

PUBLIC LAW 108-324—OCT. 13, 2004

MILITARY CONSTRUCTION APPROPRIATIONS
AND EMERGENCY HURRICANE
SUPPLEMENTAL APPROPRIATIONS ACT, 2005

Public Law 108-324
108th Congress
An Act

Oct. 13, 2004
[H.R. 4837]

Military
Construction
Appropriations
and Emergency
Hurricane
Supplemental
Appropriations
Act, 2005.

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005”.

SEC. 2. REFERENCES.

Except as expressly provided otherwise, any reference to “this Act” contained in any division of this Act shall be treated as referring only to the provisions of that division.

Military
Construction
Appropriations
Act, 2005.

DIVISION A—MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2005

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, for the fiscal year ending September 30, 2005, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, \$1,981,084,000, to remain available until September 30, 2009: *Provided*, That of this amount, not to exceed \$156,999,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That of the funds appropriated for “Military Construction,

Army" under Public Law 107-249, \$7,276,000 are rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 107-64, \$3,924,000 are rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 106-246, \$7,776,000 are rescinded.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy and Marine Corps as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$1,069,947,000, to remain available until September 30, 2009: *Provided*, That of this amount, not to exceed \$90,830,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Navy" under Public Law 108-132, \$24,000,000 are rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, \$866,331,000, to remain available until September 30, 2009: *Provided*, That of this amount, not to exceed \$130,711,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Air Force" under Public Law, 108-106, \$21,800,000 are rescinded.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS AND RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, \$686,055,000, to remain available until September 30, 2009: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to

which transferred: *Provided further*, That of the amount appropriated, not to exceed \$62,800,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Defense-Wide" under Public Law 107-249, \$16,737,000 are rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Defense-Wide" under Public Law 107-64, \$6,000,000 are rescinded.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$446,748,000, to remain available until September 30, 2009.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$243,043,000, to remain available until September 30, 2009: *Provided*, That of the funds appropriated for "Military Construction, Air National Guard" under Public Law 108-132, \$5,000,000 are rescinded.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$92,377,000, to remain available until September 30, 2009.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$44,246,000, to remain available until September 30, 2009.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$123,977,000, to remain available until September 30, 2009.

NORTH ATLANTIC TREATY ORGANIZATION

SECURITY INVESTMENT PROGRAM

(INCLUDING RESCISSION)

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized by section 2806 of title 10, United States Code, and Military Construction Authorization Acts, \$165,800,000, to remain available until expended: *Provided*, That of the funds appropriated for “North Atlantic Treaty Organization Security Investment Program” under Public Law 108-132, \$5,000,000 are rescinded.

FAMILY HOUSING CONSTRUCTION, ARMY

(INCLUDING RESCISSION)

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$636,099,000, to remain available until September 30, 2009: *Provided*, That of the funds appropriated for “Family Housing Construction, Army” under Public Law 107-249, \$21,000,000 are rescinded.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$926,507,000.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

(INCLUDING RESCISSIONS)

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$139,107,000, to remain available until September 30, 2009: *Provided*, That of the funds appropriated for “Family Housing Construction, Navy and Marine Corps” under Public Law 108-132, \$6,737,000 are rescinded: *Provided further*, That of the funds appropriated for “Family Housing Construction, Navy and Marine Corps” under Public Law 107-64, \$5,564,000 are rescinded.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$696,304,000.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS)

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$846,959,000, to remain available until September 30, 2009: *Provided*, That of the funds appropriated for “Family Housing Construction, Air Force” under Public Law 108-132, \$6,000,000 are rescinded: *Provided further*, That of the funds appropriated for “Family Housing Construction, Air Force” under Public Law 107-64, \$25,720,000 are rescinded: *Provided further*, That of the funds appropriated for “Family Housing Construction, Air Force” under Public Law 106-246, \$13,451,000 are rescinded.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$853,384,000.

FAMILY HOUSING CONSTRUCTION, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$49,000, to remain available until September 30, 2009.

FAMILY HOUSING OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, \$49,575,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

(INCLUDING RESCISSIONS)

For the Department of Defense Family Housing Improvement Fund, \$2,500,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing and supporting facilities: *Provided*, That of the funds appropriated for “Department of Defense Family Housing Improvement Fund” under Public Law 108-132, \$8,301,000 are rescinded: *Provided further*, That of the funds appropriated for “Department of Defense Family Housing Improvement Fund” under Public Law 107-249, \$10,808,000 are rescinded.

CHEMICAL DEMILITARIZATION CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses of construction, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, as currently authorized by law, \$81,886,000, to remain available until September 30, 2009: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred.

BASE REALIGNMENT AND CLOSURE ACCOUNT

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$246,116,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 101. None of the funds made available in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

Contracts.

SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds made available in this Act may be used to begin construction of new bases in the United States for which specific appropriations have not been made.

SEC. 105. None of the funds made available in this Act shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or his designee; (3) where the estimated value is less than \$25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds made available in this Act shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which

funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. None of the funds made available in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 108. None of the funds made available in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds made available in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 111. None of the funds made available in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed \$500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds made available in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed \$1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

Notification.
Deadline.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of both Houses of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed \$100,000.

SEC. 114. Not more than 20 percent of the funds made available in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed

for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

10 USC 2860
note.

SEC. 118. The Secretary of Defense is to provide the Committees on Appropriations of both Houses of Congress with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Sea to assume a greater share of the common defense burden of such nations and the United States.

Reports.
Deadline.

(TRANSFER OF FUNDS)

SEC. 119. In addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to be merged with, and to be available for the same purposes and the same time period as that account.

(TRANSFER OF FUNDS)

SEC. 120. Subject to 30 days prior notification to the Committees on Appropriations of both Houses of Congress, such additional amounts as may be determined by the Secretary of Defense may be transferred to: (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund; or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in "Military Construction" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

SEC. 121. None of the funds made available in this Act may be obligated for Partnership for Peace Programs in the New Independent States of the former Soviet Union.

Deadline.
Contracts.
Notice.

SEC. 122. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the Committees on Appropriations of both Houses of Congress the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

- (A) the closure or realignment of the installation for which housing is provided under the contract;
- (B) a reduction in force of units stationed at such installation; or
- (C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(TRANSFER OF FUNDS)

SEC. 123. In addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

10 USC 2821
note.

SEC. 124. Notwithstanding this or any other provision of law, funds made available in this Act for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: *Provided*, That not more than \$35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification to the appropriate Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

Reports.

SEC. 125. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 126. None of the funds made available in this Act under the heading “North Atlantic Treaty Organization Security Investment Program”, and no funds appropriated for any fiscal year before fiscal year 2005 for that program that remain available for obligation, may be obligated or expended for the conduct of studies of missile defense.

SEC. 127. Section 128(b)(3)(A) of Public Law 108-132 is amended by striking the words “December 31, 2004” and replacing with “August 15, 2005”. 10 USC 111 note.

SEC. 128. Whenever the Secretary of Defense or any other official of the Department of Defense is requested by the Subcommittee on Military Construction of the Committee on Appropriations of either House of Congress to respond to a question or inquiry submitted by the chairman or another member of that subcommittee pursuant to a subcommittee hearing or other activity, the Secretary (or other official) shall respond to the request, in writing, within 21 days of the date on which the request is transmitted to the Secretary (or other official). Deadline.

SEC. 129. Amounts contained in the Ford Island Improvement Account established under 10 U.S.C. 2814(h) are appropriated and shall be available until expended for the purposes specified in 10 U.S.C. 2814(i)(1) or until transferred pursuant to the provisions of 10 U.S.C. 2814(i)(3).

SEC. 130. The fitness center at Homestead Air Reserve Base, Florida, shall be known and designated as the “Sam Johnson Fitness Center”. Any reference to such facility in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Sam Johnson Fitness Center. Federal buildings and facilities.

SEC. 131. (a) TRANSFER OF CERTAIN EXCESS PROPERTY AT FORT HUNTER LIGGETT, CALIFORNIA.—

(1) Notwithstanding any other provision of law, whenever the Secretary of the Army determines that any portion of real property consisting of approximately 165,000 acres at Fort Hunter Liggett, California, is excess to the military needs of the Army, and the Secretary of Defense concurs that the property is not needed to meet other Department of Defense requirements, the Secretary of the Army shall first offer the property to the Secretary of Agriculture.

(2) If the Secretary of Agriculture determines, pursuant to negotiations with the Secretary of the Army, to accept the property offered under paragraph (1), the Secretary of the Army shall transfer administrative jurisdiction of such property to the Secretary of Agriculture.

