

109TH CONGRESS
1ST SESSION

S. 1836

To provide for reconstruction, replacement, and improvement of infrastructure
in the Gulf Coast Region.

IN THE SENATE OF THE UNITED STATES

OCTOBER 6, 2005

Mr. JEFFORDS (for himself, Mrs. BOXER, Mr. LIEBERMAN, Mrs. CLINTON,
Mr. CARPER, Mr. LAUTENBERG, Mr. OBAMA, and Mr. BAUCUS) intro-
duced the following bill; which was read twice and referred to the Com-
mittee on Environment and Public Works

A BILL

To provide for reconstruction, replacement, and improvement
of infrastructure in the Gulf Coast Region.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Gulf Coast Infrastructure Redevelopment and Recovery
6 Act of 2005”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INFRASTRUCTURE RECOVERY

- Sec. 101. Short title.
- Sec. 102. Federal Infrastructure Task Force.
- Sec. 103. Duties.
- Sec. 104. Federal investment standards.
- Sec. 105. Natural disaster preparedness grants.
- Sec. 106. Studies.

TITLE II—FEDERAL HIGHWAY REPAIR AND RECONSTRUCTION

- Sec. 201. Emergency relief program modifications.

TITLE III—WATER INFRASTRUCTURE ASSISTANCE

- Sec. 301. Short title.
- Sec. 302. Definition of State.
- Sec. 303. Treatment of certain loans.
- Sec. 304. Priority list.
- Sec. 305. Testing of privately-owned drinking water wells.

TITLE IV—ECONOMIC DEVELOPMENT ASSISTANCE

- Sec. 401. Economic Development Administration.

TITLE V—ASSISTANCE THROUGH DELTA REGIONAL AUTHORITY

- Sec. 501. Delta Regional Authority.

TITLE VI—ENVIRONMENTAL REQUIREMENTS

- Sec. 601. Environmental assessment, cleanup, and right-to-know requirements.

TITLE VII—CORPS OF ENGINEERS PROJECTS

- Sec. 701. Recovery relating to Corps of Engineers projects.
- Sec. 702. Wetlands study.
- Sec. 703. Permits for activities in coastal areas.

TITLE VIII—NATIONAL LEVEE SAFETY PROGRAM

- Sec. 801. Short title.
- Sec. 802. Definitions.
- Sec. 803. Inspection of levees.
- Sec. 804. National levee inventory.
- Sec. 805. Interagency Committee on Levee Safety.
- Sec. 806. National Levee Safety Review Board.
- Sec. 807. National levee safety program.
- Sec. 808. Research program.
- Sec. 809. Levee safety training program.
- Sec. 810. Effect of title.
- Sec. 811. Authorization of appropriations.

TITLE IX—EMERGENCY LEASE REQUIREMENTS

- Sec. 901. Short title.
- Sec. 902. Emergency leases.
- Sec. 903. Effective date.

TITLE X—FUNDING

Sec. 1001. Funding.

TITLE XI—BUILDING HABITABILITY

Sec. 1101. Short title.
 Sec. 1102. Findings.
 Sec. 1103. Purposes.
 Sec. 1104. Definitions.
 Sec. 1105. Abatement and inspection grants.
 Sec. 1106. Threshold limit values.
 Sec. 1107. Guidance for evaluation and abatement of mold.
 Sec. 1108. Contractor training and certification.
 Sec. 1109. Treatment.
 Sec. 1110. Authorization of appropriations.

TITLE XII—COMMUTER ASSISTANCE PROGRAMS

Sec. 1201. Commuter assistance programs.

1 **TITLE I—INFRASTRUCTURE**
 2 **RECOVERY**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Federal Infrastructure
 5 Preparedness Act of 2005”.

6 **SEC. 102. FEDERAL INFRASTRUCTURE TASK FORCE.**

7 (a) ESTABLISHMENT.—The Secretary of the Army
 8 shall establish a Federal Infrastructure Task Force (re-
 9 ferred to in this title as the “Task Force”) to improve
 10 the preparedness of the United States for the effects of
 11 extreme weather events on infrastructure of the United
 12 States.

13 (b) MEMBERSHIP.—The membership of the Task
 14 Force shall consist of—

- 15 (1) the Secretary of the Army;
 16 (2) the Secretary of Transportation;
 17 (3) the Secretary of Energy;

1 (4) the Secretary of Commerce;

2 (5) the Secretary of Homeland Security;

3 (6) the Secretary of Health and Human Serv-
4 ices;

5 (7) the Administrator of the Environmental
6 Protection Agency;

7 (8) the Director of the Federal Emergency
8 Management Agency;

9 (9) the Chairperson of the Nuclear Regulatory
10 Commission;

11 (10) the Chief of Staff of the Economic Devel-
12 opment Administration;

13 (11) a representative of the Delta Regional Au-
14 thority; and

15 (12) the Director of the United States Fish and
16 Wildlife Service.

17 (c) CHAIRPERSON.—The Secretary of the Army shall
18 serve as chairperson of the Task Force (referred to in this
19 title as the “Chairperson”).

20 **SEC. 103. DUTIES.**

21 (a) IN GENERAL.—The Task Force shall—

22 (1) serve as the coordinating entity to distribute
23 and execute Federal funding provided for infrastruc-
24 ture redevelopment required as a result of Hurricane
25 Katrina;

1 (2) establish standards for Federal investment
2 in accordance with section 104;

3 (3) provide grants in accordance with section
4 105; and

5 (4) conduct studies in accordance with section
6 106.

7 (b) REQUIREMENT.—In carrying out any duty under
8 subsection (a), the Task Force shall—

9 (1) provide an opportunity for public participa-
10 tion, to the maximum extent practicable; and

11 (2) act in accordance with Executive Order
12 12898 (59 Fed. Reg. 7629) relating to environ-
13 mental justice.

14 **SEC. 104. FEDERAL INVESTMENT STANDARDS.**

15 (a) IN GENERAL.—The Task Force shall establish
16 standards for Federal investment in areas impacted by
17 Hurricane Katrina to ensure that Federal investment in
18 areas impacted by Hurricane Katrina—

19 (1) is cognizant of natural processes underway
20 along the Gulf Coast, including wetlands erosion,
21 wetlands restoration, subsidence, and others;

22 (2) protects and preserves the cultural, archi-
23 tectural, and ecological heritage of the Gulf Coast
24 region;

1 (3) incorporates appropriate principles of sus-
2 tainable design and livable communities; and

3 (4) incorporates recommendations from the
4 Corps of Engineers regarding redevelopment oppor-
5 tunities that would reduce hurricane and flooding
6 impacts while maximizing opportunities for wetlands
7 restoration.

8 (b) PUBLIC PARTICIPATION.—In establishing stand-
9 ards under subsection (a), the Task Force shall provide
10 an opportunity for public participation, to the maximum
11 extent practicable.

12 **SEC. 105. NATURAL DISASTER PREPAREDNESS GRANTS.**

13 (a) DEFINITION OF ELIGIBLE ENTITY.—In this sub-
14 section, the term “eligible entity” means a State or local
15 government entity located in an area that is vulnerable
16 to frequent and intense hurricanes or other extreme
17 weather events.

18 (b) GRANTS.—The Task Force, acting through the
19 Chairperson, may provide grants to eligible entities to pay
20 the Federal share of the cost of—

21 (1) reviewing and updating emergency response
22 plans and evacuation plans of the eligible entity, in-
23 cluding consideration of the role of public transpor-
24 tation as a tool in evacuation planning and reentry
25 of evacuated areas; and

1 (2) implementing the following measures in re-
2 sponse to needs identified in emergency response
3 plans and evacuation plans:

4 (A) Estimating the capability and adapt-
5 ability of the infrastructure of the eligible enti-
6 ty.

7 (B) Revising drinking water, wastewater,
8 water supply standards, and system require-
9 ments of the eligible entity.

10 (C) Providing protection measures relating
11 to hurricanes and other extreme weather events.

12 (c) FEDERAL SHARE.—The Federal share of the cost
13 of an activity under this section shall not exceed 75 per-
14 cent.

15 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
16 authorized to be appropriated to carry out this section
17 \$200,000,000, to remain available until expended.

18 **SEC. 106. STUDIES.**

19 (a) NATIONAL STUDY ON VULNERABILITY OF INFRA-
20 STRUCTURE.—

21 (1) IN GENERAL.—The Task Force, acting
22 through the Chairperson and in consultation with
23 the Governors of the States, shall conduct a study
24 of the status of the transportation system, drinking
25 water and wastewater, water supply, water resource

1 (including flood control), and energy infrastructure
2 of the United States to determine the vulnerability
3 of the United States to further intense hurricane ac-
4 tivity during calendar years 2005 and 2006.

5 (2) REPORT.—Not later than 30 days after the
6 date of enactment of this Act, the Chairperson shall
7 submit to Congress a report describing—

8 (A) the results of the study under para-
9 graph (1); and

10 (B) recommendations with respect to legis-
11 lative actions necessary to reduce the vulner-
12 ability of the United States to further intense
13 hurricane activity during calendar years 2005
14 and 2006.

