounts among the EPA regional offices and the Headquarters offices.

EPA's Special Accounts Senior Management Committee is charged with overseeing the implementation of the Special Accounts Management Strategy. The Strategy focuses on four main areas:

1. Coordination and Transparency;
2. Special Account Use and Planning Efforts;
3. Monitoring Special Accounts; and
4. Regional Support, Guidance and Training.

The Strategy is updated every three years, with the next update to be issued in 2016. The Superfund Special Accounts Management Strategy for 2013-2015 is available on EPA's website at <http://www.epa.gov>.

### ***Ensuring Effective and Efficient Use of Special Account Funds***

At the beginning and middle of each fiscal year, regional Superfund programs review the available balances of all special accounts and update plans for how the special account will support future cleanup work at the site. Headquarters reviews those plans with the regions to ensure, among other things:

- Plans for the use of special account funds are consistent with guidance,
- EPA is maximizing the use of special accounts for site cleanup work while conserving appropriated Superfund Trust Fund dollars for other priority Superfund work, and
- Special account funds identified as no longer necessary for future cleanup work at a particular site are reclassified or transferred to the Superfund Trust Fund to be used for cleanup at other Superfund sites.

A comprehensive national summary of the status and plans for using special accounts is provided to the Special Accounts Senior Management Committee to allow the committee to monitor special account available balances and uses. The status and planning for special accounts is also summarized in EPA's [Congressional Justification](#) document sent annually to Congress as part of the budget process.

### ***Benefits of Special Accounts***

Special accounts are funded with money received only from PRPs, and not with funds provided by Congress through the Superfund Trust Fund appropriation. The Agency's goal for the establishment and use of special accounts is to provide ready access to PRP cleanup dollars for sites where future response work remains, which preserves resources from the Superfund Trust Fund for sites without viable PRPs. Occasionally EPA utilizes both special accounts and appropriated funds at sites where there are not enough special account funds to pay for all the work required at a site.

Special accounts provide three principal benefits:

1. Preserve appropriated resources for use at sites with no viable PRPs;

2. Do more Superfund cleanup work by maximizing both appropriated and special account funds; and
3. Serve as a settlement incentive for other PRPs at the site to perform work.

Since 1990, more than \$4 billion have been deposited in special accounts through PRP settlements and accrued interest, all of which is available for cleanup work. More than \$2.5 billion of those dollars have been spent on Superfund site cleanups and the balance is planned to be used for ongoing or future cleanup work at specific Superfund sites.

### ***Examples of How Superfund Special Accounts Have Been Used***

More than \$2.5 billion from special accounts has been spent for cleanup and enforcement work at Superfund sites to date. The following are specific examples of sites where special accounts have been used for the cleanup so that congressionally appropriated Superfund resources could be used for other sites.

#### **Use of Special Accounts Funds as an Incentive for PRPs**

**Davis Liquid Waste Site in Smithfield, Rhode Island.** Settlement with PRPs at the site will pay for work that EPA would otherwise have had to conduct and pay for itself. The cleanup is estimated to cost \$13.7 million dollars. Under the settlement, EPA will use the special account to reimburse the parties up to \$6.5 million of this amount, in recognition of the costs and site liabilities attributable to other parties who are not part of this settlement. In using this approach, EPA is ensuring that the site work is accomplished, while conserving funds that EPA would have otherwise spent conducting the work on its own.

**Centre County Kepone Site in State College Borough, Pennsylvania.** The settlement agreement entered in March 2011 included provisions for making special account funds available for work being performed by the PRP at operable unit 2 (OU2) and using special account funds as an incentive to complete construction of the OU2 remedial action by September 30, 2011. The special account funds offered to the PRPs conducting work at the site were recovered in a bankruptcy settlement from other PRPs at the site. The PRP completed the work in the summer of 2011, working efficiently and expediently to meet this performance deadline. Without the incentive offered to the PRP, EPA would not have made the remedial action completion in 2011.

#### **Use of Special Account Funds for EPA Cleanup Costs**

**New Bedford Harbor Site in New Bedford, Massachusetts.** EPA has used \$78 million from the special account to carry out early action dredging in areas of high contaminant concentrations, complete the necessary infrastructure, and begin dredging the PCB-contaminated sediments at the 18,000 acre site. The \$78 million in the special account was not enough to complete the cleanup for this site, so the remaining cleanup is being funded by congressionally appropriated Superfund resources.

**Sharon Steel Corporation Site in Lake County, Utah.** Settlements with PRPs at the site financed the entire \$60 million cleanup. Because of the special account, EPA avoided spending Trust Fund dollars (and state funds) at the site. The remaining expense for operation and maintenance is being performed by the State of Utah, but financed from the special account.

**Anderson-Calhoun Mine and Mill Site in Leadpoint, Washington.** EPA collected funds from a settlement with the PRP in 2010 and used those funds in the same year to conduct a removal action at the site to address contamination. As part of the settlement for which EPA collected the funds, the PRP agreed to conduct future long-term monitoring and maintenance and repair, with oversight from the Washington State Department of Ecology. EPA does not anticipate incurring any future costs at the site and is planning to close the special account.