

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3534

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## AN ACT

To provide greater efficiencies, transparency, returns, and accountability in the administration of Federal mineral and energy resources by consolidating administration of various Federal energy minerals management and leasing programs into one entity to be known as the Office of Federal Energy and Minerals Leasing of the Department of the Interior, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4        (a) SHORT TITLE.—This Act may be cited as the  
 5 “Consolidated Land, Energy, and Aquatic Resources Act  
 6 of 2010”.

7        (b) TABLE OF CONTENTS.—The table of contents for  
 8 this Act is as follows:

Sec. 1. Short title; table of contents.  
 Sec. 2. Definitions.

TITLE I—CREATION OF NEW DEPARTMENT OF THE INTERIOR  
 AGENCIES

Sec. 101. Bureau of Energy and Resource Management.  
 Sec. 102. Bureau of Safety and Environmental Enforcement.  
 Sec. 103. Office of Natural Resources Revenue.  
 Sec. 104. Ethics.  
 Sec. 105. References.  
 Sec. 106. Abolishment of Minerals Management Service.  
 Sec. 107. Conforming amendment.  
 Sec. 108. Outer Continental Shelf Safety and Environmental Advisory Board.  
 Sec. 109. Limitation on effect on development of ocean renewable energy re-  
 source facilities.

TITLE II—FEDERAL OIL AND GAS DEVELOPMENT

Subtitle A—Safety, Environmental, and Financial Reform of the Outer  
 Continental Shelf Lands Act

Sec. 201. Short title.  
 Sec. 202. Definitions.  
 Sec. 203. National policy for the Outer Continental Shelf.  
 Sec. 204. Jurisdiction of laws on the Outer Continental Shelf.  
 Sec. 205. Outer Continental Shelf leasing standard.  
 Sec. 206. Leases, easements, and rights-of-way.  
 Sec. 207. Disposition of revenues.  
 Sec. 208. Exploration plans.  
 Sec. 209. Outer Continental Shelf leasing program.  
 Sec. 210. Environmental studies.  
 Sec. 211. Safety regulations.  
 Sec. 212. Enforcement of safety and environmental regulations.  
 Sec. 213. Judicial review.  
 Sec. 214. Remedies and penalties.  
 Sec. 215. Uniform planning for Outer Continental Shelf.  
 Sec. 216. Oil and gas information program.  
 Sec. 217. Limitation on royalty-in-kind program.

- Sec. 218. Restrictions on employment.
- Sec. 219. Repeal of royalty relief provisions.
- Sec. 220. Manning and buy- and build-American requirements.
- Sec. 221. National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling.
- Sec. 222. Coordination and consultation with affected State and local governments.
- Sec. 223. Implementation.
- Sec. 224. Report on environmental baseline studies.
- Sec. 225. Cumulative impacts on marine mammal species and stocks and subsistence use.

#### Subtitle B—Royalty Relief for American Consumers

- Sec. 231. Short title.
- Sec. 232. Eligibility for new leases and the transfer of leases.
- Sec. 233. Price thresholds for royalty suspension provisions.

#### Subtitle C—Limitation on Moratorium

- Sec. 241. Limitation of moratorium on certain permitting and drilling activities.

### TITLE III—OIL AND GAS ROYALTY REFORM

- Sec. 301. Amendments to definitions.
- Sec. 302. Compliance reviews.
- Sec. 303. Clarification of liability for royalty payments.
- Sec. 304. Required recordkeeping.
- Sec. 305. Fines and penalties.
- Sec. 306. Interest on overpayments.
- Sec. 307. Adjustments and refunds.
- Sec. 308. Conforming amendment.
- Sec. 309. Obligation period.
- Sec. 310. Notice regarding tolling agreements and subpoenas.
- Sec. 311. Appeals and final agency action.
- Sec. 312. Assessments.
- Sec. 313. Collection and production accountability.
- Sec. 314. Natural gas reporting.
- Sec. 315. Penalty for late or incorrect reporting of data.
- Sec. 316. Required recordkeeping.
- Sec. 317. Shared civil penalties.
- Sec. 318. Applicability to other minerals.
- Sec. 319. Entitlements.
- Sec. 320. Limitation on royalty in-kind program.
- Sec. 321. Application of royalty to oil that is saved, removed, sold, or discharged under offshore oil and gas leases.

### TITLE IV—FULL FUNDING FOR THE LAND AND WATER CONSERVATION AND HISTORIC PRESERVATION FUNDS

#### Subtitle A—Land and Water Conservation Fund

- Sec. 401. Amendments to the Land and Water Conservation Fund Act of 1965.
- Sec. 402. Extension of the Land and Water Conservation Fund.
- Sec. 403. Permanent funding.

Subtitle B—National Historic Preservation Fund

Sec. 411. Permanent funding.

TITLE V—GULF OF MEXICO RESTORATION

Sec. 501. Gulf of Mexico restoration program.

Sec. 502. Gulf of Mexico long-term environmental monitoring and research program.

Sec. 503. Gulf of Mexico emergency migratory species alternative habitat program.

Sec. 504. Gulf of Mexico Restoration Account.

TITLE VI—COORDINATION AND PLANNING

Sec. 601. Regional coordination.

Sec. 602. Regional Coordination Councils.

Sec. 603. Regional strategic plans.

Sec. 604. Regulations and savings clause.

Sec. 605. Ocean Resources Conservation and Assistance Fund.

Sec. 606. Waiver.

TITLE VII—OIL SPILL ACCOUNTABILITY AND ENVIRONMENTAL PROTECTION

Sec. 701. Short title.

Sec. 702. Repeal of and adjustments to limitation on liability.

Sec. 703. Evidence of financial responsibility for offshore facilities.

Sec. 704. Damages to human health.

Sec. 705. Clarification of liability for discharges from mobile offshore drilling units.

Sec. 706. Standard of review for damage assessment.

Sec. 707. Procedures for claims against Fund; Information on claims.

Sec. 708. Additional amendments and clarifications to Oil Pollution Act of 1990.

Sec. 709. Americanization of offshore operations in the Exclusive Economic Zone.

Sec. 710. Safety management systems for mobile offshore drilling units.

Sec. 711. Safety standards for mobile offshore drilling units.

Sec. 712. Operational control of mobile offshore drilling units.

Sec. 713. Single-hull tankers.

Sec. 714. Repeal of response plan waiver.

Sec. 715. National Contingency Plan.

Sec. 716. Tracking Database.

Sec. 717. Evaluation and approval of response plans; maximum penalties.

Sec. 718. Oil and hazardous substance cleanup technologies.

Sec. 719. Implementation of oil spill prevention and response authorities.

Sec. 720. Impacts to Indian Tribes and public service damages.

Sec. 721. Federal enforcement actions.

Sec. 722. Time required before electing to proceed with judicial claim or against the Fund.

Sec. 723. Authorized level of Coast Guard personnel.

Sec. 724. Clarification of memorandums of understanding.

Sec. 725. Build America requirement for offshore facilities.

Sec. 726. Oil spill response vessel database.

Sec. 727. Offshore sensing and monitoring systems.

Sec. 728. Oil and gas exploration and production.

- Sec. 729. Leave retention authority.
- Sec. 730. Authorization of appropriations.
- Sec. 731. Extension of liability to persons having ownership interests in responsible parties.
- Sec. 732. Clarification of liability under Oil Pollution Act of 1990.
- Sec. 733. Salvage activities.
- Sec. 734. Requirement for redundancy in response plans.

#### TITLE VIII—MISCELLANEOUS PROVISIONS

- Sec. 801. Repeal of certain taxpayer subsidized royalty relief for the oil and gas industry.
- Sec. 802. Conservation fee.
- Sec. 803. Leasing on Indian lands.
- Sec. 804. Outer Continental Shelf State boundaries.
- Sec. 805. Liability for damages to national wildlife refuges.
- Sec. 806. Strengthening coastal State oil spill planning and response.
- Sec. 807. Information sharing.
- Sec. 808. Limitation on use of funds.
- Sec. 809. Environmental review.
- Sec. 810. Federal response to State proposals to protect State lands and waters.
- Sec. 811. Government Accountability Office evaluation.
- Sec. 812. Study on relief wells.

#### TITLE IX—STUDY OF ACTIONS TO IMPROVE THE ACCURACY OF COLLECTION OF ROYALTIES

- Sec. 901. Short title.
- Sec. 902. Study of actions to improve the accuracy of collection of Federal oil, condensate, and natural gas royalties.
- Sec. 903. Definitions.

#### TITLE X—OFFSHORE OIL AND GAS WORKER WHISTLEBLOWER PROTECTION

- Sec. 1001. Short title.
- Sec. 1002. Whistleblower protections; employee protection from other retaliation.
- Sec. 1003. Definitions.

### 1 **SEC. 2. DEFINITIONS.**

2 For the purposes of this Act:

- 3 (1) **AFFECTED INDIAN TRIBE.**—The term “af-
- 4 fected Indian tribe” means an Indian tribe that has
- 5 federally reserved rights that are affirmed by treaty,
- 6 statute, Executive order, Federal court order, or
- 7 other Federal law in the area at issue.

1           (2) COASTAL STATE.—The term “coastal  
2 State” has the same meaning given the term “coast-  
3 al state” in section 304 of the Coastal Zone Man-  
4 agement Act of 1972 (16 U.S.C. 1453).

5           (3) DEPARTMENT.—The term “Department”  
6 means the Department of the Interior, except as the  
7 context indicates otherwise.

8           (4) FUNCTION.—The term “function”, with re-  
9 spect to a function of an officer, employee, or agent  
10 of the Federal Government, or of a Department,  
11 agency, office, or other instrumentality of the Fed-  
12 eral Government, includes authorities, powers,  
13 rights, privileges, immunities, programs, projects,  
14 activities, duties, and responsibilities.

15           (5) IMPORTANT ECOLOGICAL AREA.—The term  
16 “important ecological area” means an area that con-  
17 tributes significantly to local or larger marine eco-  
18 system health or is an especially unique or sensitive  
19 marine ecosystem.

20           (6) INDIAN LAND.—The term “Indian land”  
21 has the meaning given the term in section 502(a) of  
22 title V of Public Law 109–58 (25 U.S.C. 3501(2)).

23           (7) INDIAN TRIBE.—The term “Indian tribe”  
24 has the same meaning given the term “Indian tribe”

1 has in section 4 of the Indian Self-Determination  
2 and Education Assistance Act (25 U.S.C. 450b).

3 (8) MARINE ECOSYSTEM HEALTH.—The term  
4 “marine ecosystem health” means the ability of an  
5 ecosystem in ocean and coastal waters to support  
6 and maintain patterns, important processes, and  
7 productive, sustainable, and resilient communities of  
8 organisms, having a species composition, diversity,  
9 and functional organization resulting from the nat-  
10 ural habitat of the region, such that it is capable of  
11 supporting a variety of activities and providing a  
12 complete range of ecological benefits. Such an eco-  
13 system would be characterized by a variety of fac-  
14 tors, including—

15 (A) a complete diversity of native species  
16 and habitat wherein each native species is able  
17 to maintain an abundance, population struc-  
18 ture, and distribution supporting its ecological  
19 and evolutionary functions, patterns, and proc-  
20 esses; and

21 (B) a physical, chemical, geological, and  
22 microbial environment that is necessary to  
23 achieve such diversity.

24 (9) MINERAL.—The term “mineral” has the  
25 same meaning that the term “minerals” has in sec-

1 tion 2(q) of the Outer Continental Shelf Lands Act  
2 (43 U.S.C. 1331(q)).

3 (10) NONRENEWABLE ENERGY RESOURCE.—

4 The term “nonrenewable energy resource” means oil  
5 and natural gas.

6 (11) OPERATOR.—The term “operator”  
7 means—

8 (A) the lessee; or

9 (B) a person designated by the lessee as  
10 having control or management of operations on  
11 the leased area or a portion thereof, who is—

12 (i) approved by the Secretary, acting  
13 through the Bureau of Energy and Re-  
14 source Management; or

15 (ii) the holder of operating rights  
16 under an assignment of operating rights  
17 that is approved by the Secretary, acting  
18 through the Bureau of Energy and Re-  
19 source Management.

20 (12) OUTER CONTINENTAL SHELF.—The term  
21 “Outer Continental Shelf” has the same meaning  
22 given the term “outer Continental Shelf” has in the  
23 Outer Continental Shelf Lands Act (43 U.S.C. 1331  
24 et seq.).



1           (13) REGIONAL OCEAN PARTNERSHIP.—The  
2 term “Regional Ocean Partnership” means vol-  
3 untary, collaborative management initiatives devel-  
4 oped and entered into by the Governors of two or  
5 more coastal States or created by an interstate com-  
6 pact for the purpose of addressing more than one  
7 ocean, coastal, or Great Lakes issue and to imple-  
8 ment policies and activities identified under special  
9 area management plans under the Coastal Zone  
10 Management Act of 1972 (16 U.S.C. 1451 et seq.)  
11 or other agreements developed and signed by the  
12 Governors.

13           (14) RENEWABLE ENERGY RESOURCE.—The  
14 term “renewable energy resource” means each of the  
15 following:

16                   (A) Wind energy.

17                   (B) Solar energy.

18                   (C) Geothermal energy.

19                   (D) Landfill gas.

20                   (E) Marine and hydrokinetic renewable en-  
21 ergy, as that term is defined in section 632 of  
22 the Energy Independence and Security Act of  
23 2007 (42 U.S.C. 17211).

1           (15) SECRETARIES.—The term “Secretaries”  
2 means the Secretary of the Interior and the Sec-  
3 retary of Commerce.

4           (16) SECRETARY.—The term “Secretary”  
5 means the Secretary of the Interior, except as other-  
6 wise provided in this Act.

7           (17) TERMS DEFINED IN OTHER LAW.—Each  
8 of the terms “Federal land”, “lease”, and “mineral  
9 leasing law” has the same meaning given the term  
10 under the Federal Oil and Gas Royalty Management  
11 Act of 1982 (30 U.S.C. 1701 et seq.), except that  
12 such terms shall also apply to all minerals and re-  
13 newable energy resources in addition to oil and gas.

14 **TITLE I—CREATION OF NEW DE-**  
15 **PARTMENT OF THE INTERIOR**  
16 **AGENCIES**

17 **SEC. 101. BUREAU OF ENERGY AND RESOURCE MANAGE-**  
18 **MENT.**

19           (a) ESTABLISHMENT.—There is established in the  
20 Department of the Interior a Bureau of Energy and Re-  
21 source Management (referred to in this section as the  
22 “Bureau”) to be headed by a Director of Energy and Re-  
23 source Management (referred to in this section as the “Di-  
24 rector”).

25           (b) DIRECTOR.—

1           (1) APPOINTMENT.—The Director shall be ap-  
2           pointed by the President, by and with the advice and  
3           consent of the Senate, on the basis of—

4                   (A) professional background, demonstrated  
5           competence, and ability; and

6                   (B) capacity to—

7                           (i) administer the provisions of this  
8           Act; and

9                           (ii) ensure that the fiduciary duties of  
10          the United States Government on behalf of  
11          the people of the United States, as they re-  
12          late to development of nonrenewable and  
13          renewable energy and mineral resources,  
14          are duly met.

15          (2) COMPENSATION.—The Director shall be  
16          compensated at the rate provided for Level V of the  
17          Executive Schedule under section 5316 of title 5,  
18          United States Code.

19          (c) DUTIES.—

20               (1) IN GENERAL.—Except as provided in para-  
21          graph (4), the Secretary shall carry out through the  
22          Bureau all functions, powers, and duties vested in  
23          the Secretary relating to the administration of a  
24          comprehensive program of nonrenewable and renew-  
25          able energy and mineral resources management—

1 (A) on the Outer Continental Shelf, pursu-  
2 ant to the Outer Continental Shelf Lands Act  
3 as amended by this Act (43 U.S.C. 1331 et  
4 seq.);

5 (B) on Federal public lands, pursuant to  
6 the Mineral Leasing Act (30 U.S.C. 181 et  
7 seq.) and the Geothermal Steam Act of 1970  
8 (30 U.S.C. 1001 et seq.);

9 (C) on acquired Federal lands, pursuant to  
10 the Mineral Leasing Act for Acquired Lands  
11 (30 U.S.C. 351 et seq.) and the Geothermal  
12 Steam Act of 1970 (30 U.S.C. 1001 et seq.);

13 (D) in the National Petroleum Reserve in  
14 Alaska, pursuant to the Naval Petroleum Re-  
15 serves Production Act of 1976 (42 U.S.C. 6501  
16 et seq.);

17 (E) on any Federal land pursuant to any  
18 mineral leasing law; and

19 (F) pursuant to this Act and all other ap-  
20 plicable Federal laws, including the administra-  
21 tion and approval of all instruments and agree-  
22 ments required to ensure orderly, safe, and en-  
23 vironmentally responsible nonrenewable and re-  
24 newable energy and mineral resources develop-  
25 ment activities.

1           (2) SPECIFIC AUTHORITIES.—The Director  
2 shall promulgate and implement regulations for the  
3 proper issuance of leases for the exploration, devel-  
4 opment, and production of nonrenewable and renew-  
5 able energy and mineral resources, and for the  
6 issuance of permits under such leases, on the Outer  
7 Continental Shelf and for nonrenewable and renew-  
8 able energy and mineral resources managed by the  
9 Bureau of Land Management on the date of enact-  
10 ment of this Act, or any other Federal land manage-  
11 ment agency, including regulations relating to re-  
12 source identification, access, evaluation, and utiliza-  
13 tion.

14           (3) INDEPENDENT ENVIRONMENTAL  
15 SCIENCE.—

16           (A) IN GENERAL.—The Secretary shall  
17 create an independent office within the Bureau  
18 that—

19                   (i) shall report to the Director;

20                   (ii) shall be programmatically separate  
21 and distinct from the leasing and permit-  
22 ting activities of the Bureau; and

23                   (iii) shall—

24                           (I) carry out the environmental  
25 studies program under section 20 of

1 the Outer Continental Shelf Lands  
2 Act (43 U.S.C. 1346);

3 (II) conduct any environmental  
4 analyses necessary for the programs  
5 administered by the Bureau; and

6 (III) carry out other functions as  
7 deemed necessary by the Secretary.

8 (B) CONSULTATION.—Studies and anal-  
9 yses carried out by the office created under sub-  
10 paragraph (A) shall be conducted in appro-  
11 priate and timely consultation with other rel-  
12 evant Federal agencies, including—

13 (i) the Bureau of Safety and Environ-  
14 mental Enforcement;

15 (ii) the United States Fish and Wild-  
16 life Service;

17 (iii) the United States Geological Sur-  
18 vey; and

19 (iv) the National Oceanic and Atmos-  
20 pheric Administration.

21 (4) LIMITATION.—The Secretary shall not carry  
22 out through the Bureau any function, power, or duty  
23 that is—

1 (A) required by section 102 to be carried  
2 out through Bureau of Safety and Environ-  
3 mental Enforcement; or

4 (B) required by section 103 to be carried  
5 out through the Office of Natural Resources  
6 Revenue.

7 (d) COMPREHENSIVE DATA AND ANALYSES ON  
8 OUTER CONTINENTAL SHELF RESOURCES.—

9 (1) IN GENERAL.—

10 (A) PROGRAMS.—The Director shall de-  
11 velop and carry out programs for the collection,  
12 evaluation, assembly, analysis, and dissemina-  
13 tion of data and information that is relevant to  
14 carrying out the duties of the Bureau, including  
15 studies under section 20 of the Outer Conti-  
16 nental Shelf Lands Act (43 U.S.C. 1346).

17 (B) USE OF DATA AND INFORMATION.—  
18 The Director shall, in carrying out functions  
19 pursuant to the Outer Continental Lands Act  
20 (43 U.S.C. 1331 et seq.), consider data and in-  
21 formation referred to in subparagraph (A)  
22 which shall inform the management functions  
23 of the Bureau, and shall contribute to a broader  
24 coordination of development activities within

1 the contexts of the best available science and  
2 marine spatial planning.

3 (2) INTERAGENCY COOPERATION.—In carrying  
4 out programs under this subsection, the Bureau  
5 shall—

6 (A) utilize the authorities of subsection (g)  
7 and (h) of section 18 of the Outer Continental  
8 Shelf Lands Act (43 U.S.C. 1344);

9 (B) cooperate with appropriate offices in  
10 the Department and in other Federal agencies;

11 (C) use existing inventories and mapping  
12 of marine resources previously undertaken by  
13 the Minerals Management Service, mapping un-  
14 dertaken by the United States Geological Sur-  
15 vey and the National Oceanographic and At-  
16 mospheric Administration, and information pro-  
17 vided by the Department of Defense and other  
18 Federal and State agencies possessing relevant  
19 data; and

20 (D) use any available data regarding re-  
21 newable energy potential, navigation uses, fish-  
22 eries, aquaculture uses, recreational uses, habi-  
23 tat, conservation, and military uses of the  
24 Outer Continental Shelf.



1 (e) RESPONSIBILITIES OF LAND MANAGEMENT  
2 AGENCIES.—Nothing in this section shall affect the au-  
3 thorities of the Bureau of Land Management under the  
4 Federal Land Policy and Management Act of 1976 (43  
5 U.S.C. 1701 et seq.) or of the Forest Service under the  
6 National Forest Management Act of 1976 (Public Law  
7 94–588).

8 **SEC. 102. BUREAU OF SAFETY AND ENVIRONMENTAL EN-**  
9 **FORCEMENT.**

10 (a) ESTABLISHMENT.—There is established in the  
11 Department a Bureau of Safety and Environmental En-  
12 forcement (referred to in this section as the “Bureau”)  
13 to be headed by a Director of Safety and Environmental  
14 Enforcement (referred to in this section as the “Direc-  
15 tor”).

16 (b) DIRECTOR.—

17 (1) APPOINTMENT.—The Director shall be ap-  
18 pointed by the President, by and with the advice and  
19 consent of the Senate, on the basis of—

20 (A) professional background, demonstrated  
21 competence, and ability; and

22 (B) capacity to administer the provisions  
23 of this Act.

24 (2) COMPENSATION.—The Director shall be  
25 compensated at the rate provided for Level V of the

1 Executive Schedule under section 5316 of title 5,  
2 United States Code.

3 (c) DUTIES.—

4 (1) IN GENERAL.—The Secretary shall carry  
5 out through the Bureau all functions, powers, and  
6 duties vested in the Secretary relating to the admin-  
7 istration of safety and environmental enforcement  
8 activities related to nonrenewable and renewable en-  
9 ergy and mineral resources—

10 (A) on the Outer Continental Shelf pursu-  
11 ant to the Outer Continental Shelf Lands Act  
12 (43 U.S.C. 1331 et seq.);

13 (B) on Federal public lands, pursuant to  
14 the Mineral Leasing Act (30 U.S.C. 181 et  
15 seq.) and the Geothermal Steam Act of 1970  
16 (30 U.S.C. 1001 et seq.);

17 (C) on acquired Federal lands, pursuant to  
18 the Mineral Leasing Act for Acquired Lands  
19 (30 U.S.C. 351 et seq.) and the Geothermal  
20 Steam Act of 1970 (30 U.S.C. 1001 et seq.);

21 (D) in the National Petroleum Reserve in  
22 Alaska, pursuant to the Naval Petroleum Re-  
23 serves Production Act of 1976 (42 U.S.C. 6501  
24 et seq.); and

25 (E) pursuant to—

1 (i) the Federal Oil and Gas Royalty  
2 Management Act of 1982 (30 U.S.C. 1701  
3 et seq.);

4 (ii) the Energy Policy Act of 2005  
5 (Public Law 109–58);

6 (iii) the Federal Oil and Gas Royalty  
7 Simplification and Fairness Act of 1996  
8 (Public Law 104–185);

9 (iv) the Forest and Rangeland Renew-  
10 able Resources Planning Act of 1974 (16  
11 U.S.C. 1600 et seq.);

12 (v) the Federal Land Policy and Man-  
13 agement Act of 1976 (43 U.S.C. 1701 et  
14 seq.);

15 (vi) this Act; and

16 (vii) all other applicable Federal laws,  
17 including the authority to develop, promulgate,  
18 and enforce regulations to ensure the safe and  
19 environmentally sound exploration, develop-  
20 ment, and production of nonrenewable and re-  
21 newable energy and mineral resources on the  
22 Outer Continental Shelf and onshore federally  
23 managed lands.

24 (d) AUTHORITIES.—In carrying out the duties under  
25 this section, the Secretary’s authorities shall include—

1           (1) performing necessary oversight activities to  
2           ensure the proper application of environmental re-  
3           views, including those conducted pursuant to the  
4           National Environmental Policy Act of 1969 (42  
5           U.S.C. 4321 et seq.) by the Bureau of Energy and  
6           Resource Management in the performance of its du-  
7           ties under the Outer Continental Shelf Lands Act  
8           (43 U.S.C. 1331 et seq.);

9           (2) suspending or prohibiting, on a temporary  
10          basis, any operation or activity, including produc-  
11          tion—

12                 (A) on leases held on the Outer Conti-  
13                 nental Shelf, in accordance with section 5(a)(1)  
14                 of the Outer Continental Shelf Lands Act (43  
15                 U.S.C. 1334(a)(1)); or

16                 (B) on leases or rights-of-way held on Fed-  
17                 eral lands under any other minerals or energy  
18                 leasing statute, in accordance with section  
19                 302(c) of the Federal Land Policy and Manage-  
20                 ment Act of 1976 (43 U.S.C. 1701 et seq.);

21           (3) cancelling any lease, permit, or right-of-  
22          way—

23                 (A) on the Outer Continental Shelf, in ac-  
24                 cordance with section 5(a)(2) of the Outer Con-

1            tinal Shelf Lands Act (43 U.S.C.  
2            1334(a)(2)); or

3            (B) on onshore Federal lands, in accord-  
4            ance with section 302(c) of the Federal Land  
5            Policy and Management Act of 1976 (43 U.S.C.  
6            1732(c));

7            (4) compelling compliance with applicable work-  
8            er safety and environmental laws and regulations;

9            (5) requiring comprehensive safety and environ-  
10           mental management programs for persons engaged  
11           in activities connected with the exploration, develop-  
12           ment, and production of energy or mineral re-  
13           sources;

14           (6) developing and implementing regulations for  
15           Federal employees to carry out any inspection or in-  
16           vestigation to ascertain compliance with applicable  
17           regulations, including health, safety, or environ-  
18           mental regulations;

19           (7) collecting, evaluating, assembling, analyzing,  
20           and publicly disseminating electronically data and  
21           information that is relevant to inspections, failures,  
22           or accidents involving equipment and systems used  
23           for exploration and production of energy and min-  
24           eral resources, including human factors associated  
25           therewith;

1           (8) implementing the Offshore Technology Re-  
2           search and Risk Assessment Program under section  
3           21 of the Outer Continental Shelf Lands Act (43  
4           U.S.C. 1347);

5           (9) summoning witnesses and directing the pro-  
6           duction of evidence;

7           (10) levying fines and penalties and disquali-  
8           fying operators; and

9           (11) carrying out any safety, response, and re-  
10          moval preparedness functions.

11         (e) EMPLOYEES.—

12           (1) IN GENERAL.—The Secretary shall ensure  
13           that the inspection force of the Bureau consists of  
14           qualified, trained employees who meet qualification  
15           requirements and adhere to the highest professional  
16           and ethical standards.

17           (2) QUALIFICATIONS.—The qualification re-  
18           quirements referred to in paragraph (1)—

19                   (A) shall be determined by the Secretary,  
20                   subject to subparagraph (B); and

21                   (B) shall include—

22                           (i) three years of practical experience  
23                           in oil and gas exploration, development, or  
24                           production; or

1                   (ii) a degree in an appropriate field of  
2                   engineering from an accredited institution  
3                   of higher learning.

4                   (3) ASSIGNMENT.—In assigning oil and gas in-  
5                   spectors to the inspection and investigation of indi-  
6                   vidual operations, the Secretary shall give due con-  
7                   sideration to the extent possible to their previous ex-  
8                   perience in the particular type of oil and gas oper-  
9                   ation in which such inspections are to be made.

10                  (4) TRAINING ACADEMY.—

11                   (A) IN GENERAL.—The Secretary shall es-  
12                   tablish and maintain a National Oil and Gas  
13                   Health and Safety Academy (referred to in this  
14                   paragraph as the “Academy”) as an agency of  
15                   the Department of the Interior.

16                   (B) FUNCTIONS OF ACADEMY.—The Sec-  
17                   retary, through the Academy, shall be respon-  
18                   sible for—

19                   (i) the initial and continued training  
20                   of both newly hired and experienced oil  
21                   and gas inspectors in all aspects of health,  
22                   safety, environmental, and operational in-  
23                   spections;

24                   (ii) the training of technical support  
25                   personnel of the Bureau;

1 (iii) any other training programs for  
2 oil and gas inspectors, Bureau personnel,  
3 Department personnel, or other persons as  
4 the Secretary shall designate; and

5 (iv) certification of the successful  
6 completion of training programs for newly  
7 hired and experienced oil and gas inspec-  
8 tors.

9 (C) COOPERATIVE AGREEMENTS.—

10 (i) IN GENERAL.—In performing func-  
11 tions under this paragraph, and subject to  
12 clause (ii), the Secretary may enter into  
13 cooperative educational and training agree-  
14 ments with educational institutions, related  
15 Federal academies, other Federal agencies,  
16 State governments, labor organizations,  
17 safety training firms, and oil and gas oper-  
18 ators and related industries.

19 (ii) TRAINING REQUIREMENT.—Such  
20 training shall be conducted by the Acad-  
21 emy in accordance with curriculum needs  
22 and assignment of instructional personnel  
23 established by the Secretary.

24 (D) USE OF DEPARTMENTAL PER-  
25 SONNEL.—In performing functions under this



1 subsection, the Secretary shall use, to the ex-  
2 tent practicable, the facilities and personnel of  
3 the Department of the Interior. The Secretary  
4 may appoint or assign to the Academy such of-  
5 ficers and employees as the Secretary considers  
6 necessary for the performance of the duties and  
7 functions of the Academy.

8 (5) ADDITIONAL TRAINING PROGRAMS.—

9 (A) IN GENERAL.—The Secretary shall  
10 work with appropriate educational institutions,  
11 operators, and representatives of oil and gas  
12 workers to develop and maintain adequate pro-  
13 grams with educational institutions and oil and  
14 gas operators, that are designed—

15 (i) to enable persons to qualify for po-  
16 sitions in the administration of this Act;  
17 and

18 (ii) to provide for the continuing edu-  
19 cation of inspectors or other appropriate  
20 Departmental personnel.

21 (B) FINANCIAL AND TECHNICAL ASSIST-  
22 ANCE.—The Secretary may provide financial  
23 and technical assistance to educational institu-  
24 tions in carrying out this paragraph.

1           (6) ROLE OF OIL OR GAS OPERATORS AND RE-  
2           LATED INDUSTRIES.—The Secretary shall ensure  
3           that any cooperative agreement or other collabora-  
4           tion with a representative of an oil or gas operator  
5           or related industry in relation to a training program  
6           established under paragraph (4) or paragraph (5) is  
7           limited to consultation regarding curricula and does  
8           not extend to the provision of instructional per-  
9           sonnel.

10 **SEC. 103. OFFICE OF NATURAL RESOURCES REVENUE.**

11           (a) ESTABLISHMENT.—There is established in the  
12           Department an Office of Natural Resources Revenue (re-  
13           ferred to in this section as the “Office”) to be headed by  
14           a Director of Natural Resources Revenue (referred to in  
15           this section as the “Director”).

16           (b) APPOINTMENT AND COMPENSATION.—

17                   (1) IN GENERAL.—The Director shall be ap-  
18                   pointed by the President, by and with the advice and  
19                   consent of the Senate, on the basis of—

20                           (A) professional competence; and

21                           (B) capacity to—

22                                   (i) administer the provisions of this  
23                                   Act; and

24                                   (ii) ensure that the fiduciary duties of  
25                                   the United States Government on behalf of

1           the American people, as they relate to de-  
2           velopment of nonrenewable and renewable  
3           energy and mineral resources, are duly  
4           met.

5           (2) COMPENSATION.—The Director shall be  
6           compensated at the rate provided for Level V of the  
7           Executive Schedule under section 5316 of title 5,  
8           United States Code.

9           (c) DUTIES.—

10           (1) IN GENERAL.—The Secretary shall carry  
11           out, through the Office—

12           (A) all functions, powers, and duties vested  
13           in the Secretary and relating to the administra-  
14           tion of the royalty and revenue management  
15           functions pursuant to—

16           (i) the Outer Continental Shelf Lands  
17           Act (43 U.S.C. 1331 et seq.);

18           (ii) the Mineral Leasing Act (30  
19           U.S.C. 181 et seq.);

20           (iii) the Mineral Leasing Act for Ac-  
21           quired Lands (30 U.S.C. 351 et seq.);

22           (iv) the Geothermal Steam Act of  
23           1970 (30 U.S.C. 1001 et seq.);

1 (v) the Naval Petroleum Reserves  
2 Production Act of 1976 (42 U.S.C. 6501  
3 et seq.);

4 (vi) the Federal Oil and Gas Royalty  
5 Management Act of 1982 (30 U.S.C. 1701  
6 et seq.);

7 (vii) the Federal Oil and Gas Royalty  
8 Simplification and Fairness Act of 1996  
9 (Public Law 104–185);

10 (viii) the Energy Policy Act of 2005  
11 (Public Law 109–58);

12 (ix) the Forest and Rangeland Renew-  
13 able Resources Planning Act of 1974 (16  
14 U.S.C. 1600 et seq.);

15 (x) the Federal Land Policy and Man-  
16 agement Act of 1976 (43 U.S.C. 1701 et  
17 seq.); and

18 (xi) this Act and all other applicable  
19 Federal laws; and

20 (B) all functions, powers, and duties pre-  
21 viously assigned to the Minerals Management  
22 Service (including the authority to develop, pro-  
23 mulgate, and enforce regulations) regarding—

24 (i) royalty and revenue collection;

25 (ii) royalty and revenue distribution;

- 1 (iii) auditing and compliance;  
2 (iv) investigation and enforcement of  
3 royalty and revenue regulations; and  
4 (v) asset management for onshore and  
5 offshore activities.

6 (d) OVERSIGHT.—In order to provide transparency  
7 and ensure strong oversight over the revenue program, the  
8 Secretary shall—

9 (1) create within the Office an independent  
10 audit and oversight program responsible for moni-  
11 toring the performance of the Office with respect to  
12 the duties and functions under subsection (c), and  
13 conducting internal control audits of the operations  
14 of the Office;

15 (2) facilitate the participation of those Indian  
16 tribes and States operating pursuant to cooperative  
17 agreements or delegations under the Federal Oil and  
18 Gas Royalty Management Act of 1982 (30 U.S.C.  
19 1701 et seq.) on all of the management teams, com-  
20 mittees, councils, and other entities created by the  
21 Office; and

22 (3) assure prior consultation with those Indian  
23 tribes and States referred to in paragraph (2) in the  
24 formulation all policies, procedures, guidance, stand-

1 ards, and rules relating to the functions referred to  
2 in subsection (c).

3 **SEC. 104. ETHICS.**

4 (a) CERTIFICATION.—The Secretary shall certify an-  
5 nually that all Department of the Interior officers and em-  
6 ployees having regular, direct contact with lessees and op-  
7 erators as a function of their official duties are in full com-  
8 pliance with all Federal employee ethics laws and regula-  
9 tions under the Ethics in Government Act of 1978 (5  
10 U.S.C. App.) and part 2635 of title 5, Code of Federal  
11 Regulations, and all guidance issued under subsection (b).

12 (b) GUIDANCE.—Not later than 90 days after the  
13 date of enactment of this Act, the Secretary shall issue  
14 supplementary ethics guidance for the employees for which  
15 certification is required under subsection (a). The Sec-  
16 retary shall update the supplementary ethics guidance not  
17 less than once every 3 years thereafter.

18 **SEC. 105. REFERENCES.**

19 (a) BUREAU OF ENERGY AND RESOURCE MANAGE-  
20 MENT.—Any reference in any law, rule, regulation, direc-  
21 tive, instruction, certificate, or other official document, in  
22 force immediately before the enactment of this Act—

23 (1) to the Minerals Management Service that  
24 pertains to any of the duties and authorities referred  
25 to in section 101 is deemed to refer and apply to the

1 Bureau of Energy and Resource Management estab-  
2 lished by section 101;

3 (2) to the Director of the Minerals Management  
4 Service that pertains to any of the duties and au-  
5 thorities referred to in section 101 is deemed to  
6 refer and apply to the Director of the Bureau of En-  
7 ergy and Resource Management;

8 (3) to any other position in the Minerals Man-  
9 agement Service that pertains to any of the duties  
10 and authorities referred to in section 101 is deemed  
11 to refer and apply to that same or equivalent posi-  
12 tion in the Bureau of Energy and Resource Manage-  
13 ment;

14 (4) to the Bureau of Land Management that  
15 pertains to any of the duties and authorities referred  
16 to in section 101 is deemed to refer and apply to the  
17 Bureau of Energy and Resource Management;

18 (5) to the Director of the Bureau of Land Man-  
19 agement that pertains to any of the duties and au-  
20 thorities referred to in section 101 is deemed to  
21 refer and apply to the Director of the Bureau of En-  
22 ergy and Resource Management; and

23 (6) to any other position in the Bureau of Land  
24 Management that pertains to any of the duties and  
25 authorities referred to in section 101 is deemed to

1 refer and apply to that same or equivalent position  
2 in the Bureau of Energy and Resource Management.

3 (b) BUREAU OF SAFETY AND ENVIRONMENTAL EN-  
4 FORCEMENT.—Any reference in any law, rule, regulation,  
5 directive, instruction, certificate, or other official docu-  
6 ment in force immediately before the enactment of this  
7 Act—

8 (1) to the Minerals Management Service that  
9 pertains to any of the duties and authorities referred  
10 to in section 102 is deemed to refer and apply to the  
11 Bureau of Safety and Environmental Enforcement  
12 established by section 102;

13 (2) to the Director of the Minerals Management  
14 Service that pertains to any of the duties and au-  
15 thorities referred to in section 102 is deemed to  
16 refer and apply to the Director of the Bureau of  
17 Safety and Environmental Enforcement;

18 (3) to any other position in the Minerals Man-  
19 agement Service that pertains to any of the duties  
20 and authorities referred to in section 102 is deemed  
21 to refer and apply to that same or equivalent posi-  
22 tion in the Bureau of Safety and Environmental En-  
23 forcement;

24 (4) to the Bureau of Land Management that  
25 pertains to any of the duties and authorities referred



1 to in section 102 is deemed to refer and apply to the  
2 Bureau of Safety and Environmental Enforcement;

3 (5) to the Director of the Bureau of Land Man-  
4 agement that pertains to any of the duties and au-  
5 thorities referred to in section 102 is deemed to  
6 refer and apply to the Director of the Bureau of  
7 Safety and Environmental Enforcement; and

8 (6) to any other position in the Bureau of Land  
9 Management that pertains to any of the duties and  
10 authorities referred to in section 102 is deemed to  
11 refer and apply to that same or equivalent position  
12 in the Bureau of Safety and Environmental Enforce-  
13 ment.

14 (c) OFFICE OF NATURAL RESOURCES REVENUE.—  
15 Any reference in any law, rule, regulation, directive, or in-  
16 struction, or certificate or other official document, in force  
17 immediately prior to enactment—

18 (1) to the Minerals Management Service that  
19 pertains to any of the duties and authorities referred  
20 to in section 103 is deemed to refer and apply to the  
21 Office of Natural Resources Revenue established by  
22 section 103;

23 (2) to the Director of the Minerals Management  
24 Service that pertains to any of the duties and au-  
25 thorities referred to in section 103 is deemed to

1 refer and apply to the Director of Natural Resources  
2 Revenue; and

3 (3) to any other position in the Minerals Man-  
4 agement Service that pertains to any of the duties  
5 and authorities referred to in section 103 is deemed  
6 to refer and apply to that same or equivalent posi-  
7 tion in the Office of Natural Resources Revenue.