(b) MANAGEMENT OF TRANSFERRED PROPERTY.—

(1) The Secretary of Agriculture shall manage any property transferred under subsection (a) as part of the National Forest System under the Act of March 1, 1911 (commonly known as “Weeks Law”) (16 U.S.C. 480 et seq.), and other laws relating to the National Forest System.

(2) Any property managed under paragraph (1) shall be subject to the concurrent jurisdiction of the State of California.

(c) ADJUSTMENT OF BOUNDARIES.—

(1) Effective upon the transfer of property under subsection (a), the boundaries of Los Padres National Forest shall be modified to incorporate such property. The Chief of the United States Forest Service shall file and make available for public inspection in the Office of the Chief of the United States Forest

Effective date.

Service in Washington, District of Columbia, a map reflecting any modification of the boundaries of Los Padres National Forest pursuant to the preceding sentence.

(2) Any property incorporated within the boundaries of Los Padres National Forest under this section shall be deemed to have been within the boundaries of Los Padres National Forest as of January 1, 1965, for purposes of section 7(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)).

(d) ENVIRONMENTAL MATTERS.—As part of the transfer of property under subsection (a), the Secretary of the Army shall perform, in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), all environmental remediation actions necessary to respond to environmental contamination or injury to natural resources attributable to former military activities on the property.

SEC. 132. Unless stated otherwise, all reports and notifications required by division A shall be submitted to the Subcommittee on Military Construction of the Committee on Appropriations of each House of Congress.

This division may be cited as the “Military Construction Appropriations Act, 2005”.

Emergency
Supplemental
Appropriations
for Hurricane
Disasters
Assistance Act of
2005.

DIVISION B—EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR HURRICANE DISASTERS ASSISTANCE ACT, 2005

AN ACT

Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for additional disaster assistance relating to natural disasters, and for other purposes.

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, to provide emergency supplemental appropriations for additional disaster assistance relating to natural disasters, and for other purposes, namely:

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

EMERGENCY CONSERVATION PROGRAM

For an additional amount for “Emergency Conservation Program”, for expenses resulting from natural disasters, \$100,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

NATURAL RESOURCES CONSERVATION SERVICE
EMERGENCY WATERSHED PROTECTION PROGRAM

For an additional amount for “Emergency Watershed Protection Program” to repair damages to the waterways and watersheds resulting from natural disasters, \$250,000,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

RURAL DEVELOPMENT
RURAL COMMUNITY ADVANCEMENT PROGRAM

For an additional amount for the “Rural Community Advancement Program”, \$68,000,000, to remain available until expended: *Provided*, That \$50,000,000 shall be available for water and waste disposal grants as authorized by 7 U.S.C. 1926(a): *Provided further*, That \$18,000,000 shall be for the cost of community facility direct loans and grants as authorized by 7 U.S.C. 1926(a): *Provided further*, That loans and grants under this heading shall be available for projects in communities affected by hurricanes and tropical storms in calendar year 2003 or 2004: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

RURAL HOUSING SERVICE
RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For additional gross obligations for the principal amount of direct loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, \$17,000,000 for section 504 housing repair loans: *Provided*, That this loan level shall be considered an estimate and not a limitation.

For the additional cost of direct loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974: section 504 housing repair loans, \$5,000,000, to remain available until expended: *Provided*, That such loans shall only be available for projects in communities affected by hurricanes and tropical storms in calendar year 2003 or 2004: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

RURAL HOUSING ASSISTANCE GRANTS

For an additional amount for “Rural Housing Assistance Grants”, \$13,000,000, to remain available until expended, of which \$8,000,000 shall be for grants and contracts for very low-income

housing repair, made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, and of which \$5,000,000 shall be for domestic farm labor housing grants and contracts, as authorized by 42 U.S.C. 1486: *Provided*, That of the funds made available for domestic farm labor housing grants, the Secretary may use up to \$3,000,000 to provide grants authorized under 42 U.S.C. 5177a(a): *Provided further*, That such grants and contracts under this heading shall only be available for projects in communities affected by hurricanes and tropical storms in calendar year 2003 or 2004: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 101. AGRICULTURAL DISASTER ASSISTANCE.

(a) CROP DISASTER ASSISTANCE.—

(1) DEFINITIONS.—In this subsection:

(A) ADDITIONAL COVERAGE.—The term “additional coverage” has the meaning given the term in section 502(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)(1)).

(B) INSURABLE COMMODITY.—The term “insurable commodity” means an agricultural commodity (excluding livestock) for which the producers on a farm are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(C) NONINSURABLE COMMODITY.—The term “noninsurable commodity” means an eligible crop for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(2) EMERGENCY FINANCIAL ASSISTANCE.—Notwithstanding section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)), the Secretary of Agriculture shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this subsection available to producers on a farm (other than producers of cottonseed or sugar cane) that have incurred qualifying crop or quality losses for the 2003, 2004, or 2005 crop (as elected by a producer), but limited to only one of the crop years listed, due to damaging weather or related condition, as determined by the Secretary: *Provided*, That qualifying crop losses for the 2005 crop are limited to only those losses caused by a hurricane or tropical storm of the 2004 hurricane season in counties declared disaster areas by the President of the United States: *Provided further*, That notwithstanding the crop year election limitation in this paragraph, \$53,000,000 shall be provided to the Secretary of Agriculture, of which \$50,000,000 shall be for crop losses in the Commonwealth of Virginia, and of which \$3,000,000 shall be for fruit and vegetable losses in the State of North Carolina: *Provided further*, That these losses resulted from hurricanes, tropical storms, and other weather related disasters that occurred during calendar year 2003, to remain available until expended.

(3) ADMINISTRATION.—The Secretary shall make assistance available under this subsection in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A-55), including using the same loss thresholds for the quantity and quality losses as were used in administering that section.

(4) INELIGIBILITY FOR ASSISTANCE.—Except as provided in paragraph (5), the producers on a farm shall not be eligible for assistance under this subsection with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm—

(A) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the crop incurring the losses;

(B) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for the crop incurring the losses;

(C) had adjusted gross incomes, as defined by section 1001D of the Food Security Act of 1985, of greater than \$2,500,000 in 2003; or

(D) were not in compliance with highly erodible land conservation and wetland conservation provisions.

(5) CONTRACT WAIVER.—The Secretary may waive paragraph (4) with respect to the producers on a farm if the producers enter into a contract with the Secretary under which the producers agree—

(A) in the case of an insurable commodity, to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) providing additional coverage for the insurable commodity for each of the next 2 crops; and

(B) in the case of a noninsurable commodity, to file the required paperwork and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity for each of the next 2 crops under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(6) EFFECT OF VIOLATION.—In the event of the violation of a contract under paragraph (5) by a producer, the producer shall reimburse the Secretary for the full amount of the assistance provided to the producer under this subsection.

(7) PAYMENT LIMITATIONS.—

(A) LIMIT ON AMOUNT OF ASSISTANCE.—Assistance provided under this subsection to a producer for losses to a crop, together with the amounts specified in subparagraph (B) applicable to the same crop, may not exceed 95 percent of what the value of the crop would have been in the absence of the losses, as estimated by the Secretary.

(B) OTHER PAYMENTS.—In applying the limitation in subparagraph (A), the Secretary shall include the following:

(i) Any crop insurance payment made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.)

or payment under section 196 of the Federal Agricultural Improvement and Reform Act of 1996 (7 U.S.C. 7333) that the producer receives for losses to the same crop.

(ii) The value of the crop that was not lost (if any), as estimated by the Secretary.

(C) EFFECT OF FLORIDA DISASTER PROGRAMS.—Persons that received payments from section 32 of the Act of August 24, 1935 with respect to 2004 hurricane crop losses are not eligible for payments under this subsection.

(b) LIVESTOCK ASSISTANCE PROGRAM.—

(1) EMERGENCY FINANCIAL ASSISTANCE.—The Secretary of Agriculture shall use such sums as are necessary of funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2003 or 2004 losses (as elected by a producer), but not both, in a county that has received an emergency designation by the President or the Secretary after January 1, 2003, of which an amount determined by the Secretary shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A-51).

(2) ADMINISTRATION.—The Secretary shall make assistance available under this subsection in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A-51).

(3) MITIGATION.—In determining the eligibility for or amount of payments for which a producer is eligible under the livestock assistance program, the Secretary shall not penalize a producer that takes actions (recognizing disaster conditions) that reduce the average number of livestock the producer owned for grazing during the production year for which assistance is being provided.

(c) TREE ASSISTANCE PROGRAM.—

(1) EMERGENCY ASSISTANCE.—The Secretary of Agriculture shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide assistance under the tree assistance program established under sections 10201 through 10204 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8201 et seq.) to producers who suffered tree losses during the period beginning on December 1, 2003, and ending on December 31, 2004.