15 (3) AUTHORIZATION OF APPROPRIATIONS.—
16 There is authorized to be appropriated to carry out
17 this subsection \$500,000, to remain available until
18 expended.

19 (b) NATIONAL STUDY ON PREPAREDNESS FOR HUR-
20 RICANES AND EXTREME WEATHER EVENTS.—

21 (1) STUDY.—

22 (A) IN GENERAL.—For the purpose of ad-
23 dressing and adapting to a period of more fre-
24 quent and intense hurricanes and other extreme
25 weather events along the coast of the Gulf of

1 Mexico and in other vulnerable regions of the
2 United States, as determined by the Chair-
3 person, the Task Force, acting through the
4 Chairperson, shall conduct a study of the ade-
5 quacy of Federal and State—

6 (i) drinking water, wastewater, water
7 supply, and transportation infrastructure;

8 (ii) flood control capability and infra-
9 structure;

10 (iii) energy supplies;

11 (iv) environmental protection;

12 (v) commerce;

13 (vi) telecommunications;

14 (vii) health programs; and

15 (viii) regulations, standards, and re-
16 sources.

17 (B) ADEQUACY OF INFRASTRUCTURE.—

18 The study under subparagraph (A) shall in-
19 clude—

20 (i) consideration of the adequacy of
21 Federal and State infrastructure, including
22 public transportation infrastructure, to
23 support evacuation plans; and

24 (ii) an analysis of any factor that pre-
25 vented any individual from acting on an

1 evacuation order during Hurricane
2 Katrina, including recommendations for
3 methods of addressing the factor during
4 future evacuations.

5 (2) REPORT.—Not later than 1 year after the
6 date of enactment of this Act, the Task Force, act-
7 ing through the Chairperson, shall submit to Con-
8 gress a report describing—

9 (A) the results of the study under para-
10 graph (1); and

11 (B) recommendations with respect to ap-
12 propriate legislative actions, including regula-
13 tions, programs, standards, and funding levels,
14 to adapt to more frequent and intense hurri-
15 canes.

16 (3) AUTHORIZATION OF APPROPRIATIONS.—
17 There is authorized to be appropriated to carry out
18 this subsection \$500,000, to remain available until
19 expended.

20 **TITLE II—FEDERAL HIGHWAY**
21 **REPAIR AND RECONSTRUCTION**

22 **SEC. 201. EMERGENCY RELIEF PROGRAM MODIFICATIONS.**

23 (a) MAXIMUM AMOUNT.—Notwithstanding section
24 125(e)(1) of title 23, United States Code, or any other
25 provision of law, the Secretary of Transportation may obli-

1 gate more than \$100,000,000 in a State for a fiscal year
 2 under the emergency relief program authorized by section
 3 125 of such title, for projects for the repair or reconstruc-
 4 tion of highways, roads, and trails in response to damage
 5 caused by Hurricane Katrina.

6 (b) FEDERAL SHARE.—Notwithstanding section
 7 120(e) of such title or any other provision of law, during
 8 the 3-year period beginning on the date of enactment of
 9 this Act, the Federal share of the cost of each project de-
 10 scribed in subsection (a) shall be 100 percent.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—In addi-
 12 tion to amounts otherwise available, there is appropriated,
 13 out of any funds in the Treasury not otherwise appro-
 14 priated, for the emergency relief program authorized
 15 under section 125 of such title, \$2,900,000,000, to remain
 16 available until expended: *Provided*, That the amounts
 17 made available under this section are designated as an
 18 emergency requirement pursuant to section 402 of H.
 19 Con. Res. 95 (109th Congress).

20 **TITLE III—WATER**
 21 **INFRASTRUCTURE ASSISTANCE**

22 **SEC. 301. SHORT TITLE.**

23 This title may be cited as the “Emergency Water In-
 24 frastructure Assistance Act of 2005”.

1 **SEC. 302. DEFINITION OF STATE.**

2 In this title, the term “State” means—

- 3 (1) the State of Alabama;
- 4 (2) the State of Louisiana; and
- 5 (3) the State of Mississippi.

6 **SEC. 303. TREATMENT OF CERTAIN LOANS.**

7 (a) **DEFINITION OF ELIGIBLE PROJECT.**—In this
8 section, the term “eligible project” means a project—

9 (1) to repair, replace, or rebuild a publicly-
10 owned treatment works (as defined in section 212 of
11 the Federal Water Pollution Control Act (33 U.S.C.
12 1292)), including a privately-owned utility that prin-
13 cipally treats municipal wastewater or domestic sew-
14 age, in an area affected by Hurricane Katrina or a
15 related condition; or

16 (2) that is a water quality project directly re-
17 lated to relief efforts in response to Hurricane
18 Katrina or a related condition, as determined by the
19 State in which the project is located.

20 (b) **ADDITIONAL SUBSIDIZATION.**—

21 (1) **IN GENERAL.**—Subject to paragraph (2),
22 for the 2-year period beginning on the date of enact-
23 ment of this Act, a State may provide additional
24 subsidization to an eligible project that receives
25 funds through a revolving loan under section 603 of

1 the Federal Water Pollution Control Act (33 U.S.C.
2 1383), including—

3 (A) forgiveness of the principal of the re-
4 volving loan; or

5 (B) a zero-percent interest rate on the re-
6 volving loan.

7 (2) LIMITATION.—The amount of any addi-
8 tional subsidization provided under paragraph (1)
9 shall not exceed 30 percent of the amount of the
10 capitalization grant received by the State under sec-
11 tion 602 of the Federal Water Pollution Control Act
12 (33 U.S.C. 1382) for the fiscal year during which
13 the subsidization is provided.

14 (c) EXTENDED TERMS.—For the 2-year period be-
15 ginning on the date of enactment of this Act, a State may
16 extend the term of a revolving loan under section 603 of
17 that Act (33 U.S.C. 1383) for an eligible project described
18 in subsection (b), if the extended term—

19 (1) terminates not later than the date that is
20 30 years after the date of completion of the project
21 that is the subject of the loan; and

22 (2) does not exceed the expected design life of
23 the project.

24 (d) PRIORITY LISTS.—For the 2-year period begin-
25 ning on the date of enactment of this Act, a State may

1 provide assistance to an eligible project that is not in-
2 cluded on the priority list of the State under section 216
3 of the Federal Water Pollution Control Act (33 U.S.C.
4 1296).

5 **SEC. 304. PRIORITY LIST.**

6 For the 2-year period beginning on the date of enact-
7 ment of this Act, a State may provide assistance to a pub-
8 lic water system that is not included on the priority list
9 of the State under section 1452(b)(3)(B) of the Safe
10 Drinking Water Act (42 U.S.C. 300j-12(b)(3)(B)), if the
11 project—

12 (1) involves damage caused by Hurricane
13 Katrina or a related condition; and

14 (2) is in accordance with section 1452(b)(3)(A)
15 of that Act (42 U.S.C. 300j-12(b)(3)(A)).

16 **SEC. 305. TESTING OF PRIVATELY-OWNED DRINKING**
17 **WATER WELLS.**

18 On receipt of a request from a homeowner, the Ad-
19 ministrator of the Environmental Protection Agency may
20 conduct a test of a drinking water well owned or operated
21 by the homeowner that is, or may be, contaminated as a
22 result of Hurricane Katrina or a related condition.

1 **TITLE IV—ECONOMIC**
 2 **DEVELOPMENT ASSISTANCE**

3 **SEC. 401. ECONOMIC DEVELOPMENT ADMINISTRATION.**

4 Section 209 of the Public Works and Economic De-
 5 velopment Act of 1965 (42 U.S.C. 3149) is amended by
 6 adding at the end the following:

7 “(e) **AUTHORIZATION OF APPROPRIATIONS.**—

8 “(1) **IN GENERAL.**—There is authorized to be
 9 appropriated to the Secretary to provide assistance
 10 described in subsection (c)(2) \$200,000,000, to re-
 11 main available until expended.

12 “(2) **SALARIES AND EXPENSES.**—There is au-
 13 thORIZED to be appropriated for salaries and expenses
 14 of carrying out subsection (c)(2) \$10,000,000, to re-
 15 main available until expended.”.

16 **TITLE V—ASSISTANCE THROUGH**
 17 **DELTA REGIONAL AUTHORITY**

18 **SEC. 501. DELTA REGIONAL AUTHORITY.**

19 (a) **DISTRESSED COUNTIES AND AREAS, NONDIS-**
 20 **TRESSED COUNTIES, AND DISASTER AREAS.**—Section
 21 382F of the Consolidated Farm and Rural Development
 22 Act (7 U.S.C. 2009aa–5) is amended—

23 (1) in the section heading, by striking “**AND**
 24 **NONDISTRESSED COUNTIES**” and inserting “,

1 **NONDISTRESSED COUNTIES, AND DISASTER**
2 **AREAS”;**

3 (2) in subsection (a)—

4 (A) in paragraph (2), by striking “and” at
5 the end;

6 (B) in paragraph (3), by striking the pe-
7 riod at the end and inserting “; and”; and

8 (C) by adding at the end the following:

9 “(4) as a disaster area any county or parish
10 within the jurisdiction of the Authority that is af-
11 fected by the declaration of a major disaster in ac-
12 cordance with section 401 of the Robert T. Stafford
13 Disaster Relief and Emergency Assistance Act (42
14 U.S.C. 5170) in response to Hurricane Katrina.”;

15 (3) by redesignating subsection (d) as sub-
16 section (e); and

17 (4) by inserting after subsection (c) the fol-
18 lowing:

19 “(d) **DISASTER AREAS.—**

20 “(1) **DELTA REGIONAL AUTHORITY HURRICANE**
21 **KATRINA RELIEF FUND.—**

22 “(A) **ESTABLISHMENT.—**As soon as prac-
23 ticable after the date of enactment of this para-
24 graph, the Authority shall establish a fund, to
25 remain separate from the general Treasury

1 fund of the Authority numbered 95X0750, to
2 be known as the ‘Delta Regional Authority
3 Hurricane Katrina Relief Fund’ (referred to in
4 this subsection as the ‘Fund’).