8 **SEC. 106. ABOLISHMENT OF MINERALS MANAGEMENT**  
9 **SERVICE.**

10 (a) **ABOLISHMENT.**—The Minerals Management  
11 Service (in this section referred to as the “Service”) is  
12 abolished.

13 (b) **COMPLETED ADMINISTRATIVE ACTIONS.**—

14 (1) **IN GENERAL.**—Completed administrative  
15 actions of the Service shall not be affected by the  
16 enactment of this Act, but shall continue in effect  
17 according to their terms until amended, modified,  
18 superseded, terminated, set aside, or revoked in ac-  
19 cordance with law by an officer of the United States  
20 or a court of competent jurisdiction, or by operation  
21 of law.

22 (2) **COMPLETED ADMINISTRATIVE ACTION DE-**  
23 **FINED.**—For purposes of paragraph (1), the term  
24 “completed administrative action” includes orders,  
25 determinations, rules, regulations, personnel actions,

1 permits, agreements, grants, contracts, certificates,  
2 licenses, registrations, and privileges.

3 (c) PENDING PROCEEDINGS.—Subject to the author-  
4 ity of the Secretary of the Interior and the officers of the  
5 Department of the Interior under this Act—

6 (1) pending proceedings in the Service, includ-  
7 ing notices of proposed rulemaking, and applications  
8 for licenses, permits, certificates, grants, and finan-  
9 cial assistance, shall continue, notwithstanding the  
10 enactment of this Act or the vesting of functions of  
11 the Service in another agency, unless discontinued or  
12 modified under the same terms and conditions and  
13 to the same extent that such discontinuance or  
14 modification could have occurred if this Act had not  
15 been enacted; and

16 (2) orders issued in such proceedings, and ap-  
17 peals therefrom, and payments made pursuant to  
18 such orders, shall issue in the same manner and on  
19 the same terms as if this Act had not been enacted,  
20 and any such orders shall continue in effect until  
21 amended, modified, superseded, terminated, set  
22 aside, or revoked by an officer of the United States  
23 or a court of competent jurisdiction, or by operation  
24 of law.

1 (d) PENDING CIVIL ACTIONS.—Subject to the au-  
2 thority of the Secretary of the Interior or any officer of  
3 the Department of the Interior under this Act, pending  
4 civil actions shall continue notwithstanding the enactment  
5 of this Act, and in such civil actions, proceedings shall be  
6 had, appeals taken, and judgments rendered and enforced  
7 in the same manner and with the same effect as if such  
8 enactment had not occurred.

9 (e) REFERENCES.—References relating to the Service  
10 in statutes, Executive orders, rules, regulations, directives,  
11 or delegations of authority that precede the effective date  
12 of this Act are deemed to refer, as appropriate, to the De-  
13 partment, to its officers, employees, or agents, or to its  
14 corresponding organizational units or functions. Statutory  
15 reporting requirements that applied in relation to the  
16 Service immediately before the effective date of this Act  
17 shall continue to apply.

18 **SEC. 107. CONFORMING AMENDMENT.**

19 Section 5316 of title 5, United States Code, is  
20 amended by striking “Director, Bureau of Mines, Depart-  
21 ment of the Interior.” and inserting the following new  
22 items:

23 “Director, Bureau of Energy and Resource  
24 Management, Department of the Interior.

1           “Director, Bureau of Safety and Environmental  
2           Enforcement, Department of the Interior.

3           “Director, Office of Natural Resources Rev-  
4           enue, Department of the Interior.”.

5 **SEC. 108. OUTER CONTINENTAL SHELF SAFETY AND ENVI-**  
6 **RONMENTAL ADVISORY BOARD.**

7           (a) ESTABLISHMENT.—The Secretary shall establish,  
8           under the Federal Advisory Committee Act, an Outer Con-  
9           tinental Shelf Safety and Environmental Advisory Board  
10          (referred to in this section as the “Board”), to provide  
11          the Secretary and the Directors of the bureaus established  
12          by this title with independent scientific and technical ad-  
13          vice on safe and environmentally compliant nonrenewable  
14          and renewable energy and mineral resource exploration,  
15          development, and production activities.

16          (b) MEMBERSHIP.—

17               (1) SIZE.—The Board shall consist of not more  
18               than 12 members, chosen to reflect a range of exper-  
19               tise in scientific, engineering, management, environ-  
20               mental, and other disciplines related to safe and en-  
21               vironmentally compliant renewable and nonrenewable  
22               energy and mineral resource exploration, develop-  
23               ment, and production activities. The Secretary shall  
24               consult with the National Academy of Sciences and

1 the National Academy of Engineering to identify po-  
2 tential candidates for the Board.

3 (2) TERM.—The Secretary shall appoint Board  
4 members to staggered terms of not more than 4  
5 years, and shall not appoint a member for more  
6 than 2 consecutive terms.

7 (3) BALANCE.—In appointing members to the  
8 Board, the Secretary shall ensure a balanced rep-  
9 resentation of industry- and nonindustry-related in-  
10 terests.

11 (c) CHAIR.—The Secretary shall appoint the Chair  
12 for the Board.

13 (d) MEETINGS.—The Board shall meet not less than  
14 3 times per year and, at least once per year, shall host  
15 a public forum to review and assess the overall safety and  
16 environmental performance of Outer Continental Shelf  
17 nonrenewable and renewable energy and mineral resource  
18 activities.

19 (e) OFFSHORE DRILLING SAFETY ASSESSMENTS  
20 AND RECOMMENDATIONS.—As part of its duties under  
21 this section, the Board shall, by not later than 180 days  
22 after the date of enactment of this section and every 5  
23 years thereafter, submit to the Secretary a report that—

1           (1) assesses offshore oil and gas well control  
2 technologies, practices, voluntary standards, and  
3 regulations in the United States and elsewhere;

4           (2) assesses whether existing well control regu-  
5 lations issued by the Secretary under the Outer Con-  
6 tinental Shelf Lands Act (43 U.S.C. 1331 et seq.)  
7 adequately protect safety and the environment; and

8           (3) as appropriate, recommends modifications  
9 to the regulations issued under this Act to ensure  
10 adequate protection of safety and the environment.

11       (f) REPORTS.—Reports of the Board shall be sub-  
12 mitted to the Congress and made available to the public  
13 in electronically accessible form.

14       (g) TRAVEL EXPENSES.—Members of the Board,  
15 other than full-time employees of the Federal Government,  
16 while attending meeting of the Board or while otherwise  
17 serving at the request of the Secretary or the Director  
18 while serving away from their homes or regular places of  
19 business, may be allowed travel expenses, including per  
20 diem in lieu of subsistence, as authorized by section 5703  
21 of title 5, United States Code, for individuals in the Gov-  
22 ernment serving without pay.

1 **SEC. 109. LIMITATION ON EFFECT ON DEVELOPMENT OF**  
2 **OCEAN RENEWABLE ENERGY RESOURCE FA-**  
3 **CILITIES.**

4 Nothing in this title shall delay development of ocean  
5 renewable energy resource facilities including—

- 6 (1) promotion of offshore wind development;
- 7 (2) planning, leasing, licensing, and fee and  
8 royalty collection for such development of ocean re-  
9 newable energy resource facilities; and
- 10 (3) developing and administering an efficient  
11 leasing and licensing process for ocean renewable en-  
12 ergy resource facilities.

13 **TITLE II—FEDERAL OIL AND GAS**  
14 **DEVELOPMENT**

15 **Subtitle A—Safety, Environmental,**  
16 **and Financial Reform of the**  
17 **Outer Continental Shelf Lands**  
18 **Act**

19 **SEC. 201. SHORT TITLE.**

20 This subtitle may be cited as the “Outer Continental  
21 Shelf Lands Act Amendments of 2010”.

22 **SEC. 202. DEFINITIONS.**

23 Section 2 of the Outer Continental Shelf Lands Act  
24 (43 U.S.C. 1331) is amended by adding at the end the  
25 following:



1       “(r) The term ‘safety case’ means a body of evidence  
2 that provides a basis for determining whether a system  
3 is adequately safe for a given application in a given oper-  
4 ating environment.”.

5 **SEC. 203. NATIONAL POLICY FOR THE OUTER CONTI-**  
6 **NENTAL SHELF.**

7       Section 3 of the Outer Continental Shelf Lands Act  
8 (43 U.S.C. 1332) is amended—

9           (1) by striking paragraph (3) and inserting the  
10 following:

11           “(3) the outer Continental Shelf is a vital na-  
12 tional resource reserve held by the Federal Govern-  
13 ment for the public, that should be managed in a  
14 manner that—

15           “(A) recognizes the need of the United  
16 States for domestic sources of energy, food,  
17 minerals, and other resources;

18           “(B) minimizes the potential impacts of  
19 development of those resources on the marine  
20 and coastal environment and on safety; and

21           “(C) acknowledges the long-term economic  
22 value to the United States of the balanced and  
23 orderly management of those resources that  
24 safeguards the environment and respects the

1 multiple values and uses of the outer Conti-  
2 nental Shelf;”;

3 (2) in paragraph (4), by striking the period at  
4 the end and inserting a semicolon;

5 (3) in paragraph (5), by striking “should be”  
6 and inserting “shall be”, and striking “; and” and  
7 inserting a semicolon;

8 (4) by redesignating paragraph (6) as para-  
9 graph (7);

10 (5) by inserting after paragraph (5) the fol-  
11 lowing:

12 “(6) exploration, development, and production  
13 of energy and minerals on the outer Continental  
14 Shelf should be allowed only when those activities  
15 can be accomplished in a manner that minimizes—

16 “(A) harmful impacts to life (including fish  
17 and other aquatic life) and health;

18 “(B) damage to the marine, coastal, and  
19 human environments and to property; and

20 “(C) harm to other users of the waters,  
21 seabed, or subsoil; and”;

22 (6) in paragraph (7) (as so redesignated), by—

23 (A) striking “should be” and inserting  
24 “shall be”;

1 (B) inserting “best available” after  
2 “using”; and

3 (C) striking “or minimize”.

4 **SEC. 204. JURISDICTION OF LAWS ON THE OUTER CONTI-**  
5 **NENTAL SHELF.**

6 Section 4(a)(1) of the Outer Continental Shelf Lands  
7 Act (43 U.S.C. 1333(a)(1)) is amended by—

8 (1) inserting “or producing or supporting pro-  
9 duction of energy from sources other than oil and  
10 gas” after “therefrom”;

11 (2) inserting “or transmitting such energy”  
12 after “transporting such resources”; and

13 (3) inserting “and other energy” after “That  
14 mineral”.

15 **SEC. 205. OUTER CONTINENTAL SHELF LEASING STAND-**  
16 **ARD.**

17 (a) IN GENERAL.—Section 5 of the Outer Conti-  
18 nental Shelf Lands Act (43 U.S.C. 1334) is amended—

19 (1) in subsection (a), by striking “The Sec-  
20 retary may at any time” and inserting “The Sec-  
21 retary shall”;

22 (2) in the second sentence of subsection (a), by  
23 adding after “provide for” the following: “oper-  
24 ational safety, the protection of the marine and  
25 coastal environment, and”;

1           (3) in subsection (a), by inserting “and the Sec-  
2           retary of Commerce with respect to matters that  
3           may affect the marine and coastal environment”  
4           after “which may affect competition”;

5           (4) in clause (ii) of subsection (a)(2)(A), by  
6           striking “a reasonable period of time” and inserting  
7           “30 days”;

8           (5) in subsection (a)(7), by inserting “in a  
9           manner that minimizes harmful impacts to the ma-  
10          rine and coastal environment” after “lease area”;

11          (6) in subsection (a), by striking “and” after  
12          the semicolon at the end of paragraph (7), redesign-  
13          ating paragraph (8) as paragraph (13), and insert-  
14          ing after paragraph (7) the following:

15               “(8) for independent third-party certification  
16               requirements of safety systems related to well con-  
17               trol, such as blowout preventers;

18               “(9) for performance requirements for blowout  
19               preventers, including quantitative risk assessment  
20               standards, subsea testing, and secondary activation  
21               methods;

22               “(10) for independent third-party certification  
23               requirements of well casing and cementing programs  
24               and procedures;

1           “(11) for the establishment of mandatory safety  
2           and environmental management systems by opera-  
3           tors on the Outer Continental Shelf;

4           “(12) for procedures and technologies to be  
5           used during drilling operations to minimize the risk  
6           of ignition and explosion of hydrocarbons;”;

7           (7) in subsection (a), by striking the period at  
8           the end of paragraph (13), as so redesignated, and  
9           inserting “; and”, and by adding at the end the fol-  
10          lowing:

11          “(14) ensuring compliance with other applicable  
12          environmental and natural resource conservation  
13          laws.”; and

14          (8) by adding at the end the following new sub-  
15          sections:

16          “(k) DOCUMENTS INCORPORATED BY REFERENCE.—  
17          Any documents incorporated by reference in regulations  
18          promulgated by the Secretary pursuant to this Act shall  
19          be made available to the public, free of charge, on a  
20          website maintained by the Secretary.

21          “(l) REGULATORY STANDARDS FOR BLOWOUT PRE-  
22          VENTERS, WELL DESIGN, AND CEMENTING.—

23                 “(1) IN GENERAL.—In promulgating regula-  
24                 tions under this Act related to blowout preventers,  
25                 well design, and cementing, the Secretary shall en-

1       sure that such regulations include the minimum  
2       standards included in paragraphs (2), (3), and (4),  
3       unless, after notice and an opportunity for public  
4       comment, the Secretary determines that a standard  
5       required under this subsection would be less effective  
6       in ensuring safe operations than an available alter-  
7       native technology or practice. Such regulations shall  
8       require independent third-party certification, pursu-  
9       ant to paragraph (5), of blowout preventers, well de-  
10      sign, and cementing programs and procedures prior  
11      to the commencement of drilling operations. Such  
12      regulations shall also require re-certification by an  
13      independent third-party certifier, pursuant to para-  
14      graph (5), of a blowout preventer upon any material  
15      modification to the blowout preventer or well design  
16      and of a well design upon any material modification  
17      to the well design.

18               “(2) BLOWOUT PREVENTERS.—Subject to para-  
19      graph (1), regulations issued under this Act for  
20      blowout preventers shall include at a minimum the  
21      following requirements:

22                       “(A) Two sets of blind shear rams appro-  
23                      priately spaced to prevent blowout preventer  
24                      failure if a drill pipe joint or drill tool is across

1           one set of blind shear rams during a situation  
2           that threatens loss of well control.

3           “(B) Redundant emergency backup control  
4           systems capable of activating the relevant com-  
5           ponents of a blowout preventer, including when  
6           the communications link or other critical links  
7           between the drilling rig and the blowout pre-  
8           venter are destroyed or inoperable.

9           “(C) Regular testing of the emergency  
10          backup control systems, including testing dur-  
11          ing deployment of the blowout preventer.

12          “(D) As appropriate, remotely operated ve-  
13          hicle intervention capabilities for secondary con-  
14          trol of all subsea blowout preventer functions,  
15          including adequate hydraulic capacity to acti-  
16          vate blind shear rams, casing shear rams, and  
17          other critical blowout preventer components.

18          “(3) WELL DESIGN.—Subject to paragraph (1),  
19          regulations issued under this Act for well design  
20          standards shall include at a minimum the following  
21          requirements:

22          “(A) In connection with the installation of  
23          the final casing string, the installation of at  
24          least two independent, tested mechanical bar-  
25          riers, in addition to a cement barrier, across

1 each flow path between hydrocarbon bearing  
2 formations and the blowout preventer.

3 “(B) That wells shall be designed so that  
4 a failure of one barrier does not significantly in-  
5 crease the likelihood of another barrier’s failure.

6 “(C) That the casing design is appropriate  
7 for the purpose for which it is intended under  
8 reasonably expected wellbore conditions.

9 “(D) The installation and verification with  
10 a pressure test of a lockdown device at the time  
11 the casing is installed in the wellhead.

12 “(4) CEMENTING.—Subject to paragraph (1),  
13 regulations issued under this Act for cementing  
14 standards shall include at a minimum the following  
15 requirements:

16 “(A) Adequate centralization of the casing  
17 to ensure proper distribution of cement.

18 “(B) A full circulation of drilling fluids  
19 prior to cementing.

20 “(C) The use of an adequate volume of ce-  
21 ment to prevent any unintended flow of hydro-  
22 carbons between any hydrocarbon-bearing for-  
23 mation zone and the wellhead.



1           “(D) Cement bond logs for all cementing  
2 jobs intended to provide a barrier to hydro-  
3 carbon flow.

4           “(E) Cement bond logs or such other in-  
5 tegrity tests as the Secretary may prescribe for  
6 cement jobs other than those identified in sub-  
7 paragraph (D).

8           “(5) INDEPENDENT THIRD-PARTY CER-  
9 TIFIERS.—The Secretary shall establish appropriate  
10 standards for the approval of independent third-  
11 party certifiers capable of exercising certification  
12 functions for blowout preventers, well design, and ce-  
13 menting. For any certification required for regula-  
14 tions related to blowout preventers, well design, or  
15 cementing, the operator shall use a qualified inde-  
16 pendent third-party certifier chosen by the Sec-  
17 retary. The costs of any certification shall be borne  
18 by the operator.

19           “(6) APPLICATION TO INSHORE WATERS; STATE  
20 IMPLEMENTATION.—

21           “(A) IN GENERAL.—Requirements estab-  
22 lished under this subsection shall apply, as pro-  
23 vided in subparagraph (B), to offshore drilling  
24 operations that take place on lands that are  
25 landward of the outer Continental Shelf and

1 seaward of the line of mean high tide, and that  
2 the Secretary determines, based on criteria es-  
3 tablished by rule, could, in the event of a blow-  
4 out, lead to extensive and widespread harm to  
5 safety or the environment.

6 “(B) SUBMISSION OF STATE REGULATORY  
7 REGIME.—Any State may submit to the Sec-  
8 retary a plan demonstrating that the State’s  
9 regulatory regime for wells identified in sub-  
10 paragraph (A) establishes requirements for  
11 such wells that are comparable to, or alter-  
12 native requirements providing an equal or  
13 greater level of safety than, those established  
14 under this section for wells on the outer Conti-  
15 nental Shelf. The Secretary shall promptly de-  
16 termine, after notice and an opportunity for  
17 public comment, whether a State’s regulatory  
18 regime meets the standard set forth in the pre-  
19 ceding sentence. If the Secretary determines  
20 that a State’s regulatory regime does not meet  
21 such standard, the Secretary shall identify the  
22 deficiencies that are the basis for such deter-  
23 mination and provide a reasonable period of  
24 time for the State to remedy the deficiencies. If  
25 the State does not do so within such reasonable

1 period of time, the Secretary shall apply the re-  
2 quirements established under this section to off-  
3 shore drilling operations described in subpara-  
4 graph (A) that are located in such State, until  
5 such time as the Secretary determines that the  
6 deficiencies have been remedied.

7 “(m) RULEMAKING DOCKETS.—

8 “(1) ESTABLISHMENT.—Not later than the  
9 date of proposal of any regulation under this Act,  
10 the Secretary shall establish a publicly available  
11 rulemaking docket for such regulation.

12 “(2) DOCUMENTS TO BE INCLUDED.—The Sec-  
13 retary shall include in the docket—

14 “(A) all written comments and documen-  
15 tary information on the proposed rule received  
16 from any person in the comment period for the  
17 rulemaking, promptly upon receipt by the Sec-  
18 retary;

19 “(B) the transcript of each public hearing,  
20 if any, on the proposed rule, promptly upon re-  
21 ceipt from the person who transcribed such  
22 hearing; and

23 “(C) all documents that become available  
24 after the proposed rule is published and that  
25 the Secretary determines are of central rel-

1 evance to the rulemaking, by as soon as pos-  
2 sible after their availability.

3 “(3) PROPOSED AND DRAFT FINAL RULE AND  
4 ASSOCIATED MATERIAL.—The Secretary shall in-  
5 clude in the docket—

6 “(A) each draft proposed rule submitted by  
7 the Secretary to the Office of Management and  
8 Budget for any interagency review process prior  
9 to proposal of such rule, all documents accom-  
10 panying such draft, all written comments there-  
11 on by other agencies, and all written responses  
12 to such written comments by the Secretary, by  
13 no later than the date of proposal of the rule;  
14 and

15 “(B) each draft final rule submitted by the  
16 Secretary for such review process before  
17 issuance of the final rule, all such written com-  
18 ments thereon, all documents accompanying  
19 such draft, and all written responses thereto, by  
20 no later than the date of issuance of the final  
21 rule.”.

22 (b) CONFORMING AMENDMENT.—Subsection (g) of  
23 section 25 of the Outer Continental Shelf Lands Act (43  
24 U.S.C. 1351), as redesignated by section 215(4) of this  
25 Act, is further amended by striking “paragraph (8) of sec-

1 tion 5(a) of this Act” each place it appears and inserting  
2 “paragraph (13) of section 5(a) of this Act”.

3 **SEC. 206. LEASES, EASEMENTS, AND RIGHTS-OF-WAY.**

4 (a) FINANCIAL ASSURANCE AND FISCAL RESPONSIB-  
5 BILITY.—Section 8 of the Outer Continental Shelf Lands  
6 Act (43 U.S.C. 1337) is amended by adding at the end  
7 the following:

8 “(q) REVIEW OF BOND AND SURETY AMOUNTS.—  
9 Not later than May 1, 2011, and every 5 years thereafter,  
10 the Secretary shall review the minimum financial responsi-  
11 bility requirements for leases issued under this section and  
12 shall ensure that any bonds or surety required are ade-  
13 quate to comply with the requirements of this Act or the  
14 Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.).

15 “(r) PERIODIC FISCAL REVIEW AND REPORT.—

16 “(1) IN GENERAL.—Not later than 1 year after  
17 the date of enactment of this subsection and every  
18 3 years thereafter, the Secretary shall carry out a  
19 review and prepare a report setting forth—

20 “(A)(i) the royalty and rental rates in-  
21 cluded in new offshore oil and gas leases; and

22 “(ii) the rationale for the rates;

23 “(B) whether, in the view of the Secretary,  
24 the royalty and rental rates described in sub-  
25 paragraph (A) will yield a fair return to the

1 public while promoting the production of oil and  
2 gas resources in a timely manner;

3 “(C)(i) the minimum bond or surety  
4 amounts required pursuant to offshore oil and  
5 gas leases; and

6 “(ii) the rationale for the minimum  
7 amounts;

8 “(D) whether the bond or surety amounts  
9 described in subparagraph (C) are adequate to  
10 comply with subsection (q); and

11 “(E) whether the Secretary intends to  
12 modify the royalty or rental rates, or bond or  
13 surety amounts, based on the review.

14 “(2) PUBLIC PARTICIPATION.—In carrying out  
15 a review and preparing a report under paragraph  
16 (1), the Secretary shall provide to the public an op-  
17 portunity to participate.

18 “(3) REPORT DEADLINE.—Not later than 30  
19 days after the date on which the Secretary completes  
20 a report under paragraph (1), the Secretary shall  
21 transmit copies of the report to—

22 “(A) the Committee on Energy and Nat-  
23 ural Resources of the Senate; and

24 “(B) the Committee on Natural Resources  
25 of the House of Representatives.

1 “(s) COMPARATIVE REVIEW OF FISCAL SYSTEM.—

2 “(1) IN GENERAL.—Not later than 2 years  
3 after the date of enactment of this subsection and  
4 every 5 years thereafter, the Secretary shall carry  
5 out a comprehensive review of all components of the  
6 Federal offshore oil and gas fiscal system, including  
7 requirements for—

8 “(A) bonus bids;

9 “(B) rental rates; and

10 “(C) royalties.

11 “(2) REQUIREMENTS.—

12 “(A) CONTENTS; SCOPE.—A review under  
13 paragraph (1) shall include—

14 “(i) the information and analyses nec-  
15 essary to compare the offshore bonus bids,  
16 rents, and royalties of the Federal Govern-  
17 ment to the offshore bonus bids, rents, and  
18 royalties of other resource owners, includ-  
19 ing States and foreign countries; and

20 “(ii) an assessment of the overall off-  
21 shore oil and gas fiscal system in the  
22 United States, as compared to foreign  
23 countries.

24 “(B) INDEPENDENT ADVISORY COM-  
25 MITTEE.—In carrying out a review under para-

1 graph (1), the Secretary shall convene and seek  
2 the advice of an independent advisory com-  
3 mittee comprised of oil and gas and fiscal ex-  
4 perts from States, Indian tribes, academia, the  
5 energy industry, and appropriate nongovern-  
6 mental organizations.

7 “(3) REPORT.—

8 “(A) IN GENERAL.—The Secretary shall  
9 prepare a report that contains—

10 “(i) the contents and results of the re-  
11 view carried out under paragraph (1) for  
12 the period covered by the report; and

13 “(ii) any recommendations of the Sec-  
14 retary based on the contents and results of  
15 the review.

16 “(B) REPORT DEADLINE.—Not later than  
17 30 days after the date on which the Secretary  
18 completes a report under paragraph (1), the  
19 Secretary shall transmit copies of the report to  
20 the Committee on Natural Resources of the  
21 House of Representatives and the Committee  
22 on Energy and Natural Resources of the Sen-  
23 ate.”.

24 (b) ENVIRONMENTAL DILIGENCE.—Section 8 of the  
25 Outer Continental Shelf Lands Act (43 U.S.C. 1337) is



1 amended by striking subsection (d) and inserting the fol-  
2 lowing:

3 “(d) REQUIREMENT FOR CERTIFICATION OF RE-  
4 SPONSIBLE STEWARDSHIP.—

5 “(1) CERTIFICATION REQUIREMENT.—No bid  
6 or request for a lease, easement, or right-of-way  
7 under this section, or for a permit to drill under sec-  
8 tion 11(d), may be submitted by any person unless  
9 the person certifies to the Secretary that the person  
10 (including any related person and any predecessor of  
11 such person or related person) meets each of the fol-  
12 lowing requirements:

13 “(A) The person is meeting due diligence,  
14 safety, and environmental requirements on  
15 other leases, easements, and rights-of-way.

16 “(B) In the case of a person that is a re-  
17 sponsible party for a vessel or a facility from  
18 which oil is discharged, for purposes of section  
19 1002 of the Oil Pollution Act of 1990 (33  
20 U.S.C. 2702), the person has met all of its obli-  
21 gations under that Act to provide compensation  
22 for covered removal costs and damages.

23 “(C) In the 7-year period ending on the  
24 date of certification, the person, in connection  
25 with activities in the oil industry (including ex-

1 exploration, development, production, transpor-  
2 tation by pipeline, and refining)—

3 “(i) was not found to have committed  
4 willful or repeated violations under the Oc-  
5 cupational Safety and Health Act of 1970  
6 (29 U.S.C. 651 et seq.) (including State  
7 plans approved under section 18(e) of such  
8 Act (29 U.S.C. 667(c))) at a rate that is  
9 higher than five times the rate determined  
10 by the Secretary to be the oil industry av-  
11 erage for such violations for such period;

12 “(ii) was not convicted of a criminal  
13 violation for death or serious bodily injury;

14 “(iii) did not have more than 10 fa-  
15 talities at its exploration, development, and  
16 production facilities and refineries as a re-  
17 sult of violations of Federal or State  
18 health, safety, or environmental laws;

19 “(iv) was not assessed, did not enter  
20 into an agreement to pay, and was not oth-  
21 erwise required to pay, civil penalties and  
22 criminal fines for violations the person was  
23 found to have committed under the Fed-  
24 eral Water Pollution Control Act (33  
25 U.S.C. 1251 et seq.) (including State pro-

1           grams approved under sections 402 and  
2           404 of such Act (33 U.S.C. 1342 and  
3           1344)) in a total amount that is equal to  
4           more than \$10,000,000; and

5           “(v) was not assessed, did not enter  
6           into an agreement to pay, and was not oth-  
7           erwise required to pay, civil penalties and  
8           criminal fines for violations the person was  
9           found to have committed under the Clean  
10          Air Act (42 U.S.C. 7401 et seq.) (includ-  
11          ing State plans approved under section  
12          110 of such Act (42 U.S.C. 7410)) in a  
13          total amount that is equal to more than  
14          \$10,000,000.

15          “(2) ENFORCEMENT.—If the Secretary deter-  
16          mines that a certification made under paragraph (1)  
17          is false, the Secretary shall cancel any lease, ease-  
18          ment, or right of way and shall revoke any permit  
19          with respect to which the certification was required  
20          under such paragraph.

21          “(3) DEFINITION OF RELATED PERSON.—For  
22          purposes of this subsection, the term ‘related person’  
23          includes a parent, subsidiary, affiliate, member of  
24          the same controlled group, contractor, subcontractor,  
25          a person holding a controlling interest or in which

1 a controlling interest is held, and a person with sub-  
2 stantially the same board members, senior officers,  
3 or investors.”.

4 (c) ALTERNATIVE ENERGY DEVELOPMENT.—

5 (1) CLARIFICATION RELATING TO ALTERNATIVE  
6 ENERGY DEVELOPMENT.—Section 8(p) of the Outer  
7 Continental Shelf Lands Act (43 U.S.C. 1337(p)) is  
8 amended—

9 (A) in paragraph (1)—

10 (i) in the matter preceding subpara-  
11 graph (A), by inserting “or” after “1501  
12 et seq.),”, and by striking “or other appli-  
13 cable law,”; and

14 (ii) by amending subparagraph (D) to  
15 read as follows:

16 “(D) use, for energy-related purposes, fa-  
17 cilities currently or previously used for activities  
18 authorized under this Act, except that any oil  
19 and gas energy-related uses shall not be author-  
20 ized in areas in which oil and gas preleasing,  
21 leasing, and related activities are prohibited by  
22 a moratorium.”; and

23 (B) in paragraph (4)—

1 (i) in subparagraph (E), by striking  
2 “coordination” and inserting “in consulta-  
3 tion”; and

4 (ii) in subparagraph (J)(ii), by insert-  
5 ing “a potential site for an alternative en-  
6 ergy facility,” after “deepwater port,”.

7 (2) NONCOMPETITIVE ALTERNATIVE ENERGY  
8 LEASE OPTIONS.—Section 8(p)(3) of such Act (43  
9 U.S.C. 1337(p)(3)) is amended to read as follows:

10 “(3) COMPETITIVE OR NONCOMPETITIVE  
11 BASIS.—Any lease, easement, right-of-way, or other  
12 authorization granted under paragraph (1) shall be  
13 issued on a competitive basis, unless—

14 “(A) the lease, easement, right-of-way, or  
15 other authorization relates to a project that  
16 meets the criteria established under section  
17 388(d) of the Energy Policy Act of 2005 (43  
18 U.S.C. 1337 note; Public Law 109–58);

19 “(B) the lease, easement, right-of-way, or  
20 other authorization—

21 “(i) is for the placement and oper-  
22 ation of a meteorological or marine data  
23 collection facility; and

24 “(ii) has a term of not more than 5  
25 years; or

1           “(C) the Secretary determines, after pro-  
2           viding public notice of a proposed lease, ease-  
3           ment, right-of-way, or other authorization, that  
4           no competitive interest exists.”.

5           (d) REVIEW OF IMPACTS OF LEASE SALES ON THE  
6 MARINE AND COASTAL ENVIRONMENT BY SECRETARY.—  
7 Section 8 of the Outer Continental Shelf Lands Act (43  
8 U.S.C. 1337) is amended by adding at the end of sub-  
9 section (a) the following:

10           “(9) At least 60 days prior to any lease sale,  
11           the Secretary shall request a review by the Secretary  
12           of Commerce of the proposed sale with respect to  
13           impacts on the marine and coastal environment. The  
14           Secretary of Commerce shall complete and submit in  
15           writing the results of that review within 60 days  
16           after receipt of the Secretary of the Interior’s re-  
17           quest. If the Secretary of Commerce makes specific  
18           recommendations related to a proposed lease sale to  
19           reduce impacts on the marine and coastal environ-  
20           ment, and the Secretary rejects or modifies such rec-  
21           ommendations, the Secretary shall provide in writing  
22           justification for rejecting or modifying such rec-  
23           ommendations.”.

24           (e) LIMITATION ON LEASE TRACT SIZE.—Section  
25 8(b)(1) of the Outer Continental Shelf Lands Act (43

1 U.S.C. 1337(b)(1)) is amended by striking “, unless the  
2 Secretary finds that a larger area is necessary to comprise  
3 a reasonable economic production unit”.

4 (f) SULPHUR LEASES.—Section 8(i) of the Outer  
5 Continental Shelf Lands Act (43 U.S.C. 1337(i)) is  
6 amended by striking “meet the urgent need” and inserting  
7 “allow”.

8 (g) TERMS AND PROVISIONS.—Section 8(b) of the  
9 Outer Continental Shelf Lands Act (43 U.S.C. 1337(b))  
10 is amended by striking “An oil and gas lease issued pursu-  
11 ant to this section shall” and inserting “An oil and gas  
12 lease may be issued pursuant to this section only if the  
13 Secretary determines that activities under the lease are  
14 not likely to result in any condition described in section  
15 5(a)(2)(A)(i), and shall”.

16 **SEC. 207. DISPOSITION OF REVENUES.**

17 Section 9 of the Outer Continental Shelf Lands Act  
18 (43 U.S.C. 1338) is amended to read as follows:

19 **“SEC. 9. DISPOSITION OF REVENUES.**

20 “(a) GENERAL.—Except as provided in subsections  
21 (b), (c), and (d), all rentals, royalties, and other sums paid  
22 to the Secretary or the Secretary of the Navy under any  
23 lease on the outer Continental Shelf for the period from  
24 June 5, 1950, to date, and thereafter shall be deposited

1 in the Treasury of the United States and credited to mis-  
2 cellaneous receipts.

3 “(b) LAND AND WATER CONSERVATION FUND.—Ef-  
4 fective for fiscal year 2011 and each fiscal year thereafter,  
5 \$900,000,000 of the amounts referred to in subsection (a)  
6 shall be deposited in the Treasury of the United States  
7 and credited to the Land and Water Conservation Fund.  
8 These sums shall be available to the Secretary, without  
9 further appropriation or fiscal year limitation, for carrying  
10 out the purposes of the Land and Water Conservation  
11 Fund Act of 1965 (16 U.S.C. 460l–4 et seq.).

12 “(c) HISTORIC PRESERVATION FUND.—Effective for  
13 fiscal year 2011 and each fiscal year thereafter,  
14 \$150,000,000 of the amounts referred to in subsection (a)  
15 shall be deposited in the Treasury of the United States  
16 and credited to the Historic Preservation Fund. These  
17 sums shall be available to the Secretary, without further  
18 appropriation or fiscal year limitation, for carrying out the  
19 purposes of the National Historic Preservation Fund Act  
20 of 1966 (16 U.S.C. 470 et seq.).

21 “(d) OCEAN RESOURCES CONSERVATION AND AS-  
22 SISTANCE FUND.—Effective for each fiscal year 2011 and  
23 thereafter, 10 percent of the amounts referred to in sub-  
24 section (a) shall be deposited in the Treasury of the  
25 United States and credited to the Ocean Resources Con-



1 servation and Assistance Fund established by the Consoli-  
2 dated Land, Energy, and Aquatic Resources Act of 2010.  
3 These sums shall be available to the Secretary, subject to  
4 appropriation, for carrying out the purposes of section 605  
5 of the Consolidated Land, Energy, and Aquatic Resources  
6 Act of 2010.

7 “(e) SAVINGS PROVISION.—Nothing in this section  
8 shall decrease the amount any State shall receive pursuant  
9 to section 8(g) of this Act or section 105 of the Gulf of  
10 Mexico Energy Security Act (43 U.S.C. 1331 note).”.

11 **SEC. 208. EXPLORATION PLANS.**

12 (a) LIMITATION ON HARM FROM AGENCY EXPLO-  
13 RATION.—Section 11(a)(1) of the Outer Continental Shelf  
14 Lands Act (43 U.S.C. 1340(a)(1)) is amended by striking  
15 “, which do not interfere with or endanger actual oper-  
16 ations under any lease maintained or granted pursuant to  
17 this Act, and which are not unduly harmful to aquatic life  
18 in such area” and inserting “if a permit authorizing such  
19 activity is issued by the Secretary under subsection (g)”.

20 (b) EXPLORATION PLAN REVIEW.—Section 11(c) of  
21 the Outer Continental Shelf Lands Act (43 U.S.C.  
22 1340(c)), is amended—

23 (1) by inserting “(A)” before the first sentence;

1           (2) in paragraph (1)(A), as designated by the  
2 amendment made by paragraph (1) of this sub-  
3 section—

4           (A) by striking “and the provisions of such  
5 lease” and inserting “the provisions of such  
6 lease, and other applicable environmental and  
7 natural resource conservation laws”; and

8           (B) by striking the fourth sentence and in-  
9 serting the following:

10           “(B) The Secretary shall approve such  
11 plan, as submitted or modified, within 90 days  
12 after its submission and it is made publicly ac-  
13 cessible by the Secretary, or within such addi-  
14 tional time as the Secretary determines is nec-  
15 essary to complete any environmental, safety, or  
16 other reviews, if the Secretary determines  
17 that—

18           “(i) any proposed activity under such  
19 plan is not likely to result in any condition  
20 described in section 5(a)(2)(A)(i);

21           “(ii) the plan complies with other ap-  
22 plicable environmental or natural resource  
23 conservation laws;

24           “(iii) in the case of geophysical sur-  
25 veys, the applicant will use the best avail-

1           able technologies and methods to minimize  
2           impacts on marine life; and

3                   “(iv) the applicant has demonstrated  
4           the capability and technology to respond  
5           immediately and effectively to a worst-case  
6           oil spill in real-world conditions in the area  
7           of the proposed activity.”; and

8           (3) by adding at the end the following:

9                   “(5) If the Secretary requires greater than 90  
10          days to review an exploration plan submitted pursu-  
11          ant to any oil and gas lease issued or maintained  
12          under this Act, then the Secretary may provide for  
13          a suspension of that lease pursuant to section 5  
14          until the review of the exploration plan is com-  
15          pleted.”.

16          (c) REQUIREMENTS.—Section 11(c) of the Outer  
17          Continental Shelf Lands Act (43 U.S.C. 1340(c), is  
18          amended by amending paragraph (3) to read as follows:

19                   “(3) An exploration plan submitted under this  
20          subsection shall include, in the degree of detail that  
21          the Secretary may by regulation require—

22                           “(A) a schedule of anticipated exploration  
23          activities to be undertaken;

1           “(B) a detailed and accurate description of  
2 equipment to be used for such activities, includ-  
3 ing—

4                   “(i) a description of each drilling unit;

5                   “(ii) a statement of the design and  
6 condition of major safety-related pieces of  
7 equipment, including independent third  
8 party certification of such equipment; and

9                   “(iii) a description of any new tech-  
10 nology to be used;

11           “(C) a map showing the location of each  
12 well to be drilled;

13           “(D) a scenario for the potential blowout  
14 of the well involving the highest potential vol-  
15 ume of liquid hydrocarbons, along with a com-  
16 plete description of a response plan to both con-  
17 trol the blowout and manage the accompanying  
18 discharge of hydrocarbons, including the likeli-  
19 hood for surface intervention to stop the blow-  
20 out, the availability of a rig to drill a relief well,  
21 an estimate of the time it would take to drill a  
22 relief well, a description of other technology  
23 that may be used to regain control of the well  
24 or capture escaping hydrocarbons and the po-  
25 tential timeline for using that technology for its

1 intended purpose, and the strategy, organiza-  
2 tion, and resources necessary to avoid harm to  
3 the environment from hydrocarbons;

4 “(E) an analysis of the potential impacts  
5 of the worst-case-scenario discharge of hydro-  
6 carbons on the marine, coastal, and human en-  
7 vironments for activities conducted pursuant to  
8 the proposed exploration plan; and

9 “(F) such other information deemed perti-  
10 nent by the Secretary.”.

11 (d) DRILLING PERMITS.—Section 11(d) of the Outer  
12 Continental Shelf Lands Act (43 U.S.C. 1340(d)) is  
13 amended by to read as follows:

14 “(d) DRILLING PERMITS.—

15 “(1) IN GENERAL.—The Secretary shall, by  
16 regulation, require that any lessee operating under  
17 an approved exploration plan obtain a permit prior  
18 to drilling any well in accordance with such plan,  
19 and prior to any significant modification of the well  
20 design as originally approved by the Secretary.

