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DISASTER AREA HEALTH AND ENVIRONMENTAL MONITORING ACT OF 2003

NOVEMBER 3, 2003.—Ordered to be printed

Mr. INHOFE, from the Committee on Environment and Public Works, submitted the following

REPORT

[to accompany S. 1279]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 1279) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

GENERAL STATEMENT AND BACKGROUND

S. 1279, the "Disaster Area Health and Environmental Monitoring Act of 2003" establishes the framework for the Federal Government to protect first responders, as well as the health and safety of all involved in a disaster area, including residents, workers, and volunteers. The program will enhance the capabilities of first responders by allowing precautions, assessments, and monitoring to take place at a disaster site.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

This section provides that the title may be cited as the "Disaster Area Health and Environmental Monitoring Act of 2003".

Sec. 2. Protection of Health and Safety of Individuals in a Disaster Area

SUMMARY

This section amends title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174). The amendment inserts section 409 after section 408 of the Act.

DISCUSSION

The heroic efforts of emergency response personnel in the days and weeks following the September 11, 2001, disaster underscored the need for a program to monitor and to track the health and safety of rescue workers. For example, scores of emergency response personnel responding to the World Trade Center attacks subsequently developed severe respiratory ailments.

Key terms in this section are "individual" which defines the scope of the disaster area health and environmental monitoring program; and "substance of concern," which defines the types of substances that can trigger the establishment of a health and environmental monitoring program. "Individual" is defined to include workers, volunteers, residents, and school, child care, and adult day care employees and attendees. Details are included in the definition regarding the types of workers and volunteers that are included in the definition of individual. "Substance of concern" is defined as a chemical or other substance that is associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster, as determined by the President.

If the President determines that one or more substances of concern are present in a disaster area, the President may carry out a program for the protection, assessment, monitoring, and study of the health and safety of individuals. The intent of the program is to protect the health and safety of individuals exposed or potentially exposed to one or more substance of concern as a direct result of the disaster and to prevent the recurrence of similar health impacts in future disasters.

The program may include the collection and analysis of environmental exposure data, performance of baseline and follow-up clinical health and mental health examinations, biological sampling, establishment and maintenance of an exposure registry, and study of the short-and long-term health impacts of any exposures through epidemiological and other health studies. The program also may include development and dissemination of educational materials. The committee intends that the President select the most appropriate means of implementing a program established under this section, including through local health departments, medical institutions, consortiums of medical institutions, or other appropriate means. The committee intends that the program will be executed by an entity or entities in the proximate area of the disaster or in the residential area of groups of individuals that worked or volunteered in response to the disaster, and with experience in environmental and occupational health, toxicology, and safety, conduct such studies when feasible and appropriate. Entities developing and carrying out the program may consult with the National Institute of Environmental Health Sciences, the Agency for Toxic Substances and

Disease Registry, the Occupational Safety and Health Administration, the Environmental Protection Agency, or other agencies with significant experience and expertise in the area of worker health and safety.

Participation in any registry or study under this section is voluntary, and the President shall take appropriate measures to protect participant privacy. The committee intends that the program be inclusive, involving interested and affected parties. Not later than 1 year after the establishment of a program by the President, and every 5 years thereafter, the President, or the institution(s) conducting the study, will present a report on programs and studies carried out under the program to the Secretary of Homeland Security, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and the appropriate committees of Congress.

Sec. 3. National Academy of Sciences Report on Disaster Area Health and Environmental Protection and Monitoring

This section requires that the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency together enter into a contract with the National Academy of Sciences to conduct a study and prepare a report on disaster area health and environmental protection and monitoring. The report will be prepared with the participation of individuals who are experts in fields relating to health and environmental protection and monitoring.