5 “(B) DEPOSITS.—The Authority shall de-
6 posit into the Fund any amounts made avail-
7 able under section 382M(b).

8 “(C) USE OF FUNDS.—

9 “(i) IN GENERAL.—Except as other-
10 wise provided in this subparagraph, the
11 Authority shall allocate amounts in the
12 Fund to programs and projects that are el-
13 igible to receive assistance under this Act
14 in areas in the region that are affected by
15 the declaration of a major disaster in ac-
16 cordance with section 401 of the Robert T.
17 Stafford Disaster Relief and Emergency
18 Assistance Act (42 U.S.C. 5170) in re-
19 sponse to Hurricane Katrina.

20 “(ii) ADMINISTRATIVE EXPENSES.—
21 The Authority shall use not more than 3
22 percent of amounts made available under
23 section 382M(b) to pay administrative ex-
24 penses of carrying out this subsection.

1 “(iii) INDIRECTLY AFFECTED
2 AREAS.—The Authority may make funds
3 available to any area within the jurisdic-
4 tion of the Authority that is indirectly af-
5 fected by a major disaster or emergency,
6 as determined by the Authority, including
7 areas that provide housing, transportation,
8 employment, and health care to individuals
9 evacuated as a result of Hurricane
10 Katrina.

11 “(2) CONSULTATION.—In allocating funds
12 under paragraph (1), the Authority shall coordinate
13 with the Secretary of Agriculture, the Secretary of
14 Commerce, the Director of the Federal Emergency
15 Management Agency, the Secretary of Housing and
16 Urban Development, the Secretary of the Treasury,
17 the Administrator of the Small Business Administra-
18 tion, the Secretary of Energy, the Secretary of the
19 Interior, the Secretary of Labor, the Secretary of
20 Transportation, the Secretary of the Army, and the
21 Administrator of the Environmental Protection
22 Agency in order to—

23 “(A) avoid duplication of efforts; and

1 “(B) ensure that projects are prioritized
2 appropriately and funds are used effectively, as
3 determined by the Authority.

4 “(3) FUNDING LIMITATIONS.—No funding limi-
5 tation under this Act shall apply to a project under
6 this subsection.”.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
8 382M of the Consolidated Farm and Rural Development
9 Act (7 U.S.C. 2009aa–12) is amended—

10 (1) in subsection (a), by striking
11 “\$30,000,000” and all that follows through the end
12 of the subsection and inserting “, except section
13 382F(d), \$40,000,000 for each of fiscal years 2006
14 and 2007, to remain available until expended.”;

15 (2) by redesignating subsection (b) as sub-
16 section (c); and

17 (3) by inserting after subsection (a) the fol-
18 lowing:

19 “(b) DISASTER AREAS.—There is authorized to be
20 appropriated to the Delta Regional Authority Hurricane
21 Katrina Relief Fund to carry out section 382F(d)
22 \$100,000,000 for each of fiscal years 2006 and 2007, to
23 remain available until expended.”.

1 **TITLE VI—ENVIRONMENTAL**
2 **REQUIREMENTS**

3 **SEC. 601. ENVIRONMENTAL ASSESSMENT, CLEANUP, AND**
4 **RIGHT-TO-KNOW REQUIREMENTS.**

5 (a) ASSESSMENT AND CLEANUP FUNDING FOR
6 SUPERFUND AND OTHER HAZARDOUS SITES.—

7 (1) IN GENERAL.—The Administrator of the
8 Environmental Protection Agency (referred to in
9 this title as the “Administrator”) shall use funds ap-
10 propriated under the Robert T. Stafford Disaster
11 Relief and Emergency Assistance Act (42 U.S.C.
12 5121 et seq.) and funds provided to the Adminis-
13 trator in response to Hurricane Katrina for—

14 (A) cleanup activities (including response
15 actions in accordance with the Comprehensive
16 Environmental Response, Compensation and Li-
17 ability Act of 1980 (42 U.S.C. 9601 et seq.)
18 and corrective actions in accordance with the
19 Solid Waste Disposal Act (42 U.S.C. 6901 et
20 seq.);

21 (B) reconstruction and rehabilitation of
22 drinking water supplies and wastewater treat-
23 ment plants; and

1 (C) addressing potential or actual threats
2 to human health or the environment arising
3 from or relating to Hurricane Katrina.

4 (2) PRIORITY.—

5 (A) IN GENERAL.—The Administrator
6 shall prioritize cleanup activities to be con-
7 ducted under this subsection based on the risks
8 posed by a particular area in which the activi-
9 ties are to be conducted to human health or the
10 environment.

11 (B) SOURCE OF FUNDS.—In carrying out
12 this subsection, the Administrator shall use
13 amounts appropriated under the Robert T.
14 Stafford Disaster Relief and Emergency Assist-
15 ance Act (42 U.S.C. 5121 et seq.) and amounts
16 appropriated to the Administrator in response
17 to Hurricane Katrina before using amounts
18 made generally available to the Administrator.

19 (3) APPLICABLE STANDARDS AND REQUIRE-
20 MENTS.—Any activity or evaluation carried out
21 under this subsection shall be subject to the same
22 standards and requirements (including requirements
23 relating to the use of funds) as are applicable to pro-
24 grams carried out using funds of the Environmental
25 Protection Agency.

1 (b) ASSESSMENT OF FACILITIES OF CONCERN AND
2 ENVIRONMENTAL MEDIA.—

3 (1) DEFINITIONS.—In this subsection:

4 (A) FACILITY OF CONCERN.—The term
5 “facility of concern” means—

6 (i) a chemical, petroleum, or other fa-
7 cility that is subject to the chemical acci-
8 dent prevention program under section
9 112(r) of the Clean Air Act (42 U.S.C.
10 7412(r));

11 (ii) a site on the National Priorities
12 List developed by the President in accord-
13 ance with section 105(a)(8)(B) of the
14 Comprehensive Environmental Response,
15 Compensation, and Liability Act of 1980
16 (42 U.S.C. 9605(a)(8)(B)) (including such
17 a site for which corrective action is ordered
18 under that Act);

19 (iii) a site for which the Administrator
20 or a State has ordered corrective action in
21 accordance with section 3004(u) or
22 3008(h) of the Solid Waste Disposal Act
23 (42 U.S.C. 6924(u); 6428(h));

24 (iv) a hazardous waste generation,
25 treatment, storage, or disposal facility sub-

1 ject to regulation under subtitle C of the
2 Solid Waste Disposal Act (42 U.S.C. 6921
3 et seq.);

4 (v) a surface impoundment;

5 (vi) an aboveground storage tank;

6 (vii) an underground storage tank (as
7 defined in section 9001 of the Solid Waste
8 Disposal Act (42 U.S.C. 6991)); and

9 (viii) a railcar or tanker truck used to
10 transport a hazardous constituent.

11 (B) HAZARDOUS MATERIAL.—

12 (i) IN GENERAL.—The term “haz-
13 ardous material” means—

14 (I) a hazardous substance (as de-
15 fined in section 101 of the Com-
16 prehensive Environmental Response,
17 Compensation, and Liability Act of
18 1980 (42 U.S.C. 9601));

19 (II) a petroleum-based substance;
20 and

21 (III) an industrial or commercial
22 chemical.

23 (ii) INCLUSIONS.—The term “haz-
24 ardous material” includes—

25 (I) a petroleum-based product;

- 1 (II) a metal;
2 (III) a volatile or semi-volatile or-
3 ganic compound;
4 (IV) a pesticide;
5 (V) an herbicide;
6 (VI) a polychlorinated biphenyl;
7 and
8 (VII) any biological material in
9 floodwater, surface water, sediment,
10 or soil that may threaten human
11 health or the environment.

12 (C) RELEASE.—The term “release” has
13 the meaning given the term in section 101 of
14 the Comprehensive Environmental Response,
15 Compensation, and Liability Act of 1980 (42
16 U.S.C. 9601).

17 (2) IDENTIFICATION AND ASSESSMENT.—

18 (A) IN GENERAL.—Immediately after the
19 date of enactment of this Act, the Adminis-
20 trator shall implement a comprehensive testing
21 and monitoring plan to identify and assess lev-
22 els of any hazardous material affected by Hur-
23 ricane Katrina, including levels of hazardous
24 material at facilities of concern.

