

What is the Superfund Tax?

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, created the Hazardous Substance Superfund Trust Fund as part of an effort to assist with cleanup costs at orphaned hazardous waste sites across the country. From 1987 to 1995, the chemical feedstock excise tax in 26 U.S.C. § 4461 taxed manufacturers, producers, or importers of [42 specified chemical feedstocks](#). Tax authority for this program expired in 1996.

How is the Superfund program currently funded?

The Hazardous Substance Superfund Trust Fund is currently funded through a combination of special accounts funded entirely by industry and annual appropriations provided by Congress. According to the EPA, “more than \$8.2 billion has been made available in special accounts through the deposit of funds from potentially responsible party settlements and interest earned. Approximately \$4.7 billion of that amount has been spent on Superfund site cleanups. The balance of \$3.5 billion is planned to be used for ongoing or future Superfund cleanup work.”

Proposal to Reinstate the Superfund Tax

The bipartisan infrastructure framework proposes to reinstate the Superfund Tax on chemicals as a potential “pay-for” to address cleanups at legacy sites. The proposal mirrors the Biden Administration’s FY22 Budget which would reinstate, and double, the Superfund tax in 43 chemical feedstocks, including ammonia \$2.64/ton x 2; nitric acid .24 cents/ton x 2 and sulfuric acid .26 cents/ton x 2. The table below shows the potential tax liability on the fertilizer manufacturing industry if the Superfund tax were to be reinstated.

Cost of Reinstated Superfund Taxes (Based on Administration’s FY22 Budget Proposal)

Product	Administration's FY2022 Budget Tax Proposal	2020 Production - Material Tons (metric tons)	Percentage Used for Fertilizer Production	Fertilizer Feedstock Tax (material tons)	Non- Fertilizer Feedstock Tax (material tons)	Total Tax (material tons)
Ammonia	\$5.28/ton	17,042,393	88%	\$87,287,270	\$11,902,810	\$99,190,080
Sulfuric Acid	\$0.52/ton	27,000,000	55%	\$8,512,038	\$6,964,395	\$15,476,432
Nitric Acid	\$0.48/ton	8,044,009	80%	\$3,404,925	\$851,231	\$4,256,156

Our Ask

The Fertilizer Institute opposes the reinstatement of the Superfund Tax. However, the original Superfund tax provided an [exemption for chemical feedstocks used in the production of fertilizers](#). At the time, Congress was rightly concerned about the cost impacts to both the domestic fertilizer manufacturing industry and American farmers. Any tax on the manufacturers of these essential products would not only put domestic producers at a competitive disadvantage, the increased costs would be passed on to farmers leading to an increase in input costs and higher food prices at the grocery store. Should Congress decide to reinstate the Superfund tax on chemical feedstocks, the exemption for feedstocks used in the production of fertilizer must be maintained. Anything less would simply be a tax on farmers.