

109TH CONGRESS  
1ST SESSION

# H. R. 4481

To amend the Internal Revenue Code of 1986 to extend the financing for Superfund for purposes of cleanup activities with respect to Hurricanes Katrina and Rita, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2005

Mr. HINCHEY (for himself, Mr. SHAYS, Mr. ENGEL, Mr. GRIJALVA, Mr. HOLT, Ms. MCKINNEY, Mr. THOMPSON of Mississippi, Mr. EVANS, Mr. SANDERS, Mr. MARKEY, Mr. PAYNE, Mr. HASTINGS of Florida, Mr. LEVIN, Mr. McDERMOTT, Mr. NADLER, Mr. TOWNS, Mr. FARR, Mr. RANGEL, Ms. SCHWARTZ of Pennsylvania, Mr. OWENS, Mrs. MALONEY, Mrs. LOWEY, Ms. CARSON, Ms. WOOLSEY, and Mr. McNULTY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to extend the financing for Superfund for purposes of cleanup activities with respect to Hurricanes Katrina and Rita, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Superfund for Hurri-  
3 cane Accountability and Recovery Act of 2005”.

4 **SEC. 2. FINDINGS.**

5       The Congress finds that—

6           (1) the Comprehensive Environmental Re-  
7 sponse, Compensation, and Liability Act of 1980 es-  
8 tablished a Federal Superfund trust fund for the  
9 purpose of hazardous substance remediation at sites  
10 across the Nation;

11           (2) the release of hazardous substances threat-  
12 ens and impairs public health, community infra-  
13 structure, the economy, and social well being;

14           (3) the Environmental Protection Agency has  
15 evaluated more than 45,900 sites and placed 1,540  
16 Superfund sites on the National Priorities List;

17           (4) more than 70,000,000 Americans live with-  
18 in 4 miles of a Superfund site;

19           (5) the expiration of the crude oil, chemical  
20 feedstock, and corporate taxes in 1995 has contrib-  
21 uted to a funding shortfall that prevented numerous  
22 Superfund sites from receiving new construction  
23 funding in fiscal years 2004 and 2005 and slowed  
24 the pace of existing cleanups;

1           (6) delayed and slowed Superfund cleanup ac-  
2           tions magnify public health risks and increase total  
3           remediation costs;

4           (7) the reestablishment of the Superfund tax  
5           would have no effect on the liability under the Com-  
6           prehensive Environmental Response, Compensation,  
7           and Liability Act of 1980 of responsible parties or  
8           potentially responsible parties for hazardous sub-  
9           stance releases;

10          (8) Hurricanes Katrina and Rita caused un-  
11          precedented environmental damage in the Gulf Coast  
12          States of Alabama, Louisiana, Mississippi, and  
13          Texas;

14          (9) Hurricanes Katrina and Rita caused signifi-  
15          cant new releases of hazardous substances and also  
16          damaged, threatened, or otherwise impaired the in-  
17          tegrity of 54 sites listed on the National Priorities  
18          List and other facilities producing, manufacturing,  
19          storing, or releasing hazardous substances;

20          (10) released hazardous substances must be re-  
21          moved, remediated, and otherwise cleaned up to  
22          mitigate environmental damage and to protect public  
23          health;

1           (11) the current and future removal, remedi-  
 2           ation, and cleanup efforts in Hurricane-affected  
 3           areas will incur significant costs; and

4           (12) the costs incurred to remove, remediate,  
 5           and otherwise clean up hazardous substances, in the  
 6           Hurricane-impacted areas of the Gulf Coast and na-  
 7           tionwide, are most equitably borne by the parties re-  
 8           sponsible for the manufacture, production, use, stor-  
 9           age, and release of such substances.

10 **SEC. 3. SUPERFUND TAXES.**

11       (a) PERMANENT EXTENSION.—

12           (1) EXCISE TAXES.—Section 4611(e) of the In-  
 13           ternal Revenue Code of 1986 is amended to read as  
 14           follows:

15       “(e) APPLICATION OF HAZARDOUS SUBSTANCE  
 16       SUPERFUND FINANCING RATE.—The Hazardous Sub-  
 17       stance Superfund financing rate under this section shall  
 18       apply after December 31, 1986, and before January 1,  
 19       1996, and after the date of the enactment of this sub-  
 20       section.”.