1 (B) ASSESSMENTS.—Using data gathered
2 pursuant to the testing and monitoring plan,
3 the Administrator shall—

4 (i) assess the short-term, ongoing, and
5 long-term human health risks (including
6 cancer and non-cancer health effects) from
7 all routes of exposure associated with con-
8 taminant concentrations in floodwater, sur-
9 face water, sediment, and soil, including
10 any contamination that may remain in that
11 water, sediment, or soil (including Lake
12 Pontchartrain and soil in areas affected by
13 Hurricane Katrina); and

14 (ii) include in the assessment under
15 clause (i) a targeted analysis of risks to—

16 (I) sensitive subpopulations (such
17 as children, pregnant women, the el-
18 derly, and people with impaired im-
19 mune systems); and

20 (II) low-income and minority
21 communities.

22 (3) PUBLIC AVAILABILITY OF PLAN, RESULTS,
23 AND ASSESSMENTS.—

24 (A) PLAN.—As soon as the plan described
25 in paragraph (2) is prepared, but not later than

1 October 30, 2005, the Administrator shall make
2 the plan available to—

3 (i) the public; and

4 (ii) the Chairman and Ranking Mem-
5 bers of the appropriate committees of Con-
6 gress.

7 (B) SAMPLING RESULTS AND ASSESS-
8 MENTS.—The Administrator shall immediately
9 make all sampling results and other analyses,
10 and all assessments of risks to human health or
11 the environment, completed or received under
12 this subsection available to the public (including
13 to evacuees, recovery workers, and emergency
14 personnel) in a centralized, Internet-accessible,
15 searchable database.

16 (c) REPORT ON RELEASES THAT MAY THREATEN
17 HUMAN HEALTH AND THE ENVIRONMENT.—

18 (1) IN GENERAL.—Not later than October 30,
19 2005, the Administrator shall prepare an initial re-
20 port summarizing all known or threatened releases
21 of hazardous materials into the environment arising
22 out of or relating to Hurricane Katrina.

23 (2) REQUIREMENTS OF REPORT.—The report
24 shall contain an evaluation of—

1 (A) the extent and location of known re-
2 leases resulting from Hurricane Katrina;

3 (B) any potential threats to public health
4 or the environment posed by those releases;

5 (C) any response actions undertaken in re-
6 sponse to those releases;

7 (D) the cost of each such response action;
8 and

9 (E) comprehensive costs that will likely be
10 incurred in conducting future assessment and
11 cleanup actions relating to Hurricane Katrina.

12 (3) PUBLIC AVAILABILITY AND PARTICIPA-
13 TION.—The Administrator shall—

14 (A) make the report under this subsection
15 available to—

16 (i) the public; and

17 (ii) the Chairman and Ranking Mem-
18 ber of each committee of Congress with
19 oversight jurisdiction over the Environ-
20 mental Protection Agency;

21 (B) update and disseminate the report
22 every 30 days until the date on which the Ad-
23 ministrator determines that all releases result-
24 ing from Hurricane Katrina have been identi-
25 fied, assessed, and cleaned up; and

1 (C) in preparing and updating the report,
2 solicit information from facility employees, com-
3 munity members, and other knowledgeable indi-
4 viduals with respect to matters covered by the
5 report.

6 **TITLE VII—CORPS OF** 7 **ENGINEERS PROJECTS**

8 **SEC. 701. RECOVERY RELATING TO CORPS OF ENGINEERS** 9 **PROJECTS.**

10 (a) IN GENERAL.—In conducting repair and rehabili-
11 tation after Hurricane Katrina, the Secretary of the
12 Army, acting through the Chief of Engineers (referred to
13 in this title as the “Secretary”), shall conduct a com-
14 prehensive assessment of Corps infrastructure in the re-
15 gion affected by Hurricane Katrina to determine whether
16 opportunities exist for project modifications that may re-
17 duce future hurricane impacts or further other project
18 purposes.

19 (b) PROJECT MODIFICATIONS.—In evaluating oppor-
20 tunities for project modifications, the Secretary shall in-
21 clude—

22 (1) a review of the use of natural buffers, such
23 as wetlands or beaches, for hurricane protection;

24 (2) a review of the potential use of voluntary
25 buyouts to reduce the potential for loss of life and

1 property resulting from a hurricane or other dis-
2 aster; and

3 (3) an increased level of flood protection using
4 the levee system in effect as of the date of enact-
5 ment of this Act.

6 (c) REPORT.—The Secretary shall submit to the
7 Task Force established under section 102 and appropriate
8 State and local governments any redevelopment rec-
9 ommendations that would—

10 (1) reduce hurricane and flooding impacts while
11 maximizing opportunities for wetlands restoration;
12 or

13 (2) mitigate the effects of any required repairs
14 or modifications on the coastal Louisiana ecosystem
15 and any other affected area.

16 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
17 authorized to be appropriated to carry out this section
18 \$1,000,000, to remain available until expended.

19 **SEC. 702. WETLANDS STUDY.**

20 (a) IN GENERAL.—The Administrator of the Envi-
21 ronmental Protection Agency shall enter into a contract
22 with the National Academy of Sciences under which the
23 National Academy of Sciences shall conduct a study of the
24 effect or potential effect of wetlands on the intensity of
25 Hurricane Katrina, including wind speed and storm surge.

1 (b) INCLUSION.—The study under subsection (a)
2 shall include an analysis of the plan of the Corps of Engi-
3 neers to restore coastal areas in the State of Louisiana,
4 in accordance with the report of the Chief of Engineers
5 for the Louisiana Coastal Area Ecosystem Restoration
6 Project, dated January 31, 2005, to determine—

7 (1) the effect of Hurricane Katrina on the via-
8 bility of the plan; and

9 (2) whether the plan, if carried out, would re-
10 duce the effects of hurricanes on the Gulf Coast in
11 the future.

12 **SEC. 703. PERMITS FOR ACTIVITIES IN COASTAL AREAS.**

13 Notwithstanding any other provision of law, in each
14 instance in which the Secretary issues a permit under sec-
15 tion 404 of the Federal Water Pollution Control Act (33
16 U.S.C. 1344) for, or otherwise authorizes the conduct in
17 accordance with that section of, any activity in a coastal
18 area that is at risk of being affected by a hurricane, the
19 Secretary shall make a written determination that the pro-
20 posed activity will not, when considered individually or cu-
21 mulatively with other activities, exacerbate or cause an in-
22 creased risk of loss of life or other damage from flooding,
23 storm surges, or any other hurricane-related event.

1 **TITLE VIII—NATIONAL LEVEE**
2 **SAFETY PROGRAM**

3 **SEC. 801. SHORT TITLE.**

4 This title may be cited as the “National Levee Safety
5 Program Act of 2005”.

6 **SEC. 802. DEFINITIONS.**

7 In this title:

8 (1) BOARD.—The term “Board” means the Na-
9 tional Levee Safety Review Board established under
10 section 806(a).

11 (2) COMMITTEE.—The term “Committee”
12 means the Interagency Committee on Levee Safety
13 established under section 805(a).

14 (3) LEVEE.—The term “levee” means an em-
15 bankment (including floodwalls)—

16 (A) the primary purpose of which is to
17 provide flood protection relating to seasonal
18 high water and storm surges; and

19 (B) that is subject to water loading for
20 only a few days or weeks during a year.

21 (4) FEDERAL AGENCY.—The term “Federal
22 agency” means a Federal agency that designs, fi-
23 nances, constructs, owns, operates, maintains, or
24 regulates the construction, operation, or mainte-
25 nance of a levee.

1 (5) SECRETARY.—The term “Secretary” means
2 the Secretary of the Army, acting through the Chief
3 of Engineers.

4 (6) STATE.—The term “State” means—

5 (A) a State;

6 (B) the District of Columbia;

7 (C) the Commonwealth of Puerto Rico;

8 and

9 (D) any other territory or possession of the
10 United States.

11 (7) STATE LEVEE SAFETY AGENCY.—The term
12 “State levee safety agency” means the State agency
13 that has regulatory authority over the safety of any
14 non-Federal levee in a State.

15 (8) UNITED STATES.—The term “United
16 States”, when used in a geographical sense, means
17 all of the States.

18 **SEC. 803. INSPECTION OF LEVEES.**

19 (a) IN GENERAL.—The Secretary shall carry out a
20 program under which, as soon as practicable after the date
21 of enactment of this Act, and every 10 years thereafter,
22 the Secretary shall inspect levees in the United States for
23 the purpose of protecting human life and property.

1 (b) LEVEES TO BE INSPECTED.—In carrying out the
2 program under subsection (a), the Secretary shall inspect
3 each levee in the United States, except—

4 (1) any levee that has been inspected by a State
5 levee safety agency during the 1-year period imme-
6 diately preceding the date of enactment of this Act,
7 if the Governor of the State requests an exception;
8 and

9 (2) any levee that does not pose a threat to
10 human life or property, as determined by the Sec-
11 retary.