(2) ADDITIONAL ASSISTANCE.—In addition to providing assistance to eligible orchardists under the tree assistance program, the Secretary shall use an additional \$15,000,000 of the funds of the Commodity Credit Corporation to provide reimbursement under sections 10203 and 10204 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8203, 8204) to eligible forest land owners who produce periodic crops of timber from trees for commercial purposes and who have suffered tree losses during the period specified in paragraph (1).

(3) EFFECT OF FLORIDA DISASTER PROGRAMS.—Persons that received payments from section 32 of the Act of August 24,

1935 with respect to 2004 hurricane crop losses are not eligible for payments under this section.

(d) EMERGENCY CONSERVATION PROGRAM.—The Secretary of Agriculture shall use an additional \$50,000,000 of the funds of the Commodity Credit Corporation to provide assistance under the Emergency Conservation Program under title IV of the Agriculture Credit Act of 1978 (16 U.S.C. 2201 et seq.).

(e) OFFSET.—Section 1241(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(3)) is amended by inserting before the period at the end the following: “, using not more than \$6,037,000,000 for the period of fiscal years 2005 through 2014”.

(f) That for purposes of the budget scoring guidance in effect for the Congress and the Executive branch respectively, and notwithstanding the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217, any savings from subsection (e) shall not be scored until fiscal year 2008.

(g) The issuance of regulations shall be made without regard to: (1) the notice and comment provisions of section 553 of title 5, United States Code; (2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”): *Provided*, That in carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 102. The Secretary of Agriculture shall use \$40,000,000, of which, \$7,200,000 shall be provided to the State of Hawaii for assistance to an agricultural transportation cooperative in Hawaii, the members of which are eligible to participate in the Farm Service Agency administered Commodity Loan Program, and of which \$32,800,000 shall be to make payments to processors in Florida that are eligible to obtain a loan under section 156(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(a)) to compensate first processors and producers for crop and other losses that are related to hurricanes, tropical storms, excessive rains, and floods in Florida during calendar year 2004, to be calculated and paid on the basis of losses on 40 acre harvesting units, in counties declared a disaster by the President of the United States in 2004 due to hurricanes, on the same terms and conditions, to the extent practicable, as the payments made under section 207 of the Agricultural Assistance Act of 2003 (Public Law 108-7).

SEC. 103. The Secretary of Agriculture shall use \$10,000,000 to make payments to dairy producers for dairy production losses, and dairy spoilage losses in counties declared a disaster by the President of the United States in 2004 due to hurricanes.

SEC. 104. The Secretary of Agriculture shall use \$10,000,000 to provide assistance to producers and first handlers of the 2004 crop of cottonseed located in counties declared a disaster by the President of the United States in 2004 due to hurricanes.

SEC. 105. (a) The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out section 101, 102, 103, 104, 108, 109, 110, and 111 of this chapter, to remain available until expended.

(b) The amounts provided under sections 101, 102, 103, 104, 108, 109, 110, and 111 in this chapter are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

New Jersey.

SEC. 106. (a) RURAL COMMUNITY ADVANCEMENT PROGRAM.—The communities in Burlington and Camden Counties in New Jersey, affected by the flood which occurred on July 12, 2004, are deemed to be rural areas during fiscal year 2005 for purposes of subtitle E of the Consolidated Farm and Rural Development Act. Any limitations under subtitle E of the Consolidated Farm and Rural Development Act that are based on the income of families shall not apply during fiscal year 2005 with respect to such communities, or to businesses or families residing in such communities.

(b) RURAL HOUSING INSURANCE FUND AND RURAL HOUSING ASSISTANCE GRANTS.—The communities referred to in subsection (a) are deemed to be rural areas during fiscal year 2005 for purposes of the direct and guaranteed loan programs under title V of the Housing Act of 1949 and the grant programs under sections 504, 509(c), 525, and 533 of such title V. Any limitations under title V of the Housing Act of 1949 that are based on the income of families shall not apply during fiscal year 2005 with respect to such communities or to families residing in such communities.

SEC. 107. The Secretary of Agriculture shall provide financial and technical assistance to repair, and if necessary, replace Hope Mills Dam, Cumberland County, North Carolina, in accordance with the dam safety standards of the state of North Carolina: *Provided*, That from within the funds provided in this chapter for the Emergency Watershed Protection program of the Natural Resources Conservation Service \$1,600,000 is provided for this purpose.

SEC. 108. The Secretary shall provide \$90,000,000 to the fund established by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to make payments with respect to 2004 hurricane losses.

SEC. 109. The Secretary, acting through the Farm Service Agency, may use not more than \$4,000,000 to cover administrative expenses associated with the implementation of sections 101 and 102 of this chapter.

SEC. 110. In addition to amounts provided in this Act for the tree assistance program, \$10,000,000 shall be made available to the Secretary of Agriculture, to remain available until expended, to provide assistance to eligible private forest landowners owning not more than 5,000 acres of forest crop in counties declared Presidential disaster areas as a result of hurricane, tropical storm, or related events for the purposes of debris removal, replanting of timber, and other such purposes.

SEC. 111. In addition to amounts provided in this Act for the tree assistance program, \$8,500,000 shall be made available to the Secretary of Agriculture, to remain available until expended, to provide assistance under the tree assistance program established under subtitle C of title X of the Farm Security and Rural Investment Act of 2002 to pecan producers in counties declared a disaster by the President of the United States who suffered tree loss or damage due to damaging weather related to any hurricane or tropical storm of the 2004 hurricane season: *Provided*, That the funds made available under this section shall also be made available

to cover costs associated with pruning, rehabilitating, and other appropriate activities as determined by the Secretary.

CHAPTER 2

DEPARTMENT OF JUSTICE

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$5,500,000, to remain available until September 30, 2005, for emergency hurricane-related expenses: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

BUILDINGS AND FACILITIES

For an additional amount for “Buildings and Facilities”, \$18,600,000, to remain available until expended for emergency hurricane-related expenses: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

For an additional amount for “Operations, Research, and Facilities”, \$16,900,000, to remain available until September 30, 2006, of which \$9,000,000 shall be for reseeding, rehabilitation and restoration of oyster reefs in Alabama, Florida, Louisiana, and Mississippi: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for “Procurement, Acquisition and Construction”, \$3,800,000, to remain available until September 30, 2007: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for “Disaster Loans Program Account” for the cost of direct loans, \$501,000,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in Section 502 of the Congressional Budget Act of 1974.

In addition, for an additional amount for “Disaster Loans Program Account” for administrative expenses to carry out the disaster loan program, \$428,000,000, to remain available until expended, which may be transferred to the appropriations for “Salaries and Expenses”: *Provided*, That no funds shall be transferred to the appropriations for “Salaries and Expenses” for indirect administrative expenses: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

CHAPTER 3

DEPARTMENT OF DEFENSE

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Army”, \$8,600,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Navy”, \$458,000,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

OPERATION AND MAINTENANCE, MARINE CORPS
(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Marine Corps”, \$1,300,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

OPERATION AND MAINTENANCE, AIR FORCE
(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Air Force”, \$165,400,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

OPERATION AND MAINTENANCE, DEFENSE-WIDE
(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$100,000,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: *Provided*, That the Secretary of Defense may transfer these funds to appropriations for military personnel; operation and maintenance; the Defense Health Program; and working capital funds: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

Deadline.
Notification.

Deadline.
Reports.

OPERATION AND MAINTENANCE, ARMY RESERVE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Army Reserve”, \$1,400,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

OPERATION AND MAINTENANCE, NAVY RESERVE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Navy Reserve”, \$1,000,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Air Force Reserve”, \$2,400,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Army National Guard”, \$10,500,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD
(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Air National Guard”, \$2,200,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

PROCUREMENT

OTHER PROCUREMENT, AIR FORCE

For an additional amount for “Other Procurement, Air Force”, \$2,500,000, to remain available until September 30, 2007, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

PROCUREMENT, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Procurement, Defense-Wide”, \$140,000,000, to remain available until September 30, 2007, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004, for the costs of repairs to structures and facilities, replacement of destroyed or damaged equipment, and preparation and recovery of naval vessels under construction: *Provided*, That the Secretary of Defense may transfer these funds to appropriations for operation and maintenance; procurement; and research, development, test and evaluation: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further*, That not less than \$10,500,000 shall be transferred to “Aircraft

Deadline.
Notification.

Deadline.
Reports.