The report will make recommendations regarding protecting and monitoring the health and safety of individuals potentially exposed to any chemical or other substance. The purpose of this report is to improve the protection and monitoring of individual health and safety at disaster sites of all types by identifying standardized approaches, methods, and procedures to be used by Federal, State, and local agencies. Specifically, the report will make recommendations regarding the establishment of protocols for the monitoring of and response to chemical or substance releases in a disaster area for the purpose of protecting public health and safety. Protocol recommendations will address items such as which chemicals and substances should be monitored, sampling and analysis methodologies, health-based thresholds for individual chemical or substances, procedures for distributing monitoring results, division of responsibilities among Federal, State, and local agencies, Federal Government capacity, and other issues.

LEGISLATIVE HISTORY

On June 18, 2003, Senators Voinovich, Clinton, DeWine, and Schumer introduced S. 1279, the "Disaster Area Health and Environmental Monitoring Act of 2003," which was referred to the Committee on Environment and Public Works. The committee ordered the bill to be reported favorably with an amendment on July 30, 2003, by voice vote.

Prior to the introduction of S. 1279, the Committee on Environment and Public Works held four hearings and one business meeting on emergency response issues.

On October 16, 2001, the committee held a hearing on the Federal response to the September 11, 2001 attacks, receiving testi-

mony from Hon. Joseph Allbaugh, Director, Federal Emergency Management Agency; Edward P. Plaugher, Chief, Arlington County Fire Department Arlington, VA; Jeffrey L. Metzinger, Chief, Sacramento Metropolitan Fire Department and Member, FEMA Urban Search and Rescue Team; and Robert Hessinger, Member, Ohio Task Force One.

On February 11, 2002, the Subcommittee on Clean Air, Wetlands, and Climate Change held a field hearing in New York to receive testimony on the impacts of the September 11 attack on air quality and possible related health impacts in the area of the World Trade Center and how to address any such impacts, receiving testimony from Rep. Jerrold Nadler, U.S. House of Representatives; Liz Berger, Resident, NY; Dr. Kerry Kelly, Chief Medical Officer, New York City Fire Department, NY; Dr. George Thurston, Associate Professor of Environmental Medicine, New York University Medical School, Nelson Institute of Environmental Medicine, NY; Eric Goldstein, New York Urban Program Director, Natural Resources Defense Council, NY; Marianne Jackson, Deputy Federal Coordinating Officer for the World Trade Center Event, Federal Emergency Management Agency; Jane M. Kenny, Administrator, U.S. Environmental Protection Agency Region 2; Carl Johnson, Deputy Commissioner for Air and Waste Management, Department of Environmental Conservation, State of New York; Commissioner Joel Miele, Department of Environmental Protection, City of New York (With: Commissioner Thomas Frieden, Department of Health, City of New York); Tom Scotto, President, Detectives Endowment Association, NY; Edward J. Malloy, President, Building and Construction Trades Council of Greater New York; Dr. Stephen Levin, Medical Director, Irving J. Selikoff Occupational Health Clinical Center, The Mount Sinai Medical Center, NY; Marilena Christodoulou; President; Stuyvesant High School Parents' Association, NY; Julie Hiraga, Second Grade Teacher, PS-89, NY; Bernard Orlan, Director of Environmental Health and Safety, New York City Board of Education; and Dr. Phil Landrigan, Ethel H. Wise Professor and Chairman, Department of Community and Preventive Medicine, The Mount Sinai School of Medicine, NY.

On March 12, 2002, the committee held a hearing to consider the President's budget request for first response to disasters, receiving testimony from Hon. Joe Allbaugh, Director, Federal Emergency Management Agency; Woodbury P. Fogg, P.E., on behalf of the National Emergency Management Association; Ed Wilson, Chief, City of Portland Fire Department, Portland, OR; Mike O'Neil, Chief, South Burlington Fire Department, Burlington, VT; and Kenneth E. Zirkle, President, The University of Findlay, Findlay, OH.