12 (c) STATE PARTICIPATION.—On request of a State
13 levee safety agency, with respect to any levee the failure
14 of which would affect the State, the head of a Federal
15 agency shall—

16 (1) provide information to the State levee safety
17 agency relating to the construction, operation, or
18 maintenance of the levee; and

19 (2) allow an official of the State levee safety
20 agency to participate in the inspection of the levee.

21 (d) DETERMINATION.—

22 (1) IN GENERAL.—For the purpose of deter-
23 mining whether a levee (including any water im-
24 pounded by a levee) constitutes a danger to human
25 life or property, the Secretary shall take into consid-

1 eration the possibility that the levee may be endan-
2 gered by overtopping, seepage, settlement, erosion,
3 sediment, cracking, earth movement, earthquakes,
4 hurricanes, failure of bulkheads, flashboards, gates
5 on conduits, or other conditions that exist or may
6 occur in any area in the vicinity of the levee.

7 (2) PREVIOUSLY-INSPECTED LEVEES.—For any
8 levee with respect to which the Secretary made any
9 determination regarding the safety of the levee be-
10 fore the date of the inspection of the levee under this
11 section, the Secretary shall review the determination,
12 taking into consideration information most recently
13 available to the Secretary relating to—

14 (A) the likelihood that a storm surge would
15 exceed the designed level of protection of the
16 levee; and

17 (B) the effect of wetlands erosion, subsid-
18 ence, or any other natural process on the vul-
19 nerability of the area surrounding the levee to
20 flooding or an extreme weather event.

21 (e) REPORT.—As soon as practicable after the date
22 on which a levee is inspected under this section, the Sec-
23 retary shall provide to the Governor of the State in which
24 the levee is located a notice of the results of the inspection,
25 including—

1 (1) a description of any hazardous condition
2 discovered during the inspection;

3 (2) on request of the Governor, information re-
4 lating to any remedial measure necessary to mitigate
5 or avoid a hazardous condition discovered during the
6 inspection; and

7 (3) a description of the results of any review
8 conducted under subsection (d)(2) with respect to
9 the levee, including—

10 (A) any improvement required relating to
11 the level of protection of the levee; and

12 (B) recommendations regarding the main-
13 tenance or destruction of the levee, if any.

14 (f) PRIORITY LIST.—Not later than February 1 of
15 each year, the Secretary shall submit to Congress a pri-
16 ority list of flood control projects, taking into consider-
17 ation the results of any inspection under this section, in-
18 cluding—

19 (1) the potential risk to human life or the envi-
20 ronment if a project is not carried out;

21 (2) the benefits of protecting critical infrastruc-
22 ture and population centers; and

23 (3) the implementation of Federal guidelines re-
24 lating to levee safety.

1 **SEC. 804. NATIONAL LEVEE INVENTORY.**

2 The Secretary shall maintain and periodically publish
3 an inventory of levees in the United States, including the
4 results of any levee inspection conducted under section
5 803.

6 **SEC. 805. INTERAGENCY COMMITTEE ON LEVEE SAFETY.**

7 (a) **ESTABLISHMENT.**—There is established a com-
8 mittee, to be known as the “Interagency Committee on
9 Levee Safety”.

10 (b) **MEMBERSHIP.**—

11 (1) **IN GENERAL.**—The Committee shall be
12 composed of 6 members, to be appointed by the Sec-
13 retary—

14 (A) 1 of whom shall be a representative of
15 the Department of Agriculture;

16 (B) 1 of whom shall be a representative of
17 the Department of the Interior;

18 (C) 1 of whom shall be a representative of
19 the Department of Labor;

20 (D) 1 of whom shall be a representative of
21 the Department of Defense;

22 (E) 1 of whom shall be a representative of
23 the Department of Energy; and

24 (F) 1 of whom shall be a representative of
25 the Federal Emergency Management Agency.

1 (2) CHAIRPERSON.—The Secretary shall serve
2 as chairperson of the Committee.

3 (c) DUTIES.—The Committee shall support the es-
4 tablishment and maintenance of effective Federal pro-
5 grams, policies, and guidelines to enhance levee safety for
6 the protection of human life and property through coordi-
7 nation and information exchange among Federal agencies
8 concerning the implementation of Federal guidelines relat-
9 ing to levee safety.

10 **SEC. 806. NATIONAL LEVEE SAFETY REVIEW BOARD.**

11 (a) ESTABLISHMENT.—The Secretary shall establish
12 an advisory board, to be known as the “National Levee
13 Safety Review Board”, to—

14 (1) monitor the safety of levees in the United
15 States;

16 (2) monitor the implementation of this title by
17 State levee safety agencies; and

18 (3) advise the Secretary on policy relating to
19 national levee safety.

20 (b) MEMBERSHIP.—

21 (1) VOTING MEMBERS.—The Board shall be
22 composed of 11 voting members, to be appointed by
23 the Secretary, who shall have expertise in levee safe-
24 ty, of whom—

1 (A) 1 member shall represent the Depart-
2 ment of Agriculture;

3 (B) 1 member shall represent the Depart-
4 ment of Defense;

5 (C) 1 member shall represent the Depart-
6 ment of the Interior;

7 (D) 1 member shall represent the Environ-
8 mental Protection Agency;

9 (E) 1 member shall represent the Federal
10 Emergency Management Agency;

11 (F) 5 members shall represent State levee
12 safety agencies; and

13 (G) 1 member shall represent the private
14 sector.

15 (2) NONVOTING MEMBERS.—The Secretary, in
16 consultation with the voting members of the Board,
17 may invite to participate in meetings of the Board
18 as a nonvoting member—

19 (A) a representative of the National Lab-
20 oratories;

21 (B) a representative of any Federal or
22 State agency; or

23 (C) a levee safety expert.

24 (c) DUTIES.—

1 (1) IN GENERAL.—The Board shall support the
2 establishment and maintenance of effective pro-
3 grams, policies, and guidelines to enhance levee safe-
4 ty for the protection of human life and property
5 throughout the United States.

6 (2) COORDINATION AND INFORMATION EX-
7 CHANGE AMONG AGENCIES.—In carrying out para-
8 graph (1), the Board shall support coordination and
9 information exchange among Federal agencies and
10 State levee safety agencies that share common prob-
11 lems and responsibilities relating to levee safety, in-
12 cluding planning, design, construction, operation,
13 emergency action planning, inspections, mainte-
14 nance, regulation or licensing, technical or financial
15 assistance, research, and data management.

16 (d) POWERS.—

17 (1) INFORMATION FROM FEDERAL AGENCIES.—

18 (A) IN GENERAL.—The Board may secure
19 directly from a Federal agency such informa-
20 tion as the Board considers necessary to carry
21 out this section.

22 (B) PROVISION OF INFORMATION.—On re-
23 quest of the Board, the head of the Federal
24 agency shall provide the information to the
25 Board.

1 (2) CONTRACTS.—The Board may enter into
2 any contract the Board determines to be necessary
3 to carry out a duty of the Board.

4 (e) WORKING GROUPS.—

5 (1) IN GENERAL.—The Secretary may establish
6 working groups to assist the Board in carrying out
7 this section.

8 (2) MEMBERSHIP.—A working group under
9 paragraph (1) shall be composed of—

10 (A) members of the Board; and

11 (B) any other individual, as the Secretary
12 determines to be appropriate.

13 (f) COMPENSATION OF MEMBERS.—

14 (1) FEDERAL EMPLOYEES.—A member of the
15 Board who is an officer or employee of the United
16 States shall serve without compensation in addition
17 to compensation received for the services of the
18 member as an officer or employee of the United
19 States.

20 (2) OTHER MEMBERS.—A member of the Board
21 who is not an officer or employee of the United
22 States shall serve without compensation.

23 (g) TRAVEL EXPENSES.—

24 (1) REPRESENTATIVES OF FEDERAL AGEN-
25 CIES.—To the extent amounts are made available in

1 advance in appropriations Acts, a member of the
2 Board who represents a Federal agency shall be re-
3 imburged with appropriations for travel expenses by
4 the agency of the member, including per diem in lieu
5 of subsistence, at rates authorized for an employee
6 of an agency under subchapter I of chapter 57 of
7 title 5, United States Code, while away from home
8 or regular place of business of the member in the
9 performance of services for the Board.

10 (2) OTHER INDIVIDUALS.—To the extent
11 amounts are made available in advance in appropria-
12 tions Acts, a member of the Board who represents
13 a State levee safety agency, a member of the Board
14 who represents the private sector, and a member of
15 a working group created under subsection (e) shall
16 be reimbursed for travel expenses by the Director of
17 the Federal Emergency Management Agency, includ-
18 ing per diem in lieu of subsistence, at rates author-
19 ized for an employee of an agency under subchapter
20 1 of chapter 57 of title 5, United States Code, while
21 away from home or regular place of business of the
22 member in performance of services for the Board.

23 (h) APPLICABILITY OF FEDERAL ADVISORY COM-
24 MITTEE ACT.—The Federal Advisory Committee Act (5
25 U.S.C. App.) shall not apply to the Board.