Procurement, Air Force” for the procurement of WC-130 Hurricane Tracking Equipment: *Provided further*, That not less than \$10,000,000 shall be transferred to “Missile Procurement, Air Force”, and not less than \$10,000,000 shall be transferred to “Other Procurement, Air Force” for costs associated with delayed satellite launches: *Provided further*, That not less than \$18,700,000 shall be transferred to “Other Procurement, Air Force” for Continuity of Operations equipment procurement at Headquarters United States Central Command: *Provided further*, That not less than \$20,000,000 shall be available only for replacement of laboratory and test range equipment at Eglin Air Force Base: *Provided further*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Defense Working Capital Funds”, \$4,100,000, for emergency hurricane and other natural disaster-related expenses, and which shall be available for transfer to reimburse costs incurred in fiscal year 2004: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Defense Health Program”, \$12,000,000, for emergency hurricane and other natural disaster-related expenses, which shall be available for transfer to reimburse costs incurred in fiscal year 2004: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 301. Appropriations provided in this chapter are available for obligation until September 30, 2005, unless otherwise so provided in this chapter.

SEC. 302. Funds appropriated in this Act, or made available by the transfer of funds in or pursuant to this Act, for intelligence activities are deemed to be specifically authorized by the Congress

for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 303. Unless specifically enumerated elsewhere in this chapter, none of the funds provided in this chapter may be used to finance programs or activities denied by Congress in fiscal years 2004 and 2005 defense appropriations, or to initiate a procurement or research, development, test and evaluation new start program without prior notification to the congressional defense committees. Notification.

SEC. 304. Section 8007 of the Department of Defense Appropriations Act, 2005 (Public Law 108-287); 118 Stat. 970), is amended by striking the words “in session”.

(TRANSFER OF FUNDS)

SEC. 305. Upon his determination that such action is necessary in the national interest to address emergency hurricane and other natural disaster-related expenses, the Secretary of Defense may transfer between appropriations up to \$200,000,000 of the funds made available to the Department of Defense in this chapter: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2005 (Public Law 108-287): *Provided further*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287. Notification.

SEC. 306. Section 9010(b) of the Department of Defense Appropriations Act, 2005 (Public Law 108-287; 118 Stat. 1008; 10 U.S.C. 113 note), is amended by striking “section 12304” in paragraphs (7) and (8) and inserting “section 12302”.

(INCLUDING TRANSFER OF FUNDS)

SEC. 307. TECHNICAL ADJUSTMENTS TO PUBLIC LAW 108-287. Notwithstanding any other provision in law, the following adjustments and transfers shall apply to funds previously made available and to restrictions in the Department of Defense Appropriations Act, 2005 (Public Law 108-287): Applicability.

(1) ARMORED PASSENGER VEHICLES.—Under the heading, “Other Procurement, Army”, strike “purchase of 1 vehicle” and insert “purchase of 21 vehicles”, and under the heading, “Other Procurement, Army”, strike “not to exceed \$200,000” and insert “not to exceed \$275,000”: *Provided*, That any purchases under the authority of this section in excess of one vehicle may only be in direct support of force protection requirements. Ante, p. 960.

(2) TRANSFER OF FUNDS.—Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided*, That the amounts transferred shall be made available for the same purpose and the same time period as the appropriation to which transferred: *Provided further*, That the authority provided in this section is in addition to any other

transfer authority available to the Department of Defense: *Provided further*, That all such amounts in this section are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287: *Provided further*, That the amounts shall be transferred between the following appropriations, in the amounts specified:

To:

Under the heading, “Research, Development, Test and Evaluation, Defense-Wide, 2005/2006”, \$5,950,000.

From:

Under the heading, “Operation and Maintenance, Army”, \$5,950,000.

To:

Under the heading, “Procurement, Marine Corps, 2005/2007”, as provided in title IX of Public Law 108-287, \$7,000,000.

From:

Under the heading, “Operation and Maintenance, Marine Corps”, as provided in title IX of Public Law 108-287, \$7,000,000.

To:

The Department of Veterans Affairs, under the heading, “Medical Services”, \$500,000.

From:

Under the heading, “Defense Health Program”, Operation and Maintenance, \$500,000.

To:

Under the heading, “Operation and Maintenance, Army National Guard”, \$1,400,000.

From:

Under the heading, “Operation and Maintenance, Army”, \$1,400,000.

Applicability.

(3) SECTION 9014 AUTHORITIES.—The authority provided in section 9014 of the Department of Defense Appropriations Act, 2005 (Public Law 108-287; 118 Stat. 1009), shall apply with respect to the period beginning on June 29, 2003, and ending on August 4, 2004, in addition to the period of applicability provided pursuant to section 9001 of that Act.

Ante, p. 1007.

SEC. 308. Section 9007 of the Department of Defense Appropriations Act, 2005 (Public Law 108-287), is amended by striking “\$300,000,000”, and inserting “\$500,000,000”.

Ante, p. 1007.

SEC. 309. Section 9006 of the Department of Defense Appropriations Act, 2005 (Public Law 108-287), is amended by striking “New Iraqi Army”, and inserting “Iraqi Armed Forces, to include the Iraqi National Guard”.

CHAPTER 4

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

For an additional amount for “General Investigations” for emergency expenses for the update of studies necessitated by storm damage to shore protection projects, \$400,000, to remain available until expended: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

CONSTRUCTION, GENERAL

For an additional amount for “Construction, General” for emergency expenses for repair of storm damage for authorized shore protection projects and assessment of project performance of such projects, \$62,600,000, to remain available until expended: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI AND TENNESSEE

For an additional amount for “Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri and Tennessee” for emergency expenses for levee and revetment repair and for emergency dredging, \$6,000,000, to remain available until expended: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for “Operation and Maintenance, General” for emergency expenses for repair of storm damage to authorized projects, \$145,400,000, to remain available until expended: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for “Flood Control and Coastal Emergencies” for emergency expenses for repair of damage to flood control and hurricane shore protection projects by storms and other natural disasters, \$148,000,000, to remain available until expended: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

SEC. 401. For an additional amount to address drought conditions in the State of Nevada, \$5,000,000 is provided to the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, for the Southern Nevada Water Authority for modification of the water intake at Lake Mead, to remain available until expended: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

SEC. 402. For an additional amount to address storm damage, \$10,000,000 is provided for the Secretary of the Army, acting through the Chief of Engineers, to repair, restore, and clean-up Corps projects and facilities; dredge navigation channels; restore and clean out area streams; provide emergency streambank protection; restore other crucial public infrastructure (including sewer and water facilities); document flood impacts; and undertake other flood recovery efforts deemed necessary and advisable by the Chief of Engineers for federally declared disaster areas in West Virginia, to remain available until expended: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

CHAPTER 5

BILATERAL ECONOMIC ASSISTANCE
FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

Caribbean.

For an additional amount for “International Disaster and Famine Assistance”, \$100,000,000, to remain available until September 30, 2005: *Provided*, That funds appropriated by this paragraph shall be available to respond to the disasters caused by hurricanes and tropical storms in the Caribbean region: *Provided further*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287: *Provided further*, That funds appropriated by this paragraph shall be available notwithstanding section 10

of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956.

CHAPTER 6

DEPARTMENT OF HOMELAND SECURITY

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for “Operating Expenses” for expenses resulting from the recent natural disasters in the southeastern United States, \$33,367,310, to remain available until expended: *Provided*, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

EMERGENCY PREPAREDNESS AND RESPONSE

DISASTER RELIEF

For an additional amount for “Disaster Relief”, \$6,500,000,000, to remain available until expended: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

CHAPTER 7

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

CONSTRUCTION

For an additional amount for “Construction”, \$40,552,000, to remain available until expended, to address damages from natural disasters: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

NATIONAL PARK SERVICE

CONSTRUCTION

For an additional amount for “Construction”, \$50,802,000, to remain available until expended, to address damages from natural disasters: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for “Surveys, Investigations, and Research”, \$1,000,000, to remain available until expended: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

RELATED AGENCY

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

STATE AND PRIVATE FORESTRY

For an additional amount for “State and Private Forestry”, \$49,100,000, to remain available until expended, to address damages from natural disasters: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

NATIONAL FOREST SYSTEM

For an additional amount for “National Forest System”, \$12,153,000, to remain available until expended, to address damages from natural disasters: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

WILDLAND FIRE MANAGEMENT

For an additional amount for “Wildland Fire Management”, \$1,028,000, to remain available until expended, to address damages from natural disasters: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for “Capital Improvement and Maintenance”, \$50,815,000, to remain available until expended, to address damages from natural disasters: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

CHAPTER 8

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DEPARTMENTAL MANAGEMENT

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For an additional amount for “Public Health and Social Services Emergency Fund” to support aging services, social services and health services associated with natural disaster recovery and response efforts, \$50,000,000, to remain available until expended: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

CHAPTER 9

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for “Military Construction, Navy and Marine Corps”, \$138,800,000, to remain available until September 30, 2007, for emergency expenses resulting from natural disasters: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287: *Provided further*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That none of these funds may be obligated for new construction projects until fourteen days after the Secretary of the Navy provides a notification that describes the project, including the form 1391, to the Subcommittee on Military Construction of the Committee on Appropriations and the Committee on Armed Services of both Houses of Congress.