21 “(2) ENGINEERING REVIEW REQUIRED.—The  
22 Secretary may not grant any drilling permit or  
23 modification of the permit prior to completion of a  
24 full engineering review of the well system, including  
25 a determination that critical safety systems, includ-

1 ing blowout prevention, will utilize best available  
2 technology and that blowout prevention systems will  
3 include redundancy and remote triggering capability.

4 “(3) OPERATOR SAFETY AND ENVIRONMENTAL  
5 MANAGEMENT REQUIRED.—The Secretary shall not  
6 grant any drilling permit or modification of the per-  
7 mit prior to completion of a safety and environ-  
8 mental management plan to be utilized by the oper-  
9 ator during all well operations.”.

10 (e) EXPLORATION PERMIT REQUIREMENTS.—Sec-  
11 tion 11(g) of the Outer Continental Shelf Lands Act (43  
12 U.S.C. 1340(g)) is amended by—

13 (1) striking “shall be issued” and inserting  
14 “may be issued”;

15 (2) inserting “and after consultation with the  
16 Secretary of Commerce,” after “in accordance with  
17 regulations issued by the Secretary”;

18 (3) striking the “and” at the end of paragraph  
19 (2);

20 (4) in paragraph (3) striking “will not be un-  
21 duly harmful to” and inserting “is not likely to  
22 harm”;

23 (5) striking the period at the end of paragraph  
24 (3) and inserting a semicolon; and

25 (6) adding at the end the following:

1           “(4) the exploration will be conducted in ac-  
2           cordance with other applicable environmental and  
3           natural resource conservation laws;

4           “(5) in the case of geophysical surveys, the ap-  
5           plicant will use the best available technologies and  
6           methods to minimize impacts on marine life; and

7           “(6) in the case of drilling operations, the appli-  
8           cant has available oil spill response and clean-up  
9           equipment and technology that has been dem-  
10          onstrated to be capable of effectively remediating a  
11          worst-case release of oil.”.

12          (f) ENVIRONMENTAL REVIEW OF PLANS; DEEP-  
13          WATER PLAN; PLAN DISAPPROVAL.—Section 11 of the  
14          Outer Continental Shelf Lands Act (43 U.S.C. 1340) is  
15          amended by adding at the end the following:

16          “(i) ENVIRONMENTAL REVIEW OF PLANS.—The Sec-  
17          retary shall treat the approval of an exploration plan, or  
18          a significant revision of such a plan, as an agency action  
19          requiring preparation of an environmental assessment or  
20          environmental impact statement in accordance with the  
21          National Environmental Policy Act of 1969 (42 U.S.C.  
22          4321 et seq.), and shall require that such plan—

23                 “(1) be based on the best available technology  
24                 to ensure safety in carrying out both the drilling of  
25                 the well and any oil spill response; and

1           “(2) contain a technical systems analysis of the  
2 safety of the proposed activity, the blowout preven-  
3 tion technology, and the blowout and spill response  
4 plans.

5           “(j) DISAPPROVAL OF PLAN.—

6           “(1) IN GENERAL.—The Secretary shall dis-  
7 approve the plan if the Secretary determines, be-  
8 cause of exceptional geological conditions in the  
9 lease areas, exceptional resource values in the ma-  
10 rine or coastal environment, or other exceptional cir-  
11 cumstances, that—

12           “(A) implementation of the plan would  
13 probably cause serious harm or damage to life  
14 (including fish and other aquatic life), to prop-  
15 erty, to any mineral deposits (in areas leased or  
16 not leased), to the national security or defense,  
17 or to the marine, coastal, or human environ-  
18 ments;

19           “(B) the threat of harm or damage will  
20 not disappear or decrease to an acceptable ex-  
21 tent within a reasonable period of time; and

22           “(C) the advantages of disapproving the  
23 plan outweigh the advantages of exploration.

24           “(2) CANCELLATION OF LEASE FOR DIS-  
25 APPROVAL OF PLAN.—If a plan is disapproved under



1       this subsection, the Secretary may cancel such lease  
2       in accordance with subsection (c)(1) of this sec-  
3       tion.”.

4 **SEC. 209. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

5       Section 18 of the Outer Continental Shelf Lands Act  
6 (43 U.S.C. 1344) is amended—

7           (1) in subsection (a) in the second sentence by  
8       striking “meet national energy needs” and inserting  
9       “balance national energy needs and the protection of  
10      the marine and coastal environment and all the re-  
11      sources in that environment,”;

12          (2) in subsection (a)(1), by striking “considers”  
13      and inserting “gives equal consideration to”;

14          (3) in subsection (a)(2)(A)—

15           (A) by striking “existing” and inserting  
16      “the best available scientific”; and

17           (B) by inserting “, including at least three  
18      consecutive years of data” after “information”;

19          (4) in subsection (a)(2)(D), by inserting “po-  
20      tential and existing sites of renewable energy instal-  
21      lations,” after “deepwater ports,”;

22          (5) in subsection (a)(2)(H), by inserting “in-  
23      cluding the availability of infrastructure to support  
24      oil spill response” before the period;

25          (6) in subsection (a)(3), by—

1 (A) striking “to the maximum extent prac-  
2 ticable,”;

3 (B) striking “obtain a proper balance be-  
4 tween” and inserting “minimize”; and

5 (C) striking “damage,” and all that follows  
6 through the period and inserting “damage and  
7 adverse impacts on the marine, coastal, and  
8 human environments, and enhancing the poten-  
9 tial for the discovery of oil and gas.”;

10 (7) in subsection (b)(1), by inserting “environ-  
11 mental, marine, and energy” after “obtain”;

12 (8) in subsection (b)(2), by inserting “environ-  
13 mental, marine, and” after “interpret the”;

14 (9) in subsection (b)(3), by striking “and” after  
15 the semicolon at the end;

16 (10) by striking the period at the end of sub-  
17 section (b)(4) and inserting a semicolon;

18 (11) by adding at the end of subsection (b) the  
19 following:

20 “(5) provide technical review and oversight of  
21 exploration plans and a systems review of the safety  
22 of well designs and other operational decisions;

23 “(6) conduct regular and thorough safety re-  
24 views and inspections; and

1           “(7) enforce all applicable laws and regula-  
2           tions.”;

3           (12) in the first sentence of subsection (c)(1),  
4           by inserting “the National Oceanic and Atmospheric  
5           Administration and” after “including”;

6           (13) in subsection (c)(2)—

7           (A) by inserting after the first sentence the  
8           following: “The Secretary shall also submit a  
9           copy of such proposed program to the head of  
10          each Federal agency referred to in, or that oth-  
11          erwise provided suggestions under, paragraph  
12          (1).”;

13          (B) in the third sentence, by inserting “or  
14          head of a Federal agency” after “such Gov-  
15          ernor”; and

16          (C) in the fourth sentence, by inserting “or  
17          between the Secretary and the head of a Fed-  
18          eral agency,” after “affected State,”;

19          (14) by redesignating subsection (c)(3) as sub-  
20          section (c)(4) and by inserting before subsection  
21          (c)(4) (as so redesignated) the following:

22          “(3) At least 60 days prior to the publication of a  
23          proposed leasing program under this section, the Sec-  
24          retary shall request a review by the Secretary of Com-  
25          merce of the proposed leasing program with respect to im-

1 pacts on the marine and coastal environments. If the Sec-  
2 retary rejects or modifies any of the recommendations  
3 made by the Secretary of Commerce concerning the loca-  
4 tion, timing, or conduct of leasing activities under the pro-  
5 posed leasing program, the Secretary shall provide in writ-  
6 ing justification for rejecting or modifying such rec-  
7 ommendations.”.

8           (15) in the second sentence of subsection  
9           (d)(2), by inserting “, the head of a Federal agen-  
10          cy,” after “Attorney General”;

11           (16) in subsection (g), by inserting after the  
12          first sentence the following: “Such information may  
13          include existing inventories and mapping of marine  
14          resources previously undertaken by the Department  
15          of the Interior and the National Oceanic and Atmos-  
16          pheric Administration, information provided by the  
17          Department of Defense, and other available data re-  
18          garding energy or mineral resource potential, navi-  
19          gation uses, fisheries, aquaculture uses, recreational  
20          uses, habitat, conservation, and military uses on the  
21          outer Continental Shelf.”; and

22           (17) by adding at the end the following new  
23          subsection:

24          “(i) RESEARCH AND DEVELOPMENT.—The Secretary  
25          shall carry out a program of research and development

1 to ensure the continued improvement of methodologies for  
2 characterizing resources of the outer Continental Shelf  
3 and conditions that may affect the ability to develop and  
4 use those resources in a safe, sound, and environmentally  
5 responsible manner. Such research and development ac-  
6 tivities may include activities to provide accurate estimates  
7 of energy and mineral reserves and potential on the Outer  
8 Continental Shelf and any activities that may assist in fill-  
9 ing gaps in environmental data needed to develop each  
10 leasing program under this section.”.

11 **SEC. 210. ENVIRONMENTAL STUDIES.**

12 (a) INFORMATION NEEDED FOR ASSESSMENT AND  
13 MANAGEMENT OF ENVIRONMENTAL IMPACTS.—Section  
14 20 of the Outer Continental Shelf Lands Act (43 U.S.C.  
15 1346) is amended by striking so much as precedes “of  
16 any area” in subsection (a)(1) and inserting the following:  
17 **“SEC. 20. ENVIRONMENTAL STUDIES.**

18 “(a)(1) The Secretary, in cooperation with the Sec-  
19 retary of Commerce, shall conduct a study no less than  
20 once every three years”.

21 (b) IMPACTS OF DEEP WATER SPILLS.—Section 20  
22 of the Outer Continental Shelf Lands Act (43 U.S.C.  
23 1346) is amended by—

24 (1) redesignating subsections (c) through (f) as  
25 (d) through (g); and

1           (2) inserting after subsection (b) the following  
2           new subsection:

3           “(c) The Secretary shall conduct research to identify  
4           and reduce data gaps related to impacts of deepwater hy-  
5           drocarbon spills, including—

6                 “(1) effects to benthic substrate communities  
7                 and species;

8                 “(2) water column habitats and species;

9                 “(3) surface and coastal impacts from spills  
10            originating in deep waters; and

11                 “(4) the use of dispersants.”.

12 **SEC. 211. SAFETY REGULATIONS.**

13           Section 21 of the Outer Continental Shelf Lands Act  
14           (43 U.S.C. 1347) is amended—

15                 (1) in subsection (a), by striking “Upon the  
16                 date of enactment of this section,” and inserting  
17                 “Within 6 months after the date of enactment of the  
18                 Outer Continental Shelf Lands Act Amendments of  
19                 2010 and every three years thereafter,”;

20                 (2) in subsection (b) by—

21                         (A) striking “for the artificial islands, in-  
22                         stallations, and other devices referred to in sec-  
23                         tion 4(a)(1) of” and inserting “under”;

24                         (B) striking “which the Secretary deter-  
25                         mines to be economically feasible”; and

1           (C) adding at the end “Not later than 6  
2           months after the date of enactment of the  
3           Outer Continental Shelf Lands Act Amend-  
4           ments of 2010 and every 3 years thereafter, the  
5           Secretary shall, in consultation with the Outer  
6           Continental Shelf Safety and Environmental  
7           Advisory Board established under title I of the  
8           Consolidated Land, Energy, and Aquatic Re-  
9           sources Act of 2010, identify and publish an  
10          updated list of (1) the best available tech-  
11          nologies for key areas of well design and oper-  
12          ation, including blowout prevention and blowout  
13          and oil spill response and (2) technology needs  
14          for which the Secretary intends to identify best  
15          available technologies in the future.”; and

16          (3) by adding at the end the following:

17          “(g) SAFETY CASE.—Not later than 6 months after  
18          the date of enactment of the Outer Continental Shelf  
19          Lands Act Amendments of 2010, the Secretary shall pro-  
20          mulgate regulations requiring a safety case be submitted  
21          along with each new application for a permit to drill on  
22          the outer Continental Shelf. Not later than 5 years after  
23          the date final regulations promulgated under this sub-  
24          section go into effect, and not less than every 5 years  
25          thereafter, the Secretary shall enter into an arrangement

1 with the National Academy of Engineering to conduct a  
2 study to assess the effectiveness of these regulations and  
3 to recommend improvements in their administration.

4 “(h) OFFSHORE TECHNOLOGY RESEARCH AND RISK  
5 ASSESSMENT PROGRAM.—

6 “(1) IN GENERAL.—The Secretary shall carry  
7 out a program of research, development, and risk as-  
8 sessment to address technology and development  
9 issues associated with exploration for, and develop-  
10 ment and production of, energy and mineral re-  
11 sources on the outer Continental Shelf, with the pri-  
12 mary purpose of informing its role relating to safety,  
13 environmental protection, and spill response.

14 “(2) SPECIFIC FOCUS AREAS.—The program  
15 under this subsection shall include research and de-  
16 velopment related to—

17 “(A) risk assessment, using all available  
18 data from safety and compliance records both  
19 within the United States and internationally;

20 “(B) analysis of industry trends in tech-  
21 nology, investment, and frontier areas;

22 “(C) reviews of best available technologies,  
23 including those associated with pipelines, blow-  
24 out preventer mechanisms, casing, well design,



1 and other associated infrastructure related to  
2 offshore energy development;

3 “(D) oil spill response and mitigation, in-  
4 cluding reviews of the best available technology  
5 for oil spill response and mitigation and the  
6 availability and accessibility of such technology  
7 in each region where leasing is taking place;

8 “(E) risk associated with human factors;

9 “(F) technologies and methods to reduce  
10 the impact of geophysical exploration activities  
11 on marine life; and

12 “(G) renewable energy operations.”.

13 **SEC. 212. ENFORCEMENT OF SAFETY AND ENVIRON-**  
14 **MENTAL REGULATIONS.**

15 (a) IN GENERAL.—Section 22 of the Outer Conti-  
16 nental Shelf Lands Act (43 U.S.C. 1348) is amended—

17 (1) by amending subsection (c) to read as fol-  
18 lows:

19 “(c) INSPECTIONS.—The Secretary and the Secretary  
20 of the department in which the Coast Guard is operating  
21 shall individually, or jointly if they so agree, promulgate  
22 regulations to provide for—

23 “(1) scheduled onsite inspection, at least once a  
24 year, of each facility on the outer Continental Shelf  
25 which is subject to any environmental or safety regu-

1        lation promulgated pursuant to this Act, which in-  
2        spection shall include all safety equipment designed  
3        to prevent or ameliorate blowouts, fires, spillages, or  
4        other major accidents;

5            “(2) scheduled onsite inspection, at least once a  
6        month, of each facility on the outer Continental  
7        Shelf engaged in drilling operations and which is  
8        subject to any environmental or safety regulation  
9        promulgated pursuant to this Act, which inspection  
10       shall include validation of the safety case required  
11       for the facility under section 21(g) and identifica-  
12       tions of deviations from the safety case, and shall in-  
13       clude all safety equipment designed to prevent or  
14       ameliorate blowouts, fires, spillages, or other major  
15       accidents;

16            “(3) periodic onsite inspection without advance  
17        notice to the operator of such facility to assure com-  
18        pliance with such environmental or safety regula-  
19        tions; and

20            “(4) periodic audits of each required safety and  
21        environmental management plan, and any associated  
22        safety case, both with respect to their implementa-  
23        tion at each facility on the outer Continental Shelf  
24        for which such a plan or safety case is required and

1 with respect to onshore management support for ac-  
2 tivities at such a facility.”;

3 (2) in subsection (d)(1)—

4 (A) by striking “each major fire and each  
5 major oil spillage” and inserting “each major  
6 fire, each major oil spillage, each loss of well  
7 control, and any other accident that presented  
8 a serious risk to human or environmental safe-  
9 ty”; and

10 (B) by inserting before the period at the  
11 end the following: “, as a condition of the lease  
12 or permit”;

13 (3) in subsection (d)(2), by inserting before the  
14 period at the end the following: “as a condition of  
15 the lease or permit”;

16 (4) in subsection (e), by adding at the end the  
17 following: “Any such allegation from any employee  
18 of the lessee or any subcontractor of the lessee shall  
19 be investigated by the Secretary.”;

20 (5) in subsection (b)(1), by striking “recog-  
21 nized” and inserting “uncontrolled”; and

22 (6) by adding at the end the following:

23 “(g) INFORMATION ON CAUSES AND CORRECTIVE  
24 ACTIONS.—For any incident investigated under this sec-  
25 tion, the Secretary shall promptly make available to all

1 lessees and the public technical information about the  
2 causes and corrective actions taken. All data and reports  
3 related to any such incident shall be maintained in a data  
4 base available to the public.

5 “(h) OPERATOR’S ANNUAL CERTIFICATION.—

6 “(1) The Secretary, in cooperation with the  
7 Secretary of the department in which the Coast  
8 Guard is operating, shall require all operators of all  
9 new and existing drilling and production operations  
10 to annually certify that their operations are being  
11 conducted in accordance with applicable law and reg-  
12 ulations.

13 “(2) Each certification shall include, but, not be  
14 limited to, statements that verify the operator has—

15 “(A) examined all well control system  
16 equipment (both surface and subsea) being used  
17 to ensure that it has been properly maintained  
18 and is capable of shutting in the well during  
19 emergency operations;

20 “(B) examined and conducted tests to en-  
21 sure that the emergency equipment has been  
22 function-tested and is capable of addressing  
23 emergency situations;

24 “(C) reviewed all rig drilling, casing, ce-  
25 menting, well abandonment (temporary and

1 permanent), completion, and workover practices  
2 to ensure that well control is not compromised  
3 at any point while emergency equipment is in-  
4 stalled on the wellhead;

5 “(D) reviewed all emergency shutdown and  
6 dynamic positioning procedures that interface  
7 with emergency well control operations;

8 “(E) taken the necessary steps to ensure  
9 that all personnel involved in well operations  
10 are properly trained and capable of performing  
11 their tasks under both normal drilling and  
12 emergency well control operations; and

13 “(F) updated the operator’s response plan  
14 required under section 25(e)(7) and exploration  
15 plans required under section 11(e)(3) to reflect  
16 the best available technology, including the  
17 availability of such technology.

18 “(i) CEO STATEMENT.—

19 “(1) IN GENERAL.—The Secretary shall not ap-  
20 prove any application for a permit to drill a well  
21 under this Act unless such application is accom-  
22 panied by a statement in which the chief executive  
23 officer of the applicant attests, in writing, that—

1           “(A) the applicant is in compliance with all  
2 applicable environmental and natural resource  
3 conservation laws;

4           “(B) the applicant has the capability and  
5 technology to respond immediately and effec-  
6 tively to a worst-case oil spill in real-world con-  
7 ditions in the area of the proposed activity  
8 under the permit;

9           “(C) the applicant has an oil spill response  
10 plan that ensures that the applicant has the ca-  
11 pacity to promptly control and stop a blowout  
12 in the event that well control measures fail;

13           “(D) the blowout preventer to be used dur-  
14 ing the drilling of the well has redundant sys-  
15 tems to prevent or stop a blowout for all fore-  
16 seeable blowout scenarios and failure modes;

17           “(E) the well design is safe; and

18           “(F) the applicant has the capability to ex-  
19 peditiously begin and complete a relief well if  
20 necessary in the event of a blowout.

21           “(2) CIVIL PENALTY.—Any chief executive offi-  
22 cer who makes a false certification under paragraph  
23 (1) shall be liable for a civil penalty under section  
24 24.

1       “(j) THIRD PARTY CERTIFICATION.—All operators  
2 that modify or upgrade any emergency equipment placed  
3 on any operation to prevent blow-outs or other well control  
4 events, shall have an independent third party conduct a  
5 detailed physical inspection and design review of such  
6 equipment within 30 days of its installation. The inde-  
7 pendent third party shall certify that the equipment will  
8 operate as originally designed and any modifications or  
9 upgrades conducted after delivery have not compromised  
10 the design, performance, or functionality of the equip-  
11 ment. Failure to comply with this subsection shall result  
12 in suspension of the lease.”.

13       (b) APPLICATION.—Section 22(i) of the Outer Conti-  
14 nental Shelf Lands Act, as added by the amendments  
15 made by subsection (a), shall apply to approvals of appli-  
16 cations for a permit to drill that are submitted after the  
17 end of the 6-month period beginning on the date of enact-  
18 ment of this Act.

19 **SEC. 213. JUDICIAL REVIEW.**

20       Section 23(c)(3) of the Outer Continental Shelf  
21 Lands Act (43 U.S.C. 1349(c)(3)) is amended by striking  
22 “sixty” and inserting “90”.

1 **SEC. 214. REMEDIES AND PENALTIES.**

2 (a) CIVIL PENALTY, GENERALLY.—Section 24(b) of  
3 the Outer Continental Shelf Lands Act (43 U.S.C.  
4 1350(b)) is amended to read as follows:

5 “(b)(1) Except as provided in paragraph (2), any per-  
6 son who fails to comply with any provision of this Act,  
7 or any term of a lease, license, or permit issued pursuant  
8 to this Act, or any regulation or order issued under this  
9 Act, shall be liable for a civil administrative penalty of not  
10 more than \$75,000 for each day of the continuance of  
11 such failure. The Secretary may assess, collect, and com-  
12 promise any such penalty. No penalty shall be assessed  
13 until the person charged with a violation has been given  
14 an opportunity for a hearing. The Secretary shall, by regu-  
15 lation at least every 3 years, adjust the penalty specified  
16 in this paragraph to reflect any increases in the Consumer  
17 Price Index (all items, United States city average) as pre-  
18 pared by the Department of Labor.

19 “(2) If a failure described in paragraph (1) con-  
20 stitutes or constituted a threat of harm or damage to life  
21 (including fish and other aquatic life), property, any min-  
22 eral deposit, or the marine, coastal, or human environ-  
23 ment, a civil penalty of not more than \$150,000 shall be  
24 assessed for each day of the continuance of the failure.”.

25 (b) KNOWING AND WILLFUL VIOLATIONS.—Section  
26 24(c) of the Outer Continental Shelf Lands Act (43



1 U.S.C. 1350(c) is amended in paragraph (4) by striking  
2 “\$100,000” and inserting “\$10,000,000”.

3 (c) OFFICERS AND AGENTS OF CORPORATIONS.—  
4 Section 24(d) of the Outer Continental Shelf Lands Act  
5 (43 U.S.C. 1350(d)) is amended by inserting “, or with  
6 willful disregard,” after “knowingly and willfully”.

7 **SEC. 215. UNIFORM PLANNING FOR OUTER CONTINENTAL**  
8 **SHELF.**

9 Section 25 of the Outer Continental Shelf Lands Act  
10 (43 U.S.C. 1351) is amended—

11 (1) by striking “other than the Gulf of Mexico,”  
12 in each place it appears;

13 (2) in subsection (c), by striking “and” after  
14 the semicolon at the end of paragraph (5), redesignating  
15 paragraph (6) as paragraph (11), and inserting  
16 after paragraph (5) the following new paragraphs:  
17

18 “(6) a detailed and accurate description of  
19 equipment to be used for the drilling of wells pursuant  
20 to activities included in the development and  
21 production plan, including—

22 “(A) a description of the drilling unit or  
23 units;

24 “(B) a statement of the design and condi-  
25 tion of major safety-related pieces of equip-

1           ment, including independent third-party certifi-  
2           cation of such equipment; and

3                   “(C) a description of any new technology  
4           to be used;

5                   “(7) a scenario for the potential blowout of  
6           each well to be drilled as part of the plan involving  
7           the highest potential volume of liquid hydrocarbons,  
8           along with a complete description of a response plan  
9           to both control the blowout and manage the accom-  
10          panying discharge of hydrocarbons, including the  
11          likelihood for surface intervention to stop the blow-  
12          out, the availability of a rig to drill a relief well, an  
13          estimate of the time it would take to drill a relief  
14          well, a description of other technology that may be  
15          used to regain control of the well or capture escap-  
16          ing hydrocarbons and the potential timeline for  
17          using that technology for its intended purpose, and  
18          the strategy, organization, and resources necessary  
19          to avoid harm to the environment from hydro-  
20          carbons;

21                   “(8) an analysis of the potential impacts of the  
22          worst-case-scenario discharge on the marine and  
23          coastal environments for activities conducted pursu-  
24          ant to the proposed development and production  
25          plan;

1           “(9) a comprehensive survey and characteriza-  
2           tion of the coastal or marine environment within the  
3           area of operation, including bathymetry, currents  
4           and circulation patterns within the water column,  
5           and descriptions of benthic and pelagic environ-  
6           ments;

7           “(10) a description of the technologies to be de-  
8           ployed on the facilities to routinely observe and mon-  
9           itor in real time the marine environment throughout  
10          the duration of operations, and a description of the  
11          process by which such observation data and informa-  
12          tion will be made available to Federal regulators and  
13          to the System established under section 12304 of  
14          Public Law 111–11 (33 U.S.C. 3603); and”;

15          (3) in subsection (e), by striking so much as  
16          precedes paragraph (2) and inserting the following:

17          “(e)(1) The Secretary shall treat the approval of a  
18          development and production plan, or a significant revision  
19          of a development and production plan, as an agency action  
20          requiring preparation of an environmental assessment or  
21          environmental impact statement, in accordance with the  
22          National Environmental Policy Act of 1969 (42 U.S.C.  
23          4321 et seq.).”;

1           (4) by striking subsections (g) and (l), and re-  
2           designating subsections (h) through (k) as sub-  
3           sections (g) through and (j); and

4           (5) in subsection (g), as so redesignated, by re-  
5           designating paragraphs (2) and (3) as paragraphs  
6           (3) and (4), respectively, and inserting after para-  
7           graph (1) the following:

8           “(2) The Secretary shall not approve a develop-  
9           ment and production plan, or a significant revision  
10          to such a plan, unless—

11                  “(A) the plan is in compliance with all  
12                  other applicable environmental and natural re-  
13                  source conservation laws; and

14                  “(B) the applicant has available oil spill re-  
15                  sponse and clean-up equipment and technology  
16                  that has been demonstrated to be capable of ef-  
17                  fectively remediating the projected worst-case  
18                  release of oil from activities conducted pursuant  
19                  to the development and production plan.”.

20 **SEC. 216. OIL AND GAS INFORMATION PROGRAM.**

21          Section 26(a)(1) of the Outer Continental Shelf  
22          Lands Act (43 U.S.C. 1352(a)(1)) is amended by—

23                  (1) striking the period at the end of subpara-  
24                  graph (A) and inserting “, provided that such data  
25                  shall be transmitted in electronic format either in

1 real-time or as quickly as practicable following the  
2 generation of such data.”; and

3 (2) striking subparagraph (C) and inserting the  
4 following:

5 “(C) Lessees engaged in drilling operations  
6 shall provide to the Secretary—

7 “(i) all daily reports generated by the  
8 lessee, or any daily reports generated by  
9 contractors or subcontractors engaged in  
10 or supporting drilling operations on the  
11 lessee’s lease, no more than 24 hours after  
12 the end of the day for which they should  
13 have been generated;

14 “(ii) documentation of blowout pre-  
15 venter maintenance and repair, and any  
16 changes to design specifications of the  
17 blowout preventer, within 24 hours after  
18 such activity; and

19 “(iii) prompt or real-time trans-  
20 mission of the electronic log from a blow-  
21 out preventer control system.”.

22 **SEC. 217. LIMITATION ON ROYALTY-IN-KIND PROGRAM.**

23 Section 27(a) of the Outer Continental Shelf Lands  
24 Act (43 U.S.C. 1353(a)) is amended by striking the period  
25 at the end of paragraph (1) and inserting “, except that

1 the Secretary shall not conduct a regular program to take  
2 oil and gas lease royalties in oil or gas.”.

3 **SEC. 218. RESTRICTIONS ON EMPLOYMENT.**

4 Section 29 of the Outer Continental Shelf Lands Act  
5 (43 U.S.C. 1355) is amended—

6 (1) in the matter preceding paragraph (1)—

7 (A) by striking “SEC. 29” and all that fol-  
8 lows through “No full-time” and inserting the  
9 following:

10 **“SEC. 29. RESTRICTIONS ON EMPLOYMENT.**

11 “(a) IN GENERAL.—No full-time”; and

12 (B) by striking “, and who was at any  
13 time during the twelve months preceding the  
14 termination of his employment with the Depart-  
15 ment compensated under the Executive Sched-  
16 ule or compensated at or above the annual rate  
17 of basic pay for grade GS–16 of the General  
18 Schedule”;

19 (2) in paragraph (1)—

20 (A) in subparagraph (A), by inserting “or  
21 advise” after “represent”;

22 (B) in subparagraph (B), by striking “with  
23 the intent to influence, make” and inserting  
24 “act with the intent to influence, directly or in-  
25 directly, or make”; and

1 (C) in the matter following subparagraph

2 (C)—

3 (i) by inserting “inspection or enforce-  
4 ment action,” before “or other particular  
5 matter”; and

6 (ii) by striking “or” at the end;

7 (3) in paragraph (2)—

8 (A) in subparagraph (A), by inserting “or  
9 advise” after “represent”;

10 (B) in subparagraph (B), by striking “with  
11 the intent to influence, make” and inserting  
12 “act with the intent to influence, directly or in-  
13 directly, or make”; and

14 (C) by striking the period at the end and  
15 inserting “; or”; and

16 (4) by adding at the end the following:

17 “(3) during the 2-year period beginning on the  
18 date on which the employment of the officer or em-  
19 ployee ceased at the Department, accept employment  
20 or compensation from any party that has a direct  
21 and substantial interest—

22 “(A) that was pending under the official  
23 responsibility of the officer or employee as an  
24 officer at any point during the 2-year period

1 preceding the date of termination of the respon-  
2 sibility; or

3 “(B) in which the officer or employee par-  
4 ticipated personally and substantially as an offi-  
5 cer or employee of the Department.

6 “(b) PRIOR DEALINGS.—No full-time officer or em-  
7 ployee of the Department of the Interior who directly or  
8 indirectly discharged duties or responsibilities under this  
9 Act shall participate personally and substantially as a  
10 Federal officer or employee, through decision, approval,  
11 disapproval, recommendation, the rendering of advice, in-  
12 vestigation, or otherwise, in a proceeding, application, re-  
13 quest for a ruling or other determination, contract, claim,  
14 controversy, charge, accusation, inspection, enforcement  
15 action, or other particular matter in which, to the knowl-  
16 edge of the officer or employee—

17 “(1) the officer or employee or the spouse,  
18 minor child, or general partner of the officer or em-  
19 ployee has a financial interest;

20 “(2) any organization in which the officer or  
21 employee is serving as an officer, director, trustee,  
22 general partner, or employee has a financial interest;

23 “(3) any person or organization with whom the  
24 officer or employee is negotiating or has any ar-



1       rangement concerning prospective employment has a  
2       financial interest; or

3               “(4) any person or organization in which the of-  
4       ficer or employee has, within the preceding 1-year  
5       period, served as an officer, director, trustee, general  
6       partner, agent, attorney, consultant, contractor, or  
7       employee.

8               “(c) GIFTS FROM OUTSIDE SOURCES.—No full-time  
9       officer or employee of the Department of the Interior who  
10      directly or indirectly discharges duties or responsibilities  
11      under this Act shall, directly or indirectly, solicit or accept  
12      any gift in violation of subpart B of part 2635 of title  
13      5, Code of Federal Regulations (or successor regulations).

14              “(d) PENALTY.—Any person that violates subsection  
15      (a) or (b) shall be punished in accordance with section  
16      216 of title 18, United States Code.”.

17      **SEC. 219. REPEAL OF ROYALTY RELIEF PROVISIONS.**

18              (a) REPEAL OF PROVISIONS OF ENERGY POLICY ACT  
19      OF 2005.—The following provisions of the Energy Policy  
20      Act of 2005 (Public Law 109–58) are repealed:

21                      (1) Section 344 (42 U.S.C. 15904; relating to  
22              incentives for natural gas production from deep wells  
23              in shallow waters of the Gulf of Mexico).

1           (2) Section 345 (42 U.S.C. 15905; relating to  
2           royalty relief for deep water production in the Gulf  
3           of Mexico).

4           (b) REPEAL OF PROVISIONS RELATING TO PLAN-  
5           NING AREAS OFFSHORE ALASKA.—Section 8(a)(3)(B) of  
6           the Outer Continental Shelf Lands Act (43 U.S.C.  
7           1337(a)(3)(B)) is amended by striking “and in the Plan-  
8           ning Areas offshore Alaska”.

9           **SEC. 220. MANNING AND BUY- AND BUILD-AMERICAN RE-**  
10           **QUIREMENTS.**

11           Section 30 of the Outer Continental Shelf Lands Act  
12           (43 U.S.C. 1356) is amended—

13           (1) in subsection (a), by striking “shall issue  
14           regulations which” and inserting “shall issue regula-  
15           tions that shall be supplemental to and complemen-  
16           tary with and under no circumstances a substitution  
17           for the provisions of the Constitution and laws of the  
18           United States extended to the subsoil and seabed of  
19           the outer Continental Shelf pursuant to section  
20           4(a)(1) of this Act, except insofar as such laws  
21           would otherwise apply to individuals who have ex-  
22           traordinary ability in the sciences, arts, education,  
23           or business, which has been demonstrated by sus-  
24           tained national or international acclaim, and that”;  
25           and

1 (2) by adding at the end the following:

2 “(d) BUY AND BUILD AMERICAN.—It is the intention  
3 of the Congress that this Act, among other things, result  
4 in a healthy and growing American industrial, manufac-  
5 turing, transportation, and service sector employing the  
6 vast talents of America’s workforce to assist in the devel-  
7 opment of energy from the outer Continental Shelf. More-  
8 over, the Congress intends to monitor the deployment of  
9 personnel and material on the outer Continental Shelf to  
10 encourage the development of American technology and  
11 manufacturing to enable United States workers to benefit  
12 from this Act by good jobs and careers, as well as the  
13 establishment of important industrial facilities to support  
14 expanded access to American resources.”.

15 **SEC. 221. NATIONAL COMMISSION ON THE BP DEEPWATER**  
16 **HORIZON OIL SPILL AND OFFSHORE DRILL-**  
17 **ING.**

18 (a) TECHNICAL EXPERTISE.—

19 (1) NATIONAL ACADEMY OF ENGINEERING AND  
20 NATIONAL RESEARCH COUNCIL.—The National  
21 Commission on the BP Deepwater Horizon Oil Spill  
22 and Offshore Drilling established under Executive  
23 Order No. 13543 of May 21, 2010 (referred to in  
24 this section as the “Commission”) shall consult reg-  
25 ularly, and in any event no less frequently than once

1 per month, with the engineering and technology ex-  
2 perts who are conducting the “Analysis of Causes of  
3 the Deepwater Horizon Explosion, Fire, and Oil  
4 Spill to Identify Measures to Prevent Similar Acci-  
5 dents in the Future” for the National Academy of  
6 Engineering and the National Research Council.

7 (2) OTHER TECHNICAL EXPERTS.—The Com-  
8 mission also shall consult with other United States  
9 citizens with experience and expertise in such areas  
10 as—

11 (A) engineering;

12 (B) environmental compliance;

13 (C) health and safety law (particularly oil  
14 spill legislation);

15 (D) oil spill insurance policies;

16 (E) public administration;

17 (F) oil and gas exploration and production;

18 (G) environmental cleanup;

19 (H) fisheries and wildlife management;

20 (I) marine safety; and

21 (J) human factors affecting safety.

22 (3) COMMISSION STAFF AND TECHNICAL EX-  
23 PERTISE.—The Commission shall retain, as either a  
24 full-time employee or a contractor, one or more  
25 science and technology expert-advisors with experi-

1       ence and expertise in petroleum engineering, rig  
2       safety, or drilling.

3       (b) SUBPOENAS.—

4             (1) SUBPOENA POWER.—The Commission may  
5       issue subpoenas in accordance with this subsection  
6       to compel the attendance and testimony of witnesses  
7       and the production of books, records, correspond-  
8       ence, memoranda, and other documents.

9             (2) ISSUANCE.—

10            (A) AUTHORIZATION.—A subpoena may be  
11       issued under this subsection only by—

12                   (i) agreement of the Co-Chairs of the  
13       Commission; or

14                   (ii) the affirmative vote of a majority  
15       of the members of the Commission.

16            (B) JUSTICE DEPARTMENT COORDINA-  
17       TION.—

18                   (i) NOTIFICATION.—The Commission  
19       shall notify the Attorney General or the  
20       Attorney General's designee of the Com-  
21       mission's intent to issue a subpoena under  
22       this subsection, the identity of the recipi-  
23       ent, and the nature of the testimony, docu-  
24       ments, or other evidence (described in sub-  
25       paragraph (A)) sought before issuing such

1 a subpoena. The form and content of such  
2 notice shall be set forth in the guidelines  
3 issued under clause (iv).

4 (ii) CONDITIONS FOR OBJECTION TO  
5 ISSUANCE.—The Commission may not  
6 issue a subpoena under authority of this  
7 Act if the Attorney General objects to the  
8 issuance of the subpoena on the basis that  
9 the subpoena is likely to interfere with  
10 any—

11 (I) Federal or State criminal in-  
12 vestigation or prosecution;

13 (II) pending investigation under  
14 sections 3729 through 3732 of title  
15 31, United States Code (commonly  
16 known as the “Civil False Claims  
17 Act”);

18 (III) pending investigation under  
19 any other Federal statute providing  
20 for civil remedies; or

21 (IV) civil litigation to which the  
22 United States or any of its agencies is  
23 or is likely to be a party.

24 (iii) NOTIFICATION OF OBJECTION.—  
25 The Attorney General or relevant United

1 States Attorney shall notify the Commis-  
2 sion of an objection raised under this sub-  
3 paragraph without unnecessary delay and  
4 as set forth in the guidelines issued under  
5 clause (iv).

6 (iv) GUIDELINES.—As soon as prac-  
7 ticable, but no later than 30 days after the  
8 date of the enactment of this Act, the At-  
9 torney General, after consultation with the  
10 Commission, shall issue guidelines to carry  
11 out this paragraph.

12 (C) SIGNATURE AND SERVICE.—A sub-  
13 poena issued under this subsection may be—

14 (i) issued under the signature of ei-  
15 ther Co-Chair of the Commission or any  
16 member designated by a majority of the  
17 Commission; and

18 (ii) served by any person designated  
19 by the Co-Chairs or a member designated  
20 by a majority of the Commission.

21 (3) ENFORCEMENT.—

22 (A) REQUIRED PROCEDURES.—In the case  
23 of contumacy of any person issued a subpoena  
24 under this subsection or refusal by such person  
25 to comply with the subpoena, the Commission

1           may request the Attorney General to seek en-  
2           forcement of the subpoena. Upon such request,  
3           the Attorney General may seek enforcement of  
4           the subpoena in a court described in subpara-  
5           graph (B). The court in which the Attorney  
6           General seeks enforcement of the subpoena may  
7           issue an order requiring the subpoenaed person  
8           to appear at any designated place to testify or  
9           to produce documentary or other evidence de-  
10          scribed in subparagraph (A) of paragraph (2),  
11          and may punish any failure to obey the order  
12          as a contempt of that court.

13                   (B) JURISDICTION FOR ENFORCEMENT.—

14          Any United States district court for a judicial  
15          district in which a person issued a subpoena  
16          under this subsection resides, is served, or may  
17          be found, or where the subpoena is returnable,  
18          upon application of the Attorney General, shall  
19          have jurisdiction to enforce the subpoena as  
20          provided in subparagraph (A).

21                   (c) RECOMMENDATIONS AND PURPOSES.—

22                   (1) IN GENERAL.—The Commission shall de-  
23          velop recommendations for—



1 (A) improvements to Federal laws, regula-  
2 tions, and industry practices applicable to off-  
3 shore drilling that would—

4 (i) ensure the effective oversight, in-  
5 spection, monitoring, and response capa-  
6 bilities; and

7 (ii) protect the environment and nat-  
8 ural resources; and

9 (B) organizational or other reforms of  
10 Federal agencies or processes, including the  
11 creation of new agencies, as necessary, to en-  
12 sure that the improvements described in para-  
13 graph (1) are implemented and maintained.