1 **SEC. 807. NATIONAL LEVEE SAFETY PROGRAM.**

2 (a) IN GENERAL.—The Secretary, in consultation
3 with the Committee, the Board, and State levee safety
4 agencies, shall establish and maintain a national levee
5 safety program.

6 (b) PURPOSES.—The purposes of the program under
7 this section are—

8 (1) to ensure that new and existing levees are
9 safe through the development of technologically and
10 economically feasible programs and procedures for
11 hazard reduction relating to levees;

12 (2) to encourage acceptable engineering policies
13 and procedures to be used for levee site investiga-
14 tion, design, construction, operation and mainte-
15 nance, and emergency preparedness;

16 (3) to encourage the establishment and imple-
17 mentation of effective levee safety programs in each
18 State based on State standards;

19 (4) to develop and support public education and
20 awareness projects to increase public acceptance and
21 support of State levee safety programs;

22 (5) to develop technical assistance materials for
23 Federal and State levee safety programs;

24 (6) to develop methods of providing technical
25 assistance relating to levee safety to non-Federal en-
26 tities; and

1 (7) to develop technical assistance materials,
2 seminars, and guidelines to improve the security of
3 levees in the United States.

4 (c) STRATEGIC PLAN.—In carrying out the program
5 under this section, the Secretary shall prepare a strategic
6 plan—

7 (1) to establish goals, priorities, and target
8 dates to improve the safety of levees in the United
9 States;

10 (2) to cooperate and coordinate with, and pro-
11 vide assistance to, State levee safety agencies, to the
12 maximum extent practicable;

13 (3) to share information among Federal agen-
14 cies, State and local governments, and private enti-
15 ties relating to levee safety; and

16 (4) to provide information to the public relating
17 to hazards associated with levee failures.

18 (d) FEDERAL GUIDELINES.—

19 (1) IN GENERAL.—In carrying out the program
20 under this section, the Secretary shall establish Fed-
21 eral guidelines relating to levee safety.

22 (2) INCORPORATION OF FEDERAL ACTIVI-
23 TIES.—The Federal guidelines under paragraph (1)
24 shall incorporate, to the maximum extent prac-
25 ticable, any activity carried out by a Federal agency

1 as of the date on which the guidelines are estab-
2 lished.

3 (e) INCORPORATION OF EXISTING ACTIVITIES.—The
4 program under this section shall incorporate, to the max-
5 imum extent practicable—

6 (1) any activity carried out by a State or local
7 government, or a private entity, relating to the con-
8 struction, operation, or maintenance of a levee; and

9 (2) any activity carried out by a Federal agency
10 to support an effort by a State levee safety agency
11 to develop and implement an effective levee safety
12 program.

13 (f) GRANTS TO STATE LEVEE SAFETY AGENCIES.—

14 (1) GRANT PROGRAM.—In carrying out the pro-
15 gram under this section, the Secretary shall provide
16 grants to State levee safety agencies to assist States
17 in establishing, maintaining, and improving levee
18 safety programs.

19 (2) APPLICATION.—

20 (A) IN GENERAL.—To receive a grant
21 under this subsection, a State levee safety agen-
22 cy shall submit to the Secretary an application
23 in such time, in such manner, and containing
24 such information as the Secretary may require.

1 (B) INCLUSION.—An application under
2 subparagraph (A) shall include an agreement
3 between the State levee safety agency and the
4 Secretary under which the State levee safety
5 agency shall, in accordance with State law—

6 (i) review and approve plans and spec-
7 ifications to construct, enlarge, modify, re-
8 move, or abandon a levee in the State;

9 (ii) perform periodic inspections dur-
10 ing levee construction to ensure compliance
11 with the approved plans and specifications;

12 (iii) approve the construction of a
13 levee in the State before the date on which
14 the levee becomes operational;

15 (iv) inspect, at least once every 5
16 years, all levees and reservoirs in the State
17 the failure of which would cause a signifi-
18 cant threat to human life or property to
19 determine whether the levees and res-
20 ervoirs are safe;

21 (v) establish a procedure for more de-
22 tailed and frequent safety inspections;

23 (vi) perform any inspection under the
24 supervision of a State-registered profes-

- 1 sional engineer with related experience in
2 levee design and construction;
- 3 (vii) issue notices, if necessary, to re-
4 quire owners of levees to perform necessary
5 maintenance or remedial work, improve se-
6 curity, revise operating procedures, or take
7 other actions, including breaching levees;
- 8 (viii) provide funds to—
- 9 (I) ensure timely repairs or other
10 changes to, or removal of, a levee in
11 order to protect human life and prop-
12 erty; and
- 13 (II) if the owner of a levee does
14 not take an action described in sub-
15 clause (I), take appropriate action as
16 expeditiously as practicable;
- 17 (ix) establish a system of emergency
18 procedures and emergency response plans
19 to be used if a levee fails or if the failure
20 of a levee is imminent;
- 21 (x) identify—
- 22 (I) each levee the failure of which
23 could be reasonably expected to en-
24 danger human life;

1 (II) the maximum area that
2 could be flooded if a levee failed; and

3 (III) necessary public facilities
4 that would be affected by the flooding;
5 and

6 (xi) for the period during which the
7 grant is provided, maintain or exceed the
8 aggregate expenditures of the State during
9 the 2 fiscal years preceding the fiscal year
10 during which the grant is provided to en-
11 sure levee safety.

12 (3) DETERMINATION OF SECRETARY.—

13 (A) IN GENERAL.—Not later than 120
14 days after the date on which the Secretary re-
15 ceives an application under paragraph (2), the
16 Secretary shall approve or disapprove the appli-
17 cation.

18 (B) NOTICE OF DISAPPROVAL.—If the Sec-
19 retary disapproves an application under sub-
20 paragraph (A), the Secretary shall immediately
21 provide to the State levee safety agency a writ-
22 ten notice of the disapproval, including a de-
23 scription of—

24 (i) the reasons for the disapproval;
25 and

1 (ii) changes necessary for approval of
2 the application, if any.

3 (C) FAILURE TO DETERMINE.—If the Sec-
4 retary fails to make a determination by the
5 deadline under subparagraph (A), the applica-
6 tion shall be considered to be approved.

7 (4) REVIEW OF STATE LEVEE SAFETY PRO-
8 GRAMS.—

9 (A) IN GENERAL.—The Secretary, in con-
10 junction with the Board, may periodically re-
11 view any project carried out using a grant
12 under this subsection.

13 (B) INADEQUATE PROJECTS.—If the Sec-
14 retary determines under a review under sub-
15 paragraph (A) that a project is inadequate to
16 reasonably protect human life and property, the
17 Secretary shall, until the Secretary determines
18 the project to be adequate—

19 (i) revoke the approval of the project;

20 and

21 (ii) withhold assistance under this
22 subsection.

23 (g) REPORT.—Not later than 90 days after the end
24 of each odd-numbered fiscal year, the Secretary shall sub-
25 mit to Congress a report describing—

1 (1) the status of the program under this sec-
2 tion;

3 (2) the progress made by Federal agencies dur-
4 ing the 2 preceding fiscal years in implementing
5 Federal guidelines for levee safety;

6 (3) the progress made by State levee safety
7 agencies participating in the program; and

8 (4) recommendations for legislative or other ac-
9 tion that the Secretary considers to be necessary, if
10 any.

11 **SEC. 808. RESEARCH PROGRAM.**

12 (a) IN GENERAL.—The Secretary, in cooperation
13 with the Board, shall carry out a program of technical and
14 archival research to develop and support—

15 (1) improved techniques, historical experience,
16 and equipment for rapid and effective levee construc-
17 tion, rehabilitation, and inspection;

18 (2) the development of devices for the continued
19 monitoring of levee safety;

20 (3) the development and maintenance of infor-
21 mation resources systems required to manage levee
22 safety projects; and

23 (4) public policy initiatives and other improve-
24 ments relating to levee safety engineering, security,
25 and management.

1 (b) PARTICIPATION BY STATE LEVEE SAFETY AGEN-
2 CIES.—In carrying out the program under subsection (a),
3 the Secretary shall—

4 (1) solicit participation from State levee safety
5 agencies; and

6 (2) periodically update State levee safety agen-
7 cies and Congress of the status of the program.

8 **SEC. 809. LEVEE SAFETY TRAINING PROGRAM.**

9 The Secretary shall establish a program under which
10 the Secretary shall provide training for State levee safety
11 agency staff and inspectors to a State that has, or intends
12 to develop, a State levee safety program, on request of
13 the State.

14 **SEC. 810. EFFECT OF TITLE.**

15 Nothing in this title—

16 (1) creates any Federal liability relating to the
17 recovery of a levee caused by an action or failure to
18 act;

19 (2) relieves an owner or operator of a levee of
20 any legal duty, obligation, or liability relating to the
21 ownership or operation of the levee; or

22 (3) preempts any applicable Federal or State
23 law.

1 **SEC. 811. AUTHORIZATION OF APPROPRIATIONS.**

2 There is authorized to be appropriated to the Sec-
3 retary to carry out this title \$10,000,000 for each of fiscal
4 years 2006 through 2011, to remain available until ex-
5 pended.