Notification.

MILITARY CONSTRUCTION, ARMY RESERVE

For an additional amount for “Military Construction, Army Reserve”, \$8,700,000, to remain available until September 30, 2007, for emergency expenses resulting from natural disasters: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287: *Provided further*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For an additional amount for “Family Housing Operation and Maintenance, Army”, \$1,200,000, to remain available until September 30, 2005, for emergency expenses resulting from natural disasters: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For an additional amount for “Family Housing Operation and Maintenance, Navy and Marine Corps”, \$9,100,000, to remain available until September 30, 2005, for emergency expenses resulting from natural disasters: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Family Housing Operation and Maintenance, Air Force”, \$11,400,000, to remain available until September 30, 2005, for emergency expenses resulting from natural disasters: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

BASE REALIGNMENT AND CLOSURE ACCOUNT

For an additional amount to be deposited into the Department of Defense Base Closure Account 1990, \$50,000, to remain available until September 30, 2005, for emergency expenses resulting from natural disasters: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

CHAPTER 10**DEPARTMENT OF TRANSPORTATION****FEDERAL AVIATION ADMINISTRATION****FACILITIES AND EQUIPMENT****(AIRPORT AND AIRWAY TRUST FUND)**

For an additional amount for “Facilities and Equipment”, for expenses resulting from the recent natural disasters in the southeastern United States, \$5,100,000, to be derived from the airport and airway trust fund and to remain available until expended:

Provided, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

EMERGENCY ASSISTANCE TO AIRPORTS
(AIRPORT AND AIRWAY TRUST FUND)

For emergency capital costs to repair or replace public use facilities at public use airports listed in the Federal Aviation Administration's National Plan of Integrated Airport Systems resulting from damage from hurricanes Charley, Frances, Ivan, and Jeanne, to enable the Federal Aviation Administrator to compensate airports for such costs, \$25,000,000, to be derived from the airport and airway trust fund and to remain available until expended: *Provided*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

FEDERAL HIGHWAY ADMINISTRATION
FEDERAL-AID HIGHWAYS
EMERGENCY RELIEF PROGRAM
(HIGHWAY TRUST FUND)

For an additional amount for "Emergency Relief Program", for emergency expenses resulting from 2004 Hurricanes Charley, Frances, Gaston, Ivan, and Jeanne, as authorized by 23 U.S.C. 125, \$1,202,000,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account) and to remain available until expended: *Provided*, That notwithstanding 23 U.S.C. 125(d)(1), the Secretary of Transportation may obligate more than \$100,000,000 for projects arising from hurricanes Charley, Frances, Ivan, and Jeanne: *Provided further*, That any amounts in excess of those necessary for emergency expenses relating to the above hurricanes may be used for other projects authorized under 23 U.S.C. 125: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

EXECUTIVE OFFICE OF THE PRESIDENT
UNANTICIPATED NEEDS

For an additional amount for "Unanticipated Needs", not to exceed \$70,000,000, to remain available until September 30, 2005, for the American Red Cross for reimbursement of disaster relief and recovery expenditures and emergency services associated with Hurricanes Charley, Frances, Ivan, and Jeanne, and only to the extent funds are not made available for those activities by other

Reports.

federal sources: *Provided*, That these funds may be administered by any authorized federal government agency to meet the purposes of this provision and that total administrative costs shall not exceed three percent of the total appropriation: *Provided further*, That the Comptroller General shall audit the use of these funds by the American Red Cross: *Provided further*, That such amount is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287

CHAPTER 11

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

For an additional amount for “Medical services” for expenses related to recent natural disasters in the Southeast, \$38,283,000, to remain available until September 30, 2005: *Provided*, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

MEDICAL ADMINISTRATION

For an additional amount for “Medical administration” for expenses related to recent natural disasters in the Southeast, \$1,940,000, to remain available until September 30, 2005: *Provided*, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

MEDICAL FACILITIES

For an additional amount for “Medical facilities” for expenses related to recent natural disasters, \$46,909,000, to remain available until September 30, 2006: *Provided*, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for “General operating expenses”, for expenses related to recent natural disasters, \$545,000, to remain available until September 30, 2005: *Provided*, That the amounts

provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

NATIONAL CEMETERY ADMINISTRATION

For an additional amount for “National Cemetery Administration”, for expenses related to recent natural disasters in the Southeast, \$50,000, to remain available until September 30, 2005: *Provided*, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

CONSTRUCTION, MINOR PROJECTS

For an additional amount for “Construction, minor projects”, for expenses related to recent natural disasters, \$36,343,000, to remain available until expended: *Provided*, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For an additional amount for “Community development fund”, for activities authorized under title I of the Housing and Community Development Act of 1974, for use only for disaster relief, long-term recovery, and mitigation in communities affected by disasters designated by the President between August 31, 2003 and October 1, 2004, except those activities reimbursable by the Federal Emergency Management Agency or available through the Small Business Administration, and for reimbursement for expenditures incurred from the regular Community Development Block Grant formula allocation used to achieve these same purposes, \$150,000,000, to remain available until September 30, 2007: *Provided*, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287: *Provided further*, That all funds under this heading shall be awarded by the Secretary to states (including Indian tribes for all purposes under this heading) to be administered by each state in conjunction with its community development block grants program: *Provided further*, That notwithstanding 42 U.S.C. 5306(d)(2), states are authorized to provide such assistance to entitlement communities: *Provided further*, That in administering these funds, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the

Federal Register, publication. Deadline.

Secretary or the use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such waiver is required to facilitate the use of such funds, and would not be inconsistent with the overall purpose of the statute: *Provided further*, That the Secretary may waive the requirements that activities benefit persons of low and moderate income, except that at least 50 percent of the funds under this heading must benefit primarily persons of low and moderate income unless the Secretary makes a finding of compelling need: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation authorized under this heading no later than 5 days before the effective date of such waiver: *Provided further*, That any project or activity underway prior to a Presidential disaster declaration may not receive funds under this heading unless the disaster directly impacted the project: *Provided further*, That each state shall provide not less than 10 percent in non-Federal public matching funds or its equivalent value (other than administrative costs) for any funds allocated to the state under this heading.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

BUILDINGS AND FACILITIES

For an additional amount for “Buildings and facilities” for expenses related to recent natural disasters, \$3,000,000, to remain available until September 30, 2006: *Provided*, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SPACE FLIGHT CAPABILITIES

For an additional amount for “Space flight capabilities”, to repair assets damaged and take other emergency measures due to the effects of hurricanes and other disasters declared by the President, \$126,000,000, to remain available until expended: *Provided*, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of Public Law 108-287.

GENERAL PROVISION—THIS CHAPTER

(TRANSFER OF FUNDS)

SEC. 1101. From funds that are available in the unobligated balances of any funds appropriated under “Medical services”, for fiscal year 2004, the Secretary of Veterans Affairs may transfer up to \$125,000,000 to “General operating expenses”, for costs associated with processing claims where the basis of the entitlement is claimed disability incurred as a result of a veteran’s service,

subject to a determination by the Secretary of Veterans Affairs that such additional funds are necessary.

CHAPTER 12

GENERAL PROVISION—THIS ACT

SEC. 1201. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This division may be cited as the “Emergency Supplemental Appropriations for Hurricane Disasters Assistance Act, 2005”.

DIVISION C—ALASKA NATURAL GAS PIPELINE

Alaska Natural Gas Pipeline Act.

SEC. 101. SHORT TITLE.

15 USC 720 note.

This division may be cited as the “Alaska Natural Gas Pipeline Act”.

SEC. 102. DEFINITIONS.

15 USC 720.

In this division:

(1) ALASKA NATURAL GAS.—The term “Alaska natural gas” means natural gas derived from the area of the State of Alaska lying north of 64 degrees north latitude.

(2) ALASKA NATURAL GAS TRANSPORTATION PROJECT.—The term “Alaska natural gas transportation project” means any natural gas pipeline system that carries Alaska natural gas to the border between Alaska and Canada (including related facilities subject to the jurisdiction of the Commission) that is authorized under—

(A) the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.); or
(B) section 103.

(3) ALASKA NATURAL GAS TRANSPORTATION SYSTEM.—The term “Alaska natural gas transportation system” means the Alaska natural gas transportation project authorized under the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.) and designated and described in section 2 of the President’s decision.