14 (2) GOALS.—In developing recommendations  
15 under paragraph (1), the Commission shall ensure  
16 that the following goals are met:

17 (A) Ensuring the safe operation and main-  
18 tenance of offshore drilling platforms or vessels.

19 (B) Protecting the overall environment and  
20 natural resources surrounding ongoing and po-  
21 tential offshore drilling sites.

22 (C) Developing and maintaining Federal  
23 agency expertise on the safe and effective use of  
24 offshore drilling technologies, including tech-

1 nologies to minimize the risk of release of oil  
2 from offshore drilling platforms or vessels.

3 (D) Encouraging the development and im-  
4 plementation of efficient and effective oil spill  
5 response techniques and technologies that mini-  
6 mize or eliminate any adverse effects on natural  
7 resources or the environment that result from  
8 response activities.

9 (E) Ensuring that the Federal agencies  
10 regulating offshore drilling are staffed with, and  
11 managed by, career professionals, who are—

12 (i) permitted to exercise independent  
13 professional judgments and make safety  
14 the highest priority in carrying out their  
15 responsibilities;

16 (ii) not subject to undue influence  
17 from regulated interests or political ap-  
18 pointees; and

19 (iii) subject to strict regulation to pre-  
20 vent improper relationships with regulated  
21 interests and to eliminate real or perceived  
22 conflicts of interests.

23 (3) REPORT TO CONGRESS.—In coordination  
24 with its final public report to the President, the  
25 Commission shall submit to Congress a report con-

1 taining the recommendations developed under para-  
2 graph (1).

3 **SEC. 222. COORDINATION AND CONSULTATION WITH AF-**  
4 **FECTED STATE AND LOCAL GOVERNMENTS.**

5 Section 19 of the Outer Continental Shelf Lands Act  
6 (43 U.S.C. 1345) is amended—

7 (1) by inserting “exploration plan or” before  
8 “development and production plan” in each place it  
9 appears; and

10 (2) by amending subsection (c) to read as fol-  
11 lows:

12 “(c) ACCEPTANCE OR REJECTION OF RECOMMENDA-  
13 TIONS.—The Secretary shall accept recommendations of  
14 the Governor and may accept recommendations of the ex-  
15 ecutive of any affected local government if the Secretary  
16 determines, after having provided the opportunity for con-  
17 sultation, that they provide for a reasonable balance be-  
18 tween the national interest and the well-being of the citi-  
19 zens of the affected State. For purposes of this subsection,  
20 a determination of the national interest shall be based on  
21 the desirability of obtaining oil and gas supplies in a bal-  
22 anced manner and on protecting coastal and marine eco-  
23 systems and the economies dependent on those eco-  
24 systems. The Secretary shall provide an explanation to the  
25 Governor, in writing, of the reasons for his determination

1 to accept or reject such Governor’s recommendations, or  
2 to implement any alternative identified in consultation  
3 with the Governor.”.

4 **SEC. 223. IMPLEMENTATION.**

5 (a) **NEW LEASES.**—The provisions of this title and  
6 title VII shall apply to any lease that is issued under the  
7 Outer Continental Shelf Lands Act (43 U.S.C. 1331 et  
8 seq.) after the effective date of this Act.

9 (b) **EXISTING LEASES.**—For all leases that were  
10 issued under the Outer Continental Shelf Lands Act (43  
11 U.S.C. 1331 et seq.) that are in effect on the effective  
12 date of this Act, the Secretary shall take action, consistent  
13 with the terms of those leases, to apply the requirements  
14 of this title and title VII to those leases. Such action may  
15 include, but is not limited to, promulgating regulations,  
16 renegotiating such existing leases, conditioning future  
17 leases on bringing such existing leases into full or partial  
18 compliance with this title and title VII, or taking any other  
19 actions authorized by law.

20 **SEC. 224. REPORT ON ENVIRONMENTAL BASELINE STUD-**  
21 **IES.**

22 The Secretary of the Interior shall report to Congress  
23 within 6 months after the date of enactment of this Act  
24 on the costs of baseline environmental studies to gather,  
25 analyze, and characterize resource data necessary to im-

1 plement the Outer Continental Shelf Lands Act (43  
2 U.S.C. 1331 et seq.). The Secretary shall include in the  
3 report proposals of fees or other ways to recoup such costs  
4 from persons engaging or seeking to engage in activities  
5 on the Outer Continental Shelf to which that Act applies.

6 **SEC. 225. CUMULATIVE IMPACTS ON MARINE MAMMAL SPE-**  
7 **CIES AND STOCKS AND SUBSISTENCE USE.**

8 Section 20 of the Outer Continental Shelf Lands Act  
9 (43 U.S.C. 1346) is further amended by adding at the  
10 end the following:

11 “(h) CUMULATIVE IMPACTS ON MARINE MAMMAL  
12 SPECIES AND STOCKS AND SUBSISTENCE USE.—In deter-  
13 mining, pursuant to subparagraphs (A)(i) and (D)(i) of  
14 section 101(a)(5) of the Marine Mammal Protection Act  
15 of 1972 (16 U.S.C.1371(a)(5)), whether takings from  
16 specified activities administered under this title will have  
17 a negligible impact on a marine mammal species or stock,  
18 and not have an unmitigable adverse impact on the avail-  
19 ability of such species or stock for taking for subsistence  
20 uses, the Secretary of Commerce or Interior shall incor-  
21 porate any takings of such species or stock from any other  
22 reasonably foreseeable activities administered under this  
23 Act.”.

1           **Subtitle B—Royalty Relief for**  
2                           **American Consumers**

3   **SEC. 231. SHORT TITLE.**

4           This subtitle may be cited as the “Royalty Relief for  
5 American Consumers Act of 2010”.

6   **SEC. 232. ELIGIBILITY FOR NEW LEASES AND THE TRANS-**  
7                           **FER OF LEASES.**

8           (a) ISSUANCE OF NEW LEASES.—

9                   (1) IN GENERAL.—The Secretary shall not  
10           issue any new lease that authorizes the production  
11           of oil or natural gas under the Outer Continental  
12           Shelf Lands Act (43 U.S.C. 1331 et seq.) to a per-  
13           son described in paragraph (2) unless the person has  
14           renegotiated each covered lease with respect to which  
15           the person is a lessee, to modify the payment re-  
16           sponsibilities of the person to require the payment of  
17           royalties if the price of oil and natural gas is greater  
18           than or equal to the price thresholds described in  
19           clauses (v) through (vii) of section 8(a)(3)(C) of the  
20           Outer Continental Shelf Lands Act (43 U.S.C.  
21           1337(a)(3)(C)).

22                   (2) PERSONS DESCRIBED.—A person referred  
23           to in paragraph (1) is a person that—

24                           (A) is a lessee that—

1 (i) holds a covered lease on the date  
2 on which the Secretary considers the  
3 issuance of the new lease; or

4 (ii) was issued a covered lease before  
5 the date of enactment of this Act, but  
6 transferred the covered lease to another  
7 person or entity (including a subsidiary or  
8 affiliate of the lessee) after the date of en-  
9 actment of this Act; or

10 (B) any other person that has any direct  
11 or indirect interest in, or that derives any ben-  
12 efit from, a covered lease.

13 (3) MULTIPLE LESSEES.—

14 (A) IN GENERAL.—For purposes of para-  
15 graph (1), if there are multiple lessees that own  
16 a share of a covered lease, the Secretary may  
17 implement separate agreements with any lessee  
18 with a share of the covered lease that modifies  
19 the payment responsibilities with respect to the  
20 share of the lessee to include price thresholds  
21 that are equal to or less than the price thresh-  
22 olds described in clauses (v) through (vii) of  
23 section 8(a)(3)(C) of the Outer Continental  
24 Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

1 (B) TREATMENT OF SHARE AS COVERED  
2 LEASE.—Beginning on the effective date of an  
3 agreement under subparagraph (A), any share  
4 subject to the agreement shall not constitute a  
5 covered lease with respect to any lessees that  
6 entered into the agreement.

7 (b) TRANSFERS.—A lessee or any other person who  
8 has any direct or indirect interest in, or who derives a  
9 benefit from, a lease shall not be eligible to obtain by sale  
10 or other transfer (including through a swap, spinoff, serv-  
11 icing, or other agreement) any covered lease, the economic  
12 benefit of any covered lease, or any other lease for the  
13 production of oil or natural gas in the Gulf of Mexico  
14 under the Outer Continental Shelf Lands Act (43 U.S.C.  
15 1331 et seq.), unless the lessee or other person has—

16 (1) renegotiated each covered lease with respect  
17 to which the lessee or person is a lessee, to modify  
18 the payment responsibilities of the lessee or person  
19 to include price thresholds that are equal to or less  
20 than the price thresholds described in clauses (v)  
21 through (vii) of section 8(a)(3)(C) of the Outer Con-  
22 tinental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C));  
23 or

24 (2) entered into an agreement with the Sec-  
25 retary to modify the terms of all covered leases of



1 the lessee or other person to include limitations on  
2 royalty relief based on market prices that are equal  
3 to or less than the price thresholds described in  
4 clauses (v) through (vii) of section 8(a)(3)(C) of the  
5 Outer Continental Shelf Lands Act (43 U.S.C.  
6 1337(a)(3)(C)).

7 (c) USE OF AMOUNTS FOR DEFICIT REDUCTION.—  
8 Notwithstanding any other provision of law, any amounts  
9 received by the United States as rentals or royalties under  
10 covered leases shall be deposited in the Treasury and used  
11 for Federal budget deficit reduction or, if there is no Fed-  
12 eral budget deficit, for reducing the Federal debt in such  
13 manner as the Secretary of the Treasury considers appro-  
14 priate.

15 (d) DEFINITIONS.—In this section—

16 (1) COVERED LEASE.—The term “covered  
17 lease” means a lease for oil or gas production in the  
18 Gulf of Mexico that is—

19 (A) in existence on the date of enactment  
20 of this Act;

21 (B) issued by the Department of the Inte-  
22 rior under section 304 of the Outer Continental  
23 Shelf Deep Water Royalty Relief Act (43  
24 U.S.C. 1337 note; Public Law 104-58); and

1 (C) not subject to limitations on royalty re-  
2 lief based on market price that are equal to or  
3 less than the price thresholds described in  
4 clauses (v) through (vii) of section 8(a)(3)(C) of  
5 the Outer Continental Shelf Lands Act (43  
6 U.S.C. 1337(a)(3)(C)).

7 (2) LESSEE.—The term “lessee” includes any  
8 person or other entity that controls, is controlled by,  
9 or is in or under common control with, a lessee.

10 (3) SECRETARY.—The term “Secretary” means  
11 the Secretary of the Interior.

12 **SEC. 233. PRICE THRESHOLDS FOR ROYALTY SUSPENSION**  
13 **PROVISIONS.**

14 The Secretary of the Interior shall agree to a request  
15 by any lessee to amend any lease issued for any Central  
16 and Western Gulf of Mexico tract in the period of January  
17 1, 1996, through November 28, 2000, to incorporate price  
18 thresholds applicable to royalty suspension provisions, that  
19 are equal to or less than the price thresholds described  
20 in clauses (v) through (vii) of section 8(a)(3)(C) of the  
21 Outer Continental Shelf Lands Act (43 U.S.C.  
22 1337(a)(3)(C)). Any amended lease shall impose the new  
23 or revised price thresholds effective October 1, 2010. Ex-  
24 isting lease provisions shall prevail through September 30,  
25 2010.

1                   **Subtitle C—Limitation on**  
2                   **Moratorium**

3   **SEC. 241. LIMITATION OF MORATORIUM ON CERTAIN PER-**  
4                   **MITTING AND DRILLING ACTIVITIES.**

5           (a) IN GENERAL.—The moratorium set forth in the  
6 decision memorandum of the Secretary of the Interior en-  
7 titled “Decision memorandum regarding the suspension of  
8 certain offshore permitting and drilling activities on the  
9 Outer Continental Shelf” and dated July 12, 2010, and  
10 any suspension of operations issued in connection with the  
11 moratorium, shall not apply to an application for a permit  
12 to drill submitted on or after the effective date of this Act  
13 if the Secretary determines that the applicant—

14           (1) has complied with the notice entitled “Na-  
15 tional Notice to Lessees and Operators of Federal  
16 Oil and Gas Leases, Outer Continental Shelf  
17 (OCS)” dated June 8, 2010 (NTL No. 2010–N05)  
18 and the notice entitled “National Notice to Lessees  
19 and Operators of Federal Oil and Gas Leases, Outer  
20 Continental Shelf (OCS)” dated June 18, 2010  
21 (NTL No. 2010–N06);

22           (2) has complied with additional safety meas-  
23 ures recommended by the Secretary as of the date  
24 of the enactment of this Act; and

1           (3) has completed all required safety inspec-  
2           tions.

3           (b) DETERMINATION ON PERMIT.—Not later than 30  
4           days after the date on which the Secretary makes a deter-  
5           mination that an applicant has complied with paragraphs  
6           (1), (2), and (3) of subsection (a), the Secretary shall  
7           make a determination on whether to issue the permit.

8           (c) NO SUSPENSION OF CONSIDERATION.—No Fed-  
9           eral entity shall suspend the active consideration of, or  
10          preparatory work for, permits required to resume or ad-  
11          vance activities suspended in connection with the morato-  
12          rium.

13          (d) REPORT TO CONGRESS.—Not later than October  
14          31, 2010, the Secretary shall report to the House Com-  
15          mittee on Natural Resources and the Senate Committee  
16          on Energy and Natural Resources on the status of: (1)  
17          the collection and analysis of evidence regarding the poten-  
18          tial causes of the April 20, 2010 explosion and sinking  
19          of the Deepwater Horizon offshore drilling rig, including  
20          information collected by the Presidential Commission and  
21          other investigations; (2) implementation of safety reforms  
22          described in the May 27, 2010, Departmental report enti-  
23          tled “Increased Safety Measures for Energy Development  
24          on the Outer Continental Shelf,”; (3) the ability of opera-  
25          tors in the Gulf of Mexico to respond effectively to an oil

1 spill in light of the Deepwater Horizon incident; and (4)  
2 industry and government efforts to engineer, design, con-  
3 struct and assemble wild well intervention and blowout  
4 containment resources necessary to contain an uncon-  
5 trolled release of hydrocarbons in deep water should an-  
6 other blowout occur.

7 (e) SAVINGS CLAUSE.—Nothing herein affects the  
8 Secretary’s authority to suspend offshore drilling permit-  
9 ting and drilling operations based on the threat of signifi-  
10 cant, irreparable or immediate harm or damage to life,  
11 property, or the marine, coastal or human environment  
12 pursuant to the Outer Continental Shelf Lands Act (43  
13 U.S.C. 133 et seq.).

## 14 **TITLE III—OIL AND GAS** 15 **ROYALTY REFORM**

### 16 **SEC. 301. AMENDMENTS TO DEFINITIONS.**

17 Section 3 of the Federal Oil and Gas Royalty Man-  
18 agement Act of 1982 (30 U.S.C. 1702) is amended—

19 (1) in paragraph (8), by striking the semicolon  
20 and inserting “including but not limited to the Act  
21 of October 20, 1914 (38 Stat. 741); the Act of Feb-  
22 ruary 25, 1920 (41 Stat. 437); the Act of April 17,  
23 1926 (44 Stat. 301); the Act of February 7, 1927  
24 (44 Stat. 1057); and all Acts heretofore or hereafter

1 enacted that are amendatory of or supplementary to  
2 any of the foregoing Acts;”;

3 (2) in paragraph (20)(A), by striking “: *Pro-*  
4 *vided, That*” and all that follows through “subject of  
5 the judicial proceeding”;

6 (3) in paragraph (20)(B), by striking “(with  
7 written notice to the lessee who designated the des-  
8 ignee)”;

9 (4) in paragraph (23)(A), by striking “(with  
10 written notice to the lessee who designated the des-  
11 ignee)”;

12 (5) by striking paragraph (24) and inserting  
13 the following:

14 “(24) ‘designee’ means a person who pays, off-  
15 sets, or credits monies, makes adjustments, requests  
16 and receives refunds, or submits reports with respect  
17 to payments a lessee must make pursuant to section  
18 102(a);”;

19 (6) in paragraph (25)(B)—

20 (A) by striking “(subject to the provisions  
21 of section 102(a) of this Act)”;

22 (B) in clause (ii) by striking the matter  
23 after subclause (IV) and inserting the following:

24 “that arises from or relates to any lease, easement, right-  
25 of-way, permit, or other agreement regardless of form ad-

1 ministered by the Secretary for, or any mineral leasing  
2 law related to, the exploration, production, and develop-  
3 ment of oil and gas or other energy resource on Federal  
4 lands or the Outer Continental Shelf;”.

5 (7) in paragraph (29), by inserting “or permit”  
6 after “lease”; and

7 (8) by striking “and” after the semicolon at the  
8 end of paragraph (32), by striking the period at the  
9 end of paragraph (33) and inserting a semicolon,  
10 and by adding at the end the following new para-  
11 graphs:

12 “(34) ‘compliance review’ means a full-scope or  
13 a limited-scope examination of a lessee’s lease ac-  
14 counts to compare one or all elements of the royalty  
15 equation (volume, value, royalty rate, and allow-  
16 ances) against anticipated elements of the royalty  
17 equation to test for variances; and

18 “(35) ‘marketing affiliate’ means an affiliate of  
19 a lessee whose function is to acquire the lessee’s pro-  
20 duction and to market that production.”.

21 **SEC. 302. COMPLIANCE REVIEWS.**

22 Section 101 of the Federal Oil and Gas Royalty Man-  
23 agement Act of 1982 (30 U.S.C. 1711) is amended by  
24 adding at the end the following new subsection:





1 a designee shall be liable for any payment obligation of  
2 any lessee on whose behalf the designee pays royalty under  
3 the lease. The person owning operating rights in a lease  
4 and a person owning legal record title in a lease shall be  
5 liable for that person's pro rata share of payment obliga-  
6 tions under the lease.”.

7 **SEC. 304. REQUIRED RECORDKEEPING.**

8 Section 103(b) of the Federal Oil and Gas Royalty  
9 Management Act of 1982 (30 U.S.C. 1712(a)) is amended  
10 by striking “6” and inserting “7”.

11 **SEC. 305. FINES AND PENALTIES.**

12 Section 109 of the Federal Oil and Gas Royalty Man-  
13 agement Act of 1982 (30 U.S.C. 1719) is amended—

14 (1) in subsection (a) in the matter following  
15 paragraph (2), by striking “\$500” and inserting  
16 “\$1,000”;

17 (2) in subsection (a)(2)(B), by inserting “(i)”  
18 after “such person”, and by striking the period at  
19 the end and inserting “; and (ii) has not received no-  
20 tice, pursuant to paragraph (1), of more than two  
21 prior violations in the current calendar year.”;

22 (3) in subsection (b), by striking “\$5,000” and  
23 inserting “\$10,000”;

24 (4) in subsection (c)—

1 (A) in paragraph (2), by striking “; or”  
2 and inserting “, including any failure or refusal  
3 to promptly tender requested documents;”;

4 (B) in the text following paragraph (3)—

5 (i) by striking “\$10,000” and insert-  
6 ing “\$20,000”; and

7 (ii) by striking the comma at the end  
8 and inserting a semicolon; and

9 (C) by adding at the end the following new  
10 paragraphs:

11 “(4) knowingly or willfully fails to make any  
12 royalty payment in the amount or value as specified  
13 by statute, regulation, order, or terms of the lease;  
14 or

15 “(5) fails to correctly report and timely provide  
16 operations or financial records necessary for the Sec-  
17 retary or any authorized designee of the Secretary to  
18 accomplish lease management responsibilities;”;

19 (5) in subsection (d), by striking “\$25,000”  
20 and inserting “\$50,000”;

21 (6) in subsection (h), by striking “by registered  
22 mail” and inserting “a common carrier that provides  
23 proof of delivery”; and

24 (7) by adding at the end the following sub-  
25 section:

1       “(m)(1) Any determination by the Secretary or a des-  
2 ignee of the Secretary that a person has committed a vio-  
3 lation under subsection (a), (c), or (d)(1) shall toll any  
4 applicable statute of limitations for all oil and gas leases  
5 held or operated by such person, until the later of—

6               “(A) the date on which the person corrects the  
7 violation and certifies that all violations of a like na-  
8 ture have been corrected for all of the oil and gas  
9 leases held or operated by such person; or

10              “(B) the date a final, nonappealable order has  
11 been issued by the Secretary or a court of competent  
12 jurisdiction.

13       “(2) A person determined by the Secretary or a des-  
14 ignee of the Secretary to have violated subsection (a), (c),  
15 or (d)(1) shall maintain all records with respect to the per-  
16 son’s oil and gas leases until the later of—

17              “(A) the date the Secretary releases the person  
18 from the obligation to maintain such records; and

19              “(B) the expiration of the period during which  
20 the records must be maintained under section  
21 103(b).”.

22 **SEC. 306. INTEREST ON OVERPAYMENTS.**

23       Section 111 of the Federal Oil and Gas Royalty Man-  
24 agement Act of 1982 (30 U.S.C. 1721) is amended—

1           (1) by amending subsections (h) and (i) to read  
2           as follows:

3           “(h) Interest shall not be allowed nor paid nor cred-  
4           ited on any overpayment, and no interest shall accrue from  
5           the date such overpayment was made.

6           “(i) A lessee or its designee may make a payment  
7           for the approximate amount of royalties (hereinafter in  
8           this subsection referred to as the ‘estimated payment’)  
9           that would otherwise be due for such lease by the date  
10          royalties are due for that lease. When an estimated pay-  
11          ment is made, actual royalties are payable at the end of  
12          the month following the month in which the estimated  
13          payment is made. If the estimated payment was less than  
14          the amount of actual royalties due, interest is owed on  
15          the underpaid amount. If the lessee or its designee makes  
16          a payment for such actual royalties, the lessee or its des-  
17          ignee may apply the estimated payment to future royal-  
18          ties. Any estimated payment may be adjusted, recouped,  
19          or reinstated by the lessee or its designee provided such  
20          adjustment, recoupment, or reinstatement is made within  
21          the limitation period for which the date royalties were due  
22          for that lease.”;

23           (2) by striking subsection (j); and

24           (3) in subsection (k)(4)—

1 (A) by striking “or overpaid royalties and  
2 associated interest”; and

3 (B) by striking “, refunded, or credited”.

4 **SEC. 307. ADJUSTMENTS AND REFUNDS.**

5 Section 111A of the Federal Oil and Gas Royalty  
6 Management Act of 1982 (30 U.S.C. 1721a) is amend-  
7 ed—

8 (1) in subsection (a)(3), by inserting “(A)”  
9 after “(3)”, and by striking the last sentence and in-  
10 serting the following:

11 “(B) Except as provided in subparagraph  
12 (C), no adjustment may be made with respect  
13 to an obligation that is the subject of an audit  
14 or compliance review after completion of the  
15 audit or compliance review, respectively, unless  
16 such adjustment is approved by the Secretary  
17 or the applicable delegated State, as appro-  
18 priate.

19 “(C) If an overpayment is identified during  
20 an audit, the Secretary shall allow a credit in  
21 the amount of the overpayment.”;

22 (2) in subsection (a)(4)—

23 (A) by striking “six” and inserting “four”;  
24 and

1 (B) by striking “shall” the second place it  
2 appears and inserting “may”; and

3 (3) in subsection (b)(1) by striking “and” after  
4 the semicolon at the end of subparagraph (C), by  
5 striking the period at the end of subparagraph (D)  
6 and inserting “; and”, and by adding at the end the  
7 following:

8 “(E) is made within the adjustment period  
9 for that obligation.”.

10 **SEC. 308. CONFORMING AMENDMENT.**

11 Section 114 of the Federal Oil and Gas Royalty Man-  
12 agement Act of 1982 is repealed.

13 **SEC. 309. OBLIGATION PERIOD.**

14 Section 115(c) of the Federal Oil and Gas Royalty  
15 Management Act of 1982 (30 U.S.C. 1724(c)) is amended  
16 by adding at the end the following new paragraph:

17 “(3) ADJUSTMENTS.—In the case of an adjust-  
18 ment under section 111A(a) in which a recoupment  
19 by the lessee results in an underpayment of an obli-  
20 gation, for purposes of this Act the obligation be-  
21 comes due on the date the lessee or its designee  
22 makes the adjustment.”.

1 **SEC. 310. NOTICE REGARDING TOLLING AGREEMENTS AND**  
2 **SUBPOENAS.**

3 (a) TOLLING AGREEMENTS.—Section 115(d)(1) of  
4 the Federal Oil and Gas Royalty Management Act of 1982  
5 (30 U.S.C. 1724(d)(1)) is amended by striking “(with no-  
6 tice to the lessee who designated the designee)”.

7 (b) SUBPOENAS.—Section 115(d)(2)(A) of the Fed-  
8 eral Oil and Gas Royalty Management Act of 1982 (30  
9 U.S.C. 1724(d)(2)(A)) is amended by striking “(with no-  
10 tice to the lessee who designated the designee, which notice  
11 shall not constitute a subpoena to the lessee)”.

12 **SEC. 311. APPEALS AND FINAL AGENCY ACTION.**

13 Paragraphs (1) and (2) of section 115(h) the Federal  
14 Oil and Gas Royalty Management Act of 1982 (30 U.S.C.  
15 1724(h)) are amended by striking “33” each place it ap-  
16 pears and inserting “48”.

17 **SEC. 312. ASSESSMENTS.**

18 Section 116 of the Federal Oil and Gas Royalty Man-  
19 agement Act of 1982 (30 U.S.C. 1724) is repealed.

20 **SEC. 313. COLLECTION AND PRODUCTION ACCOUNT-**  
21 **ABILITY.**

22 (a) PILOT PROJECT.—Within 2 years after the date  
23 of enactment of this Act, the Secretary shall complete a  
24 pilot project with willing operators of oil and gas leases  
25 on the Outer Continental Shelf that assesses the costs and  
26 benefits of automatic transmission of oil and gas volume

1 and quality data produced under Federal leases on the  
2 Outer Continental Shelf in order to improve the produc-  
3 tion verification systems used to ensure accurate royalty  
4 collection and audit.

5 (b) REPORT.—The Secretary shall submit to Con-  
6 gress a report on findings and recommendations of the  
7 pilot project within 3 years after the date of enactment  
8 of this Act.

9 **SEC. 314. NATURAL GAS REPORTING.**

10 The Secretary shall, within 180 days after the date  
11 of enactment of this Act, implement the steps necessary  
12 to ensure accurate determination and reporting of BTU  
13 values of natural gas from all Federal oil and gas leases  
14 to ensure accurate royalty payments to the United States.  
15 Such steps shall include, but not be limited to—

16 (1) establishment of consistent guidelines for  
17 onshore and offshore BTU information from gas  
18 producers;

19 (2) development of a procedure to determine  
20 the potential BTU variability of produced natural  
21 gas on a by-reservoir or by-lease basis;

22 (3) development of a procedure to adjust BTU  
23 frequency requirements for sampling and reporting  
24 on a case-by-case basis;



1 (4) systematic and regular verification of BTU  
2 information; and

3 (5) revision of the “MMS–2014” reporting  
4 form to record, in addition to other information al-  
5 ready required, the natural gas BTU values that  
6 form the basis for the required royalty payments.

7 **SEC. 315. PENALTY FOR LATE OR INCORRECT REPORTING**  
8 **OF DATA.**

9 (a) IN GENERAL.—The Secretary shall issue regula-  
10 tions by not later than 1 year after the date of enactment  
11 of this Act that establish a civil penalty for late or incor-  
12 rect reporting of data under the Federal Oil and Gas Roy-  
13 alty Management Act of 1982 (30 U.S.C. 1701 et seq.).

14 (b) AMOUNT.—The amount of the civil penalty shall  
15 be—

16 (1) an amount (subject to paragraph (2)) that  
17 the Secretary determines is sufficient to ensure filing  
18 of data in accordance with that Act; and

19 (2) not less than \$10 for each failure to file  
20 correct data in accordance with that Act.

21 (c) CONTENT OF REGULATIONS.—Except as provided  
22 in subsection (b), the regulations issued under this section  
23 shall be substantially similar to part 216.40 of title 30,  
24 Code of Federal Regulations, as most recently in effect  
25 before the date of enactment of this Act.

1 **SEC. 316. REQUIRED RECORDKEEPING.**

2       Within 1 year after the date of enactment of this Act,  
3 the Secretary shall publish final regulations concerning re-  
4 quired recordkeeping of natural gas measurement data as  
5 set forth in part 250.1203 of title 30, Code of Federal  
6 Regulations (as in effect on the date of enactment of this  
7 Act), to include operators and other persons involved in  
8 the transporting, purchasing, or selling of gas under the  
9 requirements of that rule, under the authority provided  
10 in section 103 of the Federal Oil and Gas Royalty Man-  
11 agement Act of 1982 (30 U.S.C. 1713).

12 **SEC. 317. SHARED CIVIL PENALTIES.**

13       Section 206 of the Federal Oil and Gas Royalty Man-  
14 agement Act of 1982 (30 U.S.C. 1736) is amended by  
15 striking “Such amount shall be deducted from any com-  
16 pensation due such State or Indian Tribe under section  
17 202 or section 205 or such State under section 205.”.

18 **SEC. 318. APPLICABILITY TO OTHER MINERALS.**

19       Section 304 of the Federal Oil and Gas Royalty Man-  
20 agement Act of 1982 (30 U.S.C. 1753) is amended by  
21 adding at the end the following new subsection:

22       “(e) **APPLICABILITY TO OTHER MINERALS.**—

23               “(1) Notwithstanding any other provision of  
24 law, sections 107, 109, and 110 of this Act and the  
25 regulations duly promulgated with respect thereto  
26 shall apply to any lease authorizing the development

1 of coal or any other solid mineral on any Federal  
2 lands or Indian lands, to the same extent as if such  
3 lease were an oil and gas lease, on the same terms  
4 and conditions as those authorized for oil and gas  
5 leases.

6 “(2) Notwithstanding any other provision of  
7 law, sections 107, 109, and 110 of this Act and the  
8 regulations duly promulgated with respect thereto  
9 shall apply with respect to any lease, easement,  
10 right-of-way, or other agreement, regardless of form  
11 (including any royalty, rent, or other payment due  
12 thereunder)—

13 “(A) under section 8(k) or 8(p) of the  
14 Outer Continental Shelf Lands Act (43 U.S.C.  
15 1337(k) and 1337(p)); or

16 “(B) under the Geothermal Steam Act (30  
17 U.S.C. 1001 et seq.), to the same extent as if  
18 such lease, easement, right-of-way, or other  
19 agreement were an oil and gas lease on the  
20 same terms and conditions as those authorized  
21 for oil and gas leases.

22 “(3) For the purposes of this subsection, the  
23 term ‘solid mineral’ means any mineral other than  
24 oil, gas, and geo-pressured-geothermal resources,  
25 that is authorized by an Act of Congress to be pro-

1       duced from public lands (as that term is defined in  
2       section 103 of the Federal Land Policy and Manage-  
3       ment Act of 1976 (43 U.S.C. 1702)).”.

4       **SEC. 319. ENTITLEMENTS.**

5       Not later than 180 days after the date of enactment  
6       of this Act, the Secretary shall publish final regulations  
7       prescribing when a Federal lessee or designee must report  
8       and pay royalties on the volume of oil and gas it takes  
9       under either a Federal or Indian lease or on the volume  
10      to which it is entitled to based upon its ownership interest  
11      in the Federal or Indian lease. The Secretary shall give  
12      consideration to requiring 100 percent entitlement report-  
13      ing and paying based upon the lease ownership.

14      **SEC. 320. LIMITATION ON ROYALTY IN-KIND PROGRAM.**

15      Section 36 of the Mineral Leasing Act (30 U.S.C.  
16      192) is amended by inserting before the period at the end  
17      of the first sentence the following: “, except that the Sec-  
18      retary shall not conduct a regular program to take oil and  
19      gas lease royalties in oil or gas”.

20      **SEC. 321. APPLICATION OF ROYALTY TO OIL THAT IS**  
21                                   **SAVED, REMOVED, SOLD, OR DISCHARGED**  
22                                   **UNDER OFFSHORE OIL AND GAS LEASES.**

23      Section 8(a) of the Outer Continental Shelf Lands  
24      Act (43 U.S.C. 1337(a)) is further amended by adding  
25      at the end the following new paragraph:

1 “(10)(A) Any royalty under a lease under this section  
2 shall apply to all oil that is saved, removed, sold, or dis-  
3 charged, without regard to whether any of the oil is un-  
4 avoidably lost or used on, or for the benefit of, the lease.

5 “(B) In this paragraph the term ‘discharged’ means  
6 any emission (other than natural seepage), intentional or  
7 unintentional, and includes, but is not limited to, spilling,  
8 leaking, pumping, pouring, emitting, emptying, or dump-  
9 ing.”.

10 **TITLE IV—FULL FUNDING FOR**  
11 **THE LAND AND WATER CON-**  
12 **SERVATION AND HISTORIC**  
13 **PRESERVATION FUNDS**

14 **Subtitle A—Land and Water**  
15 **Conservation Fund**

16 **SEC. 401. AMENDMENTS TO THE LAND AND WATER CON-**  
17 **SERVATION FUND ACT OF 1965.**

18 Except as otherwise expressly provided, whenever in  
19 this subtitle an amendment or repeal is expressed in terms  
20 of an amendment to, or repeal of, a section or other provi-  
21 sion, the reference shall be considered to be made to a  
22 section or other provision of the Land and Water Con-  
23 servation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.).

1 **SEC. 402. EXTENSION OF THE LAND AND WATER CON-**  
2 **SERVATION FUND.**

3 Section 2 (16 U.S.C. 460l–5) is amended by striking  
4 “September 30, 2015” both places it appears and insert-  
5 ing “September 30, 2040”.

6 **SEC. 403. PERMANENT FUNDING.**

7 (a) IN GENERAL.—The text of section 3 (16 U.S.C.  
8 460l–6) is amended to read as follows:

9 “(a) PERMANENT FUNDING.—Of the moneys covered  
10 into the fund, \$900,000,000 shall be available each fiscal  
11 year for expenditure for the purposes of this Act without  
12 further appropriation.

13 “(b) ALLOCATION AUTHORITY.—The Committees on  
14 Appropriations of the House of Representatives and the  
15 Senate may provide by law for the allocation of moneys  
16 in the fund to eligible activities under this Act.

17 “(c) RECREATIONAL ACCESS FUNDING.—Notwith-  
18 standing subsection (b), not less than 1.5 percent of the  
19 amounts made available under subsection (a) for each fis-  
20 cal year shall be made available for projects that secure  
21 recreational public access to Federal land under the juris-  
22 diction of the Secretary of the Interior for hunting, fish-  
23 ing, and other recreational purposes through easements,  
24 rights-of-way, or fee title acquisitions, from willing sell-  
25 ers.”.

26 (b) CONFORMING AMENDMENTS.—

1           (1) Section 2(c)(2) (16 U.S.C. 460l–5(c)(2)) is  
2           amended by striking “: *Provided*” and all that fol-  
3           lows through the end of the sentence and inserting  
4           a period.

5           (2) Section 7(a) (16 U.S.C. 460l–9) is amended  
6           to read as follows: “Moneys from the fund for Fed-  
7           eral purposes shall, unless allocated pursuant to sec-  
8           tion 3(b) of this Act, be allotted by the President to  
9           the following purposes and subpurposes:”.

## 10           **Subtitle B—National Historic** 11           **Preservation Fund**

### 12           **SEC. 411. PERMANENT FUNDING.**

13           The text of section 108 of the National Historic Pres-  
14           ervation Act (16 U.S.C. 470h) is amended to read as fol-  
15           lows:

16           “(a) PERMANENT FUNDING.—To carry out the provi-  
17           sions of this Act, there is hereby established the Historic  
18           Preservation Fund (hereinafter referred to as the ‘fund’)  
19           in the Treasury of the United States. There shall be cov-  
20           ered into the fund \$150,000,000 for each of fiscal years  
21           1982 through 2040 from revenues due and payable to the  
22           United States under the Outer Continental Shelf Lands  
23           Act (67 Stat. 462, 469), as amended (43 U.S.C. 1338)  
24           and/or under the Act of June 4, 1920 (41 Stat. 813), as  
25           amended (30 U.S.C.191), notwithstanding any provision

1 of law that such proceeds shall be credited to miscella-  
2 neous receipts of the Treasury. Such moneys shall be used  
3 only to carry out the purposes of this Act and shall be  
4 available for expenditure without further appropriation.

5 “(b) ALLOCATION AUTHORITY.—The Committees on  
6 Appropriations of the House of Representatives and the  
7 Senate may provide by law for the allocation of moneys  
8 in the fund to eligible activities under this Act.”.

## 9 **TITLE V—GULF OF MEXICO** 10 **RESTORATION**

### 11 **SEC. 501. GULF OF MEXICO RESTORATION PROGRAM.**

12 (a) PROGRAM.—There is established a Gulf of Mexico  
13 Restoration Program for the purposes of coordinating  
14 Federal, State, and local restoration programs and  
15 projects to maximize efforts in restoring biological integ-  
16 rity, productivity and ecosystem functions in the Gulf of  
17 Mexico.

18 (b) GULF OF MEXICO RESTORATION TASK FORCE.—

19 (1) ESTABLISHMENT.—There is established a  
20 task force to be known as the Gulf of Mexico Res-  
21 toration Task Force (in this section referred to as  
22 the “Restoration Task Force”).

23 (2) MEMBERSHIP.—The Restoration Task  
24 Force shall consist of the Governors of each of the  
25 Gulf Coast States and the heads of appropriate Fed-



1 eral agencies selected by the President. The chair-  
2 person of the Restoration Task Force (in this sub-  
3 section referred to as the “Chair”) shall be ap-  
4 pointed by the President. The Chair shall be a per-  
5 son who, as the result of experience and training, is  
6 exceptionally well-qualified to manage the work of  
7 the Restoration Task Force. The Chair shall serve  
8 in the Executive Office of the President.

9 (3) ADVISORY COMMITTEES.—The Restoration  
10 Task Force may establish advisory committees and  
11 working groups as necessary to carry out its du-  
12 ties under this Act.

13 (4) CITIZEN ADVISORY COUNCIL.—

14 (A) IN GENERAL.—The Gulf Coast Res-  
15 toration Task Force shall create a Citizen Advi-  
16 sory Council made up of individuals who—

17 (i) are local residents of the Gulf of  
18 Mexico region;

19 (ii) are stakeholders who are not from  
20 the oil and gas industry or scientific com-  
21 munity;

22 (iii) include business owners, home-  
23 owners, and local decisionmakers; and

1 (iv) are a balanced representation geo-  
2 graphically and in diversity among the in-  
3 terests of its members.

4 (B) FUNCTION.—The Council shall provide  
5 recommendations to the Task Force regarding  
6 its work.

7 (c) GULF OF MEXICO RESTORATION PLAN.—

8 (1) IN GENERAL.—Not later than nine months  
9 after the date of enactment of this Act, the Restora-  
10 tion Task Force shall issue a proposed comprehen-  
11 sive, multi-jurisdictional plan for long-term restora-  
12 tion of the Gulf of Mexico that incorporates, to the  
13 greatest extent possible, existing restoration plans.  
14 Not later than 12 months after the date of enact-  
15 ment and after notice and opportunity for public  
16 comment, the Restoration Task Force shall publish  
17 a final plan. The Plan shall be updated every five  
18 years in the same manner.

