

## Summary of the Superfund for Hurricane Accountability and Recovery Act of 2005

- The Superfund for Hurricane Accountability and Recovery Act of 2005 would permanently reinstate past authority to collect Superfund taxes, which expired on December 31, 1995. Revenues from these taxes would be used to fund cleanup response actions administered by the Environmental Protection Agency (EPA) at National Priorities List (NPL) sites across the country.
- The taxes that would be reinstated are the same as in effect on December 31, 1995:
  - 9.7 cents per barrel on crude oil used by U.S. refineries, including imported petroleum products, but excluding oil exported from the United States;
  - various amounts ranging from \$0.22 per ton to \$4.87 per ton on certain chemicals manufactured or sold in, or imported into, the United States; and
  - 0.12% of corporate alternative minimum taxable income in excess of \$2 million.
- The bill would temporarily increase the above Superfund tax rates by 50% and require the Secretary of the Treasury to deposit revenues generated from the tax rate increase into a Gulf Hurricanes Cleanup Account. “Base” revenues would be deposited into the Hazardous Substance Superfund Account for cleanup at any NPL site across the country.
- Funding deposited into this new account would be reserved for responding to releases and threatened releases of hazardous substances that have been caused or exacerbated by Hurricanes Katrina or Rita.
- The temporary tax rate increase would be in effect for three years, from January 1, 2006, through December 31, 2008.
- Amounts available from the Gulf Hurricanes Cleanup Account for response activities would be subject to annual appropriations by Congress.
- One year after enactment, and annually thereafter, the EPA Administrator would be required to submit a report to Congress on the progress of cleanup in areas affected by Hurricanes Katrina and Rita, including the number of full-time EPA personnel involved in cleanup activities, identification of recipients and amounts of major contracts, status of cleanup at individual sites, funding expended, and estimates of time and costs to complete response actions.
- Unexpended funds in the Gulf Hurricanes Cleanup Account would revert to the Hazardous Substance Superfund Account for use at any NPL site on the later of:
  - December 31, 2009; or
  - the date on which the EPA Administrator determines in federal rulemaking that no further response actions are necessary to protect human health and the environment in areas affected by Hurricanes Katrina and Rita.

## National Priorities List (NPL) Sites

- The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA, P.L. 96-510) established the Superfund program to respond to releases and threatened releases from hazardous substances.
- CERCLA also required the Environmental Protection Agency (EPA) to develop the NPL to identify sites in the United States that warrant investigation to determine whether response actions may be needed.
- As of December 7, 2005, EPA reported that 1,238 sites were on the NPL, and that 62 additional sites awaited a listing decision. Of the sites on the NPL, 1,080 were non-federal facilities in 49 states, Guam, Puerto Rico, and the U.S. Virgin Islands (see attached table), and the remaining 158 sites were federal facilities.
- EPA places sites on the NPL based on Hazard Ranking System (HRS) scores. This system considers such factors as the quantity and nature of hazardous wastes present; the likelihood of contamination of ground water, surface water, and air; and the proximity of the site to population and sensitive natural environments.
- CERCLA requires Potentially Responsible Parties (PRPs) to pay for the cleanup of sites at which they are liable for contamination.
- At federal facilities, the federal agency determined to have caused the contamination is typically the sole or primary PRP and pays for the cleanup of the site out of its budget, subject to appropriations by Congress.
- At non-federal sites, there can be multiple PRPs including the owner of the land, operator of the site, generators of waste, and others.
- In the majority of cases, EPA reports that PRPs pay for the cleanup of non-federal NPL sites. However, at many sites, not all PRPs may be identifiable or financially solvent to pay the cleanup costs, or there are disputes among the PRPs concerning their degree of responsibility, which can delay payment and cleanup.
- Taxes on industry originally supported a Superfund Trust Fund to pay for cleanup at non-federal NPL sites where PRPs are not identifiable or financially solvent, or where immediate response actions are needed, the costs for which may be recovered from the PRPs at a later date.
- The authority to collect Superfund taxes expired on December 31, 1995, and the trust fund was essentially expended by the end of FY2003. Since FY2004, Congress has funded Superfund cleanup activities with general Treasury revenues, which has been approximately \$1.25 billion annually.
- EPA reports that construction of cleanup remedies is complete at 628 of the 1,080 non-federal sites currently on the NPL, leaving 452 sites in need of funding to complete construction.
- Funding needs often continue once construction is complete to pay for long-term activities, such as operation and maintenance of the remedy, and monitoring to ensure that the remedy is effective in protecting human health and the environment.