21           (2) CORPORATE ENVIRONMENTAL INCOME  
 22       TAX.—Section 59A(e) of the Internal Revenue Code  
 23       of 1986 is amended to read as follows:

24       “(e) APPLICATION OF TAX.—The tax imposed by this  
 25       section shall apply to taxable years beginning after De-

1 cember 31, 1986, and before January 1, 1996, and to tax-  
 2 able years beginning after the date of the enactment of  
 3 this subsection.”.

4 (3) TECHNICAL AMENDMENTS.—

5 (A) Section 4611(b) of the Internal Rev-  
 6 enue Code of 1986 is amended—

7 (i) by striking “or exported from” in  
 8 paragraph (1)(A),

9 (ii) by striking “or exportation” in  
 10 paragraph (1)(B), and

11 (iii) by striking “AND EXPORTATION”  
 12 in the heading.

13 (B) Section 4611(d)(3) of such Code is  
 14 amended—

15 (i) by striking “or exporting the crude  
 16 oil, as the case may be” in the text and in-  
 17 serting “the crude oil”, and

18 (ii) by striking “OR EXPORTS” in the  
 19 heading.

20 (b) TEMPORARY TAX INCREASE FOR CLEANUP RE-  
 21 QUIRED BY REASON OF HURRICANES KATRINA AND  
 22 RITA.—

23 (1) IN GENERAL.—Subsection (c) of section  
 24 4611 of such Code is amended by adding at the end  
 25 the following new paragraph:

1           “(3) TEMPORARY RATE INCREASE TO FUND  
2           HURRICANES KATRINA AND RITA TOXIC WASTE  
3           CLEANUP.—During the period beginning on January  
4           1, 2006, and ending on December 31, 2008, the rate  
5           of tax specified by subparagraph (A) of paragraph  
6           (2) shall be increased by the amount equal to 50  
7           percent of such rate.”.

8           (2) CERTAIN CHEMICALS AND IMPORTED SUB-  
9           STANCES.—Section 4661 of such Code (relating to  
10          imposition of tax on certain chemicals) is amended  
11          by adding at the end the following:

12          “(c) TEMPORARY INCREASE TO FUND HURRICANES  
13          KATRINA AND RITA TOXIC WASTE CLEANUP.—During  
14          the period beginning on January 1, 2006, and ending on  
15          December 31, 2008, each amount of tax per ton with re-  
16          spect to a substance specified in subsection (b) shall be  
17          increased by an amount equal to 50 percent of such  
18          amount.”.

19          (3) TEMPORARY INCREASE IN CORPORATE EN-  
20          VIRONMENTAL INCOME TAX TO FUND HURRICANES  
21          KATRINA AND RITA TOXIC WASTE CLEANUP.—Sub-  
22          section (a) of section 59A of such Code (relating to  
23          imposition of tax) is amended by adding at the end  
24          the following flush sentence: “In the case of taxable  
25          years beginning on or after January 1, 2006, and

1 ending on or before December 31, 2008, the pre-  
2 ceding sentence shall be applied by substituting  
3 ‘0.18 percent’ for ‘0.12 percent’.”.

4 (4) SEPARATE ACCOUNTING FOR CLEANUP  
5 FUNDS.—Section 9507 of such Code (relating to  
6 Hazardous Substance Superfund) is amended by  
7 adding at the end the following new subsection:

8 “(f) ESTABLISHMENT OF GULF HURRICANES  
9 CLEANUP ACCOUNT.—

10 “(1) CREATION OF ACCOUNT.—There is estab-  
11 lished in the Hazardous Substance Superfund a sep-  
12 arate account to be known as the ‘Gulf Hurricanes  
13 Cleanup Account’ consisting of such amounts as  
14 may be transferred or credited to the Gulf Hurri-  
15 canes Cleanup Account as provided in this sub-  
16 section or section 9602(b).