19 (2) ELEMENTS OF RESTORATION PLAN.—The  
20 Plan shall—

21 (A) identify processes and strategies for  
22 coordinating Federal, State, and local restora-  
23 tion programs and projects to maximize efforts  
24 in restoring biological integrity, productivity

1 and ecosystem functions in the Gulf of Mexico  
2 region;

3 (B) identify mechanisms for scientific re-  
4 view and input to evaluate the benefits and  
5 long-term effectiveness of restoration programs  
6 and projects;

7 (C) identify, using the best science avail-  
8 able, strategies for implementing restoration  
9 programs and projects for natural resources in-  
10 cluding—

11 (i) restoring species population and  
12 habitat including oyster reefs, sea grass  
13 beds, coral reefs, tidal marshes and other  
14 coastal wetlands and barrier islands and  
15 beaches;

16 (ii) restoring fish passage and improv-  
17 ing migratory pathways for wildlife;

18 (iii) research that directly supports  
19 restoration programs and projects;

20 (iv) restoring the biological produc-  
21 tivity and ecosystem function in the Gulf  
22 of Mexico region;

23 (v) improving the resilience of natural  
24 resources to withstand the impacts of cli-  
25 mate change and ocean acidification to en-

1           sure the long-term effectiveness of the res-  
2           toration program; and

3                   (vi) restoring fisheries resources in  
4           the Gulf of Mexico that benefit the com-  
5           mercial and recreational fishing industries  
6           and seafood processing industries through-  
7           out the United States.

8           (3) REPORT.—The Task Force shall annually  
9           provide a report to Congress about the progress in  
10          implementing the Plan.

11          (d) DEFINITIONS.—For purposes of this section, the  
12          term—

13                  (1) “Gulf Coast State” means each of the  
14          States of Texas, Louisiana, Mississippi, Alabama,  
15          and Florida; and

16                  (2) “restoration programs and projects” means  
17          activities that support the restoration, rehabilitation,  
18          replacement, or acquisition of the equivalent, of in-  
19          jured or lost natural resources including the ecologi-  
20          cal services and benefits provided by such resources.

21          (e) RELATIONSHIP TO OTHER LAW.—Nothing in this  
22          section affects the ability or authority of the Federal Gov-  
23          ernment to recover costs of removal or damages from a  
24          person determined to be a responsible party pursuant to

1 the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.)  
2 or other law.

3 **SEC. 502. GULF OF MEXICO LONG-TERM ENVIRONMENTAL**  
4 **MONITORING AND RESEARCH PROGRAM.**

5 (a) IN GENERAL.—To ensure that the Federal Gov-  
6 ernment has independent, peer-reviewed scientific data  
7 and information to assess long-term direct and indirect  
8 impacts on trust resources located in the Gulf of Mexico  
9 and Southeast region resulting from the Deepwater Hori-  
10 zon oil spill, the Secretary, through the National Oceanic  
11 and Atmospheric Administration, shall establish as soon  
12 as practicable after the date of enactment of this Act, a  
13 long-term, comprehensive marine environmental moni-  
14 toring and research program for the marine and coastal  
15 environment of the Gulf of Mexico. The program shall re-  
16 main in effect for a minimum of 10 years, and the Sec-  
17 retary may extend the program beyond this initial period  
18 based upon a determination that additional monitoring  
19 and research is warranted.

20 (b) SCOPE OF PROGRAM.—The program established  
21 under subsection (a) shall at a minimum include moni-  
22 toring and research of the physical, chemical, and biologi-  
23 cal characteristics of the affected marine, coastal, and es-  
24 tuarine areas of the Gulf of Mexico and other regions of  
25 the exclusive economic zone of the United States affected

1 by the Deepwater Horizon oil spill, and shall include spe-  
2 cifically the following elements:

3 (1) The fate, transport, and persistence of oil  
4 released during the spill and spatial distribution  
5 throughout the water column.

6 (2) The fate, transport, and persistence of  
7 chemical dispersants applied in-situ or on surface  
8 waters.

9 (3) Identification of lethal and sub-lethal im-  
10 pacts to fish and wildlife resources that utilize habi-  
11 tats located within the affected region.

12 (4) Impacts to regional, State, and local econo-  
13 mies that depend on the natural resources of the af-  
14 fected area, including commercial and recreational  
15 fisheries, and other wildlife-dependent recreation.

16 (5) Other elements considered necessary by the  
17 Secretary to ensure a comprehensive marine re-  
18 search and monitoring program to comprehend and  
19 understand the implications to trust resources  
20 caused by the Deepwater Horizon oil spill.

21 (c) COOPERATION AND CONSULTATION.—In devel-  
22 oping the research and monitoring program established  
23 under subsection (a), the Secretary shall cooperate with  
24 the United States Geological Survey, and shall consult  
25 with—

1           (1) the Council authorized under subtitle E of  
2 title II of Public Law 104–201;

3           (2) appropriate representatives from the Gulf  
4 Coast States;

5           (3) academic institutions and other research or-  
6 ganizations; and

7           (4) other experts with expertise in long-term  
8 environmental monitoring and research of the ma-  
9 rine environment.

10       (d) AVAILABILITY OF DATA.—Data and information  
11 generated through the program established under sub-  
12 section (a) shall be managed and archived to ensure that  
13 it is accessible and available to governmental and non-  
14 governmental personnel and to the general public for their  
15 use and information.

16       (e) REPORT.—No later than 1 year after the estab-  
17 lishment of the program under subsection (a), and bienni-  
18 ally thereafter, the Secretary shall forward to the Con-  
19 gress a comprehensive report summarizing the activities  
20 and findings of the program and detailing areas and issues  
21 requiring future monitoring and research.

22       (f) DEFINITIONS.—For the purposes of this section,  
23 the term—

24           (1) “trust resources” means the living and non-  
25 living natural resources belonging to, managed by,

1 held in trust by, appertaining to, or otherwise con-  
2 trolled by the United States, any State, an Indian  
3 tribe, or a local government;

4 (2) “Gulf coast State” means each of the states  
5 of Texas, Louisiana, Mississippi, Alabama and Flor-  
6 ida; and

7 (3) “Secretary” means the Secretary of Com-  
8 merce.

9 **SEC. 503. GULF OF MEXICO EMERGENCY MIGRATORY SPE-**  
10 **CIES ALTERNATIVE HABITAT PROGRAM.**

11 (a) IN GENERAL.—In order to reduce the injury or  
12 death of many populations of migratory species of fish and  
13 wildlife, including threatened and endangered species and  
14 other species of critical conservation concern, that utilize  
15 estuarine, coastal, and marine habitats of the Gulf of Mex-  
16 ico that have been impacted, or are likely to be impacted,  
17 by the Deepwater Horizon oil spill, and to ensure that mi-  
18 gratory species upon their annual return to the Gulf of  
19 Mexico find viable, healthy, and environmentally-safe habi-  
20 tats to utilize for resting, feeding, nesting and roosting,  
21 and breeding, the Secretary of the Interior shall establish  
22 as soon as practicable after date of enactment of this Act,  
23 an emergency migratory species alternative habitat pro-  
24 gram.



1 (b) SCOPE OF PROGRAM.—The program established  
2 under subsection (a) shall at a minimum support projects  
3 along the Northern coast of the Gulf of Mexico to—

4 (1) improve wetland water quality and forage;

5 (2) restore and refurbish diked impoundments;

6 (3) improve riparian habitats to increase fish  
7 passage and breeding habitat;

8 (4) encourage conversion of agricultural lands  
9 to provide alternative migratory habitat for water  
10 fowl and other migratory birds;

11 (5) transplant, relocate, or rehabilitate fish and  
12 wildlife; and

13 (6) conduct other activities considered nec-  
14 essary by the Secretary to ensure that migratory  
15 species have alternative habitat available for their  
16 use outside of habitat impacted by the oil spill.

17 (c) NATIONAL FISH AND WILDLIFE FOUNDATION.—  
18 In implementing this section the Secretary may enter into  
19 an agreement with the National Fish and Wildlife Foun-  
20 dation to administer the program.

21 **SEC. 504. GULF OF MEXICO RESTORATION ACCOUNT.**

22 (a) ESTABLISHMENT OF SPECIAL ACCOUNT.—There  
23 is established in the Treasury of the United States a sepa-  
24 rate account to be known as the “Gulf of Mexico Restora-  
25 tion Account”.

1 (b) FUNDING.—The Gulf of Mexico Restoration Ac-  
2 count shall consist of such amounts as may be appro-  
3 priated or credited to such Account by section 311A of  
4 the Federal Water Pollution Control Act.

5 (c) EXPENDITURES.—Amounts in the Gulf of Mexico  
6 Restoration Account shall be available, as provided in ap-  
7 propriations Acts, to carry out projects, programs, and ac-  
8 tivities as recommended by the Gulf of Mexico Restoration  
9 Task Force established in this title.

10 (d) AMENDMENT TO THE FEDERAL WATER POLLU-  
11 TION CONTROL ACT.—

12 (1) IN GENERAL.—Title III of the Federal  
13 Water Pollution Control Act is amended by inserting  
14 after section 311 the following:

15 **“SEC. 311A. ADDITIONAL PENALTIES FOR LARGE SPILLS IN**  
16 **THE GULF OF MEXICO.**

17 “(a) IN GENERAL.—In the case of an offshore facility  
18 from which more than 1,000,000 barrels of oil or a haz-  
19 ardous substance is discharged into the Gulf of Mexico  
20 in violation of section 311(b)(3), any person who is the  
21 owner or operator of the facility shall be subject to a civil  
22 penalty of \$200,000,000 for each 1,000,000 barrels dis-  
23 charged.

24 “(b) RELATIONSHIP TO OTHER PENALTIES.—The  
25 civil penalty under subsection (a) shall be in addition to

1 any other penalties to which the owner or operator of the  
2 facility is subject, including those under section 311.”.

3 (2) EFFECTIVE DATE.—The amendment made  
4 by paragraph (1) takes effect on April 1, 2010.

## 5 **TITLE VI—COORDINATION AND** 6 **PLANNING**

### 7 **SEC. 601. REGIONAL COORDINATION.**

8 (a) IN GENERAL.—The purpose of this title is to pro-  
9 mote—

10 (1) better coordination, communication, and  
11 collaboration between Federal agencies with authori-  
12 ties for ocean, coastal, and Great Lakes manage-  
13 ment; and

14 (2) coordinated and collaborative regional plan-  
15 ning efforts using the best available science, and to  
16 ensure the protection and maintenance of marine  
17 ecosystem health, in decisions affecting the sustain-  
18 able development and use of Federal renewable and  
19 nonrenewable resources on, in, or above the ocean  
20 (including the Outer Continental Shelf) and the  
21 Great Lakes for the long-term economic and envi-  
22 ronmental benefit of the United States.

23 (b) OBJECTIVES OF REGIONAL EFFORTS.—Such re-  
24 gional efforts shall achieve the following objectives:

1           (1) Greater systematic communication and co-  
2           ordination among Federal, coastal State, and af-  
3           fected tribal governments concerned with the con-  
4           servation of and the sustainable development and  
5           use of Federal renewable and nonrenewable re-  
6           sources of the oceans, coasts, and Great Lakes.

7           (2) Greater reliance on a multiobjective,  
8           science- and ecosystem-based, spatially explicit man-  
9           agement approach that integrates regional economic,  
10          ecological, affected tribal, and social objectives into  
11          ocean, coastal, and Great Lakes management deci-  
12          sions.

13          (3) Identification and prioritization of shared  
14          State and Federal ocean, coastal, and Great Lakes  
15          management issues.

16          (4) Identification of data and information need-  
17          ed by the Regional Coordination Councils established  
18          under section 602.

19          (c) REGIONS.—There are hereby designated the fol-  
20          lowing Coordination Regions:

21                 (1) PACIFIC REGION.—The Pacific Coordination  
22                 Region, which shall consist of the coastal waters and  
23                 Exclusive Economic Zone adjacent to the States of  
24                 Washington, Oregon, and California.

1           (2) GULF OF MEXICO REGION.—The Gulf of  
2 Mexico Coordination Region, which shall consist of  
3 the coastal waters and Exclusive Economic Zone ad-  
4 jacent to the States of Texas, Louisiana, Mississippi,  
5 and Alabama, and the west coast of Florida.

6           (3) NORTH ATLANTIC REGION.—The North At-  
7 lantic Coordination Region, which shall consist of  
8 the coastal waters and Exclusive Economic Zone ad-  
9 jacent to the States of Maine, New Hampshire, Mas-  
10 sachusetts, Rhode Island, and Connecticut.

11           (4) MID ATLANTIC REGION.—The Mid Atlantic  
12 Coordination Region, which shall consist of the  
13 coastal waters and Exclusive Economic Zone adja-  
14 cent to the States of New York, New Jersey, Penn-  
15 sylvania, Delaware, Maryland, and Virginia.

16           (5) SOUTH ATLANTIC REGION.—The South At-  
17 lantic Coordination Region, which shall consist of  
18 the coastal waters and Exclusive Economic Zone ad-  
19 jacent to the States of North Carolina, South Caro-  
20 lina, Georgia, the east coast of Florida, and the  
21 Straits of Florida Planning Area.

22           (6) ALASKA REGION.—The Alaska Coordination  
23 Region, which shall consist of the coastal waters and  
24 Exclusive Economic Zone adjacent to the State of  
25 Alaska.

1           (7) PACIFIC ISLANDS REGION.—The Pacific Is-  
2           lands Coordination Region, which shall consist of the  
3           coastal waters and Exclusive Economic Zone adja-  
4           cent to the State of Hawaii, the Commonwealth of  
5           the Northern Mariana Islands, American Samoa,  
6           and Guam.

7           (8) CARIBBEAN REGION.—The Caribbean Co-  
8           ordination Region, which shall consist of the coastal  
9           waters and Exclusive Economic Zone adjacent to  
10          Puerto Rico and the United States Virgin Islands.

11          (9) GREAT LAKES REGION.—The Great Lakes  
12          Coordination Region, which shall consist of waters of  
13          the Great Lakes in the States of Illinois, Indiana,  
14          Michigan, Minnesota, New York, Ohio, Pennsyl-  
15          vania, and Wisconsin.

16 **SEC. 602. REGIONAL COORDINATION COUNCILS.**

17          (a) IN GENERAL.—Within 180 days after the date  
18          of enactment of this Act, the Chairman of the Council on  
19          Environmental Quality, in consultation with the affected  
20          coastal States and affected Indian tribes, shall establish  
21          or designate a Regional Coordination Council for each of  
22          the Coordination Regions designated by section 601(c).

23          (b) MEMBERSHIP.—

24                  (1) FEDERAL REPRESENTATIVES.—Within 90  
25          days after the date of enactment of this Act, the

1 Chairman of the Council on Environmental Quality  
2 shall publish the titles of the officials of each Fed-  
3 eral agency and department that shall participate in  
4 each Council. The Councils shall include representa-  
5 tives of each Federal agency and department that  
6 has authorities related to the development of ocean,  
7 coastal, or Great Lakes policies or engages in plan-  
8 ning, management, or scientific activities that sig-  
9 nificantly affect or inform the use of ocean, coastal,  
10 or Great Lakes resources. The Chairman of the  
11 Council on Environmental Quality shall determine  
12 which Federal agency representative shall serve as  
13 the chairperson of each Council.

14 (2) COASTAL STATE REPRESENTATIVES.—

15 (A) NOTICE OF INTENT TO PARTICI-  
16 PATE.—The Governor of each coastal State  
17 within each Coordination Region designated by  
18 section 601(c) shall within 3 months after the  
19 date of enactment of this Act, inform the Chair-  
20 man of the Council on Environmental Quality  
21 whether or not the State intends to participate  
22 in the Regional Coordination Council for the  
23 Region.

24 (B) APPOINTMENT OF RESPONSIBLE  
25 STATE OFFICIAL.—If a coastal State intends to

1           participate in such Council, the Governor of the  
2           coastal State shall appoint an officer or em-  
3           ployee of the coastal State agency with primary  
4           responsibility for overseeing ocean and coastal  
5           policy or resource management to that Council.

6           (C) ALASKA REGIONAL COORDINATION  
7           COUNCIL.—The Regional Coordination Council  
8           for the Alaska Coordination Region shall in-  
9           clude representation from each of the States of  
10          Alaska, Washington, and Oregon, if appointed  
11          by the Governor of that State in accordance  
12          with this paragraph.

13          (3) REGIONAL FISHERY MANAGEMENT COUNCIL  
14          REPRESENTATION.—A representative of each Re-  
15          gional Fishery Management Council with jurisdiction  
16          in the Coordination Region of a Regional Coordina-  
17          tion Council (who is selected by the Regional Fish-  
18          ery Management Council) and the executive director  
19          of the interstate marine fisheries commission with  
20          jurisdiction in the Coordination Region of a Regional  
21          Coordination Council shall each serve as a member  
22          of the Council.

23          (4) REGIONAL OCEAN PARTNERSHIP REP-  
24          RESENTATION.—A representative of any Regional  
25          Ocean Partnership that has been established for any



1 part of the Coordination Region of a Regional Co-  
2 ordination Council may appoint a representative to  
3 serve on the Council in addition to any Federal or  
4 State appointments.

5 (5) TRIBAL REPRESENTATION.—An appropriate  
6 tribal official selected by affected Indian tribes situ-  
7 ated in the affected Coordination Region may elect  
8 to appoint a representative of such tribes collectively  
9 to serve as a member of the Regional Coordination  
10 Council for that Region.

11 (6) LOCAL REPRESENTATION.—The Chairman  
12 of the Council on Environmental Quality shall, in  
13 consultation with the Governors of the coastal States  
14 within each Coordination Region, identify and ap-  
15 point representatives of county and local govern-  
16 ments, as appropriate, to serve as members of the  
17 Regional Coordination Council for that Region.

18 (c) ADVISORY COMMITTEE.—Each Regional Coordi-  
19 nation Council shall establish advisory committees for the  
20 purposes of public and stakeholder input and scientific ad-  
21 vice, made up of a balanced representation from the en-  
22 ergy, shipping, transportation, commercial and rec-  
23 reational fishing, and recreation industries, from marine  
24 environmental nongovernmental organizations, and from  
25 scientific and educational authorities with expertise in the

1 conservation and management of ocean, coastal, and  
2 Great Lakes resources to advise the Council during the  
3 development of Regional Assessments and Regional Stra-  
4 tegic Plans and in its other activities.

5 (d) COORDINATION WITH EXISTING PROGRAMS.—  
6 Each Regional Coordination Council shall build upon and  
7 complement current State, multistate, and regional capac-  
8 ity and governance and institutional mechanisms to man-  
9 age and protect ocean waters, coastal waters, and ocean  
10 resources.

11 **SEC. 603. REGIONAL STRATEGIC PLANS.**

12 (a) INITIAL REGIONAL ASSESSMENT.—

13 (1) IN GENERAL.—Each Regional Coordination  
14 Council, shall, within one year after the date of en-  
15 actment of this Act, prepare an initial assessment of  
16 its Coordination Region that shall identify defi-  
17 ciencies in data and information necessary to in-  
18 formed decisionmaking by Federal, State, and af-  
19 fected tribal governments concerned with the con-  
20 servation of and management of the oceans, coasts,  
21 and Great Lakes. Each initial assessment shall to  
22 the extent feasible—

23 (A) identify the Coordination Region's re-  
24 newable and non renewable resources, including  
25 current and potential energy resources, except

1 for the assessment for the Great Lakes Coordi-  
2 nation Region, for which the Regional Coordi-  
3 nation Council for such Coordination Region  
4 shall only identify the Great Lakes Coordina-  
5 tion Region's renewable energy resources, in-  
6 cluding current and potential renewable energy  
7 resources;

8 (B) identify and include a spatially and  
9 temporally explicit inventory of existing and po-  
10 tential uses of the Coordination Region, includ-  
11 ing fishing and fish habitat, recreation, and en-  
12 ergy development;

13 (C) document the health and relative envi-  
14 ronmental sensitivity of the marine ecosystem  
15 within the Coordination Region, including a  
16 comprehensive survey and status assessment of  
17 species, habitats, and indicators of ecosystem  
18 health;

19 (D) identify marine habitat types and im-  
20 portant ecological areas within the Coordination  
21 Region;

22 (E) assess the Coordination Region's ma-  
23 rine economy and cultural attributes and in-  
24 clude regionally-specific ecological and socio-  
25 economic baseline data;

1 (F) identify and prioritize additional sci-  
2 entific and economic data necessary to inform  
3 the development of Strategic Plans; and

4 (G) include other information to improve  
5 decision making as determined by the Regional  
6 Coordination Council.

7 (2) DATA.—Each initial assessment shall—

8 (A) use the best available data;

9 (B) collect and provide data in a spatially  
10 explicit manner wherever practicable and pro-  
11 vide such data to the interagency comprehensive  
12 digital mapping initiative as described in section  
13 2 of Public Law 109–58 (42 U.S.C. 15801);  
14 and

15 (C) make publicly available any such data  
16 that is not classified information.

17 (3) PUBLIC PARTICIPATION.—Each Regional  
18 Coordination Council shall provide adequate oppor-  
19 tunity for review and input by stakeholders and the  
20 general public during the preparation of the initial  
21 assessment and any revised assessments.

22 (b) REGIONAL STRATEGIC PLANS.—

23 (1) REQUIREMENT.—Each Regional Coordina-  
24 tion Council shall, within 3 years after the comple-  
25 tion of the initial regional assessment, prepare and

1 submit to the Chairman of the Council on Environ-  
2 mental Quality a multiobjective, science- and eco-  
3 system-based, spatially explicit, integrated Strategic  
4 Plan in accordance with this subsection for the  
5 Council's Coordination Region.

6 (2) OBJECTIVE AND GOALS.—The objective of  
7 the Strategic Plans under this subsection shall be to  
8 foster comprehensive, integrated, and sustainable de-  
9 velopment and use of ocean, coastal, and Great  
10 Lakes resources, while protecting marine ecosystem  
11 health and sustaining the long-term economic and  
12 ecosystem values of the oceans, coasts, and Great  
13 Lakes.

14 (3) CONTENTS.—Each Strategic Plan prepared  
15 by a Regional Coordination Council shall—

16 (A) be based on the initial regional assess-  
17 ment and updates for the Coordination Region  
18 under subsections (a) and (c), respectively;

19 (B) foster the sustainable and integrated  
20 development and use of ocean, coastal, and  
21 Great Lakes resources in a manner that pro-  
22 tects the health of marine ecosystems;

23 (C) identify areas with potential for siting  
24 and developing renewable and nonrenewable en-  
25 ergy resources in the Coordination Region cov-

1           ered by the Strategic Plan, except for the Stra-  
2           tegic Plan for the Great Lakes Coordination  
3           Region which shall identify only areas with po-  
4           tential for siting and developing renewable en-  
5           ergy resources in the Great Lakes Coordination  
6           Region;

7           (D) identify other current and potential  
8           uses of the ocean and coastal resources in the  
9           Coordination Region;

10          (E) identify and recommend long-term  
11          monitoring needs for ecosystem health and so-  
12          cioeconomic variables within the Coordination  
13          Region covered by the Strategic Plan;

14          (F) identify existing State and Federal  
15          regulating authorities within the Coordination  
16          Region covered by the Strategic Plan and meas-  
17          ures to assist those authorities in carrying out  
18          their responsibilities;

19          (G) identify best available technologies to  
20          minimize adverse environmental impacts and  
21          use conflicts in the development of ocean and  
22          coastal resources in the Coordination Region;

23          (H) identify additional research, informa-  
24          tion, and data needed to carry out the Strategic  
25          Plan;

1 (I) identify performance measures and  
2 benchmarks for purposes of fulfilling the re-  
3 sponsibilities under this section to be used to  
4 evaluate the Strategic Plan's effectiveness;

5 (J) define responsibilities and include an  
6 analysis of the gaps in authority, coordination,  
7 and resources, including funding, that must be  
8 filled in order to fully achieve those perform-  
9 ance measures and benchmarks; and

10 (K) include such other information at the  
11 Chairman of the Council on Environmental  
12 Quality determines is appropriate.

13 (4) PUBLIC PARTICIPATION.—Each Regional  
14 Coordination Council shall provide adequate oppor-  
15 tunities for review and input by stakeholders and the  
16 general public during the development of the Stra-  
17 tegic Plan and any Strategic Plan revisions.

18 (c) UPDATED REGIONAL ASSESSMENTS.—Each Re-  
19 gional Coordination Council shall update the initial re-  
20 gional assessment prepared under subsection (a) in coordi-  
21 nation with each Strategic Plan revision under subsection  
22 (e), to provide more detailed information regarding the re-  
23 quired elements of the assessment and to include any rel-  
24 evant new information that has become available in the  
25 interim.

1 (d) REVIEW AND APPROVAL.—

2 (1) COMMENCEMENT OF REVIEW.—Within 10  
3 days after receipt of a Strategic Plan under this sec-  
4 tion, or any revision to such a Strategic Plan, from  
5 a Regional Coordination Council, the Chairman of  
6 the Council of Environmental Quality shall com-  
7 mence a review of the Strategic Plan or the revised  
8 Strategic Plan, respectively.

9 (2) PUBLIC NOTICE AND COMMENT.—Imme-  
10 diately after receipt of such a Strategic Plan or revi-  
11 sion, the Chairman of the Council of Environmental  
12 Quality shall publish the Strategic Plan or revision  
13 in the Federal Register and provide an opportunity  
14 for the submission of public comment for a 90-day  
15 period beginning on the date of such publication.

16 (3) REQUIREMENTS FOR APPROVAL.—Before  
17 approving a Strategic Plan, or any revision to a  
18 Strategic Plan, the Chairman of the Council on En-  
19 vironmental Quality must find that the Strategic  
20 Plan or revision—

21 (A) complies with subsection (b); and

22 (B) complies with the purposes of this title  
23 as identified in section 601(a) and the objec-  
24 tives identified in section 601(b).



1           (4) DEADLINE FOR COMPLETION.—Within 180  
2 days after the receipt of a Strategic Plan, or a revision  
3 to a Strategic Plan, the Chairman of the Council  
4 of Environmental Quality shall approve or dis-  
5 approve the Strategic Plan or revision. If the Chair-  
6 man disapproves the Strategic Plan or revision, the  
7 Chairman shall transmit to the Regional Coordina-  
8 tion Council that submitted the Strategic Plan or re-  
9 vision, an identification of the deficiencies and rec-  
10 ommendations to improve it. The Council shall sub-  
11 mit a revised Strategic Plan or revision to such plan  
12 with 180 days after receiving the recommendations  
13 from the Chairman.

14           (e) PLAN REVISION.—Each Strategic Plan shall be  
15 reviewed and revised by the relevant Regional Coordina-  
16 tion Council at least once every 5 years. Such review and  
17 revision shall be based on the most recently updated re-  
18 gional assessment. Any proposed revisions to the Strategic  
19 Plan shall be submitted to the Chairman of the Council  
20 on Environmental Quality for review and approval pursu-  
21 ant to this section.

22 **SEC. 604. REGULATIONS AND SAVINGS CLAUSE.**

23           (a) REGULATIONS.—The Chairman of the Council on  
24 Environmental Quality may issue such regulations as the

1 Chairman considers necessary to implement sections 601  
2 through 603.

3 (b) SAVINGS CLAUSE.—Nothing in this title shall be  
4 construed to affect existing authorities under Federal law.

5 **SEC. 605. OCEAN RESOURCES CONSERVATION AND ASSIST-**  
6 **ANCE FUND.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—There is established in the  
9 Treasury of the United States a separate account to  
10 be known as the Ocean Resources Conservation and  
11 Assistance Fund.

12 (2) CREDITS.—The ORCA Fund shall be cred-  
13 ited with amounts as specified in section 9 of the  
14 Outer Continental Shelf Lands Act (43 U.S.C.  
15 1338), as amended by section 207 of this Act.

16 (3) ALLOCATION OF THE ORCA FUND.—Of the  
17 amounts appropriated from the ORCA Fund each  
18 fiscal year—

19 (A) 70 percent shall be allocated to the  
20 Secretary, of which—

21 (i) one-half shall be used to make  
22 grants to coastal States and affected In-  
23 dian tribes under subsection (b); and

1                   (ii) one-half shall be used for the  
2                   ocean, coastal, and Great Lakes grants  
3                   program established by subsection (e);

4                   (B) 20 percent shall be allocated to the  
5                   Secretary to carry out the purposes of sub-  
6                   section (e); and

7                   (C) 10 percent shall be allocated to the  
8                   Secretary to make grants to Regional Ocean  
9                   Partnerships under subsection (d) and the Re-  
10                  gional Coordination Councils established under  
11                  section 602.

12                 (4) PROCEDURES.—The Secretary shall estab-  
13                 lish application, review, oversight, financial account-  
14                 ability, and performance accountability procedures  
15                 for each grant program for which funds are allo-  
16                 cated under this subsection.

17                 (b) GRANTS TO COASTAL STATES.—

18                   (1) GRANT AUTHORITY.—The Secretary may  
19                   use amounts allocated under subsection  
20                   (a)(3)(A)(I)(I) to make grants to—

21                   (A) coastal States pursuant to the formula  
22                   established under section 306(e) of the Coastal  
23                   Zone Management Act of 1972 (16 U.S.C.  
24                   1455(c)); and

1 (B) affected Indian tribes based on and  
2 proportional to any specific coastal and ocean  
3 management authority granted to an affected  
4 tribe pursuant to affirmation of a Federal re-  
5 served right.

6 (2) ELIGIBILITY.—To be eligible to receive a  
7 grant under this subsection, a coastal State or af-  
8 fected Indian tribe must prepare and revise a 5-year  
9 plan and annual work plans that—

10 (A) demonstrate that activities for which  
11 the coastal State or affected Indian tribe will  
12 use the funds are consistent with the eligible  
13 uses of the Fund described in subsection (f);  
14 and

15 (B) provide mechanisms to ensure that  
16 funding is made available to government, non-  
17 government, and academic entities to carry out  
18 eligible activities at the county and local level.

19 (3) APPROVAL OF STATE AND AFFECTED TRIB-  
20 AL PLANS.—

21 (A) IN GENERAL.—Plans required under  
22 paragraph (2) must be submitted to and ap-  
23 proved by the Secretary.

24 (B) PUBLIC INPUT AND COMMENT.—In de-  
25 termining whether to approve such plans, the

1 Secretary shall provide opportunity for, and  
2 take into consideration, public input and com-  
3 ment on the plans from stakeholders and the  
4 general public.

5 (5) ENERGY PLANNING GRANTS.—For each of  
6 the fiscal years 2011 through 2015, the Secretary  
7 may use funds allocated for grants under this sub-  
8 section to make grants to coastal States and affected  
9 tribes under section 320 of the Coastal Zone Man-  
10 agement Act of 1972 (16 U.S.C. 1451 et seq.), as  
11 amended by this Act.

12 (6) USE OF FUNDS.—Any amounts provided as  
13 a grant under this subsection, other than as a  
14 grants under paragraph (5), may only be used for  
15 activities described in subsection (f).

16 (c) OCEAN AND COASTAL COMPETITIVE GRANTS  
17 PROGRAM.—

18 (1) ESTABLISHMENT.—The Secretary shall use  
19 amounts allocated under subsection (a)(3)(A)(I)(II)  
20 to make competitive grants for conservation and  
21 management of ocean, coastal, and Great Lakes eco-  
22 systems and marine resources.

23 (2) OCEAN, COASTAL, AND GREAT LAKES RE-  
24 VIEW PANEL.—

1           (A) IN GENERAL.—The Secretary shall es-  
2           tablish an Ocean, Coastal, and Great Lakes Re-  
3           view Panel (in this subsection referred to as the  
4           “Panel”), which shall consist of 12 members  
5           appointed by the Secretary with expertise in the  
6           conservation and management of ocean, coastal,  
7           and Great Lakes ecosystems and marine re-  
8           sources. In appointing members to the Council,  
9           the Secretary shall include a balanced diversity  
10          of representatives of relevant Federal agencies,  
11          the private sector, nonprofit organizations, and  
12          academia.

13           (B) FUNCTIONS.—The Panel shall—

14           (i) review, in accordance with the pro-  
15           cedures and criteria established under  
16           paragraph (3), grant applications under  
17           this subsection;

18           (ii) make recommendations to the  
19           Secretary regarding which grant applica-  
20           tions should be funded and the amount of  
21           each grant; and

22           (iii) establish any specific require-  
23           ments, conditions, or limitations on a grant  
24           application recommended for funding.

1           (3) PROCEDURES AND ELIGIBILITY CRITERIA  
2 FOR GRANTS.—

3           (A) IN GENERAL.—The Secretary shall es-  
4 tablish—

5           (i) procedures for applying for a grant  
6 under this subsection and criteria for eval-  
7 uating applications for such grants; and

8           (ii) criteria, in consultation with the  
9 Panel, to determine what persons are eligi-  
10 ble for grants under the program.

11          (B) ELIGIBLE PERSONS.—Persons eligible  
12 under the criteria under subparagraph (A)(ii)  
13 shall include Federal, State, affected tribal, and  
14 local agencies, fishery or wildlife management  
15 organizations, nonprofit organizations, and aca-  
16 demic institutions.

17          (4) APPROVAL OF GRANTS.—In making grants  
18 under this subsection the Secretary shall give the  
19 highest priority to the recommendations of the  
20 Panel. If the Secretary disapproves a grant rec-  
21 ommended by the Panel, the Secretary shall explain  
22 that disapproval in writing.

23          (5) USE OF GRANT FUNDS.—Any amounts pro-  
24 vided as a grant under this subsection may only be  
25 used for activities described in subsection (f).

1 (d) GRANTS TO REGIONAL OCEAN PARTNERSHIPS.—

2 (1) GRANT AUTHORITY.—The Secretary may  
3 use amounts allocated under subsection (a)(3)(A)(iii)  
4 to make grants to Regional Ocean Partnerships.

5 (2) ELIGIBILITY.—In order to be eligible to re-  
6 ceive a grant, a Regional Ocean Partnership must  
7 prepare and annually revise a plan that—

8 (A) identifies regional science and informa-  
9 tion needs, regional goals and priorities, and  
10 mechanisms for facilitating coordinated and col-  
11 laborative responses to regional issues;

12 (B) establishes a process for coordinating  
13 and collaborating with the Regional Coordina-  
14 tion Councils established under section 602 to  
15 address regional issues and information needs  
16 and achieve regional goals and priorities; and

17 (C) demonstrates that activities to be car-  
18 ried out with such funds are eligible uses of the  
19 funds identified in subsection (f).

20 (3) APPROVAL BY SECRETARY.—Such plans  
21 must be submitted to and approved by the Sec-  
22 retary.

23 (4) PUBLIC INPUT AND COMMENT.—In deter-  
24 mining whether to approve such plans, the Secretary  
25 shall provide opportunity for, and take into consider-



1       ation, input and comment on the plans from stake-  
2       holders and the general public.

3               (5) USE OF FUNDS.—Any amounts provided as  
4       a grant under this subsection may only be used for  
5       activities described in subsection (f).

6       (e) LONG-TERM OCEAN AND COASTAL OBSERVA-  
7       TIONS.—

8               (1) IN GENERAL.—The Secretary shall use the  
9       amounts allocated under subsection (a)(3)(A)(ii) to  
10      build, operate, and maintain the system established  
11      under section 12304 of Public Law 111–11 (33  
12      U.S.C. 3603), in accordance with the purposes and  
13      policies for which the system was established.

14              (2) ADMINISTRATION OF FUNDS.—The Sec-  
15      retary shall administer and distribute funds under  
16      this subsection based upon comprehensive system  
17      budgets adopted by the Council referred to in section  
18      12304(e)(1)(A) of the Integrated Coastal and Ocean  
19      Observation System Act of 2009 (33 U.S.C.  
20      3603(e)(1)(A)).

21       (f) ELIGIBLE USE OF FUNDS.—Any funds made  
22      available under this section may only be used for activities  
23      that contribute to the conservation, protection, mainte-  
24      nance, and restoration of ocean, coastal, and Great Lakes  
25      ecosystems in a manner that is consistent with Federal

1 environmental laws and that avoids environmental deg-  
2 radation, including—

3           (1) activities to conserve, protect, maintain, and  
4       restore coastal, marine, and Great Lakes ecosystem  
5       health;

6           (2) activities to protect marine biodiversity and  
7       living marine and coastal resources and their habi-  
8       tats, including fish populations;

9           (3) the development and implementation of  
10      multiobjective, science- and ecosystem-based plans  
11      for monitoring and managing the wide variety of  
12      uses affecting ocean, coastal, and Great Lakes eco-  
13      systems and resources that consider cumulative im-  
14      pacts and are spatially explicit where appropriate;

15          (4) activities to improve the resiliency of those  
16      ecosystems;

17          (5) activities to improve the ability of those eco-  
18      systems to become more resilient, and to adapt to  
19      and withstand the impacts of climate change and  
20      ocean acidification;

21          (6) planning for and managing coastal develop-  
22      ment to minimize the loss of life and property asso-  
23      ciated with sea level rise and the coastal hazards re-  
24      sulting from it;

1           (7) research, education, assessment, monitoring,  
2           and dissemination of information that contributes to  
3           the achievement of these purposes;

4           (8) research of, protection of, enhancement to,  
5           and activities to improve the resiliency of culturally  
6           significant areas and resources; and

7           (9) activities designed to rescue, rehabilitate,  
8           and recover injured marine mammals, marine birds,  
9           and sea turtles.

10          (g) DEFINITIONS.—In this section:

11           (1) ORCA FUND.—The term “ORCA Fund”  
12           means the Ocean Resources Conservation and As-  
13           sistance Fund established by this section.

14           (2) SECRETARY.—Notwithstanding section 3,  
15           the term “Secretary” means the Secretary of Com-  
16           merce.

17          **SEC. 606. WAIVER.**

18           The Federal Advisory Committee Act (5 U.S.C. App.)  
19           shall not apply to the Regional Coordination Councils es-  
20           tablished under section 602.

1 **TITLE VII—OIL SPILL ACCOUNT-**  
2 **ABILITY AND ENVIRON-**  
3 **MENTAL PROTECTION**

4 **SEC. 701. SHORT TITLE.**

5 This title may be cited as the “Oil Spill Account-  
6 ability and Environmental Protection Act of 2010”.

7 **SEC. 702. REPEAL OF AND ADJUSTMENTS TO LIMITATION**  
8 **ON LIABILITY.**

9 (a) IN GENERAL.—Section 1004 of the Oil Pollution  
10 Act of 1990 (33 U.S.C. 2704) is amended—

11 (1) in subsection (a)—

12 (A) in paragraph (2)—

13 (i) by striking “\$800,000,,” and in-  
14 serting “\$800,000,”; and

15 (ii) by adding “and” after the semi-  
16 colon at the end;

17 (B) by striking paragraph (3); and

18 (C) by redesignating paragraph (4) as  
19 paragraph (3);

20 (2) in subsection (b)(2) by striking the second  
21 sentence; and

22 (3) by striking subsection (d)(4) and inserting  
23 the following:

24 “(4) ADJUSTMENT OF LIMITS ON LIABILITY.—

25 Not later than 3 years after the date of enactment

1 of the Oil Spill Accountability and Environmental  
2 Protection Act of 2010, and at least once every 3  
3 years thereafter, the President shall review the limits  
4 on liability specified in subsection (a) and shall by  
5 regulation revise such limits upward to reflect either  
6 the amount of liability that the President determines  
7 is commensurate with the risk of discharge of oil  
8 presented by a particular category of vessel, facility,  
9 or port or any increase in the Consumer Price Index,  
10 whichever is greater.”.

11 (b) APPLICABILITY.—The amendments made by this  
12 section apply to—

13 (1) any claim arising from an event occurring  
14 after the date of enactment of this Act; and

15 (2) any claim arising from an event occurring  
16 before such date of enactment, if the claim is  
17 brought within the limitations period applicable to  
18 the claim.

19 **SEC. 703. EVIDENCE OF FINANCIAL RESPONSIBILITY FOR**  
20 **OFFSHORE FACILITIES.**

21 Section 1016 of the Oil Pollution Act of 1990 (33  
22 U.S.C. 2716) is amended—

23 (1) in subsection (c)(1)—

24 (A) in subparagraph (B) by striking “sub-  
25 paragraph (A) is” and all that follows before

1 the period and inserting “subparagraph (A) is  
2 \$300,000,000”; and

3 (B) by striking subparagraph (C) and in-  
4 serting the following:

5 “(C) ALTERNATE AMOUNT.—

6 “(i) SPECIFIC FACILITIES.—

7 “(I) IN GENERAL.—If the Presi-  
8 dent determines that an amount of fi-  
9 nancial responsibility for a responsible  
10 party that is less than the amount re-  
11 quired by subparagraph (B) is justi-  
12 fied based on the criteria established  
13 under clause (ii), the evidence of fi-  
14 nancial responsibility required shall be  
15 for an amount determined by the  
16 President.

