

108TH CONGRESS  
2D SESSION

# H. R. 5190

To amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 2004

Mr. KELLY introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Dam Rehabilitation  
5 and Repair Act of 2004”.

6 **SEC. 2. REHABILITATION AND REPAIR OF DEFICIENT**  
7 **DAMS.**

8 (a) DEFINITIONS.—Section 2 of the National Dam  
9 Safety Program Act (33 U.S.C. 467) is amended—

1           (1) by redesignating paragraphs (3), (4), (5),  
2           (6), (7), (8), (9), (19), (11), (12), and (13) as para-  
3           graphs (4), (5), (6), (7), (8), (9), (10), (12), (13),  
4           (14), and (15), respectively;

5           (2) by inserting after paragraph (2) the fol-  
6           lowing:

7           “(3) DEFICIENT DAM.—The term ‘deficient  
8           dam’ means a dam that the State within the bound-  
9           aries of which the dam is located determines—

10           “(A) fails to meet minimum dam safety  
11           standards of the State; and

12           “(B) poses an unacceptable risk to the  
13           public.”; and

14           (3) by inserting after paragraph (10) (as redesi-  
15           gnated by paragraph (1)) the following:

16           “(11) REHABILITATION.—The term ‘rehabilita-  
17           tion’ means the repair, replacement, reconstruction,  
18           or removal of a dam that is carried out to meet ap-  
19           plicable State dam safety and security standards.”.

20           (b) PROGRAM FOR REHABILITATION AND REPAIR OF  
21 DEFICIENT DAMS.—The National Dam Safety Program  
22 Act is amended by inserting after section 8 (33 U.S.C.  
23 467f) the following:

1 **“SEC. 8A. REHABILITATION AND REPAIR OF DEFICIENT**  
2 **DAMS.**

3 “(a) ESTABLISHMENT OF PROGRAM.—The Director  
4 shall establish, within FEMA, a program to provide grant  
5 assistance to States for use in rehabilitation of publicly-  
6 owned deficient dams.

7 “(b) AWARD OF GRANTS.—

8 “(1) APPLICATION.—A State interested in re-  
9 ceiving a grant under this section may submit to the  
10 Director an application for such grant. Applications  
11 submitted to the Director under this section shall be  
12 submitted at such times, be in such form, and con-  
13 tain such information, as the Director may prescribe  
14 by regulation.

15 “(2) IN GENERAL.—Subject to the provisions of  
16 this section, the Director may make a grant for re-  
17 habilitation of a deficient dam to a State that sub-  
18 mits an application for the grant in accordance with  
19 the regulations prescribed by the Director. The Di-  
20 rector shall enter into a project grant agreement  
21 with the State to establish the terms of the grant  
22 and the project, including the amount of the grant.

23 “(c) PRIORITY SYSTEM.—The Director, in consulta-  
24 tion with the Board, shall develop a risk-based priority  
25 system for use in identifying deficient dams for which  
26 grants may be made under this section.

1       “(d) ALLOCATION OF FUNDS.—The total amount of  
2 funds appropriated pursuant to subsection (f)(1) for a fis-  
3 cal year shall be allocated for making grants under this  
4 section to States applying for such grants for that fiscal  
5 year as follows:

6           “(1) One-third divided equally among applying  
7 States.

8           “(2) Two-thirds among applying States based  
9 on the ratio that—

10           “(A) the number of non-Federal publicly-  
11 owned dams that the Secretary of the Army  
12 identifies in the national inventory of dams  
13 maintained under section 6 as constituting a  
14 danger to human health and that are located  
15 within the boundaries of the State; bears to

16           “(B) the number of non-Federal publicly-  
17 owned dams that are so identified and that are  
18 located within the boundaries of all applying  
19 States.

20       “(e) COST SHARING.—The Federal share of the cost  
21 of rehabilitation of a deficient dam for which a grant is  
22 made under this section may not exceed 65 percent of the  
23 cost of such rehabilitation.

24       “(f) AUTHORIZATION OF APPROPRIATIONS.—

1           “(1) IN GENERAL.—There is authorized to be  
2 appropriated to carry out this section—

3                   “(A) \$50,000,000 for fiscal year 2006; and

4                   “(B) \$100,000,000 for each of fiscal years  
5 2007 through 2009.

6           “(2) STAFF.—There are authorized to be ap-  
7 propriated to provide for the employment of such ad-  
8 ditional staff of FEMA as are necessary to carry out  
9 this section \$400,000 for each of fiscal years 2006  
10 through 2009.

11           “(3) PERIOD OF AVAILABILITY.—Sums appro-  
12 priated pursuant to this section shall remain avail-  
13 able until expended.”.

14 **SEC. 3. RULEMAKING.**

15           (a) PROPOSED RULEMAKING.—Not later than 90  
16 days after the date of enactment of this Act, the Director  
17 of the Federal Emergency Management Agency shall issue  
18 a notice of proposed rulemaking regarding the amend-  
19 ments made by section 2 to the National Dam Safety Pro-  
20 gram Act (33 U.S.C. 467 et seq.).

21           (b) FINAL RULE.—Not later than 120 days after the  
22 date of enactment of this Act, the Director of the Federal  
23 Emergency Management Agency shall issue a final rule  
24 regarding such amendments.

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