## Number of Non-Federal National Priorities List (NPL) Sites by State and U.S. Territory

State	Non-Federal NPL Sites	State	Non-Federal NPL Sites
Alaska	1	New Hampshire	19
Alabama	10	New Jersey	105
Arkansas	10	New Mexico	11
Arizona	7	Nevada	1
California	69	New York	82
Colorado	14	North Carolina	29
Connecticut	13	North Dakota	0
District of Columbia	0	Ohio	27
Delaware	13	Oklahoma	9
Florida	44	Oregon	9
Georgia	13	Pennsylvania	88
Hawaii	1	Rhode Island	10
Iowa	10	South Carolina	24
Idaho	4	South Dakota	1
Illinois	37	Tennessee	10
Indiana	29	Texas	39
Kansas	9	Utah	10
Kentucky	13	Virginia	18
Louisiana	10	Vermont	11
Massachusetts	24	Washington	33
Maryland	8	Wisconsin	37
Maine	9	West Virginia	7
Michigan	66	Wyoming	1
Minnesota	22		
Missouri	23	<b>Territory</b>	
Mississippi	3	Guam	1
Montana	14	Puerto Rico	9
Nebraska	11	U.S. Virgin Islands	2

**Source:** Query search results generated on December 7, 2005, from the Environmental Protection Agency's Superfund web site at: <http://www.epa.gov/superfund/sites/query/advquery.htm>.

## **EPA Response Actions at NPL Sites in Areas Affected by Hurricanes Katrina and Rita**

- EPA identified 54 NPL sites in Alabama, Louisiana, Mississippi and Texas that are within the areas affected by Hurricanes Katrina and Rita, as declared by the Federal Emergency Management Agency (FEMA).
- EPA is providing information regarding the assessment of these sites, including sampling data, online at: <http://www.epa.gov/katrina/superfund.html>.
- Thus far, EPA reports that initial assessments have been conducted at all 54 NPL sites. However, these assessments primarily have been visual in nature. Although EPA has conducted further site inspections, and in some cases, collected samples, it has only reported findings of sampling at 17 sites: 16 in Louisiana and 1 in Texas.
- Much will remain unknown about potential threats to human health and the environment until all site assessment data are collected and evaluated.
- EPA has reported it does not believe that many of the NPL sites sampled thus far were compromised by the hurricanes. However, sampling findings at certain sites continue to cause public concern.
- Delatte Metals site, Tangipahoa Parish, Louisiana – Samples from one monitoring well collected in October 2005 indicated that concentrations of four metals (arsenic, lead, manganese, and nickel) have increased above concentrations measured in May 2005. EPA is planning to conduct additional sampling to monitor these concentrations and determine whether further action is necessary.
- PAB Oil site, Abbeville, Louisiana – Concentrations of arsenic and chromium were detected in groundwater samples, above their respective drinking water standards.
- Bayou Bonfouca, Slidell, Louisiana – Three substances (naphthalene, fluorine and acenaphthene) were detected in groundwater in October 2005, which were not detected in samples previously collected in December 2004. Although EPA reports that concentrations measured in October 2005 did not exceed screening levels for tap water, the presence of these substances in groundwater after the hurricanes raises questions as to whether migration of contamination may be occurring, and if so, whether concentrations may rise in the future.
- Central Wood Preserving, East Feliciana Parish, Louisiana – EPA does not believe that the site was affected by the hurricanes. However, the agency reports that the shallow soil sample results from the southern half of the site exceeded the action level for arsenic established for the site and are inconsistent with the previous sampling conducted in the Remedial Investigation (RI), raising questions about the hurricane's effects. EPA recently determined that the use of the southern half of the site for residential purposes should be restricted.
- In addition to NPL sites, EPA has been sampling other potentially affected areas and reports elevated levels of certain contaminants. Independent sampling sponsored by public interest groups has reported initial findings of higher levels of contamination than EPA has found. The extent of contamination will not be known until all sampling is complete and the results fully evaluated, a process likely to continue for some time.