17 “(II) MINIMUM AMOUNTS.—In  
18 no case shall the evidence of financial  
19 responsibility required under this sec-  
20 tion be less than—

21 “(aa) \$105,000,000 for an  
22 offshore facility located seaward  
23 of the seaward boundary of a  
24 State; or

1                   “(bb) \$30,000,000 for an  
2                   offshore facility located landward  
3                   of the seaward boundary of a  
4                   State.

5                   “(ii) CRITERIA FOR DETERMINATION  
6                   OF FINANCIAL RESPONSIBILITY.—The  
7                   President shall prescribe the amount of fi-  
8                   nancial responsibility required under clause  
9                   (i)(I) based on the following:

10                   “(I) The market capacity of the  
11                   insurance industry to issue such in-  
12                   struments.

13                   “(II) The operational risk of a  
14                   discharge and the effects of that dis-  
15                   charge on the environment and the re-  
16                   gion.

17                   “(III) The quantity and location  
18                   of the oil and gas that is explored for,  
19                   drilled for, produced, or transported  
20                   by the responsible party.

21                   “(IV) The asset value of the  
22                   owner of the offshore facility, includ-  
23                   ing the combined asset value of all  
24                   partners that own the facility.

1           “(V) The cost of all removal  
2 costs and damages for which the  
3 owner may be liable under this Act  
4 based on a worst-case-scenario.

5           “(VI) The safety history of the  
6 owner of the offshore facility.

7           “(VII) Any other factors that the  
8 President considers appropriate.

9           “(iii) ADJUSTMENT FOR ALL OFF-  
10 SHORE FACILITIES.—

11           “(I) IN GENERAL.—Not later  
12 than 3 years after the date of enact-  
13 ment of the Oil Spill Accountability  
14 and Environmental Protection Act of  
15 2010, and at least once every 3 years  
16 thereafter, the President shall review  
17 the levels of financial responsibility  
18 specified in this subsection and the  
19 limit on liability specified in sub-  
20 section (f)(4) and may by regulation  
21 revise such levels and limit upward to  
22 the levels and limit that the President  
23 determines are justified based on the  
24 relative operational, environmental,  
25 and other risks posed by the quantity,



1 quality, or location of oil that is ex-  
2 plored for, drilled for, produced, or  
3 transported by the responsible party.

4 “(II) NOTICE TO CONGRESS.—

5 Upon completion of a review specified  
6 in subclause (I), the President shall  
7 notify Congress as to whether the  
8 President will revise the levels of fi-  
9 nancial responsibility and limit on li-  
10 ability referred to in subclause (I) and  
11 the factors used in making such deter-  
12 mination.”;

13 (2) in subsection (e) by striking “self-insurer,”  
14 and inserting “self-insurer, participation in coopera-  
15 tive arrangements such as pooling or joint insur-  
16 ance,”; and

17 (3) in subsection (f)—

18 (A) in paragraph (1) by striking “Subject”  
19 and inserting “Except as provided in paragraph  
20 (4) and subject”; and

21 (B) by adding at the end the following:

22 “(4) MAXIMUM LIABILITY.—The maximum li-  
23 ability of a guarantor of an offshore facility under  
24 this subsection is \$300,000,000.”.

1 **SEC. 704. DAMAGES TO HUMAN HEALTH.**

2 (a) IN GENERAL.—Section 1002(b)(2) of the Oil Pol-  
3 lution Act of 1990 (33 U.S.C. 2702(b)(2)) is amended by  
4 adding at the end the following:

5 “(G) HUMAN HEALTH.—

6 “(i) IN GENERAL.—Damages to  
7 human health, including fatal injuries,  
8 which shall be recoverable by any claimant  
9 who has a demonstrable, adverse impact to  
10 human health or, in the case of a fatal in-  
11 jury to an individual, a claimant filing a  
12 claim on behalf of such individual.

13 “(ii) INCLUSION.—For purposes of  
14 clause (i), the term ‘human health’ in-  
15 cludes mental health.”.

16 (b) APPLICABILITY.—The amendments made by this  
17 section apply to—

18 (1) any claim arising from an event occurring  
19 after the date of enactment of this Act; and

20 (2) any claim arising from an event occurring  
21 before such date of enactment, if the claim is  
22 brought within the limitations period applicable to  
23 the claim.

1 **SEC. 705. CLARIFICATION OF LIABILITY FOR DISCHARGES**  
2 **FROM MOBILE OFFSHORE DRILLING UNITS.**

3 (a) IN GENERAL.—Section 1004(b)(2) of the Oil Pol-  
4 lution Act of 1990 (33 U.S.C. 2704(b)(2)) is amended—

5 (1) by striking “from any incident described in  
6 paragraph (1)” and inserting “from any discharge of  
7 oil, or substantial threat of a discharge of oil, into  
8 or upon the water”; and

9 (2) by striking “liable” and inserting “liable as  
10 described in paragraph (1)”.

11 (b) APPLICABILITY.—The amendments made by this  
12 section shall apply to—

13 (1) any claim arising from an event occurring  
14 after the date of enactment of this Act; and

15 (2) any claim arising from an event occurring  
16 before such date of enactment, if the claim is  
17 brought within the limitations period applicable to  
18 the claim.

19 **SEC. 706. STANDARD OF REVIEW FOR DAMAGE ASSESS-**  
20 **MENT.**

21 Section 1006(e)(2) of the Oil Pollution Act of 1990  
22 (33 U.S.C. 2706(e)(2)) is amended—

23 (1) in the heading by striking “REBUTTABLE  
24 PRESUMPTION” and inserting “JUDICIAL REVIEW OF  
25 ASSESSMENTS”; and

1           (2) by striking “have the force and effect” and  
2           all that follows before the period and inserting the  
3           following: “be subject to judicial review under sub-  
4           chapter II of chapter 5 of title 5, United States  
5           Code (commonly known as the Administrative Proce-  
6           dure Act), on the basis of the administrative record  
7           developed by the lead Federal trustee as provided in  
8           such regulations”.

9   **SEC. 707. PROCEDURES FOR CLAIMS AGAINST FUND; IN-**  
10                                   **FORMATION ON CLAIMS.**

11           (a) PROCEDURES FOR CLAIMS AGAINST FUND.—  
12           Section 1013(e) of the Oil Pollution Act of 1990 (33  
13           U.S.C. 2713(e)) is amended by adding at the end the fol-  
14           lowing: “In the event of a spill of national significance,  
15           the President may exercise the authorities under this sec-  
16           tion to ensure that the presentation, filing, processing, set-  
17           tlement, and adjudication of claims occurs within the  
18           States and local governments affected by such spill to the  
19           greatest extent practicable.”.

20           (b) INFORMATION ON CLAIMS.—Title I of the Oil  
21           Pollution Act of 1990 (33 U.S.C. 2701 et seq.) is amended  
22           by inserting after section 1013 the following:

23   **“SEC. 1013A. INFORMATION ON CLAIMS.**

24           “In the event of a spill of national significance, the  
25           President may require a responsible party or a guarantor

1 of a source designated under section 1014(a) to provide  
2 to the President any information on or related to claims,  
3 either individually, in the aggregate, or both, that the  
4 President requests, including—

5           “(1) the transaction date or dates of such  
6           claims, including processing times; and

7           “(2) any other data pertaining to such claims  
8           necessary to ensure the performance of the respon-  
9           sible party or the guarantor with regard to the proc-  
10          essing and adjudication of such claims.”.

11          (c) CONFORMING AMENDMENT.—The table of con-  
12          tents contained in section 2 of such Act is amended by  
13          inserting after the item relating to section 1013 the fol-  
14          lowing:

          “Sec. 1013A. Information on claims.”.

15          (d) APPLICABILITY.—The amendments made by this  
16          section apply to—

17               (1) any claim arising from an event occurring  
18               after the date of enactment of this Act; and

19               (2) any claim arising from an event occurring  
20               before such date of enactment, if the claim is  
21               brought within the limitations period applicable to  
22               the claim.

23 **SEC. 708. ADDITIONAL AMENDMENTS AND CLARIFICATIONS**  
24 **TO OIL POLLUTION ACT OF 1990.**

25          (a) DEFINITIONS.—

1           (1) REMOVAL COSTS.—Section 1001(31) of the  
2           Oil Pollution Act of 1990 (33 U.S.C. 2701(31)) is  
3           amended by inserting before the semicolon the fol-  
4           lowing: “and includes all costs of Federal enforce-  
5           ment activities related thereto”.

6           (2)           RESPONSIBLE           PARTY.—Section  
7           1001(32)(B) of such Act (33 U.S.C. 2701(32)(B))  
8           is amended by inserting before “, except a” the fol-  
9           lowing: “any person who owns or who has a lease-  
10          hold interest or other property interest in the land  
11          or in the minerals beneath the land on which the fa-  
12          cility is located, and any person who is the assignor  
13          of a property interest in the land or in the minerals  
14          beneath the land on which the facility is located,”.

15          (b)           ELEMENTS           OF           LIABILITY.—Section  
16          1002(b)(1)(A) of such Act (33 U.S.C. 2702(b)(1)(A)) is  
17          amended by inserting before the semicolon the following:  
18          “, including all costs of Federal enforcement activities re-  
19          lated thereto”.

20          (c) SUBROGATION.—Section 1015(c) of such Act (33  
21          U.S.C. 2715(c)) is amended by adding at the end the fol-  
22          lowing: “In such actions, the Fund shall recover all costs  
23          and damages paid from the Fund unless the decision to  
24          make the payment is found to be arbitrary or capricious.”.

1           (d)           FINANCIAL           RESPONSIBILITY.—Section  
2 1016(f)(1) of such Act (33 U.S.C. 2717(f)(1)) is amend-  
3 ed—

4                   (1) by inserting “and” at the end of subpara-  
5 graph (A);

6                   (2) by striking “; and” at the end of subpara-  
7 graph (B) and inserting a period; and

8                   (3) by striking subparagraph (C).

9           (e)           CONSIDERATIONS       OF       TRUSTEES.—Section  
10 1006(d) of such Act (33 U.S.C. 2706(d)) is amended by  
11 adding at the end the following:

12                   “(4) CONSIDERATIONS OF TRUSTEES.—

13                           “(A) EQUAL AND FULL CONSIDERATION.—

14                   Trustees shall—

15                           “(i) give equal and full consideration  
16 to restoration, rehabilitation, replacement,  
17 and the acquisition of the equivalent of the  
18 natural resources under their trusteeship;  
19 and

20                           “(ii) consider restoration, rehabilita-  
21 tion, replacement, and the acquisition of  
22 the equivalent of the natural resources  
23 under their trusteeship in a holistic eco-  
24 system context and using, where available,  
25 eco-regional or natural resource plans.

1           “(B) SPECIAL RULE ON ACQUISITION.—  
2           Acquisition shall only be given full and equal  
3           consideration under subparagraph (A) if it pro-  
4           vides a substantially greater likelihood of im-  
5           proving the resilience of the lost or damaged re-  
6           source and supports local ecological processes.”.

7           (f) APPLICABILITY.—The amendments made by this  
8 section apply to—

9           (1) any claim arising from an event occurring  
10          after the date of enactment of this Act; and

11          (2) any claim arising from an event occurring  
12          before such date of enactment, if the claim is  
13          brought within the limitations period applicable to  
14          the claim.

15 **SEC. 709. AMERICANIZATION OF OFFSHORE OPERATIONS**

16                                   **IN THE EXCLUSIVE ECONOMIC ZONE.**

17           (a) REGISTRY ENDORSEMENT REQUIRED.—

18           (1) IN GENERAL.—Section 12111 of title 46,  
19           United States Code, is amended by adding at the  
20           end the following:

21           “(e) RESOURCE ACTIVITIES IN THE EEZ.—Except  
22           for activities requiring an endorsement under sections  
23           12112 or 12113, only a vessel for which a certificate of  
24           documentation with a registry endorsement is issued and  
25           that is owned by a citizen of the United States (as deter-



1 mined under section 50501(d)) may engage in support of  
2 exploration, development, or production of resources in,  
3 on, above, or below the exclusive economic zone or any  
4 other activity in the exclusive economic zone to the extent  
5 that the regulation of such activity is not prohibited under  
6 customary international law.”.

7 (2) APPLICABILITY.—The amendment made by  
8 paragraph (1) applies only with respect to explo-  
9 ration, development, production, and support activi-  
10 ties that commence on or after July 1, 2011.

11 (b) LEGAL AUTHORITY.—Section 2301 of title 46,  
12 United States Code, is amended—

13 (1) by striking “chapter” and inserting “title”;  
14 and

15 (2) by inserting after “1988” the following:  
16 “and the exclusive economic zone to the extent that  
17 the regulation of such operation is not prohibited  
18 under customary international law”.

19 (c) TRAINING FOR COAST GUARD PERSONNEL.—Not  
20 later than 180 days after the date of enactment of this  
21 Act, the Secretary of the department in which the Coast  
22 Guard is operating shall establish a program to provide  
23 Coast Guard personnel with the training necessary for the  
24 implementation of the amendments made by this section.

1 **SEC. 710. SAFETY MANAGEMENT SYSTEMS FOR MOBILE**  
2 **OFFSHORE DRILLING UNITS.**

3 Section 3203 of title 46, United States Code, is  
4 amended—

5 (1) by redesignating subsection (b) as sub-  
6 section (c); and

7 (2) by inserting after subsection (a) the fol-  
8 lowing:

9 “(b) **MOBILE OFFSHORE DRILLING UNITS.**—The  
10 safety management system described in subsection (a) for  
11 a mobile offshore drilling unit operating in waters subject  
12 to the jurisdiction of the United States (including the ex-  
13 clusive economic zone) shall include processes, procedures,  
14 and policies related to the safe operation and maintenance  
15 of the machinery and systems on board the vessel that  
16 may affect the seaworthiness of the vessel in a worst-case  
17 event.”.

18 **SEC. 711. SAFETY STANDARDS FOR MOBILE OFFSHORE**  
19 **DRILLING UNITS.**

20 Section 3306 of title 46, United States Code, is  
21 amended by adding at the end the following:

22 “(k) In prescribing regulations for mobile offshore  
23 drilling units, the Secretary shall develop standards to ad-  
24 dress a worst-case event on the vessel.”.

1 **SEC. 712. OPERATIONAL CONTROL OF MOBILE OFFSHORE**  
2 **DRILLING UNITS.**

3 (a) LICENSES FOR MASTERS OF MOBILE OFFSHORE  
4 DRILLING UNITS.—

5 (1) IN GENERAL.—Chapter 71 of title 46,  
6 United States Code, is amended by redesignating  
7 sections 7104 through 7114 as sections 7105  
8 through 7115, respectively, and by inserting after  
9 section 7103 the following:

10 **“§ 7104. Licenses for masters of mobile offshore drill-**  
11 **ing units**

12 “A license as master of a mobile offshore drilling unit  
13 may be issued only to an applicant who has been issued  
14 a license as master under section 7101(c)(1) and has dem-  
15 onstrated the knowledge, understanding, proficiency, and  
16 sea service for all industrial business or functions of a mo-  
17 bile offshore drilling unit.”.

18 (2) CONFORMING AMENDMENT.—Section 7109  
19 of such title, as so redesignated, is amended by  
20 striking “section 7106 or 7107” and inserting “sec-  
21 tion 7107 or 7108”.

22 (3) CLERICAL AMENDMENT.—The analysis at  
23 the beginning of such chapter is amended by strik-  
24 ing the items relating to sections 7104 through 7114  
25 and inserting the following:

“7104. Licenses for masters of mobile offshore drilling units.

- “7105. Certificates for medical doctors and nurses.
- “7106. Oaths.
- “7107. Duration of licenses.
- “7108. Duration of certificates of registry.
- “7109. Termination of licenses and certificates of registry.
- “7110. Review of criminal records.
- “7111. Exhibiting licenses.
- “7112. Oral examinations for licenses.
- “7113. Licenses of masters or mates as pilots.
- “7114. Exemption from draft.
- “7115. Fees.”.

1           (b) REQUIREMENT FOR CERTIFICATE OF INSPEC-  
 2 TION.—Section 8101(a)(2) of title 46, United States  
 3 Code, is amended by inserting before the semicolon the  
 4 following: “and shall at all times be under the command  
 5 of a master licensed under section 7104”.

6           (c) EFFECTIVE DATE.—The amendments made by  
 7 this section shall take effect 6 months after the date of  
 8 enactment of this Act.

9 **SEC. 713. SINGLE-HULL TANKERS.**

10           (a) APPLICATION OF TANK VESSEL CONSTRUCTION  
 11 STANDARDS.—Section 3703a(b) of title 46, United States  
 12 Code, is amended by striking paragraph (3), and redesign-  
 13 ating paragraphs (4) through (6) as paragraphs (3)  
 14 through (5), respectively.

15           (b) EFFECTIVE DATE.—The amendment made by  
 16 subsection (a) takes effect on January 1, 2011.

17 **SEC. 714. REPEAL OF RESPONSE PLAN WAIVER.**

18           Section 311(j)(5)(G) of the Federal Water Pollution  
 19 Control Act (33 U.S.C. 1321(j)(5)(G)) is amended—

1           (1) by striking “a tank vessel, nontank vessel,  
2 offshore facility, or onshore facility” and inserting  
3 “a nontank vessel”;

4           (2) by striking “tank vessel, nontank vessel, or  
5 facility” and inserting “nontank vessel”; and

6           (3) by adding at the end the following: “A mo-  
7 bile offshore drilling unit, as such term is defined in  
8 section 1001 of the Oil Pollution Act of 1990 (33  
9 U.S.C. 2701), is not eligible to operate without a re-  
10 sponse plan approved under this section.”.

11 **SEC. 715. NATIONAL CONTINGENCY PLAN.**

12           (a) GUIDELINES FOR CONTAINMENT BOOMS.—Sec-  
13 tion 311(d)(2) of the Federal Water Pollution Control Act  
14 (33 U.S.C. 1321(d)(2)) is amended by adding at the end  
15 the following:

16                   “(N) Guidelines regarding the use of con-  
17 tainment booms to contain a discharge of oil or  
18 a hazardous substance, including identification  
19 of quantities of containment booms likely to be  
20 needed, available sources of containment booms,  
21 and best practices for containment boom place-  
22 ment, monitoring, and maintenance.”.

23           (b) SCHEDULE, CRITERIA, AND FEES.—Section  
24 311(d) of the Federal Water Pollution Control Act (33

1 U.S.C. 1321(d)) is amended by adding at the end the fol-  
2 lowing:

3           “(5) SCHEDULE FOR USE OF DISPERSANTS,  
4           OTHER CHEMICALS, AND OTHER SPILL MITIGATING  
5           DEVICES AND SUBSTANCES.—

6           “(A) RULEMAKING.—Not later than 2  
7           years after the date of enactment of this para-  
8           graph, the President, acting through the Ad-  
9           ministrator, after providing notice and an op-  
10          portunity for public comment, shall issue a re-  
11          vised regulation for the development of the  
12          schedule for the use of dispersants, other  
13          chemicals, and other spill mitigating devices  
14          and substances developed under paragraph  
15          (2)(G) in a manner that is consistent with the  
16          requirements of this paragraph and shall mod-  
17          ify the existing schedule to take into account  
18          the requirements of the revised regulation.

19          “(B) SCHEDULE LISTING REQUIRE-  
20          MENTS.—In issuing the regulation under sub-  
21          paragraph (A), the Administrator shall—

22                 “(i) with respect to dispersants, other  
23                 chemicals, and other spill mitigating sub-  
24                 stances included or proposed to be included  
25                 on the schedule under paragraph (2)(G)—

1           “(I) establish minimum toxicity  
2           and efficacy testing criteria, taking  
3           into account the results of the study  
4           carried out under subparagraph (D);

5           “(II) provide for testing or other  
6           verification (independent from the in-  
7           formation provided by an applicant  
8           seeking the inclusion of such dispers-  
9           ant, chemical, or substance on the  
10          schedule) related to the toxicity and  
11          effectiveness of such dispersant, chem-  
12          ical, or substance;

13          “(III) establish a framework for  
14          the application of any such dispersant,  
15          chemical, or substance, including—

16                  “(aa) application conditions;

17                  “(bb) the quantity thresh-  
18                  olds for which approval by the  
19                  Administrator is required;

20                  “(cc) the criteria to be used  
21                  to develop the appropriate max-  
22                  imum quantity of any such dis-  
23                  persant, chemical, or substance  
24                  that the Administrator deter-

1 mines may be used, both on a  
2 daily and cumulative basis; and

3 “(dd) a ranking, by geo-  
4 graphic area, of any such dis-  
5 persant, chemical, or substance  
6 based on a combination of its ef-  
7 fectiveness for each type of oil  
8 and its level of toxicity;

9 “(IV) establish a requirement  
10 that the volume of oil or hazardous  
11 substance discharged, and the volume  
12 and location of any such dispersant,  
13 chemical, or substance used, be meas-  
14 ured and made publicly available, in-  
15 cluding on the Internet;

16 “(V) require the public disclosure  
17 of all ingredients, including the chem-  
18 ical and common name of such ingre-  
19 dients, contained in any such dispers-  
20 ant, chemical, or substance; and

21 “(VI) in addition to existing au-  
22 thority, expressly provide a mecha-  
23 nism for the delisting of any such dis-  
24 persant, chemical, or substance that  
25 the Administrator determines poses a



1 significant risk or impact to water  
2 quality, the environment, or any other  
3 factor the Administrator determines  
4 appropriate;

5 “(ii) with respect to a dispersant,  
6 other chemical, and other spill mitigating  
7 substance not specifically identified on the  
8 schedule, and prior to the use of such dis-  
9 persant, chemical, or substance in accord-  
10 ance with paragraph (2)(G)—

11 “(I) establish the minimum tox-  
12 icity and efficacy levels for such dis-  
13 persant, chemical, or substance;

14 “(II) require the public disclosure  
15 of all ingredients, including the chem-  
16 ical and common name of such ingre-  
17 dients, contained in any such dispers-  
18 ant, chemical, or substance; and

19 “(III) require the provision of  
20 such additional information as the Ad-  
21 ministrator determines necessary; and

22 “(iii) with respect to other spill miti-  
23 gating devices included or proposed to be  
24 included on the schedule under paragraph  
25 (2)(G)—

1           “(I) require the manufacturer of  
2           such device to carry out a study of the  
3           risks and effectiveness of the device  
4           according to guidelines developed and  
5           published by the Administrator; and

6           “(II) in addition to existing au-  
7           thority, expressly provide a mecha-  
8           nism for the delisting of any such de-  
9           vice based on any information made  
10          available to the Administrator that  
11          demonstrates that such device poses a  
12          significant risk or impact to water  
13          quality, the environment, or any other  
14          factor the Administrator determines  
15          appropriate.

16          “(C) DELISTING.—In carrying out sub-  
17          paragraphs (B)(i)(VI) and (B)(iii)(II), the Ad-  
18          ministrator, after posting a notice in the Fed-  
19          eral Register and providing an opportunity for  
20          public comment, shall initiate a formal review  
21          of the potential risks and impacts associated  
22          with a dispersant, chemical, substance, or de-  
23          vice prior to delisting the dispersant, chemical,  
24          substance, or device.

25          “(D) STUDY.—

1           “(i) IN GENERAL.—Not later than 3  
2 months after the date of enactment of this  
3 paragraph, the Administrator shall initiate  
4 a study of the potential risks and impacts  
5 to water quality, the environment, or any  
6 other factor the Administrator determines  
7 appropriate, including acute and chronic  
8 risks, from the use of dispersants, other  
9 chemicals, and other spill mitigating sub-  
10 stances, if any, that may be used to carry  
11 out the National Contingency Plan, includ-  
12 ing an assessment of such risks and im-  
13 pacts—

14                   “(I) on a representative sample  
15 of biota and types of oil from loca-  
16 tions where such dispersants, chemi-  
17 cals, or substances may potentially be  
18 used; and

19                   “(II) that result from any by-  
20 products created from the use of such  
21 dispersants, chemicals, or substances.

22           “(ii) INFORMATION FROM MANUFAC-  
23 TURERS.—

24                   “(I) IN GENERAL.—In conjunc-  
25 tion with the study authorized by

1 clause (i), the Administrator shall de-  
2 termine the requirements for manu-  
3 facturers of dispersants, chemicals, or  
4 substances to evaluate the potential  
5 risks and impacts to water quality,  
6 the environment, or any other factor  
7 the Administrator determines appro-  
8 priate, including acute and chronic  
9 risks, associated with the use of the  
10 dispersants, chemicals, or substances  
11 and any byproducts generated by such  
12 use and to provide the details of such  
13 evaluation as a condition for listing on  
14 the schedule, or approving for use  
15 under this section, according to guide-  
16 lines developed and published by the  
17 Administrator.

18 “(II) MINIMUM REQUIREMENTS  
19 FOR EVALUATION.—In carrying out  
20 this clause, the Administrator shall re-  
21 quire a manufacturer to include—

22 “(aa) information on the oils  
23 and locations where such  
24 dispersants, chemicals, or sub-

1 stances may potentially be used;  
2 and

3 “(bb) if appropriate, an as-  
4 sessment of application and im-  
5 pacts from subsea use of the dis-  
6 persant, chemical, or substance,  
7 including the potential long term  
8 effects of such use on water qual-  
9 ity and the environment.

10 “(E) PERIODIC REVISIONS.—

11 “(i) IN GENERAL.—Not later than 5  
12 years after the date of the issuance of the  
13 regulation under this paragraph, and on an  
14 ongoing basis thereafter (and at least once  
15 every 5 years), the Administrator shall re-  
16 view the schedule for the use of  
17 dispersants, other chemicals, and other  
18 spill mitigating devices and substances that  
19 may be used to carry out the National  
20 Contingency Plan and update or revise the  
21 schedule, as necessary, to ensure the pro-  
22 tection of water quality, the environment,  
23 and any other factor the Administrator de-  
24 termines appropriate.

1           “(ii) EFFECTIVENESS.—The Adminis-  
2           trator shall ensure, to the maximum extent  
3           practicable, that each update or revision to  
4           the schedule increases the minimum effec-  
5           tiveness value necessary for listing a dis-  
6           persant, other chemical, or other spill miti-  
7           gating device or substance on the schedule.

8           “(F) APPROVAL OF USE AND APPLICATION  
9           OF DISPERSANTS.—

10           “(i) IN GENERAL.—In issuing the reg-  
11           ulation under subparagraph (A), the Ad-  
12           ministrator shall require the approval of  
13           the Federal On-Scene Coordinator, in co-  
14           ordination with the Administrator, for all  
15           uses of a dispersant, other chemical, or  
16           other spill mitigating substance in any re-  
17           moval action, including—

18                   “(I) any such dispersant, chem-  
19                   ical, or substance that is included on  
20                   the schedule developed pursuant to  
21                   this subsection; or

22                   “(II) any dispersant, chemical, or  
23                   other substance that is included as  
24                   part an approved area contingency

1 plan or response plan developed under  
2 this section.

3 “(ii) REPEAL.—Any part of section  
4 300.910 of title 40, Code of Federal Regu-  
5 lations, that is inconsistent with this para-  
6 graph is hereby repealed.

7 “(G) TOXICITY DEFINITION.—In this sec-  
8 tion, the term ‘toxicity’ is used in reference to  
9 the potential impacts of a dispersant, sub-  
10 stance, or device on water quality or the envi-  
11 ronment.

12 “(6) REVIEW OF AND DEVELOPMENT OF CRI-  
13 TERIA FOR EVALUATING RESPONSE PLANS.—

14 “(A) REVIEW.—Not later than 6 months  
15 after the date of enactment of this paragraph,  
16 the President shall review the procedures and  
17 standards developed under paragraph (2)(J) to  
18 determine their sufficiency in ceasing and re-  
19 moving a worst case discharge of oil or haz-  
20 ardous substances, and for mitigating or pre-  
21 venting a substantial threat of such a dis-  
22 charge.

23 “(B) RULEMAKING.—Not later than 2  
24 years after the date of enactment of this para-  
25 graph, the President, after providing notice and

1 an opportunity for public comment, shall issue  
2 a final rule to—

3 “(i) revise the procedures and stand-  
4 ards for ceasing and removing a worst case  
5 discharge of oil or hazardous substances,  
6 and for mitigating or preventing a substan-  
7 tial threat of such a discharge; and

8 “(ii) develop a metric for evaluating  
9 the National Contingency Plan, Area Con-  
10 tingency Plans, and tank vessel, nontank  
11 vessel, and facility response plans con-  
12 sistent with the procedures and standards  
13 developed pursuant to this paragraph.

14 “(7) FEES.—

15 “(A) GENERAL AUTHORITY AND FEES.—

16 Subject to subparagraph (B), the Administrator  
17 shall establish a schedule of fees to be collected  
18 from the manufacturer of a dispersant, chem-  
19 ical, or spill mitigating substance or device to  
20 offset the costs of the Administrator associated  
21 with evaluating the use of the dispersant, chem-  
22 ical, substance, or device in accordance with  
23 this subsection and listing the dispersant, chem-  
24 ical, substance, or device on the schedule under  
25 paragraph (2)(G).



1           “(B) LIMITATION ON COLLECTION.—No  
2 fee may be collected under this subsection un-  
3 less the expenditure of the fee to pay the costs  
4 of activities and services for which the fee is im-  
5 posed is provided for in advance in an appro-  
6 priations Act.

7           “(C) FEES CREDITED AS OFFSETTING  
8 COLLECTIONS.—

9           “(i) IN GENERAL.—Notwithstanding  
10 section 3302 of title 31, United States  
11 Code, any fee authorized to be collected  
12 under this paragraph shall—

13           “(I) be credited as offsetting col-  
14 lections to the account that finances  
15 the activities and services for which  
16 the fee is imposed;

17           “(II) be available for expenditure  
18 only to pay the costs of activities and  
19 services for which the fee is imposed,  
20 including all costs associated with col-  
21 lecting such fees; and

22           “(III) remain available until ex-  
23 pended.

24           “(ii) CONTINUING APPROPRIATIONS.—  
25 The Administrator may continue to assess,

1 collect, and spend fees established under  
2 this section during any period in which the  
3 funding for the Environmental Protection  
4 Agency is provided under an Act providing  
5 continuing appropriations in lieu of the  
6 Administration's regular appropriations.

7 “(iii) ADJUSTMENTS.—The Adminis-  
8 trator shall adjust the fees established by  
9 subparagraph (A) periodically to ensure  
10 that each of the fees required by subpara-  
11 graph (A) is reasonably related to the Ad-  
12 ministration's costs, as determined by the  
13 Administrator, of performing the activity  
14 for which the fee is imposed.”.

15 (c) TEMPORARY MORATORIUM ON APPROVAL OF USE  
16 OF DISPERSANTS.—

17 (1) IN GENERAL.—Subject to paragraph (2),  
18 the Administrator of the Environmental Protection  
19 Agency may not approve the use of a dispersant  
20 under section 311(d) of the Oil Pollution Act of  
21 1990 (33 U.S.C. 1321(d)), and shall withdraw any  
22 approval of such use made before the date of enact-  
23 ment of this Act, until the date on which the rule-  
24 making and study required by subparagraphs (A)

1 and (D) of section 311(d)(5) of such Act (as added  
2 by subsection (b) of this section) are complete.

3 (2) **CONDITIONAL APPROVAL.**—The Adminis-  
4 trator may approve the use of a dispersant under  
5 section 311(d) of such Act (33 U.S.C. 1321(d)) for  
6 the period of time before the date on which the rule-  
7 making and study required by subparagraphs (A)  
8 and (D) of section 311(d)(5) of such Act (as added  
9 by subsection (b) of this section) are complete if the  
10 Administrator determines that such use will not  
11 have a negative impact on water quality, the envi-  
12 ronment, or any other factor the Administrator de-  
13 termines appropriate.

14 (3) **INFORMATION.**—In approving the use of a  
15 dispersant under paragraph (2), the Administrator  
16 may require the manufacturer of the dispersant to  
17 provide such information as the Administrator deter-  
18 mines necessary to satisfy the requirements of that  
19 paragraph.

20 (d) **INCLUSION OF CONTAINMENT BOOMS IN AREA**  
21 **CONTINGENCY PLANS.**—Section 311(j)(4)(C)(iv) of such  
22 Act (33 U.S.C. 1321(j)(4)(C)(iv)) is amended by striking  
23 “(including firefighting equipment)” and inserting “(in-  
24 cluding firefighting equipment and containment booms)”.

1 **SEC. 716. TRACKING DATABASE.**

2 Section 311(b) of the Federal Water Pollution Con-  
3 trol Act (33 U.S.C. 1321(b)) is amended by adding at the  
4 end the following:

5 “(13) TRACKING DATABASE.—

6 “(A) IN GENERAL.—The President shall  
7 create a database to track all discharges of oil  
8 or hazardous substances—

9 “(i) into the waters of the United  
10 States, onto adjoining shorelines, or into or  
11 upon the waters of the contiguous zone;

12 “(ii) in connection with activities  
13 under the Outer Continental Shelf Lands  
14 Act (43 U.S.C. 1331 et seq.) or the Deep-  
15 water Port Act of 1974 (33 U.S.C. 1501  
16 et seq.); or

17 “(iii) which may affect natural re-  
18 sources belonging to, appertaining to, or  
19 under the exclusive management authority  
20 of the United States (including resources  
21 under the Fishery Conservation and Man-  
22 agement Act of 1976 (16 U.S.C. 1801 et  
23 seq.)).

24 “(B) REQUIREMENTS.—The database  
25 shall—

26 “(i) include—

1           “(I) the name of the vessel or fa-  
2           cility;

3           “(II) the name of the owner, op-  
4           erator, or person in charge of the ves-  
5           sel or facility;

6           “(III) the date of the discharge;

7           “(IV) the volume of the dis-  
8           charge;

9           “(V) the location of the dis-  
10          charge, including an identification of  
11          any receiving waters that are or could  
12          be affected by the discharge;

13          “(VI) the type, volume, and loca-  
14          tion of the use of any dispersant,  
15          other chemical, or other spill miti-  
16          gating substance used in any removal  
17          action;

18          “(VII) a record of any deter-  
19          mination of a violation of this section  
20          or liability under section 1002 of the  
21          Oil Pollution Act of 1990 (33 U.S.C.  
22          2702);

23          “(VIII) a record of any enforce-  
24          ment action taken against the owner,  
25          operator, or person in charge; and

1                   “(IX) any additional information  
2                   that the President determines nec-  
3                   essary;

4                   “(ii) use data provided by the Envi-  
5                   ronmental Protection Agency, the Coast  
6                   Guard, and other appropriate Federal  
7                   agencies;

8                   “(iii) use data protocols developed and  
9                   managed by the Environmental Protection  
10                  Agency; and

11                  “(iv) be publicly accessible, including  
12                  by electronic means.”.

13 **SEC. 717. EVALUATION AND APPROVAL OF RESPONSE**  
14 **PLANS; MAXIMUM PENALTIES.**

15                  (a) AGENCY REVIEW OF RESPONSE PLANS.—

16                   (1) LEAD FEDERAL AGENCY FOR REVIEW OF  
17                   RESPONSE PLANS.—Section 311(j)(5)(A) of the Fed-  
18                   eral Water Pollution Control Act (33 U.S.C.  
19                   1321(j)(5)(A)) is amended by adding at the end the  
20                   following:

21                   “(iii) In issuing the regulations under this para-  
22                   graph, the President shall ensure that—

23                   “(I) the owner, operator, or person in  
24                   charge of a tank vessel, nontank vessel, or off-  
25                   shore facility described in subparagraph (C) will

1 not be considered to have complied with this  
2 paragraph until the owner, operator, or person  
3 in charge submits a plan under clause (i) or  
4 (ii), as appropriate, to the Secretary of the de-  
5 partment in which the Coast Guard is oper-  
6 ating, the Secretary of the Interior, or the Ad-  
7 ministrator, with respect to such offshore facili-  
8 ties as the President may designate, and the  
9 Secretary or Administrator, as appropriate, de-  
10 termines and notifies the owner, operator, or  
11 person in charge that the plan, if implemented,  
12 will provide an adequate response to a worst  
13 case discharge of oil or a hazardous substance  
14 or a substantial threat of such a discharge; and

15 “(II) the owner, operator, or person in  
16 charge of an onshore facility described in sub-  
17 paragraph (C)(iv) will not be considered to have  
18 complied with this paragraph until the owner,  
19 operator, or person in charge submits a plan  
20 under clause (i) either to the Secretary of  
21 Transportation, with respect to transportation-  
22 related onshore facilities, or the Administrator,  
23 with respect to all other onshore facilities, and  
24 the Secretary or Administrator, as appropriate,  
25 determines and notifies the owner, operator, or

1 person in charge that the plan, if implemented,  
2 will provide an adequate response to a worst-  
3 case discharge of oil or a hazardous substance  
4 or a substantial threat of such a discharge.

5 “(iv)(I) The Secretary of the department in  
6 which the Coast Guard is operating, the Secretary of  
7 the Interior, the Secretary of Transportation, or the  
8 Administrator, as appropriate, shall require that a  
9 plan submitted to the Secretary or Administrator for  
10 a vessel or facility under clause (iii)(I) or (iii)(II) by  
11 an owner, operator, or person in charge—

12 “(aa) contain a probabilistic risk analysis  
13 for all critical engineered systems of the vessel  
14 or facility; and

15 “(bb) adequately address all risks identi-  
16 fied in the risk analysis.

17 “(II) The Secretary or Administrator, as appro-  
18 priate, shall require that a risk analysis developed  
19 under subclause (I) include, at a minimum, the fol-  
20 lowing:

21 “(aa) An analysis of human factors risks,  
22 including both organizational and management  
23 failure risks.



1           “(bb) An analysis of technical failure risks,  
2           including both component technologies and inte-  
3           grated systems risks.

4           “(cc) An analysis of interactions between  
5           humans and critical engineered systems.

6           “(dd) Quantification of the likelihood of  
7           modes of failure and potential consequences.

8           “(ee) A description of methods for reduc-  
9           ing known risks.

10          “(III) The Secretary or Administrator, as ap-  
11          propriate, shall require an owner, operator, or per-  
12          son in charge that develops a risk analysis under  
13          subclause (I) to make the risk analysis available to  
14          the public.”.

15          (2) REVIEW AND APPROVAL OF RESPONSE  
16          PLANS.—Section 311(j)(5)(E) of such Act (33  
17          U.S.C. 1321(j)(5)(E)) is amended to read as follows:

18           “(E) With respect to any response plan sub-  
19           mitted under this paragraph for an onshore facility  
20           that, because of its location, could reasonably be ex-  
21           pected to cause significant and substantial harm to  
22           the environment by discharging into or on the navi-  
23           gable waters or adjoining shorelines or the exclusive  
24           economic zone, and with respect to each response  
25           plan submitted under this paragraph for a tank ves-

1 sel, nontank vessel, or offshore facility, the President  
2 shall—

3 “(i) promptly review the response plan;

4 “(ii) verify that the response plan complies  
5 with subparagraph (A)(iv), relating to risk anal-  
6 yses;

7 “(iii) with respect to a plan for an offshore  
8 or onshore facility or a tank vessel that carries  
9 liquefied natural gas, provide an opportunity for  
10 public notice and comment on the response  
11 plan;

12 “(iv) taking into consideration any public  
13 comments received and other appropriate fac-  
14 tors, as determined by the President, require  
15 revisions to the response plan;

16 “(v) approve, approve with revisions, or  
17 disapprove the response plan;

18 “(vi) review the response plan periodically  
19 thereafter, and if applicable requirements are  
20 not met, acting through the head of the appro-  
21 priate Federal department or agency—

22 “(I) issue administrative orders di-  
23 recting the owner, operator, or person in  
24 charge to comply with the response plan or  
25 any regulation issued under this section; or

1           “(II) assess civil penalties or conduct  
2           other appropriate enforcement actions in  
3           accordance with subsections (b)(6), (b)(7),  
4           and (b)(8) for failure to develop, submit,  
5           receive approval of, adhere to, or maintain  
6           the capability to implement the response  
7           plan, or failure to comply with any other  
8           requirement of this section;

9           “(vii) acting through the head of the ap-  
10          propriate Federal department or agency, con-  
11          duct, at a minimum, biennial inspections of the  
12          tank vessel, nontank vessel, or facility to ensure  
13          compliance with the response plan or identify  
14          deficiencies in such plan;

15          “(viii) acting through the head of the ap-  
16          propriate Federal department or agency, make  
17          the response plan available to the public, includ-  
18          ing on the Internet; and

19          “(ix) in the case of a plan for a nontank  
20          vessel, consider any applicable State-mandated  
21          response plan in effect on the date of enactment  
22          of the Coast Guard and Maritime Transpor-  
23          tation Act of 2004 and ensure consistency to  
24          the extent practicable.”.