(4) COMMISSION.—The term “Commission” means the Federal Energy Regulatory Commission.

(5) FEDERAL COORDINATOR.—The term “Federal Coordinator” means the head of the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects established by section 106(a).

(6) PRESIDENT’S DECISION.—The term “President’s decision” means the decision and report to Congress on the Alaska natural gas transportation system—

(A) issued by the President on September 22, 1977, in accordance with section 7 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719e); and

(B) approved by Public Law 95-158 (15 U.S.C. 719f note; 91 Stat. 1268).

(7) SECRETARY.—The term “Secretary” means the Secretary of Energy.

15 USC 720a.

(8) STATE.—The term “State” means the State of Alaska.

SEC. 103. ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

(a) AUTHORITY OF THE COMMISSION.—Notwithstanding the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), the Commission may, in accordance with section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)), consider and act on an application for the issuance of a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project other than the Alaska natural gas transportation system.

(b) ISSUANCE OF CERTIFICATE.—

(1) IN GENERAL.—The Commission shall issue a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project under this section if the applicant has satisfied the requirements of section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)).

(2) CONSIDERATIONS.—In considering an application under this section, the Commission shall presume that—

(A) a public need exists to construct and operate the proposed Alaska natural gas transportation project; and

(B) sufficient downstream capacity will exist to transport the Alaska natural gas moving through the project to markets in the contiguous United States.

Deadline.

(c) EXPEDITED APPROVAL PROCESS.—Not later than 60 days after the date of issuance of the final environmental impact statement under section 104 for an Alaska natural gas transportation project, the Commission shall issue a final order granting or denying any application for a certificate of public convenience and necessity for the project under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) and this section.

(d) PROHIBITION OF CERTAIN PIPELINE ROUTE.—No license, permit, lease, right-of-way, authorization, or other approval required under Federal law for the construction of any pipeline to transport natural gas from land within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that—

(1) traverses land beneath navigable waters (as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301)) beneath, or the adjacent shoreline of, the Beaufort Sea; and

(2) enters Canada at any point north of 68 degrees north latitude.

(e) OPEN SEASON.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Commission shall issue regulations governing the conduct of open seasons for Alaska natural gas transportation projects (including procedures for the allocation of capacity).

(2) REGULATIONS.—The regulations referred to in paragraph (1) shall—

(A) include the criteria for and timing of any open seasons;

(B) promote competition in the exploration, development, and production of Alaska natural gas; and

Deadline.
Regulations.

(C) for any open season for capacity exceeding the initial capacity, provide the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thomson units.

(3) APPLICABILITY.—Except in a case in which an expansion is ordered in accordance with section 105, initial or expansion capacity on any Alaska natural gas transportation project shall be allocated in accordance with procedures to be established by the Commission in regulations issued under paragraph (1).

(f) PROJECTS IN THE CONTIGUOUS UNITED STATES.—

(1) IN GENERAL.—An application for additional or expanded pipeline facilities that may be required to transport Alaska natural gas from Canada to markets in the contiguous United States may be made in accordance with the Natural Gas Act (15 U.S.C. 717a et seq.).

(2) EXPANSION.—To the extent that a pipeline facility described in paragraph (1) includes the expansion of any facility constructed in accordance with the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 et seq.), that Act shall continue to apply.

(g) STUDY OF IN-STATE NEEDS.—The holder of the certificate of public convenience and necessity issued, modified, or amended by the Commission for an Alaska natural gas transportation project shall demonstrate that the holder has conducted a study of Alaska in-State needs, including tie-in points along the Alaska natural gas transportation project for in-State access.

(h) ALASKA ROYALTY GAS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Commission, on a request by the State and after a hearing, may provide for reasonable access to the Alaska natural gas transportation project by the State (or State designee) for the transportation of royalty gas of the State for the purpose of meeting local consumption needs within the State.

(2) EXCEPTION.—The rates of shippers of subscribed capacity on an Alaska natural gas transportation project described in paragraph (1), as in effect as of the date on which access under that paragraph is granted, shall not be increased as a result of such access.

(i) REGULATIONS.—The Commission may issue such regulations as are necessary to carry out this section.

SEC. 104. ENVIRONMENTAL REVIEWS.

15 USC 720b.

(a) COMPLIANCE WITH NEPA.—The issuance of a certificate of public convenience and necessity authorizing the construction and operation of any Alaska natural gas transportation project under section 103 shall be treated as a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) DESIGNATION OF LEAD AGENCY.—

(1) IN GENERAL.—The Commission—

(A) shall be the lead agency for purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) shall be responsible for preparing the environmental impact statement required by section 102(2)(c) of

that Act (42 U.S.C. 4332(2)(c)) with respect to an Alaska natural gas transportation project under section 103.

(2) CONSOLIDATION OF STATEMENTS.—In carrying out paragraph (1), the Commission shall prepare a single environmental impact statement, which shall consolidate the environmental reviews of all Federal agencies considering any aspect of the Alaska natural gas transportation project covered by the environmental impact statement.

(c) OTHER AGENCIES.—

(1) IN GENERAL.—Each Federal agency considering an aspect of the construction and operation of an Alaska natural gas transportation project under section 103 shall—

(A) cooperate with the Commission; and

(B) comply with deadlines established by the Commission in the preparation of the environmental impact statement under this section.

(2) SATISFACTION OF NEPA REQUIREMENTS.—The environmental impact statement prepared under this section shall be adopted by each Federal agency described in paragraph (1) in satisfaction of the responsibilities of the Federal agency under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) with respect to the Alaska natural gas transportation project covered by the environmental impact statement.

(d) EXPEDITED PROCESS.—The Commission shall—

(1) not later than 1 year after the Commission determines that the application under section 103 with respect to an Alaska natural gas transportation project is complete, issue a draft environmental impact statement under this section; and

(2) not later than 180 days after the date of issuance of the draft environmental impact statement, issue a final environmental impact statement, unless the Commission for good cause determines that additional time is needed.

Deadlines.

15 USC 720c.

SEC. 105. PIPELINE EXPANSION.

(a) AUTHORITY.—With respect to any Alaska natural gas transportation project, on a request by 1 or more persons and after giving notice and an opportunity for a hearing, the Commission may order the expansion of the Alaska natural gas project if the Commission determines that such an expansion is required by the present and future public convenience and necessity.

(b) RESPONSIBILITIES OF COMMISSION.—Before ordering an expansion under subsection (a), the Commission shall—

(1) approve or establish rates for the expansion service that are designed to ensure the recovery, on an incremental or rolled-in basis, of the cost associated with the expansion (including a reasonable rate of return on investment);

(2) ensure that the rates do not require existing shippers on the Alaska natural gas transportation project to subsidize expansion shippers;

(3) find that a proposed shipper will comply with, and the proposed expansion and the expansion of service will be undertaken and implemented based on, terms and conditions consistent with the tariff of the Alaska natural gas transportation project in effect as of the date of the expansion;

(4) find that the proposed facilities will not adversely affect the financial or economic viability of the Alaska natural gas transportation project;

(5) find that the proposed facilities will not adversely affect the overall operations of the Alaska natural gas transportation project;

(6) find that the proposed facilities will not diminish the contract rights of existing shippers to previously subscribed certificated capacity;

(7) ensure that all necessary environmental reviews have been completed; and

(8) find that adequate downstream facilities exist or are expected to exist to deliver incremental Alaska natural gas to market.

(c) REQUIREMENT FOR A FIRM TRANSPORTATION AGREEMENT.—

Any order of the Commission issued in accordance with this section shall be void unless the person requesting the order executes a firm transportation agreement with the Alaska natural gas transportation project within such reasonable period of time as the order may specify.

(d) LIMITATION.—Nothing in this section expands or otherwise affects any authority of the Commission with respect to any natural gas pipeline located outside the State.

(e) REGULATIONS.—The Commission may issue such regulations as are necessary to carry out this section.

SEC. 106. FEDERAL COORDINATOR.

15 USC 720d.

(a) ESTABLISHMENT.—There is established, as an independent office in the executive branch, the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects.

(b) FEDERAL COORDINATOR.—

(1) APPOINTMENT.—The Office shall be headed by a Federal Coordinator for Alaska Natural Gas Transportation Projects, who shall be appointed by the President, by and with the advice and consent of the Senate, to serve a term to last until 1 year following the completion of the project referred to in section 103.

(2) COMPENSATION.—The Federal Coordinator shall be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5314).

(c) DUTIES.—The Federal Coordinator shall be responsible for—

(1) coordinating the expeditious discharge of all activities by Federal agencies with respect to an Alaska natural gas transportation project; and

(2) ensuring the compliance of Federal agencies with the provisions of this division.