6 **TITLE IX—EMERGENCY LEASE**
7 **REQUIREMENTS**

8 **SEC. 901. SHORT TITLE.**

9 This title may be cited as the “Emergency Water In-
10 frastructure Assistance Act of 2005”.

11 **SEC. 902. EMERGENCY LEASES.**

12 Section 3307 of title 40, United States Code, is
13 amended by striking subsection (e) and inserting the fol-
14 lowing:

15 “(e) EMERGENCY LEASES BY THE ADMINIS-
16 TRATOR.—

17 “(1) IN GENERAL.—Nothing in this section pre-
18 vents the Administrator from entering into an emer-
19 gency lease during a major disaster or other emer-
20 gency declared by—

21 “(A) the President under section 401 of
22 the Robert T. Stafford Disaster Relief and
23 Emergency Assistance Act (42 U.S.C. 5170); or

24 “(B) the head of a Federal agency under
25 applicable Federal law.

1 “(2) LEASE TERM.—The term of an emergency
2 lease under this subsection shall be not more than
3 5 years, unless the prospectus of the lease is ap-
4 proved under subsection (a).

5 “(3) REPORT.—Not later than April 1 of each
6 year, the Administrator shall submit to the Com-
7 mittee on Transportation and Infrastructure of the
8 House of Representatives and the Committee on En-
9 vironment and Public Works of the Senate a report
10 describing any emergency lease entered into under
11 this subsection during the preceding fiscal year.”.

12 **SEC. 903. EFFECTIVE DATE.**

13 This Act and the amendments made by this Act af-
14 fect only emergency leases entered into after August 1,
15 2005.

16 **TITLE X—FUNDING**

17 **SEC. 1001. FUNDING.**

18 (a) AUTHORIZATION OF APPROPRIATIONS.—Except
19 as otherwise provided in this Act, there are authorized to
20 be appropriated such sums as are necessary to carry out
21 this Act.

22 (b) APPROPRIATION OF FUNDS.—

23 (1) IN GENERAL.—Notwithstanding any other
24 provision of law, out of any funds in the Treasury
25 not otherwise appropriated, the Secretary of the

1 Treasury shall make available such sums as are nec-
 2 essary to carry out this Act.

3 (2) RECEIPT AND ACCEPTANCE.—Any appro-
 4 priate Federal official shall be entitled to receive,
 5 shall accept, and shall use to carry out this Act the
 6 funds made available under paragraph (1), without
 7 further appropriation.

8 (3) AVAILABILITY OF FUNDS.—Funds made
 9 available under paragraph (1) shall remain available
 10 until expended.

11 (c) EMERGENCY DESIGNATION.—Funds made avail-
 12 able to carry out this Act by the transfer of funds in or
 13 pursuant to this section are designated as an emergency
 14 requirement pursuant to section 402 of H. Con. Res. 95
 15 (109th Congress).

16 TITLE XI—BUILDING 17 HABITABILITY

18 SEC. 1101. SHORT TITLE.

19 This title may be cited as the “Habitability of Resi-
 20 dential Homes, Schools, and Commercial Buildings Af-
 21 fected by Hurricane Katrina Act of 2005”.

22 SEC. 1102. FINDINGS.

23 Congress finds that—

24 (1) Hurricane Katrina—

1 (A) caused significant loss of life, dis-
2 rupted the supply of power, natural gas, and
3 water, and affected sewage treatment and road
4 safety;

5 (B) destroyed hundreds of thousands of
6 residential homes, commercial buildings, and
7 schools in the States of Louisiana, Mississippi,
8 and Alabama;

9 (C) caused an estimated 80 percent of resi-
10 dential structures in the city of New Orleans to
11 sustain flood damage;

12 (D) presented serious environmental health
13 issues and threatened the public health through
14 contamination by toxic chemicals, sewage, solid
15 waste, debris, and gasoline; and

16 (E) continues to contribute to the growth
17 of mold in residential homes and other build-
18 ings in the States of Louisiana, Mississippi, and
19 Alabama through excess moisture and standing
20 water;

21 (2) many residential homes, commercial build-
22 ings, and schools in those States contain mold, and
23 have otherwise been exposed to environmental con-
24 tamination due to flooding, leaving the structures—

25 (A) in a state of disrepair; and

1 (B) inhabitable and dangerous to the pub-
2 lic health;

3 (3) molds have the potential to cause health
4 problems by producing allergens, irritants, and in
5 some cases, potentially toxic substances (myco-
6 toxins);

7 (4) inhaling or touching mold or mold spores
8 may cause immediate or delayed allergic reactions in
9 sensitive individuals, including hay fever-type symp-
10 toms, such as sneezing, runny nose, red eyes, and
11 skin rash;

12 (5) molds can also cause asthma attacks in peo-
13 ple with asthma who are allergic to mold, and irri-
14 tate the eyes, skin, nose, throat, and lungs of mold-
15 allergic and nonallergic people;

16 (6) some people, such as people with serious al-
17 lergies to molds, may have more severe reactions to
18 mold, and people with chronic lung illnesses, such as
19 obstructive lung disease, may develop mold infec-
20 tions in their lungs; and

21 (7) the Federal Government should take a lead-
22 ership role in—

23 (A) evaluating and inspecting residential
24 homes, commercial buildings, and schools in the
25 States of Louisiana, Mississippi, and Alabama

1 for the presence of environmental contaminants
2 and mold;

3 (B) cleaning up environmental contami-
4 nants and mold; and

5 (C) certifying that the structures are safe
6 for habitation.

7 **SEC. 1103. PURPOSES.**

8 The purposes of this title are—

9 (1) to develop a program to inspect damaged
10 residential homes, schools, and commercial buildings
11 affected by Hurricane Katrina to—

12 (A) determine the habitability of the struc-
13 tures;

14 (B) determine the presence of environ-
15 mental contaminants and mold in the struc-
16 tures, including the extent of the contamina-
17 tion; and

18 (C) certify the habitability of the struc-
19 tures;

20 (2) to develop a training program to certify
21 contractors to inspect and remediate the structures;

22 (3) to develop a program to reduce and elimi-
23 nate the presence of environmental contaminants
24 and mold in residential homes, commercial buildings,
25 and schools through interim controls and abatement;

1 (4) to educate the public on the public health
2 implications of toxic mold and the guidelines of the
3 Environmental Protection Agency for remediating
4 mold; and

5 (5) to provide grants to assist eligible entities
6 in carrying out paragraphs (1) through (4).

7 **SEC. 1104. DEFINITIONS.**

8 In this title:

9 (1) ABATEMENT.—

10 (A) IN GENERAL.—The term “abatement”
11 means any measure, including a remediation
12 measure, to permanently eliminate any adverse
13 health effect of an environmental contaminant
14 or mold, in accordance with Federal environ-
15 mental laws and guidelines.

16 (B) INCLUSIONS.—The term “abatement”
17 includes—

18 (i) removal of environmental contami-
19 nants and replacement of surfaces con-
20 taining environmental contaminants;

21 (ii) cleanup and disposal of surfaces
22 containing environmental contaminants, in-
23 cluding postabatement clearance testing
24 and sampling activities relating to the
25 cleanup and disposal;

1 (iii) removal and permanent contain-
2 ment of mold and replacement of surfaces
3 containing mold;

4 (iv) remediation of the underlying
5 causes of mold and water accumulation;

6 (v) cleanup, drying, and disposal of
7 surfaces containing mold, including
8 postabatement clearance testing and sam-
9 pling activities relating to the cleanup and
10 disposal; and

11 (vi) development of a remediation
12 plan, purchase of personal protective and
13 containment equipment, the fixing of mois-
14 ture problems, reevaluation of measures in
15 cases in which hidden mold is discovered,
16 and selection of appropriate cleanup meth-
17 ods.

18 (2) ADMINISTRATOR.—The term “Adminis-
19 trator” means the Administrator of the Environ-
20 mental Protection Agency.

21 (3) CERTIFIED CONTRACTOR.—The term “cer-
22 tified contractor” means a contractor, inspector, or
23 supervisor that—

1 (A)(i) has completed an accredited training
2 program, as determined by the Administrator;
3 and

4 (ii) has met any other requirement for cer-
5 tification established by the Administrator; or

6 (B) has been certified by a State under a
7 program that is at least as rigorous as an ac-
8 credited training program under subparagraph
9 (A)(i), as determined by the Administrator.

10 (4) COMMERCIAL BUILDING.—The term “com-
11 mercial building” means a structure that is operated
12 for business purposes, including structures operated
13 by for-profit and nonprofit entities.

14 (5) ENVIRONMENTAL CONTAMINANT.—The
15 term “environmental contaminant” means—

16 (A) any hazardous substance regulated
17 under the Comprehensive Environmental Re-
18 sponse, Compensation, and Liability Act of
19 1980 (42 U.S.C. 9601 et seq.); and

20 (B) any solid waste regulated under the
21 Solid Waste Disposal Act (42 U.S.C. 6901 et
22 seq.).