17 “(2) TRANSFERS TO ACCOUNT.—The Secretary  
18 shall transfer to the Gulf Hurricanes Cleanup Ac-  
19 count from the amounts appropriated to Superfund  
20 under subsection (b) amounts equal to—

21 “(A) the increase in the tax imposed under  
22 section 59A by reason of the last sentence of  
23 subsection (a) thereof,

1           “(B) the increase in the tax imposed under  
2           section 4611(c) by reason of paragraph (3)  
3           thereof,

4           “(C) the increase in the tax imposed under  
5           section 4661 by reason of subsection (c) there-  
6           of, and

7           “(D) the increase in the tax imposed under  
8           section 4671 by reason of the increase in tax  
9           under section 4661(c).

10          “(3)   EXPENDITURES   FROM   ACCOUNT.—  
11       Amounts in the Gulf Hurricanes Cleanup Account  
12       shall be available, as provided by appropriation Acts,  
13       for making expenditures in accordance with section  
14       4 of the Superfund for Hurricane Accountability and  
15       Recovery Act of 2005.

16          “(4)   REVERSION OF UNEXPENDED FUNDS.—  
17       Amounts remaining in the Gulf Hurricanes Cleanup  
18       Account shall revert to the Hazardous Substance  
19       Superfund on the date which is the later of—

20               “(A) December 31, 2009, or

21               “(B) the date as of which the Adminis-  
22               trator of the Environmental Protection Agency  
23               makes the determination under section 4 of  
24               such Act.”.

25          (c) EFFECTIVE DATES.—

1           (1) EXCISE TAXES.—The amendments made by  
2       subsections (a) (other than paragraph (2) thereof)  
3       and (b) (other than paragraph (3) thereof) shall take  
4       effect on the date of the enactment of this Act.

5           (2) INCOME TAX.—The amendments made by  
6       subsections (a)(2) and (b)(3) shall apply to taxable  
7       years beginning after the date of the enactment of  
8       this Act.

9       **SEC. 4. EXPENDITURES FROM TRUST FUND.**

10       Amounts in the Gulf Hurricanes Cleanup Account es-  
11       tablished under subsection (f) of section 9507 of the Inter-  
12       nal Revenue Code of 1986 shall be used only for making  
13       expenditures in accordance with subsection (c) of such sec-  
14       tion with respect to sites where hazardous substance re-  
15       leases or threatened releases have been caused or exacer-  
16       bated by Hurricane Katrina or Hurricane Rita until such  
17       time as the Administrator of the Environmental Protec-  
18       tion Agency determines by rule that no response actions  
19       are necessary to protect human health and the environ-  
20       ment with respect to such sites. Before initiating a rule-  
21       making under this section, the Administrator shall notify  
22       the Congress of the intention to initiate the rulemaking.

23       **SEC. 5. CLEANUP REPORTS.**

24       (a) REQUIREMENT.—Not later than 1 year after the  
25       date of enactment of this Act, and annually thereafter,

1 the Administrator of the Environmental Protection Agen-  
2 cy shall transmit to Congress a report on the progress of  
3 cleanup activities with respect to Hurricanes Katrina and  
4 Rita.

5 (b) CONTENTS OF REPORT.—Each report required  
6 by subsection (a) shall specify the following:

7 (1) The number of full-time equivalent per-  
8 sonnel of the Environmental Protection Agency allo-  
9 cated to such cleanup activities.

10 (2) The persons to whom major contracts are  
11 awarded for such cleanup activities and the amount  
12 of such contracts.

13 (3) The number and location of contaminated  
14 sites that have been identified.

15 (4) The number of sites with the following  
16 stages of the cleanup process complete: site identi-  
17 fication and investigation, remedial investigation/fea-  
18 sibility study, remedial selection, remedial design,  
19 and remedial construction.

20 (5) For each identified site referred to in para-  
21 graph (3)—

22 (A) the type of contaminants discovered;

23 (B) the extent of contamination in soil,  
24 surface water, and groundwater;

1 (C) the number of emergency removals  
2 conducted;

3 (D) the number of long-term remedial ac-  
4 tions implemented or planned;

5 (E) the annual expenditure of funds for all  
6 necessary response actions;

7 (F) the estimated costs of completing all  
8 necessary response actions; and

9 (G) the estimated date of completion of all  
10 necessary response actions.

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