(d) REVIEWS AND ACTIONS OF OTHER FEDERAL AGENCIES.—

(1) EXPEDITED REVIEWS AND ACTIONS.—All reviews conducted and actions taken by any Federal agency relating to an Alaska natural gas transportation project authorized under this section shall be expedited, in a manner consistent with completion of the necessary reviews and approvals by the deadlines under this division.

(2) PROHIBITION OF CERTAIN TERMS AND CONDITIONS.—No Federal agency may include in any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project any term or condition that may be

President.
Congress.

permitted, but is not required, by any applicable law if the Federal Coordinator determines that the term or condition would prevent or impair in any significant respect the expeditious construction and operation, or an expansion, of the Alaska natural gas transportation project.

(3) PROHIBITION OF CERTAIN ACTIONS.—Unless required by law, no Federal agency shall add to, amend, or abrogate any certificate, right-of-way, permit, lease, or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that the action would prevent or impair in any significant respect the expeditious construction and operation, or an expansion, of the Alaska natural gas transportation project.

(4) LIMITATION.—The Federal Coordinator shall not have authority to—

(A) override—

(i) the implementation or enforcement of regulations issued by the Commission under section 103; or

(ii) an order by the Commission to expand the project under section 105; or

(B) impose any terms, conditions, or requirements in addition to those imposed by the Commission or any agency with respect to construction and operation, or an expansion of, the project.

(e) STATE COORDINATION.—

(1) IN GENERAL.—The Federal Coordinator and the State shall enter into a joint surveillance and monitoring agreement similar to the agreement in effect during construction of the Trans-Alaska Pipeline, to be approved by the President and the Governor of the State, for the purpose of monitoring the construction of the Alaska natural gas transportation project.

(2) PRIMARY RESPONSIBILITY.—With respect to an Alaska natural gas transportation project—

(A) the Federal Government shall have primary surveillance and monitoring responsibility in areas where the Alaska natural gas transportation project crosses Federal land or private land; and

(B) the State government shall have primary surveillance and monitoring responsibility in areas where the Alaska natural gas transportation project crosses State land.

(f) TRANSFER OF FEDERAL INSPECTOR FUNCTIONS AND AUTHORITY.—On appointment of the Federal Coordinator by the President, all of the functions and authority of the Office of Federal Inspector of Construction for the Alaska Natural Gas Transportation System vested in the Secretary under section 3012(b) of the Energy Policy Act of 1992 (15 U.S.C. 719e note; Public Law 102-486), including all functions and authority described and enumerated in the Reorganization Plan No. 1 of 1979 (44 Fed. Reg. 33663), Executive Order No. 12142 of June 21, 1979 (44 Fed. Reg. 36927), and section 5 of the President's decision, shall be transferred to the Federal Coordinator.

Expiration date.

(g) TEMPORARY AUTHORITY.—The functions, authorities, duties, and responsibilities of the Federal Coordinator shall be vested in the Secretary until the later of the appointment of the Federal

Coordinator by the President, or 18 months after the date of enactment of this Act.

SEC. 107. JUDICIAL REVIEW.

15 USC 720e.

(a) **EXCLUSIVE JURISDICTION.**—Except for review by the Supreme Court on writ of certiorari, the United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction to determine—

(1) the validity of any final order or action (including a failure to act) of any Federal agency or officer under this division;

(2) the constitutionality of any provision of this division, or any decision made or action taken under this division; or

(3) the adequacy of any environmental impact statement prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this division.

(b) **DEADLINE FOR FILING CLAIM.**—A claim arising under this division may be brought not later than 60 days after the date of the decision or action giving rise to the claim.

(c) **EXPEDITED CONSIDERATION.**—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) for expedited consideration, taking into account the national interest of enhancing national energy security by providing access to the significant gas reserves in Alaska needed to meet the anticipated demand for natural gas.

(d) **AMENDMENT OF THE ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976.**—Section 10(c) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719h) is amended—

(1) by striking “(c)(1) A claim” and inserting the following:

“(c) **JURISDICTION.**—

“(1) **SPECIAL COURTS.**—

“(A) **IN GENERAL.**—A claim”;

(2) by striking “Such court shall have” and inserting the following:

“(B) **EXCLUSIVE JURISDICTION.**—The Special Court shall have”;

(3) by inserting after paragraph (1) the following:

“(2) **EXPEDITED CONSIDERATION.**—The Special Court shall set any action brought under this section for expedited consideration, taking into account the national interest described in section 2.”; and

(4) in paragraph (3), by striking “(3) The enactment” and inserting the following:

“(3) **ENVIRONMENTAL IMPACT STATEMENTS.**—The enactment”.

SEC. 108. STATE JURISDICTION OVER IN-STATE DELIVERY OF NATURAL GAS.

15 USC 720f.

(a) **LOCAL DISTRIBUTION.**—Any facility receiving natural gas from an Alaska natural gas transportation project for delivery to consumers within the State—

(1) shall be deemed to be a local distribution facility within the meaning of section 1(b) of the Natural Gas Act (15 U.S.C. 717(b)); and

(2) shall not be subject to the jurisdiction of the Commission.

(b) ADDITIONAL PIPELINES.—Except as provided in section 103(d), nothing in this division shall preclude or otherwise affect a future natural gas pipeline that may be constructed to deliver natural gas to Fairbanks, Anchorage, Matanuska-Susitna Valley, or the Kenai peninsula or Valdez or any other site in the State for consumption within or distribution outside the State.

(c) RATE COORDINATION.—

(1) IN GENERAL.—In accordance with the Natural Gas Act (15 U.S.C. 717a et seq.), the Commission shall establish rates for the transportation of natural gas on any Alaska natural gas transportation project.

(2) CONSULTATION.—In carrying out paragraph (1), the Commission, in accordance with section 17(b) of the Natural Gas Act (15 U.S.C. 717p(b)), shall consult with the State regarding rates (including rate settlements) applicable to natural gas transported on and delivered from the Alaska natural gas transportation project for use within the State.

15 USC 720g.

Deadline.

SEC. 109. STUDY OF ALTERNATIVE MEANS OF CONSTRUCTION.

(a) REQUIREMENT OF STUDY.—If no application for the issuance of a certificate or amended certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project has been filed with the Commission by the date that is 18 months after the date of enactment of this Act, the Secretary shall conduct a study of alternative approaches to the construction and operation of such an Alaska natural gas transportation project.

(b) SCOPE OF STUDY.—The study under subsection (a) shall take into consideration the feasibility of—

(1) establishing a Federal Government corporation to construct an Alaska natural gas transportation project; and

(2) securing alternative means of providing Federal financing and ownership (including alternative combinations of Government and private corporate ownership) of the Alaska natural gas transportation project.

(c) CONSULTATION.—In conducting the study under subsection (a), the Secretary shall consult with the Secretary of the Treasury and the Secretary of the Army (acting through the Chief of Engineers).

(d) REPORT.—On completion of any study under subsection (a), the Secretary shall submit to Congress a report that describes—

(1) the results of the study; and

(2) any recommendations of the Secretary (including proposals for legislation to implement the recommendations).

15 USC 720h.

SEC. 110. CLARIFICATION OF ANGTA STATUS AND AUTHORITIES.

(a) SAVINGS CLAUSE.—Nothing in this division affects—

(1) any decision, certificate, permit, right-of-way, lease, or other authorization issued under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g); or

(2) any Presidential finding or waiver issued in accordance with that Act.

(b) CLARIFICATION OF AUTHORITY TO AMEND TERMS AND CONDITIONS TO MEET CURRENT PROJECT REQUIREMENTS.—Any Federal agency responsible for granting or issuing any certificate, permit, right-of-way, lease, or other authorization under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) may add to, amend, or rescind any term or condition included

in the certificate, permit, right-of-way, lease, or other authorization to meet current project requirements (including the physical design, facilities, and tariff specifications), if the addition, amendment, or rescission—

- (1) would not compel any change in the basic nature and general route of the Alaska natural gas transportation system as designated and described in section 2 of the President's decision; or
- (2) would not otherwise prevent or impair in any significant respect the expeditious construction and initial operation of the Alaska natural gas transportation system.

(c) UPDATED ENVIRONMENTAL REVIEWS.—The Secretary shall require the sponsor of the Alaska natural gas transportation system to submit such updated environmental data, reports, permits, and impact analyses as the Secretary determines are necessary to develop detailed terms, conditions, and compliance plans required by section 5 of the President's decision.