23 (6) GUIDELINES.—The term “guidelines”
24 means any guidance provided under the Environ-
25 mental Protection Agency documents entitled “Mold

1 Remediation in Schools and Commercial Buildings”
2 and “A brief guide to mold, moisture, and your
3 home”.

4 (7) INSPECTION.—The term “inspection”
5 means a surface-by-surface investigation of the inte-
6 rior and exterior of a residential home, commercial
7 building, or school to determine the habitability of
8 the structure for adults (including pregnant women)
9 and children, taking into consideration the presence
10 of any environmental contaminant or mold, including
11 activities relating to—

12 (A) information gathering regarding the
13 age and history of the structure;

14 (B) visual inspection;

15 (C) any environmental sampling technique;

16 (D) assessment of the presence of an envi-
17 ronmental contaminant or mold;

18 (E) identification of the source of the con-
19 tamination or cause of a water or moisture
20 problem; and

21 (F) any other appropriate activity, as de-
22 termined by the Administrator.

23 (8) INTERIM CONTROL.—The term “interim
24 control” means any measure designed to temporarily
25 reduce human exposure or likely human exposure to

1 an environmental contaminant or mold, such as spe-
2 cialized cleaning measures, repairs, maintenance,
3 painting, temporary containment, and continued
4 monitoring of a potential or existing environmental
5 hazard.

6 (9) MOLD.—The term “mold” means any form
7 of multicellular fungus that lives on plant or animal
8 matter, or in an indoor environment, such as
9 *Caldosporium*, *Penicillium*, *Alternaria*, *Aspergillus*,
10 *Fuarium*, *Trichoderma*, *Memmoniella*, *Mucor*, and
11 *Stachybotrys chartarum*.

12 (10) RESIDENTIAL HOME.—The term “residen-
13 tial home” means—

14 (A) a single-family dwelling, including any
15 attached structure used as a porch or stoop;
16 and

17 (B) a single-family dwelling contained in a
18 structure that includes more than 1 dwelling
19 unit, in which each dwelling unit is intended to
20 be occupied as a residence by 1 or more per-
21 sons.

22 (11) SCHOOL.—

23 (A) IN GENERAL.—The term “school”
24 means any facility used for educational pur-
25 poses.

1 (B) INCLUSION.—The term “school” in-
2 cludes a day care center.

3 **SEC. 1105. ABATEMENT AND INSPECTION GRANTS.**

4 (a) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
5 tion, the term “eligible entity” means—

6 (1) any State, local, or tribal government agen-
7 cy (including a parish agency) located in the State
8 of Louisiana, Alabama, or Mississippi that is af-
9 fected by Hurricane Katrina; and

10 (2) any administrative agency of a school lo-
11 cated in the State of Louisiana, Alabama, or Mis-
12 sissippi that is affected by Hurricane Katrina.

13 (b) ESTABLISHMENT.—The Administrator shall es-
14 tablish a program under which the Administrator shall
15 provide grants to eligible entities to pay the Federal share
16 of the cost of abatement and inspection activities for resi-
17 dential homes, commercial buildings, and schools in the
18 area served by the eligible entity, in accordance with this
19 section.

20 (c) APPLICATIONS.—To receive a grant under this
21 section, an eligible entity shall submit to the Adminis-
22 trator an application in such time, in such manner, and
23 containing such information as the Administrator may re-
24 quire.

1 (d) SELECTION CRITERIA.—The Administrator shall
2 provide grants under this section to eligible entities on the
3 basis of the merit of an activity proposed to be carried
4 out by the eligible entity, taking into consideration—

5 (1) the severity and extent of the presence of
6 environmental contaminants or mold in the area
7 served by an eligible entity;

8 (2) the ability of an eligible entity to carry out
9 an activity proposed by the eligible entity; and

10 (3) any other factor that the Administrator de-
11 termines to be appropriate to carry out the purposes
12 of this title.

13 (e) USE OF FUNDS.—An eligible entity that receives
14 a grant under this section shall use amounts made avail-
15 able for activities relating to residential homes, commer-
16 cial buildings, and schools in the area served by the eligible
17 entity to—

18 (1) conduct inspections;

19 (2) provide for interim control of environmental
20 contaminants and mold;

21 (3) provide for abatement of environmental con-
22 taminants and mold;

23 (4) ensure that inspections and sampling activi-
24 ties are carried out by certified contractors;

1 (5) monitor the health of workers involved in
2 abatement and inspection under this section;

3 (6) monitor the health of certified contractors
4 involved in inspections under this section;

5 (7) inform the public with respect to the nature
6 and causes of mold, measures to reduce exposure to
7 mold, and measures to remediate mold; and

8 (8) test or sample air and surfaces for environ-
9 mental contaminants or mold, including by—

10 (A) purchasing equipment to measure
11 moisture levels in building materials, humidity
12 gauges and meters, and air conditioning filters;
13 and

14 (B) designing mold sampling protocols.

15 **SEC. 1106. THRESHOLD LIMIT VALUES.**

16 (a) IN GENERAL.—Not later than 180 days after the
17 date of enactment of this Act, the Administrator shall pro-
18 mulgate regulations establishing threshold limitation val-
19 ues for airborne concentrations of mold and mold spores
20 in indoor environments to protect the public health.

21 (b) FACTORS FOR CONSIDERATION.—In promul-
22 gating regulations pursuant to subsection (a), the Admin-
23 istrator shall take into consideration the adverse health
24 effects of exposure to mold and mold spores, including spe-
25 cific effects of the exposure on—

- 1 (1) pregnant women;
- 2 (2) children;
- 3 (3) elderly individuals;
- 4 (4) asthmatic individuals;
- 5 (5) allergic individuals;
- 6 (6) individuals with compromised immune sys-
- 7 tems; and
- 8 (7) any other subgroup of individuals the health
- 9 of which would be at greater risk if exposed to mold
- 10 or mold spores, as determined by the Administrator.

11 **SEC. 1107. GUIDANCE FOR EVALUATION AND ABATEMENT**
12 **OF MOLD.**

13 Not later than 180 days after the date of enactment
14 of this Act, the Administrator, in consultation with the
15 Secretary of Health and Human Services acting through
16 the Director of the Centers for Disease Control, shall issue
17 guidance with respect to adults (including pregnant
18 women) and children for any activity carried out or fund-
19 ed, in whole or in part, by the Federal Government relat-
20 ing to inspection, interim controls, activities for the abate-
21 ment or remediation of mold, and sampling.

22 **SEC. 1108. CONTRACTOR TRAINING AND CERTIFICATION.**

23 (a) IN GENERAL.—Not later than 1 year after the
24 date of enactment of this Act, the Administrator shall pro-
25 mulgate regulations relating to the abatement, inspection,

1 reduction, and remediation of mold to ensure that certified
2 contractors are properly trained to carry out those activi-
3 ties, including establishing standards for the accreditation
4 of training programs for contractors, supervisors, inspec-
5 tors, and other workers.

6 (b) INCLUSIONS.—In promulgating regulations pur-
7 suant to subsection (a), the Administrator shall require
8 that any mold inspection, abatement, or reduction activity
9 carried out or funded, in whole or in part, by the Federal
10 Government shall be conducted by a certified contractor.

11 **SEC. 1109. TREATMENT.**

12 Any individual or entity that fails to comply with a
13 requirement of this title shall be subject to an appropriate
14 civil penalty, as determined by the Administrator.

15 **SEC. 1110. AUTHORIZATION OF APPROPRIATIONS.**

16 There are authorized to be appropriated such sums
17 as are necessary to carry out this title.

18 **TITLE XII—COMMUTER**
19 **ASSISTANCE PROGRAMS**

20 **SEC. 1201. COMMUTER ASSISTANCE PROGRAMS.**

21 Title IV of the Robert T. Stafford Disaster Relief and
22 Emergency Assistance Act is amended by inserting after
23 section 408 (42 U.S.C. 5174) the following:

1 **“SEC. 409. COMMUTER ASSISTANCE PROGRAMS.**

2 “(a) DEFINITION OF COMMUTER ASSISTANCE PRO-
3 GRAM.—In this section, the term ‘commuter assistance
4 program’ means any program relating to—

5 “(1) public transportation, including commuter
6 trains and rapid transit by bus;

7 “(2) ridesharing, such as carpooling or van-
8 pooling; or

9 “(3) other kinds of transportation demand-side
10 management.

11 “(b) REIMBURSEMENT FOR ESTABLISHMENT OF
12 COMMUTER ASSISTANCE PROGRAMS.—Any State or local
13 governmental entity that, in conjunction with the Adminis-
14 trator of the Environmental Protection Agency and the
15 Secretary of Transportation, establishes and implements
16 a commuter assistance program to improve worker access
17 to assist in the rapid recovery of communities in response
18 to a major disaster or emergency declared under this Act
19 shall be eligible to receive reimbursement under this Act
20 for the cost of the commuter assistance program.

21 “(c) TECHNICAL SUPPORT.—The Administrator of
22 the Environmental Protection Agency, in consultation
23 with the Secretary of Transportation and the heads of
24 other Federal agencies, shall use the Best Workplaces for
25 Commuters Program of the Environmental Protection
26 Agency to facilitate the development and implementation

1 of commuter assistance programs to improve worker ac-
2 cess to communities covered by a declaration of a major
3 disaster under section 401.”.

○