1           (3) BIENNIAL REPORT.—Section 311(j)(5) of  
2 such Act (33 U.S.C. 1321(j)(5)) is amended by add-  
3 ing at the end the following:

4           “(J) Not later than 2 years after the date of  
5 enactment of this subparagraph, and biennially  
6 thereafter, the President, acting through the Admin-  
7 istrator, the Secretary of the department in which  
8 the Coast Guard is operating, and the Secretary of  
9 Transportation, shall submit to Congress a report  
10 containing the following information for each owner,  
11 operator, or person in charge that submitted a re-  
12 sponse plan for a tank vessel, nontank vessel, or fa-  
13 cility under this paragraph:

14           “(i) The number of response plans ap-  
15 proved, disapproved, or approved with revisions  
16 under subparagraph (E) annually for tank ves-  
17 sels, nontank vessels, and facilities of the  
18 owner, operator, or person in charge.

19           “(ii) The number of inspections conducted  
20 under subparagraph (E) annually for tank ves-  
21 sels, nontank vessels, and facilities of the  
22 owner, operator, or person in charge.

23           “(iii) A summary of each administrative or  
24 enforcement action concluded with respect each  
25 tank vessel, nontank vessel, and facility of the

1 owner, operator, or person in charge, including  
2 a description of the violation, the date of viola-  
3 tion, the amount of each penalty proposed, and  
4 the final assessment of each penalty and an ex-  
5 planation for any reduction in a penalty.”.

6 (4) ADMINISTRATIVE PROVISIONS FOR FACILI-  
7 TIES.—Section 311(m)(2) of such Act (33 U.S.C.  
8 1321(m)(2)) is amended in each of subparagraphs  
9 (A) and (B) by inserting “, the Secretary of Trans-  
10 portation,” before “or the Secretary of the depart-  
11 ment in which the Coast Guard is operating”.

12 (b) PENALTIES.—

13 (1) ADMINISTRATIVE PENALTIES.—

14 (A) AUTHORITY OF SECRETARY OF TRANS-  
15 PORTATION TO ASSESS PENALTIES.—Section  
16 311(b)(6)(A) of such Act (33 U.S.C.  
17 1321(b)(6)(A)) is amended by inserting “, the  
18 Secretary of Transportation,” before “or the  
19 Administrator”.

20 (B) ADMINISTRATIVE PENALTIES FOR  
21 FAILURE TO PROVIDE NOTICE.—Section  
22 311(b)(6)(A) of such Act (33 U.S.C.  
23 1321(b)(6)(A)) is further amended—

1 (i) in clause (i) by striking “para-  
2 graph (3), or” and inserting “paragraph  
3 (3),”;

4 (ii) in clause (ii) by striking “any reg-  
5 ulation issued under subsection (j)” and  
6 inserting “any order or action required by  
7 the President under subsection (c) or (e)  
8 or any regulation issued under subsection  
9 (d) or (j)”;

10 (iii) by redesignating clause (ii) as  
11 clause (iii);

12 (iv) by inserting after clause (i) the  
13 following:

14 “(ii) who fails to provide notice to the  
15 appropriate Federal agency pursuant to  
16 paragraph (5), or”; and

17 (v) by adding at the end the following:  
18 “Whenever the President delegates the au-  
19 thority to issue regulations under sub-  
20 section (j), the head of the agency who  
21 issues regulations pursuant to that author-  
22 ity shall have the authority to assess a civil  
23 penalty in accordance with this section for  
24 violations of such regulations.”.

1 (C) PENALTY AMOUNTS.—Section  
2 311(b)(6)(B) of such Act (33 U.S.C.  
3 1321(b)(6)(B)) is amended—

4 (i) in clause (i)—

5 (I) by striking “\$10,000” and in-  
6 serting “\$100,000”; and

7 (II) by striking “\$25,000” and  
8 inserting “\$250,000”; and

9 (ii) in clause (ii)—

10 (I) by striking “\$10,000” and in-  
11 serting “\$100,000”; and

12 (II) by striking “\$125,000” and  
13 inserting “\$1,000,000”.

14 (2) CIVIL PENALTIES.—Section 311(b)(7) of  
15 such Act (33 U.S.C. 1321(b)(7)) is amended—

16 (A) in subparagraph (A)—

17 (i) by striking “\$25,000” and insert-  
18 ing “\$100,000”; and

19 (ii) by striking “\$1,000” and insert-  
20 ing “\$2,500”;

21 (B) in subparagraph (B)—

22 (i) by striking “described in subpara-  
23 graph (A)”;

24 (ii) in clause (i) by striking “carry out  
25 removal of the discharge under an order of

1 the President pursuant to subsection (c);  
2 or” and inserting “comply with any order  
3 or action required by the President pursu-  
4 ant to subsection (c),”;

5 (iii) in clause (ii) by striking  
6 “(1)(B)”;

7 (iv) by redesignating clause (ii) as  
8 clause (iii);

9 (v) by inserting after clause (i) the  
10 following:

11 “(ii) fails to provide notice to the ap-  
12 propriate Federal agency pursuant to para-  
13 graph (5), or”; and

14 (vi) by striking “\$25,000” and insert-  
15 ing “\$100,000”;

16 (C) in subparagraph (C)—

17 (i) by striking “(j)” and inserting “(d)  
18 or (j)”;

19 (ii) by striking “\$25,000” and insert-  
20 ing “\$100,000”; and

21 (iii) by adding at the end the fol-  
22 lowing: “Whenever the President delegates  
23 the authority to issue regulations under  
24 subsection (j), the head of the agency who  
25 issues regulations pursuant to that author-



1           ity shall have the authority to seek injunc-  
2           tive relief or assess a civil penalty in ac-  
3           cordance with this section for violations of  
4           such regulations and the authority to refer  
5           the matter to the Attorney General for ac-  
6           tion under subparagraph (E).”;

7           (D) in subparagraph (D)—

8                 (i) by striking “\$100,000” and insert-  
9                 ing “\$300,000”; and

10                (ii) by striking “\$3,000” and insert-  
11                ing “\$7,500”; and

12           (E) in subparagraph (E) by adding at the  
13           end the following: “The court may award ap-  
14           propriate relief, including a temporary or per-  
15           manent injunction, civil penalties, and punitive  
16           damages.”.

17           (3) APPLICABILITY.—The amendments made  
18           by this subsection apply to—

19                 (A) any claim arising from an event occur-  
20                 ring after the date of enactment of this Act;  
21                 and

22                 (B) any claim arising from an event occur-  
23                 ring before such date of enactment, if the claim  
24                 is brought within the limitations period applica-  
25                 ble to the claim.

1 (c) CLARIFICATION OF FEDERAL REMOVAL AUTHOR-  
2 ITY.—Section 311(c)(1)(B)(ii) of such Act (33 U.S.C.  
3 1321(c)(1)(B)(ii)) is amended by striking “direct” and in-  
4 serting “direct, including through the use of an adminis-  
5 trative order,”.

6 **SEC. 718. OIL AND HAZARDOUS SUBSTANCE CLEANUP**  
7 **TECHNOLOGIES.**

8 Section 311(j) of the Federal Water Pollution Control  
9 Act (33 U.S.C. 1321(j)) is amended by adding at the end  
10 the following:

11 “(9) OIL AND HAZARDOUS SUBSTANCE CLEAN-  
12 UP TECHNOLOGIES.—The President, acting through  
13 the Secretary of the department in which the Coast  
14 Guard is operating, shall—

15 “(A) in coordination with the Secretary of  
16 the Interior and the heads of other appropriate  
17 Federal agencies, establish a process for—

18 “(i) quickly and effectively soliciting,  
19 assessing, and deploying offshore oil and  
20 hazardous substance cleanup technologies  
21 in the event of a discharge or substantial  
22 threat of a discharge of oil or a hazardous  
23 substance; and

24 “(ii) effectively coordinating with  
25 other appropriate agencies, industry, aca-

1 demia, small businesses, and others to en-  
2 sure the best technology available is imple-  
3 mented in the event of such a discharge or  
4 threat; and

5 “(B) in coordination with the Secretary of  
6 the Interior and the heads of other appropriate  
7 Federal agencies, maintain a database on best  
8 available oil and hazardous substance cleanup  
9 technologies in the event of a discharge or sub-  
10 stantial threat of a discharge of oil or a haz-  
11 ardous substance.”.

12 **SEC. 719. IMPLEMENTATION OF OIL SPILL PREVENTION**  
13 **AND RESPONSE AUTHORITIES.**

14 Section 311(l) of the Federal Water Pollution Control  
15 Act (33 U.S.C. 1321(l)) is amended—

16 (1) by striking “(l) The President” and insert-  
17 ing the following:

18 “(l) DELEGATION AND IMPLEMENTATION.—

19 “(1) DELEGATION.—The President”; and

20 (2) by adding at the end the following:

21 “(2) ENVIRONMENTAL PROTECTION AGENCY.—

22 “(A) IN GENERAL.—The President shall  
23 delegate the responsibilities under subparagraph  
24 (B) to the Administrator.

1           “(B) RESPONSIBILITIES.—With respect to  
2 onshore facilities (other than transportation-re-  
3 lated facilities) and such offshore facilities as  
4 the President may designate, the Administrator  
5 shall ensure that Environmental Protection  
6 Agency personnel develop and maintain oper-  
7 ational capability—

8           “(i) for effective inspection, moni-  
9 toring, prevention, preparedness, and re-  
10 sponse authorities related to the discharge  
11 or substantial threat of a discharge of oil  
12 or a hazardous substance;

13           “(ii) to protect water quality and the  
14 environment from impacts of a discharge  
15 or substantial threat of a discharge of oil  
16 or a hazardous substance; and

17           “(iii) to review and approve of, dis-  
18 approve of, or require revisions (if nec-  
19 essary) to facility response plans and to  
20 carry out all other responsibilities under  
21 subsection (j)(5)(E).

22           “(3) COAST GUARD.—

23           “(A) IN GENERAL.—The President shall  
24 delegate the responsibilities under subparagraph

1 (B) to the Secretary of the department in which  
2 the Coast Guard is operating.

3 “(B) RESPONSIBILITIES.—The Secretary  
4 shall ensure that Coast Guard personnel de-  
5 velop and maintain operational capability—

6 “(i) to establish and enforce regula-  
7 tions and standards for procedures, meth-  
8 ods, equipment, and other requirements to  
9 prevent and to contain a discharge of oil or  
10 a hazardous substance from a tank vessel  
11 or nontank vessel or such an offshore facil-  
12 ity as the President may designate;

13 “(ii) to establish and enforce regula-  
14 tions, and to carry out all other respon-  
15 sibilities, under subsection (j)(5) with re-  
16 spect to such vessels and offshore facilities  
17 as the President may designate; and

18 “(iii) to protect the environment and  
19 natural resources from impacts of a dis-  
20 charge or substantial threat of a discharge  
21 of oil or a hazardous substance from such  
22 vessels and offshore facilities as the Presi-  
23 dent may designate.

24 “(C) ROLE AS FIRST RESPONDER.—

1           “(i) IN GENERAL.—The responsibil-  
2           ities delegated to the Secretary under sub-  
3           paragraph (B) shall be sufficient to allow  
4           the Coast Guard to act as a first responder  
5           to a discharge or substantial threat of a  
6           discharge of oil or a hazardous substance  
7           from a tank vessel, nontank vessel, or off-  
8           shore facility.

9           “(ii) CAPABILITIES.—The President  
10          shall ensure that the Coast Guard has suf-  
11          ficient personnel and resources to act as a  
12          first responder as described in clause (i),  
13          including the resources necessary for on-  
14          going training of personnel, acquisition of  
15          equipment (including containment booms,  
16          dispersants, and skimmers), and  
17          prepositioning of equipment.

18          “(D) CONTRACTS.—The Secretary may  
19          enter into contracts with private and nonprofit  
20          organizations for personnel and equipment in  
21          carrying out the responsibilities delegated to the  
22          Secretary under subparagraph (B).

23          “(4) DEPARTMENT OF TRANSPORTATION.—

1           “(A) IN GENERAL.—The President shall  
2 delegate the responsibilities under subparagraph  
3 (B) to the Secretary of Transportation.

4           “(B) RESPONSIBILITIES.—The Secretary  
5 of Transportation shall—

6                   “(i) establish and enforce regulations  
7 and standards for procedures, methods,  
8 equipment, and other requirements to pre-  
9 vent and to contain discharges of oil and  
10 hazardous substances from transportation-  
11 related onshore facilities;

12                   “(ii) have the authority to review and  
13 approve of, disapprove of, or require revi-  
14 sions (if necessary) to transportation-re-  
15 lated onshore facility response plans and to  
16 carry out all other responsibilities under  
17 subsection (j)(5)(E); and

18                   “(iii) ensure that Department of  
19 Transportation personnel develop and  
20 maintain operational capability—

21                           “(I) for effective inspection, mon-  
22 itoring, prevention, preparedness, and  
23 response authorities related to the dis-  
24 charge or substantial threat of a dis-  
25 charge of oil or a hazardous substance

1 from a transportation-related onshore  
2 facility; and

3 “(II) to protect the environment  
4 and natural resources from the im-  
5 pacts of a discharge or substantial  
6 threat of a discharge of oil or a haz-  
7 ardous substance from a transpor-  
8 tation-related onshore facility.

9 “(5) DEPARTMENT OF THE INTERIOR.—

10 “(A) IN GENERAL.—The President shall  
11 delegate the responsibilities under subparagraph  
12 (B) to the Secretary of the Interior.

13 “(B) RESPONSIBILITIES.—The Secretary  
14 of the Interior shall—

15 “(i) establish and enforce regulations  
16 and standards for procedures, methods,  
17 equipment, and other requirements to pre-  
18 vent and to contain discharges of oil and  
19 hazardous substances from such offshore  
20 facilities as the President may designate;

21 “(ii) establish and enforce regulations  
22 to carry out all other responsibilities under  
23 subsection (j)(5) for such offshore facilities  
24 as the President may designate;



1           “(iii) have the authority to review and  
2           approve of, disapprove of, or require revi-  
3           sions (if necessary) to offshore facility re-  
4           sponse plans under subsection (j)(5) for  
5           such offshore facilities as the President  
6           may designate; and

7           “(iv) ensure that Department of the  
8           Interior personnel develop and maintain  
9           operational capability for effective inspec-  
10          tion, monitoring, prevention, and prepared-  
11          ness authorities related to the discharge or  
12          a substantial threat of a discharge of oil or  
13          hazardous material from such offshore fa-  
14          cilities as the President may designate.”.

15 **SEC. 720. IMPACTS TO INDIAN TRIBES AND PUBLIC SERV-**  
16 **ICE DAMAGES.**

17           (a) IN GENERAL.—Section 1002(b)(2) of the Oil Pol-  
18          lution Act of 1990 (33 U.S.C. 2702(b)(2)) is amended—

19                   (1) in subparagraph (D) by striking “or a polit-  
20                   ical subdivision thereof” and inserting “a political  
21                   subdivision of a State, or an Indian tribe”; and

22                   (2) in subparagraph (F) by striking “by a  
23                   State” and all that follows before the period and in-  
24                   serting “the United States, a State, a political sub-  
25                   division of a State, or an Indian tribe”.

1 (b) APPLICABILITY.—The amendments made by this  
2 section apply to—

3 (1) any claim arising from an event occurring  
4 after the date of enactment of this Act; and

5 (2) any claim arising from an event occurring  
6 before such date of enactment, if the claim is  
7 brought within the limitations period applicable to  
8 the claim.

9 **SEC. 721. FEDERAL ENFORCEMENT ACTIONS.**

10 Section 309(g)(6)(A) of the Federal Water Pollution  
11 Control Act (33 U.S.C. 1319(g)(6)(A)) is amended by  
12 striking “or section 311(b)”.

13 **SEC. 722. TIME REQUIRED BEFORE ELECTING TO PROCEED**  
14 **WITH JUDICIAL CLAIM OR AGAINST THE**  
15 **FUND.**

16 Paragraph (2) of section 1013(c) of the Oil Pollution  
17 Act of 1990 (33 U.S.C. 2713(c)) is amended by striking  
18 “90” and inserting “45”.

19 **SEC. 723. AUTHORIZED LEVEL OF COAST GUARD PER-**  
20 **SONNEL.**

21 The authorized end-of-year strength for active duty  
22 personnel of the Coast Guard for fiscal year 2011 is here-  
23 by increased by 300 personnel, above any other level au-  
24 thorized by law, for implementing the activities of the

1 Coast Guard under this title, including the amendments  
2 made by this title.

3 **SEC. 724. CLARIFICATION OF MEMORANDUMS OF UNDER-**  
4 **STANDING.**

5 Not later than September 30, 2011, the President  
6 (acting through the head of the appropriate Federal de-  
7 partment or agency) shall implement or revise, as appro-  
8 priate, memorandums of understanding to clarify the roles  
9 and jurisdictional responsibilities of the Environmental  
10 Protection Agency, the Coast Guard, the Department of  
11 the Interior, the Department of Transportation, and other  
12 Federal agencies relating to the prevention of oil dis-  
13 charges from tank vessels, nontank vessels, and facilities  
14 subject to the Oil Pollution Act of 1990.

15 **SEC. 725. BUILD AMERICA REQUIREMENT FOR OFFSHORE**  
16 **FACILITIES.**

17 (a) IN GENERAL.—Title VI of the Oil Pollution Act  
18 of 1990 (33 U.S.C. 2751 et seq.) is amended by adding  
19 at the end the following:

20 **“SEC. 6005. BUILD AMERICA REQUIREMENT FOR OFFSHORE**  
21 **FACILITIES.**

22 “(a) BUILD AMERICA REQUIREMENT.—Except as  
23 provided by subsection (b), a person may not use an off-  
24 shore facility to engage in support of exploration, develop-  
25 ment, or production of oil or natural gas in, on, above,

1 or below the exclusive economic zone unless the facility  
2 was built in the United States, including construction of  
3 any major component of the hull or superstructure of the  
4 facility.

5       “(b) WAIVER AUTHORITY.—A person seeking to  
6 charter an offshore facility in the exclusive economic zone  
7 may seek a waiver of subsection (a). The Secretary may  
8 waive subsection (a) if the Secretary, in consultation with  
9 the Secretary of the Interior and the Secretary of Trans-  
10 portation, finds that—

11               “(1) the offshore facility was built in a foreign  
12 country and is under contract, on the date of enact-  
13 ment of this section, in support of exploration, devel-  
14 opment, or production of oil or natural gas in, on,  
15 above, or below the exclusive economic zone;

16               “(2) an offshore facility built in the United  
17 States is not available within a reasonable period of  
18 time, as defined in subsection (e), or of sufficient  
19 quality to perform drilling operations required under  
20 a contract; or

21               “(3) an emergency requires the use of an off-  
22 shore facility built in a foreign country.

23       “(c) WRITTEN JUSTIFICATION AND PUBLIC NOTICE  
24 OF NONAVAILABILITY WAIVER.—When issuing a waiver  
25 based on a determination under subsection (b)(2), the Sec-

1   retary shall issue a detailed written justification as to why  
2   the waiver meets the requirement of such subsection. The  
3   Secretary shall publish the justification in the Federal  
4   Register and provide the public with 45 days for notice  
5   and comment.

6       “(d) FINAL DECISION.—The Secretary shall approve  
7   or deny any waiver request submitted under subsection (b)  
8   not later than 90 days after the date of receipt of the re-  
9   quest.

10       “(e) REASONABLE PERIOD OF TIME DEFINED.—For  
11   purposes of subsection (b)(2), the term ‘reasonable period  
12   of time’ means the time needed for a person seeking to  
13   charter an offshore facility in the exclusive economic zone  
14   to meet the requirements in the primary term of the per-  
15   son’s lease.”.

16       (b) CLERICAL AMENDMENT.—The table of contents  
17   contained in section 2 of such Act is amended by inserting  
18   after the item relating to section 6004 the following:

“Sec. 6005. Build America requirement for offshore facilities.”.

19   **SEC. 726. OIL SPILL RESPONSE VESSEL DATABASE.**

20       (a) REQUIREMENT.—Not later than 90 days after the  
21   date of enactment of this Act, the Commandant of the  
22   Coast Guard shall complete an inventory of all vessels op-  
23   erating in the waters of the United States that are capable  
24   of meeting oil spill response needs designated in the Na-  
25   tional Contingency Plan authorized by section 311(d) of

1 the Federal Water Pollution Control Act (33 U.S.C.  
2 1321(d)).

3 (b) CATEGORIZATION.—The inventory required under  
4 subsection (a) shall categorize such vessels by capabilities,  
5 type, function, and location.

6 (c) MAINTENANCE OF DATABASE.—The Com-  
7 mandant shall maintain a database containing the results  
8 of the inventory required under subsection (a) and update  
9 the information in the database on no less than a quar-  
10 terly basis.

11 (d) AVAILABILITY.—The Commandant may make in-  
12 formation regarding the location and capabilities of oil  
13 spill response vessels available to a Federal On-Scene Co-  
14 ordinator designated under section 311 of such Act (33  
15 U.S.C. 1321) to assist in the response to an oil spill or  
16 other incident in the waters of the United States.

17 **SEC. 727. OFFSHORE SENSING AND MONITORING SYSTEMS.**

18 (a) REQUIREMENT.—Subtitle A of title IV of the Oil  
19 Pollution Act of 1990 is amended by adding at the end  
20 the following new section:

21 **“SEC. 4119. OFFSHORE SENSING AND MONITORING SYS-**  
22 **TEMS.**

23 “(a) IN GENERAL.—The equipment required to be  
24 available under section 311(j)(5)(D)(iii) of the Federal  
25 Water Pollution Control Act for facilities listed in section

1 311(j)(5)(C)(iii) of such Act and located in more than 500  
2 feet of water includes sensing and monitoring systems that  
3 meet the requirements of this section.

4 “(b) SYSTEMS REQUIREMENTS.—Sensing and moni-  
5 toring systems required under subsection (a) shall—

6 “(1) use an integrated, modular, expandable,  
7 multi-sensor, open-architecture design and tech-  
8 nology with interoperable capability;

9 “(2) be capable of—

10 “(A) operating for at least 25 years;

11 “(B) real-time physical, biological, geologi-  
12 cal, and environmental monitoring;

13 “(C) providing alerts in the event of anom-  
14 alous circumstances;

15 “(D) providing docking bases to accommo-  
16 date spatial sensors for remote inspection and  
17 monitoring; and

18 “(E) collecting chemical boundary condi-  
19 tion data for drift and flow modeling; and

20 “(3) include—

21 “(A) an uninterruptible power source;

22 “(B) a spatial sensor;

23 “(C) secure Internet access to real-time  
24 physical, biological, geological, and environ-

1           mental monitoring data gathered by the system  
2           sensors; and

3                   “(D) a process by which such observation  
4           data and information will be made available to  
5           Federal Regulators and to the system estab-  
6           lished under section 12304 of Public Law 111-  
7           11 (33 U.S.C. 3603).”.

8           (b) REQUEST FOR INFORMATION.—Within 60 days  
9           after the date of enactment of this Act, the Secretary of  
10          the department in which the Coast Guard is operating  
11          shall issue a request for information to determine the most  
12          capable and efficient domestic systems that meet the re-  
13          quirements under section 4119 of the Oil Pollution Act  
14          of 1990, as amended by this section.

15          (c) IMPLEMENTING REGULATIONS.—Within 180  
16          days after the date of enactment of this Act, the Secretary  
17          of the department in which the Coast Guard is operating  
18          shall issue regulations to implement section 4119 of the  
19          Oil Pollution Act of 1990 as amended by this section.

20          (d) CLERICAL AMENDMENT.—The table of contents  
21          in section 2 of the Oil Pollution Act of 1990 is amended  
22          by adding at the end of the items relating to such subtitle  
23          the following new item:

“Sec. 4119. Offshore sensing and monitoring systems.”.



1 **SEC. 728. OIL AND GAS EXPLORATION AND PRODUCTION.**

2 Section 502 of the Federal Water Pollution Control  
3 Act (33 U.S.C. 1362) is amended—

4 (1) by striking paragraph (24); and

5 (2) by redesignating paragraph (25) as para-  
6 graph (24).

7 **SEC. 729. LEAVE RETENTION AUTHORITY.**

8 (a) IN GENERAL.—Chapter 11 of title 14, United  
9 States Code, is amended by inserting after section 425 the  
10 following:

11 **“§ 426. Emergency leave retention authority**

12 “(a) IN GENERAL.—A duty assignment for an active  
13 duty member of the Coast Guard in support of a declara-  
14 tion of a major disaster or emergency by the President  
15 under the Robert T. Stafford Disaster Relief and Emer-  
16 gency Assistance Act (42 U.S.C. 5121 et seq.) or in re-  
17 sponse to a spill of national significance shall be treated,  
18 for the purpose of section 701(f)(2) of title 10, as a duty  
19 assignment in support of a contingency operation.

20 “(b) DEFINITIONS.—In this section:

21 “(1) SPILL OF NATIONAL SIGNIFICANCE.—The  
22 term ‘spill of national significance’ means a dis-  
23 charge of oil or a hazardous substance that is de-  
24 clared by the Commandant to be a spill of national  
25 significance.

1           “(2) DISCHARGE.—The term ‘discharge’ has  
2           the meaning given that term in section 1001 of the  
3           Oil Pollution Act of 1990 (33 U.S.C. 2701).”.

4           (b) CLERICAL AMENDMENT.—The analysis for such  
5           chapter is amended by inserting after the item relating  
6           to section 425 the following:

          “426. Emergency leave retention authority.”.

7           **SEC. 730. AUTHORIZATION OF APPROPRIATIONS.**

8           (a) COAST GUARD.—In addition to amounts made  
9           available pursuant to section 1012(a)(5)(A) of the Oil Pol-  
10          lution Act of 1990 (33 U.S.C. 2712(a)(5)(A)), there is au-  
11          thorized to be appropriated to the Secretary of the depart-  
12          ment in which the Coast Guard is operating from the Oil  
13          Spill Liability Trust Fund established by section 9509 of  
14          the Internal Revenue Code of 1986 (26 U.S.C. 9509) to  
15          carry out the purposes of this title and the amendments  
16          made by this title the following:

17                 (1) For fiscal year 2011, \$30,000,000.

18                 (2) For each of fiscal years 2012 through 2015,  
19                 \$32,000,000.

20          (b) ENVIRONMENTAL PROTECTION AGENCY.—In ad-  
21          dition to amounts made available pursuant to section 1012  
22          of the Oil Pollution Act of 1990 (33 U.S.C. 2712), there  
23          is authorized to be appropriated to the Administrator of  
24          the Environmental Protection Agency from the Oil Spill  
25          Liability Trust Fund to implement this title and the

1 amendments made by this title \$10,000,000 for each of  
2 fiscal years 2011 through 2015.

3 (c) DEPARTMENT OF TRANSPORTATION.—In addi-  
4 tion to amounts made available pursuant to section 60125  
5 of title 49, United States Code, there is authorized to be  
6 appropriated to the Secretary of Transportation from the  
7 Oil Spill Liability Trust Fund to carry out the purposes  
8 of this title and the amendments made by this title the  
9 following:

10 (1) For each of fiscal years 2011 through 2013,  
11 \$7,000,000.

12 (2) For each of fiscal years 2014 and 2015,  
13 \$6,000,000.

14 **SEC. 731. EXTENSION OF LIABILITY TO PERSONS HAVING**  
15 **OWNERSHIP INTERESTS IN RESPONSIBLE**  
16 **PARTIES.**

17 (a) DEFINITION OF RESPONSIBLE PARTY.—Section  
18 1001(32) of the Oil Pollution Act of 1990 (33 U.S.C.  
19 2701(32)) is amended by adding at the end the following:

20 “(G) PERSON HAVING OWNERSHIP INTER-  
21 EST.—Any person, other than an individual,  
22 having an ownership interest (directly or indi-  
23 rectly) in any entity described in any of sub-  
24 paragraphs (A) through (F) of more than 25  
25 percent, in the aggregate, of the total ownership

1 interests in such entity, if the assets of such en-  
2 tity are insufficient to pay the claims owed by  
3 such entity as a responsible party under this  
4 Act.”.

5 (b) EFFECTIVE DATE.—The amendment made by  
6 this section shall apply to an incident occurring on or after  
7 January 1, 2010.

8 **SEC. 732. CLARIFICATION OF LIABILITY UNDER OIL POLLU-**  
9 **TION ACT OF 1990.**

10 The Oil Pollution Act of 1990 is amended—

11 (1) in section 1013 (33 U.S.C. 2713), by insert-  
12 ing after subsection (d) the following:

13 “(e) LIMITATION ON RELEASE OF LIABILITY.—No  
14 release of liability in connection with compensation re-  
15 ceived by a claimant under this Act shall apply to liability  
16 for any tope of harm unless—

17 “(1) the claimant presented a claim under sub-  
18 section (a) with respect to such type of harm; and

19 “(2) the claimant received compensation for  
20 such type of harm, from the responsible party or  
21 from guarantor of the source designated under sec-  
22 tion 1014(a), in connection with such release.”; and

23 (2) in section 1018 (33 U.S.C. 2718), by—

24 (A) striking “or” at the end of paragraph

25 (1);

1 (B) striking the period at the end of para-  
2 graph (2) and inserting “; and”; and

3 (C) inserting after paragraph (2) the fol-  
4 lowing:

5 “(3) with respect to a claim described in section  
6 1013(e), affect, or be construed or interpreted to af-  
7 fect or modify in any way, the obligations or liabil-  
8 ities of any person under other Federal law.”.

9 **SEC. 733. SALVAGE ACTIVITIES.**

10 Section 311 of the Federal Water Pollution Control  
11 Act (33 U.S.C. 1321) is amended—

12 (1) in subsection (a)(2)(D) by inserting “or sal-  
13 vage activities” after “removal”; and

14 (2) in subsection (c)(4)(A) by inserting “or con-  
15 ducting salvage activities” after “advice”.

16 **SEC. 734. REQUIREMENT FOR REDUNDANCY IN RESPONSE**  
17 **PLANS.**

18 (a) **REQUIREMENT.**—Section 311(j)(5)(D) of the  
19 Federal Water Pollution Control Act (33 U.S.C.  
20 1331(j)(5)(D)) is amended by redesignating clauses (v)  
21 and (vi) as clauses (vii) and (viii), and by inserting after  
22 clause (iv) the following new clauses:

23 “(v) include redundancies that specify  
24 response actions that will be taken if other  
25 response actions specified in the plan fail;

1 “(vi) be vetted by impartial experts;”.

2 (b) **CONDITION OF PERMIT.**—The Outer Continental  
3 Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by  
4 adding at the end the following new section:

5 **“SEC. 32. RESPONSE PLAN REQUIRED FOR PERMIT OR LI-**  
6 **CENSE AUTHORIZING DRILLING FOR OIL AND**  
7 **GAS.**

8 “The Secretary may not issue any license or permit  
9 authorizing drilling for oil and gas on the Outer Conti-  
10 nental Shelf unless the applicant for the license or permit  
11 has a response plan approved under section 311(j)(5)(D)  
12 of the Federal Water Pollution Control Act (33 U.S.C.  
13 1331(j)(5)(D)) for the vessel or facility that will be used  
14 to conduct such drilling.”.

15 **TITLE VIII—MISCELLANEOUS**  
16 **PROVISIONS**

17 **SEC. 801. REPEAL OF CERTAIN TAXPAYER SUBSIDIZED**  
18 **ROYALTY RELIEF FOR THE OIL AND GAS IN-**  
19 **DUSTRY.**

20 (a) **PROVISIONS RELATING TO PLANNING AREAS**  
21 **OFFSHORE ALASKA.**—Section 8(a)(3)(B) of the Outer  
22 Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B))  
23 is amended by striking “and in the Planning Areas off-  
24 shore Alaska” after “West longitude”.

1 (b) PROVISIONS RELATING TO NAVAL PETROLEUM  
2 RESERVE IN ALASKA.—Section 107 of the Naval Petro-  
3 leum Reserves Production Act of 1976 (as transferred, re-  
4 designated, moved, and amended by section 347 of the En-  
5 ergy Policy Act of 2005 (119 Stat. 704)) is amended—

6 (1) in subsection (i) by striking paragraphs (2)  
7 through (6); and

8 (2) by striking subsection (k).

9 **SEC. 802. CONSERVATION FEE.**

10 (a) ESTABLISHMENT.—The Secretary shall, within  
11 180 days after the date of enactment of this Act, issue  
12 regulations to establish an annual conservation fee for all  
13 oil and gas leases on Federal onshore and offshore lands.

14 (b) AMOUNT.—The amount of the fee shall be, for  
15 each barrel or barrel equivalent produced from land that  
16 is subject to a lease from which oil or natural gas is pro-  
17 duced in a calendar year, \$2 per barrel of oil and 20 cents  
18 per million BTU of natural gas in 2010 dollars.

19 (c) ASSESSMENT AND COLLECTION.—The Secretary  
20 shall assess and collect the fee established under this sec-  
21 tion.

22 (d) REGULATIONS.—The Secretary may issue regula-  
23 tions to prevent evasion of the fee under this section.

24 (e) SUNSET.—This section and the fee established  
25 under this section shall expire on December 31, 2021.

1 **SEC. 803. LEASING ON INDIAN LANDS.**

2       Nothing in this Act modifies, amends, or affects leas-  
3 ing on Indian lands as currently carried out by the Bureau  
4 of Indian Affairs.

5 **SEC. 804. OUTER CONTINENTAL SHELF STATE BOUND-**  
6 **ARIES.**

7       (a) GENERAL.—Not later than 2 years after the date  
8 of enactment of this Act, the President, acting through  
9 the Secretary of the Interior, shall publish a final deter-  
10 mination under section 4(a)(2) of the Outer Continental  
11 Shelf Lands Act (43 U.S.C. 1333(a)(2)) of the boundaries  
12 of coastal States projected seaward to the outer margin  
13 of the Outer Continental Shelf.

14       (b) NOTICE AND COMMENT.—In determining the  
15 projected boundaries specified in subsection (a), the Sec-  
16 retary shall comply with the notice and comment require-  
17 ments under chapter 5 of title 5, United States Code.

18       (c) SAVINGS CLAUSE.—The determination and publi-  
19 cation of projected boundaries under subsection (a) shall  
20 not be construed to alter, limit, or modify the jurisdiction,  
21 control, or any other authority of the United States over  
22 the Outer Continental Shelf.



1 **SEC. 805. LIABILITY FOR DAMAGES TO NATIONAL WILDLIFE**  
2 **REFUGES.**

3 Section 4 of the National Wildlife Refuge System Ad-  
4 ministration Act of 1966 (16 U.S.C. 668dd) is amended  
5 by adding at the end the following new subsection:

6 “(p) **DESTRUCTION OR LOSS OF, OR INJURY TO,**  
7 **REFUGE RESOURCES.—**

8 “(1) **LIABILITY.—**

9 “(A) **LIABILITY TO UNITED STATES.—**Any  
10 person who destroys, causes the loss of, or in-  
11 jures any refuge resource is liable to the United  
12 States for an amount equal to the sum of—

13 “(i) the amount of the response costs  
14 and damages resulting from the destruc-  
15 tion, loss, or injury; and

16 “(ii) interest on that amount cal-  
17 culated in the manner described under sec-  
18 tion 1005 of the Oil Pollution Act of 1990  
19 (33 U.S.C. 2705).

20 “(B) **LIABILITY IN REM.—**Any instrumen-  
21 tality, including a vessel, vehicle, aircraft, or  
22 other equipment, that destroys, causes the loss  
23 of, or injures any refuge resource shall be liable  
24 in rem to the United States for response costs  
25 and damages resulting from such destruction,

1           loss, or injury to the same extent as a person  
2           is liable under subparagraph (A).

3           “(C) DEFENSES.—A person is not liable  
4           under this paragraph if that person establishes  
5           that—

6                   “(i) the destruction or loss of, or in-  
7                   jury to, the refuge resource was caused  
8                   solely by an act of God, an act of war, or  
9                   an act or omission of a third party, and  
10                  the person acted with due care;

11                  “(ii) the destruction, loss, or injury  
12                  was caused by an activity authorized by  
13                  Federal or State law; or

14                  “(iii) the destruction, loss, or injury  
15                  was negligible.

16           “(D) LIMITS TO LIABILITY.—Nothing in  
17           sections 30501 to 30512 or section 30706 of  
18           title 46, United States Code, shall limit the li-  
19           ability of any person under this section.

20           “(2) RESPONSE ACTIONS.—The Secretary may  
21           undertake or authorize all necessary actions to pre-  
22           vent or minimize the destruction or loss of, or injury  
23           to, refuge resources, or to minimize the imminent  
24           risk of such destruction, loss, or injury.

1           “(3) CIVIL ACTIONS FOR RESPONSE COSTS AND  
2 DAMAGES.—

3           “(A) IN GENERAL.—The Attorney General,  
4 upon request of the Secretary, may commence  
5 a civil action against any person or instrumen-  
6 tality who may be liable under paragraph (1)  
7 for response costs and damages. The Secretary,  
8 acting as trustee for refuge resources for the  
9 United States, shall submit a request for such  
10 an action to the Attorney General whenever a  
11 person may be liable for such costs or damages.

12           “(B) JURISDICTION AND VENUE.—An ac-  
13 tion under this subsection may be brought in  
14 the United States district court for any district  
15 in which—

16           “(i) the defendant is located, resides,  
17 or is doing business, in the case of an ac-  
18 tion against a person;

19           “(ii) the instrumentality is located, in  
20 the case of an action against an instru-  
21 mentality; or

22           “(iii) the destruction of, loss of, or in-  
23 jury to a refuge resource occurred.

24           “(4) USE OF RECOVERED AMOUNTS.—Response  
25 costs and damages recovered by the Secretary under

1 this subsection shall be retained by the Secretary in  
2 the manner provided for in section 107(f)(1) of the  
3 Comprehensive Environmental Response, Compensation,  
4 and Liability Act of 1980 (42 U.S.C.  
5 9607(f)(1)) and used as follows:

6 “(A) RESPONSE COSTS.—Amounts recov-  
7 ered by the United States for costs of response  
8 actions and damage assessments under this  
9 subsection shall be used, as the Secretary con-  
10 siders appropriate—

11 “(i) to reimburse the Secretary or any  
12 other Federal or State agency that con-  
13 ducted those activities; and

14 “(ii) after reimbursement of such  
15 costs, to restore, replace, or acquire the  
16 equivalent of any refuge resource.

17 “(B) OTHER AMOUNTS.—All other  
18 amounts recovered shall be used, in order of  
19 priority—

20 “(i) to restore, replace, or acquire the  
21 equivalent of the refuge resources that  
22 were the subject of the action, including  
23 the costs of monitoring the refuge re-  
24 sources;

1           “(ii) to restore degraded refuge re-  
2           sources of the refuge that was the subject  
3           of the action, giving priority to refuge re-  
4           sources that are comparable to the refuge  
5           resources that were the subject of the ac-  
6           tion; and

7           “(iii) to restore degraded refuge re-  
8           sources of other refuges.