SEC. 111. SENSE OF CONGRESS CONCERNING USE OF STEEL MANUFACTURED IN NORTH AMERICA NEGOTIATION OF A PROJECT LABOR AGREEMENT.

15 USC 720i.

It is the sense of Congress that—

- (1) an Alaska natural gas transportation project would provide significant economic benefits to the United States and Canada; and
- (2) to maximize those benefits, the sponsors of the Alaska natural gas transportation project should make every effort to—
 - (A) use steel that is manufactured in North America; and
 - (B) negotiate a project labor agreement to expedite construction of the pipeline.

SEC. 112. SENSE OF CONGRESS AND STUDY CONCERNING PARTICIPATION BY SMALL BUSINESS CONCERNs.

15 USC 720j.

(a) DEFINITION OF SMALL BUSINESS CONCERN.—In this section, the term “small business concern” has the meaning given the term in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

- (1) an Alaska natural gas transportation project would provide significant economic benefits to the United States and Canada; and
- (2) to maximize those benefits, the sponsors of the Alaska natural gas transportation project should maximize the participation of small business concerns in contracts and subcontracts awarded in carrying out the project.

(c) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study to determine the extent to which small business concerns participate in the construction of oil and gas pipelines in the United States.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report that describes results of the study under paragraph (1).

(3) UPDATES.—The Comptroller General shall—

Reports.

(A) update the study at least once every 5 years until construction of an Alaska natural gas transportation project is completed; and

15 USC 720k.

(B) on completion of each update, submit to Congress a report containing the results of the update.

Grants.

SEC. 113. ALASKA PIPELINE CONSTRUCTION TRAINING PROGRAM.

(a) **PROGRAM.**—

(1) **ESTABLISHMENT.**—The Secretary of Labor (in this section referred to as the “Secretary”) shall make grants to the Alaska Workforce Investment Board—

(A) to recruit and train adult and dislocated workers in Alaska, including Alaska Natives, in the skills required to construct and operate an Alaska gas pipeline system; and

(B) for the design and construction of a training facility to be located in Fairbanks, Alaska, to support an Alaska gas pipeline training program.

(2) **COORDINATION WITH EXISTING PROGRAMS.**—The training program established with the grants authorized under paragraph (1) shall be consistent with the vision and goals set forth in the State of Alaska Unified Plan, as developed pursuant to the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

(b) **REQUIREMENTS FOR GRANTS.**—The Secretary shall make a grant under subsection (a) only if—

(1) the Governor of the State of Alaska requests the grant funds and certifies in writing to the Secretary that there is a reasonable expectation that the construction of the Alaska natural gas pipeline system will commence by the date that is 2 years after the date of the certification; and

(2) the Secretary of Energy concurs in writing to the Secretary with the certification made under paragraph (1) after considering—

(A) the status of necessary Federal and State permits;

(B) the availability of financing for the Alaska natural gas pipeline project; and

(C) other relevant factors.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out this section \$20,000,000. Not more than 15 percent of the funds may be used for the facility described in subsection (a)(1)(B).

15 USC 720l.

SEC. 114. SENSE OF CONGRESS CONCERNING NATURAL GAS DEMAND.

It is the sense of Congress that—

(1) North American demand for natural gas will increase dramatically over the course of the next several decades;

(2) both the Alaska Natural Gas Pipeline and the Mackenzie Delta Natural Gas project in Canada will be necessary to help meet the increased demand for natural gas in North America;

(3) Federal and State officials should work together with officials in Canada to ensure both projects can move forward in a mutually beneficial fashion;

(4) Federal and State officials should acknowledge that the smaller scope, fewer permitting requirements, and lower cost of the Mackenzie Delta project means it will most likely be completed before the Alaska Natural Gas Pipeline;

(5) natural gas production in the 48 contiguous States and Canada will not be able to meet all domestic demand in the coming decades; and

(6) as a result, natural gas delivered from Alaskan North Slope will not displace or reduce the commercial viability of Canadian natural gas produced from the Mackenzie Delta or production from the 48 contiguous States.

SEC. 115. SENSE OF CONGRESS CONCERNING ALASKAN OWNERSHIP.

15 USC 720m.

It is the sense of Congress that—

(1) Alaska Native Regional Corporations, companies owned and operated by Alaskans, and individual Alaskans should have the opportunity to own shares of the Alaska natural gas pipeline in a way that promotes economic development for the State; and

(2) to facilitate economic development in the State, all project sponsors should negotiate in good faith with any willing Alaskan person that desires to be involved in the project.

SEC. 116. LOAN GUARANTEES.

15 USC 720n.

(a) **AUTHORITY.**—(1) The Secretary may enter into agreements with 1 or more holders of a certificate of public convenience and necessity issued under section 103(b) of this division or section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project.

(2) Subject to the requirements of this section, the Secretary may also enter into agreements with 1 or more owners of the Canadian portion of a qualified infrastructure project to issue Federal guarantee instruments with respect to loans and other debt obligations for a qualified infrastructure project as though such owner were a holder described in paragraph (1).

(3) The authority of the Secretary to issue Federal guarantee instruments under this section for a qualified infrastructure project shall expire on the date that is 2 years after the date on which the final certificate of public convenience and necessity (including any Canadian certificates of public convenience and necessity) is issued for the project. A final certificate shall be considered to have been issued when all certificates of public convenience and necessity have been issued that are required for the initial transportation of commercially economic quantities of natural gas from Alaska to the continental United States.

(b) **CONDITIONS.**—(1) The Secretary may issue a Federal guarantee instrument for a qualified infrastructure project only after a certificate of public convenience and necessity under section 103(b) of this division or an amended certificate under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) has been issued for the project.

(2) The Secretary may issue a Federal guarantee instrument under this section for a qualified infrastructure project only if the loan or other debt obligation guaranteed by the instrument has been issued by an eligible lender.

(3) The Secretary shall not require as a condition of issuing a Federal guarantee instrument under this section any contractual commitment or other form of credit support of the sponsors (other than equity contribution commitments and completion guarantees), or any throughput or other guarantee from prospective shippers

Expiration date.

greater than such guarantees as shall be required by the project owners.

(c) LIMITATIONS ON AMOUNTS.—(1) The amount of loans and other debt obligations guaranteed under this section for a qualified infrastructure project shall not exceed 80 percent of the total capital costs of the project, including interest during construction.

(2) The principal amount of loans and other debt obligations guaranteed under this section shall not exceed, in the aggregate, \$18,000,000,000, which amount shall be indexed for United States dollar inflation from the date of enactment of this Act, as measured by the Consumer Price Index.

(d) LOAN TERMS AND FEES.—(1) The Secretary may issue Federal guarantee instruments under this section that take into account repayment profiles and grace periods justified by project cash flows and project-specific considerations. The term of any loan guaranteed under this section shall not exceed 30 years.

(2) An eligible lender may assess and collect from the borrower such other fees and costs associated with the application and origination of the loan or other debt obligation as are reasonable and customary for a project finance transaction in the oil and gas sector.

(e) REGULATIONS.—The Secretary may issue regulations to carry out this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to cover the cost of loan guarantees under this section, as defined by section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)). Such sums shall remain available until expended.

(g) DEFINITIONS.—In this section:

(1) CONSUMER PRICE INDEX.—The term “Consumer Price Index” means the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics, or if such index shall cease to be published, any successor index or reasonable substitute thereof.

(2) ELIGIBLE LENDER.—The term “eligible lender” means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986 (26 U.S.C. 4974(c))) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986 (26 U.S.C. 414(d))) that is a qualified institutional buyer.

(3) FEDERAL GUARANTEE INSTRUMENT.—The term “Federal guarantee instrument” means any guarantee or other pledge by the Secretary to pledge the full faith and credit of the United States to pay all of the principal and interest on any loan or other debt obligation entered into by a holder of a certificate of public convenience and necessity.

(4) QUALIFIED INFRASTRUCTURE PROJECT.—The term “qualified infrastructure project” means an Alaskan natural gas transportation project consisting of the design, engineering, finance, construction, and completion of pipelines and related transportation and production systems (including gas treatment

plants), and appurtenances thereto, that are used to transport natural gas from the Alaska North Slope to the continental United States.

Approved October 13, 2004.

LEGISLATIVE HISTORY—H.R. 4837 (S. 2674):

HOUSE REPORTS: Nos. 108-607 (Comm. on Appropriations) and 108-733 (Comm. of Conference).

SENATE REPORTS: No. 108-309 accompanying S. 2674 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 150 (2004):

July 21, 22, considered and passed House.

Sept. 15, 20, considered and passed Senate, amended.

Oct. 9, House agreed to conference report. Senate considered conference report.

Oct. 11, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 40 (2004):

Oct. 13, Presidential statement.