On September 24, 2002, the committee held a hearing to review the responses of EPA and FEMA to the September 11, 2001 attacks, receiving testimony from Hon. Christine Todd Whitman, Administrator, U.S. Environmental Protection Agency; Hon. Joe Allbaugh, Director, Federal Emergency Management Agency; Dr. Kerry Kelly, Chief Medical Officer, New York City Fire Department, NY; Madeline Wils, Member, Community Board 1, NY; Danny Greenberg, President and Attorney in Chief, Legal Aid Society, NY; and Jack Reall, Task Force Leader, Ohio Task Force One, OH.

On June 27, 2002, the committee ordered S. 2664 reported favorably. Senate bill, S. 2664, introduced by Senators Jeffords and Smith of New Hampshire, contained a section similar to S. 1279. The main addition to S. 1279 is the creation of the National Academy of Sciences report.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 1279 on July 30, 2003. The committee voted favorably to report S. 1279 by voice vote. By voice vote, the committee agreed to an amendment offered by Senators Voinovich and Clinton.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes evaluation of the regulatory impact of the reported bill.

The bill does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), the committee finds that S. 1279 would impose no Federal intergovernmental unfunded mandates on State, local, or tribal governments.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 11, 2003.

Hon. JAMES M. INHOFE, *Chairman,*
Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1279, the Disaster Area Health and Environmental Monitoring Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Julie Middleton who can be reached at 226–2860.

Sincerely,

DOUGLAS HOLTZ-EAKIN

S. 1279, Disaster Area Health and Environmental Monitoring Act of 2003, as ordered reported by the Senate Committee on Environment and Public Works on July 30, 2003

Summary

S. 1279 would amend title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize a new program to protect the health and safety of disaster relief workers such as firefighters, police officers, and emergency medical technicians. Under this bill, Federal agencies would be authorized to collect and analyze environmental data at disaster areas to determine whether substances that may be harmful to human health are present. In addition, this bill would authorize those agencies to disseminate educational materials to affected communities and to conduct long-term epidemiological studies of affected populations. Finally, the bill would authorize the National Academy of Sciences to study and prepare a report on disaster area health and environmental protection and monitoring.

Assuming appropriation of the necessary funds, CBO estimates that implementing S. 1279 would cost $35 million over the 2004–2008 period. Enacting S. 1279 would not affect direct spending or revenues. S. 1279 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on the budgets of State, local, or tribal governments.

Estimated Cost to the Federal Government

The estimated budgetary impact of S. 1279 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

By Fiscal Year, in Millions of Dollars

	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	5	5	9	9	13
Estimated Outlays	3	5	7	9	11

Basis of Estimate

Based on information from the Agency for Toxic Substances and Disease Registry (ATSDR) and the National Academy of Sciences, CBO estimates that implementing the provisions in S. 1279 would cost about $35 million over the 2004–2008 period, assuming appropriation of the necessary funds.

Under S. 1279, CBO assumes that the ATSDR would be tasked with conducting long-term epidemiological studies in certain disaster areas that are called for under the legislation. We expect such long-term health studies would be conducted at disaster areas where harmful pollutants are released into the environment. According to the ATSDR, each long-term study conducted under this bill would cost $3 million to $5 million a year and could last from five to 15 years. It is impossible to predict the number of such studies that might be required in the future. For this estimate, CBO assumes that one new study would be initiated every other year at

an average cost of $4 million per year. Based on information from the National Academy of Sciences, CBO estimates that the long-term study on disaster-area health would cost $5 million over 5 years.

Intergovernmental and Private-Sector Impact

S. 1279 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on the budgets of State, local, or tribal governments.

Estimate Prepared By: Federal Costs: Julie Middleton; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Cecil McPherson.

Estimate Approved By: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

AN ACT Entitled the "Disaster Relief Act Amendments of 1974".

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 "Robert T. Stafford Disaster Relief and Emergency Assistance Act".

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TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS

SEC. 401. PROCEDURE FOR DECLARATION.

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[Sec. 409 repealed by section 104(c)(2) of Public Law 106–390 (114 Stat. 1559).]