9           “(5) DEFINITIONS.—In this subsection, the  
10          term—

11          “(A) ‘damages’ includes—

12               “(i) compensation for—

13                       “(I)(aa) the cost of replacing, re-  
14                       storing, or acquiring the equivalent of  
15                       a refuge resource; and

16                       “(bb) the value of the lost use of  
17                       a refuge resource pending its restora-  
18                       tion or replacement or the acquisition  
19                       of an equivalent refuge resource; or

20                       “(II) the value of a refuge re-  
21                       source if the refuge resource cannot  
22                       be restored or replaced or if the equiv-  
23                       alent of such resource cannot be ac-  
24                       quired;

1           “(ii) the cost of conducting damage  
2           assessments;

3           “(iii) the reasonable cost of moni-  
4           toring appropriate to the injured, restored,  
5           or replaced refuge resource; and

6           “(iv) the cost of enforcement actions  
7           undertaken by the Secretary in response to  
8           the destruction or loss of, or injury to, a  
9           refuge resource;

10          “(B) ‘response costs’ means the costs of  
11          actions taken or authorized by the Secretary to  
12          minimize destruction or loss of, or injury to,  
13          refuge resources, or to minimize the imminent  
14          risks of such destruction, loss, or injury, includ-  
15          ing costs related to seizure, forfeiture, storage,  
16          or disposal arising from liability, or to monitor  
17          ongoing effects of incidents causing such de-  
18          struction, loss, or injury under this subsection;  
19          and

20          “(C) ‘refuge resource’ means any living or  
21          nonliving resource of a refuge that contributes  
22          to the conservation, management, and restora-  
23          tion mission of the System, including living or  
24          nonliving resources of a marine national monu-

1           ment that may be managed as a unit of the  
2           System.”.

3 **SEC. 806. STRENGTHENING COASTAL STATE OIL SPILL**  
4                                   **PLANNING AND RESPONSE.**

5           The Coastal Zone Management Act of 1972 (16  
6 U.S.C. 1451 et seq.) is amended adding at the end the  
7 following new section:

8 **“SEC. 320. STRENGTHENING COASTAL STATE OIL SPILL RE-**  
9                                   **SPONSE AND PLANNING.**

10           “(a) GRANTS TO STATES.—The Secretary may make  
11 grants to eligible coastal States—

12                   “(1) to revise management programs approved  
13                   under section 306 (16 U.S.C. 1455) to identify and  
14                   implement new enforceable policies and procedures  
15                   to ensure sufficient response capabilities at the State  
16                   level to address the environmental, economic, and so-  
17                   cial impacts of oil spills or other accidents resulting  
18                   from Outer Continental Shelf energy activities with  
19                   the potential to affect any land or water use or nat-  
20                   ural resource of the coastal zone; and

21                   “(2) to review and revise where necessary appli-  
22                   cable enforceable policies within approved State  
23                   management programs affecting coastal energy ac-  
24                   tivities and energy to ensure that these policies are  
25                   consistent with—

1           “(A) other emergency response plans and  
2 policies developed under Federal or State law;  
3 and

4           “(B) new policies and procedures developed  
5 under paragraph (1); and

6           “(3) after a State has adopted new or revised  
7 enforceable policies and procedures under para-  
8 graphs (1) and (2)—

9           “(A) the State shall submit the policies  
10 and procedures to the Secretary; and

11           “(B) the Secretary shall notify the State  
12 whether the Secretary approves or disapproves  
13 the incorporation of the policies and procedures  
14 into the State’s management program pursuant  
15 to section 306(e).

16           “(b) ELEMENTS.—New enforceable policies and pro-  
17 cedures developed by coastal States with grants awarded  
18 under this section shall consider, but not be limited to—

19           “(1) other existing emergency response plans,  
20 procedures and enforceable policies developed under  
21 other Federal or State law that affect the coastal  
22 zone;

23           “(2) identification of critical infrastructure es-  
24 sential to facilitate spill or accident response activi-  
25 ties;



1           “(3) identification of coordination, logistics and  
2           communication networks between Federal and State  
3           government agencies, and between State agencies  
4           and affected local communities, to ensure the effi-  
5           cient and timely dissemination of data and other in-  
6           formation;

7           “(4) inventories of shore locations and infra-  
8           structure and equipment necessary to respond to oil  
9           spills or other accidents resulting from Outer Conti-  
10          nental Shelf energy activities;

11          “(5) identification and characterization of sig-  
12          nificant or sensitive marine ecosystems or other  
13          areas possessing important conservation, rec-  
14          reational, ecological, historic, or aesthetic values;

15          “(6) inventories and surveys of shore locations  
16          and infrastructure capable of supporting alternative  
17          energy development; and

18          “(7) other information or actions as may be  
19          necessary.

20          “(c) GUIDELINES.—The Secretary shall, within 180  
21          days after the date of enactment of this section and after  
22          consultation with the coastal states, publish guidelines for  
23          the application for and use of grants under this section.

24          “(d) PARTICIPATION.—A coastal state shall provide  
25          opportunity for public participation in developing new en-

1 forceable policies and procedures under this section pursu-  
2 ant to sections 306(d)(1) and 306(e), especially by rel-  
3 evant Federal agencies, other coastal state agencies, local  
4 governments, regional organizations, port authorities, and  
5 other interested parties and stakeholders, public and pri-  
6 vate, that are related to, or affected by Outer Continental  
7 Shelf energy activities.

8 “(e) ANNUAL GRANTS.—

9 “(1) IN GENERAL.—For each of fiscal years  
10 2011 through 2015, the Secretary may make a  
11 grant to a coastal state to develop new enforceable  
12 polices and procedures as required under this sec-  
13 tion.

14 “(2) GRANT AMOUNTS AND LIMIT ON  
15 AWARDS.—The amount of any grant to any one  
16 coastal State under this section shall not exceed  
17 \$750,000 for any fiscal year. No coastal state may  
18 receive more than two grants under this section.

19 “(3) NO STATE MATCHING CONTRIBUTION RE-  
20 QUIRED.—As it is in the national interest to be able  
21 to respond efficiently and effectively at all levels of  
22 government to oil spills and other accidents resulting  
23 from Outer Continental Shelf energy activities, a  
24 coastal state shall not be required to contribute any

1       portion of the cost of a grant awarded under this  
2       section.

3               “(4) SECRETARIAL REVIEW AND LIMIT ON  
4       AWARDS.—After an initial grant is made to a coastal  
5       state under this section, no subsequent grant may be  
6       made to that coastal state under this section unless  
7       the Secretary finds that the coastal state is satisfac-  
8       torily developing revisions to address offshore energy  
9       impacts. No coastal state is eligible to receive grants  
10      under this section for more than 2 fiscal years.

11             “(f) APPLICABILITY.—The requirements of this sec-  
12      tion shall only apply if appropriations are provided to the  
13      Secretary to make grants under this section. This section  
14      shall not be construed to convey any new authority to any  
15      coastal state, or repeal or supersede any existing authority  
16      of any coastal state, to regulate the siting, licensing, leas-  
17      ing, or permitting of energy facilities in areas of the Outer  
18      Continental Shelf under the administration of the Federal  
19      Government. Nothing in this section repeals or supersedes  
20      any existing coastal state authority.

21             “(g) ASSISTANCE BY THE SECRETARY.—The Sec-  
22      retary as authorized under section 310(a) and to the ex-  
23      tent practicable, shall make available to coastal states the  
24      resources and capabilities of the National Oceanic and At-  
25      mospheric Administration to provide technical assistance

1 to the coastal states to prepare revisions to approved man-  
2 agement programs to meet the requirements under this  
3 section.”.

4 **SEC. 807. INFORMATION SHARING.**

5 Section 388(b) of the Energy Policy Act of 2005 (43  
6 U.S.C. 1337 note) is amended by adding at the end the  
7 following:

8 “(4) AVAILABILITY OF DATA AND INFORMA-  
9 TION.—All heads of departments and agencies of the  
10 Federal Government shall, upon request of the Sec-  
11 retary, provide to the Secretary all data and infor-  
12 mation that the Secretary deems necessary for the  
13 purpose of including such data and information in  
14 the mapping initiative, except that no department or  
15 agency of the Federal Government shall be required  
16 to provide any data or information that is privileged  
17 or proprietary.”.

18 **SEC. 808. LIMITATION ON USE OF FUNDS.**

19 None of the funds authorized or made available by  
20 this Act may be used to carry out any activity or pay any  
21 costs for removal or damages for which a responsible party  
22 (as such term is defined in section 1001 of the Oil Pollu-  
23 tion Act of 1990 (33 U.S.C. 2701)) is liable under the  
24 Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) or  
25 other law.

1 **SEC. 809. ENVIRONMENTAL REVIEW.**

2 Section 390 of the Energy Policy Act of 2005 (Public  
3 Law 109–58; 42 U.S.C. 15942) is repealed.

4 **SEC. 810. FEDERAL RESPONSE TO STATE PROPOSALS TO**  
5 **PROTECT STATE LANDS AND WATERS.**

6 Any State shall be entitled to timely decisions regard-  
7 ing permit applications or other approvals from any Fed-  
8 eral official, including the Secretary of the Interior or the  
9 Secretary of Commerce, for any State or local government  
10 response activity to protect State lands and waters that  
11 is directly related to the discharge of oil determined to  
12 be a spill of national significance. Within 48 hours of the  
13 receipt of the State application or request for approval,  
14 the Federal official shall provide a clear determination on  
15 the permit application or approval request to the State,  
16 or provide a definite date by which the determination shall  
17 be made to the State. If the Federal official fails to meet  
18 either of these deadlines, the permit application is pre-  
19 sumed to be approved or other approval granted.

20 **SEC. 811. GOVERNMENT ACCOUNTABILITY OFFICE EVALUA-**  
21 **TION.**

22 (a) **EVALUATION.**—The Comptroller General shall  
23 conduct an evaluation of the Department of the Interior  
24 to determine—

25 (1) whether the reforms carried out under this  
26 Act and the amendments made by this Act address

1 concerns of the Government Accountability Office  
2 and the Inspector General expressed before the date  
3 of enactment of this Act;

4 (2) whether the increased hiring authority given  
5 to the Secretary of the Interior under this Act and  
6 the amendments made by this Act has resulted in  
7 the Department of the Interior being more effective  
8 in addressing its oversight missions; and

9 (3) whether there has been a sufficient reduc-  
10 tion in the conflict between mission and interest  
11 within the Department of the Interior.

12 (b) REPORT.—Not later than 3 years after the date  
13 of enactment of this Act, the Comptroller General shall  
14 submit to Congress a report containing the results of the  
15 evaluation conducted under subsection (a).

16 **SEC. 812. STUDY ON RELIEF WELLS.**

17 Not later than 60 days after the date of enactment  
18 of this Act, the Secretary shall enter into an arrangement  
19 with the National Academy of Engineering under which  
20 the Academy shall, not later than 1 year after such ar-  
21 rangement is entered into, submit to the Secretary and  
22 to Congress a report that assesses the economic, safety,  
23 and environmental impacts of requiring that 1 or more  
24 relief wells be drilled in tandem with the drilling of some

1 or all wells subject to the requirements of this Act and  
2 the amendments made by this Act.

3 **TITLE IX—STUDY OF ACTIONS**  
4 **TO IMPROVE THE ACCURACY**  
5 **OF COLLECTION OF ROYAL-**  
6 **TIES**

7 **SEC. 901. SHORT TITLE.**

8 This title may be cited as the “Study of Ways to Im-  
9 prove the Accuracy of the Collection of Federal Oil, Con-  
10 densate, and Natural Gas Royalties Act of 2010”.

11 **SEC. 902. STUDY OF ACTIONS TO IMPROVE THE ACCURACY**  
12 **OF COLLECTION OF FEDERAL OIL, CONDEN-**  
13 **SATE, AND NATURAL GAS ROYALTIES.**

14 The Secretary of the Interior shall seek to enter into  
15 an arrangement with the National Academy of Engineer-  
16 ing under which the Academy, by not later than six  
17 months after the date of the enactment of this Act, shall  
18 study and report to the Secretary regarding whether the  
19 accuracy of collection of royalties on production of oil, con-  
20 densate, and natural gas under leases of Federal lands (in-  
21 cluding submerged and deep water lands) and Indian  
22 lands would be improved by any of the following:

- 23 (1) Requiring the installation of digital meters,  
24 calibrated at least monthly to an absolute zero value,

1 for all lands from which natural gas (including con-  
2 densate) is produced under such leases.

3 (2) Requiring that—

4 (A) the size of every orifice plate on each  
5 natural gas well operated under such leases be  
6 inspected at least quarterly by the Secretary;  
7 and

8 (B) chipped orifice plates and wrong-sized  
9 orifice plates be replaced immediately after  
10 those inspections and reported to the Secretary  
11 for retroactive volume measurement corrections  
12 and royalty payments with interest of 8 percent  
13 compounded monthly.

14 (3) Requiring that any plug valves that are in  
15 natural gas gathering lines be removed and replaced  
16 with ball valves.

17 (4) Requiring that—

18 (A) all meter runs should be opened for in-  
19 spection by the Secretary and the producer at  
20 all times; and

21 (B) any welding or closing of the meter  
22 runs leading to the orifice plates should be pro-  
23 hibited unless authorized by the Secretary.

24 (5) Requiring the installation of straightening  
25 vanes approximately 10 feet before natural gas en-



1       ters each orifice meter, including each master meter  
2       and each sales meter.

3           (6) Requiring that all master meters be in-  
4       spected and the results of such inspections be made  
5       available to the Secretary and the producers imme-  
6       diately.

7           (7) Requiring that—

8               (A) all sampling of natural gas for heating  
9       content analysis be performed monthly up-  
10      stream of each natural gas meter, including up-  
11      stream of each master meter;

12              (B) records of such sampling and heating  
13      content analysis be maintained by the pur-  
14      chaser and made available to the Secretary and  
15      to the producer monthly;

16              (C) probes for such upstream sampling be  
17      installed upstream within three feet of each  
18      natural gas meter;

19              (D) any oil and natural gas lease for which  
20      heat content analysis is falsified shall be subject  
21      to cancellation;

22              (E) natural gas sampling probes be lo-  
23      cated—

24                      (i) upstream of the natural gas meter  
25                      at all times;

1                   (ii) within a few feet of the natural  
2                   gas meter; and

3                   (iii) after the natural gas goes  
4                   through a Welker or Y-Z vanishing cham-  
5                   ber; and

6                   (F) temperature probes and testing probes  
7                   be located between the natural gas sampling  
8                   probe and the orifice of the natural gas meter.

9                   (8) Prohibiting the dilution of natural gas with  
10                  inert nitrogen or inert carbon dioxide gas for royalty  
11                  determination, sale, or resale at any point.

12                  (9) Requiring that both the measurement of the  
13                  volume of natural gas and the heating content anal-  
14                  yses be reported only on the basis of 14.73 PSI and  
15                  60 degrees Fahrenheit, regardless of the elevation  
16                  above sea level of such volume measurement and  
17                  heating content analysis, for both purchases and  
18                  sales of natural gas.

19                  (10) Prohibiting the construction of bypass  
20                  pipes that go around the natural gas meter, and im-  
21                  posing criminal penalties for any such construction  
22                  or subsequent removal including, but not limited to,  
23                  automatic cancellation of the lease.

24                  (11) Requiring that all natural gas sold to con-  
25                  sumers have a minimum BTU content of 960 at an

1 atmospheric pressure of 14.73 PSI and be at a tem-  
2 perature of 60 degrees Fahrenheit, as required by  
3 the State of Wyoming Public Utilities Commission.

4 (12) Requiring that all natural gas sold in the  
5 USA will be on a MMBTU basis with the BTU con-  
6 tent adjusted for elevation above sea level in higher  
7 altitudes. Thus all natural gas meters must correct  
8 for BTU content in higher elevations (altitudes).

9 (13) Issuance by the Secretary of rules for the  
10 measurement at the wellhead of the standard volume  
11 of natural gas produced, based on independent in-  
12 dustry standards such as those suggested by the  
13 American Society of Testing Materials (ASTM).

14 (14) Requiring use of the fundamental orifice  
15 meter mass flow equation, as revised in 1990, for  
16 calculating the standard volume of natural gas pro-  
17 duced.

18 (15) Requiring the use of  $F_{pv}$  in standard vol-  
19 ume measurement computations as described in the  
20 1992 American Gas Association Report No. 8 enti-  
21 tled Compressibility Factor of Natural Gas and  
22 Other Related Hydrocarbon Gases.

23 (16) Requiring that gathering lines must be  
24 constructed so as to have as few angles and turns

1 as possible, with a maximum of three angles, before  
2 they connect with the natural gas meter.

3 (17) Requiring that for purposes of reporting  
4 the royalty value of natural gas, condensate, oil, and  
5 associated natural gases, such royalty value must be  
6 based upon the natural gas' condensate's, oil's, and  
7 associated natural gases' arm's length, independent  
8 market value, as reported in independent, respected  
9 market reports such as Platts or Bloomborgs, and  
10 not based upon industry controlled posted prices,  
11 such as Koch's.

12 (18) Requiring that royalties be paid on all the  
13 condensate recovered through purging gathering  
14 lines and pipelines with a cone-shaped device to push  
15 out condensate (popularly referred to as a pig) and  
16 on condensate recovered from separators, dehydra-  
17 tors, and processing plants.

18 (19) Requiring that all royalty deductions for  
19 dehydration, treating, natural gas gathering, com-  
20 pression, transportation, marketing, removal of im-  
21 purities such as carbon dioxide (CO<sub>2</sub>), nitrogen (N<sub>2</sub>),  
22 hydrogen sulphide (H<sub>2</sub>S), mercaptain (HS), helium  
23 (He), and other similar charges on natural gas, con-  
24 densate, and oil produced under such leases that are  
25 now in existence be eliminated.

1 (20) Requiring that at all times—

2 (A) the quantity, quality, and value ob-  
3 tained for natural gas liquids (condensate) be  
4 reported to the Secretary; and

5 (B) such reported value be based on fair  
6 independent arm's length market value.

7 (21) Issuance by the Secretary of regulations  
8 that prohibit venting or flaring (or both) of natural  
9 gas in cases for which technology exists to reason-  
10 ably prevent it, strict enforcement of such prohibi-  
11 tions, and cancellation of leases for violations.

12 (22) Requiring lessees to pay full royalties on  
13 any natural gas that is vented, flared, or otherwise  
14 avoidably lost.

15 (23)(A) Requiring payment of royalties on car-  
16 bon dioxide at the wellhead used for tertiary oil re-  
17 covery from depleted oil fields on the basis of 5 per-  
18 cent of the West Texas Intermediate crude oil fair  
19 market price to be used for one MCF (1,000 cubic  
20 feet) of carbon dioxide gas.

21 (B) Requiring that—

22 (i) carbon dioxide used for edible purposes  
23 should be subjected to a royalty per thousand  
24 cubic feet (MCF) on the basis of the sales price  
25 at the downstream delivery point without de-

1 ducting for removal of impurities, processing,  
2 transportation, and marketing costs;

3 (ii) such price to apply with respect to gas-  
4 eous forms, liquid forms, and solid (dry ice)  
5 forms of carbon dioxide converted to equivalent  
6 MCF; and

7 (iii) such royalty to apply with respect to  
8 both a direct producer of carbon dioxide and  
9 purchases of carbon dioxide from another per-  
10 son that is either affiliated or not affiliated with  
11 the purchaser.

12 (24) Requiring that—

13 (A) royalties be paid on the fair market  
14 value of nitrogen extracted from such leases  
15 that is used industrially for well stimulation,  
16 helium recovery, or other uses; and

17 (B) royalties be paid on the fair market  
18 value of ultimately processed helium recovered  
19 from such leases.

20 (25) Allowing only 5 percent of the value of the  
21 elemental sulfur recovered during processing of hy-  
22 drogen sulfide gas from such leases to be deducted  
23 for processing costs in determining royalty pay-  
24 ments.

1           (26) Requiring that all heating content analysis  
2 of natural gas be conducted to a minimum level of  
3 C<sub>15</sub>.

4           (27) Eliminating artificial conversion from dry  
5 BTU to wet BTU, and requiring that natural gas be  
6 analyzed and royalties paid for at all times on the  
7 basis of dry BTU only.

8           (28) Requiring that natural gas sampling be  
9 performed at all times with a floating piston cylinder  
10 container at the same pressure intake as the pres-  
11 sure of the natural gas gathering line.

12           (29) Requiring use of natural gas filters with a  
13 minimum of 10 microns, and preferably 15 microns,  
14 both in the intake to natural gas sampling con-  
15 tainers and in the exit from the natural gas sam-  
16 pling containers into the chromatograph.

17           (30) Mandate the use of a Quad Unit for both  
18 portable and stationary chromatographs in order to  
19 correct for the presence of nitrogen and oxygen, if  
20 any, in certain natural gas streams.

21           (31) Require the calibration of all chro-  
22 matograph equipment every three months and the  
23 use of only American Gas Association-approved  
24 standard comparison containers for such calibration.

1           (32) Requiring payment of royalties on any  
2 such natural gas stored on Federal or Indian lands  
3 on the basis of corresponding storage charges for the  
4 use of Federal or Indian lands, respectively, for such  
5 storage service.

6           (33) Imposing penalties for the intentional non-  
7 payment of royalties for natural gas liquids recov-  
8 ered—

9                   (A) from purging of natural gas gathering  
10 lines and natural gas pipelines; or

11                   (B) from field separators, dehydrators, and  
12 processing plants,

13 including cancellation of oil and natural gas leases  
14 and criminal penalties.

15           (34) Requiring that the separator, dehydrator,  
16 and natural gas meter be located within 100 feet of  
17 each natural gas wellhead.

18           (35) Requiring that BTU heating content anal-  
19 ysis be performed when the natural gas is at a tem-  
20 perature of 140 to 150 degrees Fahrenheit at all  
21 times, as required by the American Gas Association  
22 (AGA) regulations.

23           (36) Requiring that heating content analysis  
24 and volume measurements are identical at the sales  
25 point to what they are at the purchase point, after



1 allowing for a small volume for leakage in old pipes,  
2 but with no allowance for heating content discrep-  
3 ancy.

4 (37) Verification by the Secretary that the spe-  
5 cific gravity of natural gas produced under such  
6 leases, as measured at the meter run, corresponds to  
7 the heating content analysis data for such natural  
8 gas, in accordance with the Natural Gas Processors  
9 Association Publication 2145–71(1), entitled “Phys-  
10 ical Constants Of Paraffin Hydrocarbons And Other  
11 Components Of Natural Gas”, and reporting of all  
12 discrepancies immediately.

13 (38) Prohibiting all deductions on royalty pay-  
14 ments for marketing of natural gas, condensate, and  
15 oil by an affiliate or agent.

16 (39) Requiring that all standards of the Amer-  
17 ican Petroleum Institute, the American Gas Associa-  
18 tion, the Gas Processors Association, and the Amer-  
19 ican Society of Testing Materials, Minerals Manage-  
20 ment Service Order No. 5, and all other Minerals  
21 Management Service orders be faithfully observed  
22 and applied, and willful misconduct of such stand-  
23 ards and orders be subject to oil and gas lease can-  
24 cellation.

1 **SEC. 903. DEFINITIONS.**

2 In this title:

3 (1) COVERED LANDS.—The term “covered  
4 lands” means—

5 (A) all Federal onshore lands and offshore  
6 lands that are under the administrative jurisdic-  
7 tion of the Department of the Interior for pur-  
8 poses of oil and gas leasing; and

9 (B) Indian onshore lands.

10 (2) SECRETARY.—The term “Secretary” means  
11 the Secretary of the Interior.

12 **TITLE X—OFFSHORE OIL AND**  
13 **GAS WORKER WHISTLE-**  
14 **BLOWER PROTECTION**

15 **SEC. 1001. SHORT TITLE.**

16 This title may be cited as the “Offshore Oil and Gas  
17 Worker Whistleblower Protection Act of 2010”.

18 **SEC. 1002. WHISTLEBLOWER PROTECTIONS; EMPLOYEE**  
19 **PROTECTION FROM OTHER RETALIATION.**

20 (a) PROHIBITION AGAINST RETALIATION.—

21 (1) IN GENERAL.—No employer may discharge  
22 or otherwise discriminate against a covered employee  
23 because the covered employee, whether at the cov-  
24 ered employee’s initiative or in the ordinary course  
25 of the covered employee’s duties—

1 (A) provided, caused to be provided, or is  
2 about to provide or cause to be provided to the  
3 employer or to a Federal or State Government  
4 official, information relating to any violation of,  
5 or any act or omission the covered employee  
6 reasonably believes to be a violation of, any pro-  
7 vision of the Outer Continental Shelf Lands Act  
8 (43 U.S.C. 1301 et seq.), or any order, rule,  
9 regulation, standard, or prohibition under that  
10 Act, or exercised any rights provided to employ-  
11 ees under that Act;

12 (B) testified or is about to testify in a pro-  
13 ceeding concerning such violation;

14 (C) assisted or participated or is about to  
15 assist or participate in such a proceeding;

16 (D) testified or is about to testify before  
17 Congress on any matter covered by such Act;

18 (E) objected to, or refused to participate in  
19 any activity, policy, practice, or assigned task  
20 that the covered employee reasonably believed  
21 to be in violation of any provision of such Act,  
22 or any order, rule, regulation, standard, or ban  
23 under such Act;

24 (F) reported to the employer or a State or  
25 Federal Government official any of the fol-

1           lowing related to the employer’s activities de-  
2           scribed in section 1003(1): an illness, injury,  
3           unsafe condition, or information regarding the  
4           adequacy of any oil spill response plan required  
5           by law; or

6           (G) refused to perform the covered employ-  
7           ee’s duties, or exercised stop work authority, re-  
8           lated to the employer’s activities described in  
9           section 1003(1) if the covered employee had a  
10          good faith belief that performing such duties  
11          could result in injury to or impairment of the  
12          health of the covered employee or other employ-  
13          ees, or cause an oil spill to the environment.

14          (2) GOOD FAITH BELIEF.—For purposes of  
15          paragraph (1)(E), the circumstances causing the  
16          covered employee’s good faith belief that performing  
17          such duties would pose a health and safety hazard  
18          shall be of such a nature that a reasonable person  
19          under circumstances confronting the covered em-  
20          ployee would conclude there is such a hazard.

21          (b) PROCESS.—

22          (1) IN GENERAL.—A covered employee who be-  
23          lieves that he or she has been discharged or other-  
24          wise discriminated against (hereafter referred to as  
25          the “complainant”) by any employer in violation of

1 subsection (a)(1) may, not later than 180 days after  
2 the date on which such alleged violation occurs or  
3 the date on which the covered employee knows or  
4 should reasonably have known that such alleged vio-  
5 lation occurred, file (or have any person file on his  
6 or her behalf) a complaint with the Secretary of  
7 Labor (referred to in this section as the “Sec-  
8 retary”) alleging such discharge or discrimination  
9 and identifying employer or employers responsible  
10 for such act. Upon receipt of such a complaint, the  
11 Secretary shall notify, in writing, the employer or  
12 employers named in the complaint of the filing of  
13 the complaint, of the allegations contained in the  
14 complaint, of the substance of evidence supporting  
15 the complaint, and of the opportunities that will be  
16 afforded to such person under paragraph (2).

17 (2) INVESTIGATION.—

18 (A) IN GENERAL.—Not later than 90 days  
19 after the date of receipt of a complaint filed  
20 under paragraph (1) the Secretary shall initiate  
21 an investigation and determine whether there is  
22 reasonable cause to believe that the complaint  
23 has merit and notify, in writing, the complain-  
24 ant and the employer or employers alleged to  
25 have committed a violation of subsection (a)(1)

1 of the Secretary's findings. The Secretary shall,  
2 during such investigation afford the complain-  
3 ant and the employer or employers named in  
4 the complaint an opportunity to submit to the  
5 Secretary a written response to the complaint  
6 and an opportunity to meet with a representa-  
7 tive of the Secretary to present statements from  
8 witnesses. The complainant shall be provided  
9 with an opportunity to review the information  
10 and evidence provided by employer or employers  
11 to the Secretary, and to review any response or  
12 rebuttal by such the complaint, as part of such  
13 investigation.

14 (B) REASONABLE CAUSE FOUND; PRELIMI-  
15 NARY ORDER.—If the Secretary concludes that  
16 there is reasonable cause to believe that a viola-  
17 tion of subsection (a)(1) has occurred, the Sec-  
18 retary shall accompany the Secretary's findings  
19 with a preliminary order providing the relief  
20 prescribed by paragraph (3)(B). Not later than  
21 30 days after the date of notification of find-  
22 ings under this paragraph, the employer or em-  
23 ployers alleged to have committed the violation  
24 or the complainant may file objections to the  
25 findings or preliminary order, or both, and re-

1           quest a hearing on the record before an admin-  
2           istrative law judge of the Department of Labor.  
3           The filing of such objections shall not operate  
4           to stay any reinstatement remedy contained in  
5           the preliminary order. Any such hearing shall  
6           be conducted expeditiously. If a hearing is not  
7           requested in such 30-day period, the prelimi-  
8           nary order shall be deemed a final order that is  
9           not subject to judicial review. The Secretary of  
10          Labor is authorized to enforce preliminary rein-  
11          statement orders in the United States district  
12          court for the district in which the violation was  
13          found to occur, or in the United States district  
14          court for the District of Columbia.

15                   (C) DISMISSAL OF COMPLAINT.—

16                           (i) STANDARD FOR COMPLAINANT.—

17           The Secretary shall dismiss a complaint  
18           filed under this subsection and shall not  
19           conduct an investigation otherwise required  
20           under subparagraph (A) unless the com-  
21           plainant makes a prima facie showing that  
22           any behavior described in subparagraphs  
23           (A) through (G) of subsection (a)(1) was a  
24           contributing factor in the adverse action  
25           alleged in the complaint.

1           (ii) STANDARD FOR EMPLOYER.—Not-  
2           withstanding a finding by the Secretary  
3           that the complainant has made the show-  
4           ing required under clause (i), no investiga-  
5           tion otherwise required under subpara-  
6           graph (A) shall be conducted if the em-  
7           ployer demonstrates, by clear and con-  
8           vincing evidence, that the employer would  
9           have taken the same adverse action in the  
10          absence of that behavior.

11          (iii) VIOLATION STANDARD.—The  
12          Secretary may determine that a violation  
13          of subsection (a)(1) has occurred only if  
14          the complainant demonstrates that any be-  
15          havior described in subparagraphs (A)  
16          through (G) of such subsection was a con-  
17          tributing factor in the adverse action al-  
18          leged in the complaint.

19          (iv) RELIEF STANDARD.—Relief may  
20          not be ordered under subparagraph (A) if  
21          the employer demonstrates by clear and  
22          convincing evidence that the employer  
23          would have taken the same adverse action  
24          in the absence of that behavior.

25          (3) ORDERS.—



1 (A) IN GENERAL.—Not later than 90 days  
2 after the receipt of a request for a hearing  
3 under subsection (b)(2)(B), the administrative  
4 law judge shall issue findings of fact and order  
5 the relief provided under this paragraph or  
6 deny the complaint. At any time before issuance  
7 of an order, a proceeding under this subsection  
8 may be terminated on the basis of a settlement  
9 agreement entered into by the Secretary, the  
10 complainant, and the person alleged to have  
11 committed the violation. Such a settlement may  
12 not be agreed by such parties if it contains con-  
13 ditions which conflict with rights protected  
14 under this title, are contrary to public policy, or  
15 include a restriction on a complainant's right to  
16 future employment with employers other than  
17 the specific employers named in the complaint.

18 (B) CONTENT OF ORDER.—If, in response  
19 to a complaint filed under paragraph (1), the  
20 administrative law judge determines that a vio-  
21 lation of subsection (a)(1) has occurred, the ad-  
22 ministrative law judge shall order the employer  
23 or employers who committed such violation—

24 (i) to take affirmative action to abate  
25 the violation;

1           (ii) to reinstate the complainant to his  
2           or her former position together with com-  
3           pensation (including back pay and prejudg-  
4           ment interest) and restore the terms, con-  
5           ditions, and privileges associated with his  
6           or her employment; and

7           (iii) to provide compensatory and con-  
8           sequential damages, and, as appropriate,  
9           exemplary damages to the complainant.

10          (C) ATTORNEY FEES.—If such an order is  
11          issued under this paragraph, the Secretary, at  
12          the request of the complainant, shall assess  
13          against the employer or employers a sum equal  
14          to the aggregate amount of all costs and ex-  
15          penses (including attorneys' and expert witness  
16          fees) reasonably incurred by the complainant  
17          for, or in connection with, the bringing of the  
18          complaint upon which the order was issued at  
19          the conclusion of any stage of the proceeding.

20          (D) BAD FAITH CLAIM.—If the Secretary  
21          finds that a complaint under paragraph (1) is  
22          frivolous or has been brought in bad faith, the  
23          Secretary may award to the prevailing employer  
24          reasonable attorneys' fees, not exceeding  
25          \$1,000, to be paid by the complainant.

1           (E) ADMINISTRATIVE APPEAL.—Not later  
2 than 30 days after the receipt of findings of  
3 fact or an order under subparagraph (B), the  
4 employer or employers alleged to have com-  
5 mitted the violation or the complainant may  
6 file, with objections, an administrative appeal  
7 with the Secretary, who may designate such ap-  
8 peal to a review board. In reviewing a decision  
9 and order of the administrative law judge, the  
10 Secretary shall affirm the decision and order if  
11 it is determined that the factual findings set  
12 forth therein are supported by substantial evi-  
13 dence and the decision and order are made in  
14 accordance with applicable law. The Secretary  
15 shall issue a final decision and order affirming,  
16 or reversing, in whole or in part, the decision  
17 under review within 90 days after receipt of the  
18 administrative appeal under this subparagraph.  
19 If it is determined that a violation of subsection  
20 (a)(1) has occurred, the Secretary shall order  
21 relief provided under subparagraphs (B) and  
22 (C). Such decision shall constitute a final agen-  
23 cy action with respect to the matter appealed.  
24 (4) ACTION IN COURT.—

1           (A) IN GENERAL.—If the Secretary has  
2 not issued a final decision within 300 days after  
3 the filing of the complaint, the complainant  
4 may bring an action at law or equity for de  
5 novo review in the appropriate district court of  
6 the United States, which action shall, at the re-  
7 quest of either party to such action, be tried by  
8 the court with a jury. The proceedings shall be  
9 governed by the same legal burdens of proof  
10 specified in paragraph (2)(C).

11           (B) RELIEF.—The court may award all  
12 appropriate relief including injunctive relief,  
13 compensatory and consequential damages, in-  
14 cluding—

15                   (i) reinstatement with the same se-  
16 niority status that the covered employee  
17 would have had, but for the discharge or  
18 discrimination;

19                   (ii) the amount of back pay sufficient  
20 to make the covered employee whole, with  
21 prejudgment interest;

22                   (iii) exemplary damages, as appro-  
23 priate; and

24                   (iv) litigation costs, including reason-  
25 able attorney fees and expert witness fees.

1 (5) REVIEW.—

2 (A) IN GENERAL.—Any person aggrieved  
3 by a final order issued under paragraph (3) or  
4 a judgment or order under paragraph (4) may  
5 obtain review of the order in the appropriate  
6 United States Court of Appeals. The petition  
7 for review must be filed not later than 60 days  
8 after the date of the issuance of the final order  
9 of the Secretary. Review shall be in accordance  
10 with chapter 7 of title 5, United States Code.  
11 The commencement of proceedings under this  
12 subparagraph shall not, unless ordered by the  
13 court, operate as a stay of the order.

14 (B) NO OTHER JUDICIAL REVIEW.—An  
15 order of the Secretary with respect to which re-  
16 view could have been obtained under subpara-  
17 graph (A) shall not be subject to judicial review  
18 in any other proceeding.

19 (6) FAILURE TO COMPLY WITH ORDER.—When-  
20 ever any employer has failed to comply with an order  
21 issued under paragraph (3), the Secretary may ob-  
22 tain in a civil action in the United States district  
23 court for the district in which the violation was  
24 found to occur, or in the United States district court  
25 for the District of Columbia, all appropriate relief

1 including, but not limited to, injunctive relief and  
2 compensatory damages.

3 (7) CIVIL ACTION TO REQUIRE COMPLIANCE.—

4 (A) IN GENERAL.—Whenever an employer  
5 has failed to comply with an order issued under  
6 paragraph (3), the complainant on whose behalf  
7 the order was issued may obtain in a civil ac-  
8 tion in an appropriate United States district  
9 court against the employer to whom the order  
10 was issued, all appropriate relief.

11 (B) AWARD.—The court, in issuing any  
12 final order under this paragraph, may award  
13 costs of litigation (including reasonable attor-  
14 neys' and expert witness fees) to any party  
15 whenever the court determines such award is  
16 appropriate.

17 (c) CONSTRUCTION.—

18 (1) EFFECT ON OTHER LAWS.—Nothing in this  
19 section preempts or diminishes any other safeguards  
20 against discrimination, demotion, discharge, suspen-  
21 sion, threats, harassment, reprimand, retaliation, or  
22 any other manner of discrimination provided by Fed-  
23 eral or State law.

24 (2) RIGHTS OF EMPLOYEES.—Nothing in this  
25 section shall be construed to diminish the rights,

1 privileges, or remedies of any employee under any  
2 Federal or State law or under any collective bar-  
3 gaining agreement. The rights and remedies in this  
4 section may not be waived by any agreement, policy,  
5 form, or condition of employment.

6 (d) ENFORCEMENT OF NONDISCRETIONARY DU-  
7 TIES.—Any nondiscretionary duty imposed by this section  
8 shall be enforceable in a mandamus proceeding brought  
9 under section 1361 of title 28, United States Code.

10 (e) POSTING OF NOTICE AND TRAINING.—All em-  
11 ployers shall post a notice which has been approved as to  
12 form and content by the Secretary of Labor in a con-  
13 spicuous location in the place of employment where cov-  
14 ered employees frequent which explains employee rights  
15 and remedies under this section. Each employer shall pro-  
16 vide training to covered employees of their rights under  
17 this section within 30 days of employment, and at not less  
18 than once every 12 months thereafter, and provide covered  
19 employees with a card which contains a toll free telephone  
20 number at the Department of Labor which covered em-  
21 ployees can call to get information or file a complaint  
22 under this section.

23 (f) DESIGNATION BY THE SECRETARY.—The Sec-  
24 retary of Labor shall, within 30 days of the date of enact-  
25 ment of this Act, designate by order the appropriate agen-

1 cy officials to receive, investigate, and adjudicate com-  
2 plaints of violations of subsection (a)(1).

3 **SEC. 1003. DEFINITIONS.**

4 As used in this title the following definitions apply:

5 (1) The term “covered employee”—

6 (A) means an individual performing serv-  
7 ices on behalf of an employer that is engaged  
8 in activities on or in waters above the Outer  
9 Continental Shelf related to—

10 (i) supporting, or carrying out explo-  
11 ration, development, production, proce-  
12 ssing, or transportation of oil or gas; or

13 (ii) oil spill cleanup, emergency re-  
14 sponse, environmental surveillance, protec-  
15 tion, or restoration, or other oil spill activi-  
16 ties related to occupational safety and  
17 health; and

18 (B) includes an applicant for such employ-  
19 ment.

20 (2) The term “employer” means one or more  
21 individuals, partnerships, associations, corporations,  
22 trusts, unincorporated organizations, nongovern-  
23 mental organizations, or trustees, and includes any  
24 agent, contractor, subcontractor, grantee or consult-  
25 ant of such employer.



1           (3) The term “Outer Continental Shelf” has  
2           the meaning that the term “outer Continental Shelf”  
3           has in the Outer Continental Shelf Lands Act (43  
4           U.S.C. 1331 et seq.).

Passed the House of Representatives July 30, 2010.

Attest:

*Clerk.*

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

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# H. R. 3534

## AN ACT

To provide greater efficiencies, transparency, returns, and accountability in the administration of Federal mineral and energy resources by consolidating administration of various Federal energy minerals management and leasing programs into one entity to be known as the Office of Federal Energy and Minerals Leasing of the Department of the Interior, and for other purposes.