SEC. 409. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

(a) DEFINITIONS.—In this section:

(1) INDIVIDUAL.—The term "individual" includes—

(A) a worker or volunteer who responds to a disaster, including—

(i) a police officer;

(ii) a firefighter;

(iii) an emergency medical technician;

(iv) any participating member of an urban search and rescue team; and

(v) any other relief or rescue worker or volunteer that the President determines to be appropriate;

(B) a worker who responds to a disaster by assisting in the cleanup or restoration of critical infrastructure in and around a disaster area;

(C) a person whose place of residence is in a disaster area;

(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area; and

(E) any other person that the President determines to be appropriate.

(2) PROGRAM.—The term "program" means a program described in subsection (b) that is carried out for a disaster area.

(3) SUBSTANCE OF CONCERN.—The term "substance of concern" means a chemical or other substance that is associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster, as determined by the President.

(b) PROGRAM.—

(1) IN GENERAL.—If the President determines that 1 or more substances of concern are being, or have been, released in an area declared to be a disaster area under this Act, the President may carry out a program for the protection, assessment, monitoring, and study of the health and safety of individuals to ensure that—

(A) the individuals are adequately informed about and protected against potential health impacts of any substance of concern and potential mental health impacts in a timely manner;

(B) the individuals are monitored and studied over time, including through baseline and followup clinical health examinations, for—

(i) any short- and long-term health impacts of any substance of concern; and

(ii) any mental health impacts;

(C) the individuals receive health care referrals as needed and appropriate; and

(D) information from any such monitoring and studies is used to prevent or protect against similar health impacts from future disasters.

(2) ACTIVITIES.—A program under paragraph (1) may include such activities as—

(A) collecting and analyzing environmental exposure data;

(B) developing and disseminating information and educational materials;

(C) performing baseline and followup clinical health and mental health examinations and taking biological samples;

(D) establishing and maintaining an exposure registry;

(E) studying the short- and long-term human health impacts of any exposures through epidemiological and other health studies; and

(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.

(3) TIMING.—To the maximum extent practicable, activities under any program established under paragraph (1) (including baseline health examinations) shall be commenced in a timely

manner that will ensure the highest level of public health protection and effective monitoring.

(4) PARTICIPATION IN REGISTRIES AND STUDIES.—

(A) IN GENERAL.—Participation in any registry or study that is part of a program under paragraph (1) shall be voluntary.

(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

(5) COOPERATIVE AGREEMENTS.—

(A) IN GENERAL.—The President may carry out a program under paragraph (1) through a cooperative agreement with a medical institution or a consortium of medical institutions.

(B) SELECTION CRITERIA.—To the maximum extent practicable, the President shall select to carry out a program under paragraph (1) a medical institution or a consortium of medical institutions that—

(i) is located near—

(I) the disaster area with respect to which the program is carried out; and

(II) any other area in which there reside groups of individuals that worked or volunteered in response to the disaster; and

(ii) has appropriate experience in the areas of environmental or occupational health, toxicology, and safety, including experience in—

(I) developing clinical protocols and conducting clinical health examinations, including mental health assessments;

(II) conducting long-term health monitoring and epidemiological studies;

(III) conducting long-term mental health studies; and

(IV) establishing and maintaining medical surveillance programs and environmental exposure or disease registries.

(6) INVOLVEMENT.—

(A) IN GENERAL.—In establishing and maintaining a program under paragraph (1), the President shall involve interested and affected parties, as appropriate, including representatives of—

(i) Federal, State, and local government agencies;

(ii) groups of individuals that worked or volunteered in response to the disaster in the disaster area;

(iii) local residents, businesses, and schools (including parents and teachers);

(iv) health care providers; and

(v) other organizations and persons.

(B) COMMITTEES.—Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee or board.

(c) REPORTS.—Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, or the medical institution or consortium of such institu-

tions having entered into a cooperative agreement under subsection (b)(5), shall submit to the Secretary of Homeland Security, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress a report on programs and studies carried out under the program.

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