IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2011

Ms. WOOLSEY (for herself and Mr. LUMÁN) introduced the following bill; which was referred to the Committee on Science, Space, and Technology

A BILL

To amend title VII of the Oil Pollution Act of 1990, and for other purposes.

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Oil Pollution Research and Development Program Reauthorization Act of 2011”.

SEC. 2. FEDERAL OIL POLLUTION RESEARCH COMMITTEE.
(a) PURPOSES.—Section 7001(a)(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(a)(2)) is amended by striking “State” and inserting “State and tribal”.
(b) MEMBERSHIP.—Section 7001(a)(3) of such Act (33 U.S.C. 2761(a)(3)) is amended to read as follows:
“(3) Structure.—

“(A) Members.—The Interagency Committee shall consist of representatives from the following:

“(i) The Coast Guard.

“(ii) The Department of Commerce, including the National Oceanic and Atmospheric Administration.

“(iii) The Department of the Interior.

“(iv) The Environmental Protection Agency.

“(B) Collaborating Agencies.—The Interagency Committee shall collaborate with the following:

“(i) The National Institute of Standards and Technology.

“(ii) The Department of Energy.

“(iii) The Department of Transportation, including the Maritime Administration and the Pipeline and Hazardous Materials Safety Administration.

“(iv) The Department of Defense, including the Army Corps of Engineers and the Navy.

“(vi) The National Aeronautics and Space Administration.

“(vii) The National Science Foundation.

“(viii) Other Federal agencies, as appropriate.”.

(c) ROLE OF THE CHAIR.—Section 7001(a)(4) of such Act (33 U.S.C. 2761(a)(4)) is amended to read as follows:

“(4) CHAIR.—

“(A) IN GENERAL.—A representative of the Coast Guard shall serve as Chair.

“(B) ROLE OF CHAIR.—The primary role of the Chair shall be to ensure that—

“(i) the activities of the Interagency Committee and the agencies listed in paragraph (3)(B) are coordinated;

“(ii) the implementation plans required under subsection (b)(1) are completed and submitted;
“(iii) the annual reports required under subsection (e) are completed and submitted;
“(iv) the Interagency Committee meets in accordance with the requirements of paragraph (5); and
“(v) the Oil Pollution Research Advisory Committee under subsection (f) is established and utilized.”.

(d) Activities.—Section 7001(a) of such Act (33 U.S.C. 2761(a)) is amended by adding at the end the following:

“(5) Activities.—
“(A) Ongoing, Coordinated Efforts.—

The Interagency Committee shall ensure that the research, development, and demonstration efforts authorized by this section are coordinated and conducted on an ongoing basis.

“(B) Meetings.—
“(i) In General.—The Interagency Committee shall meet, or otherwise communicate, as appropriate, to—

“(I) plan program-related activities; and
“(II) determine whether the program is resulting in the development of new or improved methods and technologies to prevent, detect, respond to, contain, and mitigate oil discharge.

“(ii) Frequency.—In no event shall the Interagency Committee meet less than once per year.

“(C) Information Exchange.—The Interagency Committee, acting through the Administrator of the National Oceanic and Atmospheric Administration, shall develop a national information clearinghouse on oil discharge that—

“(i) includes scientific information and research on preparedness, response, and restoration; and

“(ii) serves as a single electronic access and input point for Federal agencies, emergency responders, the research community, and other interested parties for such information.”
SEC. 3. OIL POLLUTION RESEARCH AND TECHNOLOGY PLAN.

(a) IMPLEMENTATION PLAN.—Section 7001(b)(1) of such Act (33 U.S.C. 2761(b)(1)) is amended—

(1) by striking “180 days after the date of enactment of this Act” and inserting “180 days after the date of enactment of the Oil Pollution Research and Development Program Reauthorization Act of 2011 and periodically thereafter, as appropriate, but not less than once every 5 years”;

(2) by striking subparagraph (A) and inserting the following:

“(A) identify the roles and responsibilities of each member agency of the Interagency Committee under subsection (a)(3)(A) and each of the collaborating agencies under subsection (a)(3)(B);”;

(3) in subparagraph (B) by inserting “containment,” after “response,”;

(4) in subparagraph (D) by inserting “containment,” after “response,”;

(5) by striking “and” at the end of subparagraph (E);

(6) in subparagraph (F)—

(A) by striking “the States” through “research needs” and inserting “State and tribal
governments, regional oil pollution research needs, including natural seeps and pollution resulting from importing oil from overseas,”; and

(B) by striking the period at the end and inserting a semicolon; and

(7) by adding at the end the following new subparagraphs:

“(G) identify the information needed to conduct risk assessment and risk analysis research to effectively prevent oil discharges, including information on human factors and decisionmaking, and to protect the environment; and

“(H) identify a methodology that—

“(i) provides for the solicitation, evaluation, preapproval, funding, and utilization of technologies and research projects developed by the public and private sector in advance of future oil discharges; and

“(ii) where appropriate, ensures that such technologies are readily available for rapid testing and potential deployment and that research projects can be implemented during an incident response.”.
(b) ADVICE AND GUIDANCE.—Section 7001(b)(2) of such Act (33 U.S.C. 2761(b)(2)) is amended to read as follows:

“(2) ADVICE AND GUIDANCE.—

“(A) IN GENERAL.—The Chair shall solicit advice and guidance in the development of the research plan under paragraph (1) from—

“(i) the Oil Pollution Research Advisory Committee established under subsection (f);

“(ii) the National Institute of Standards and Technology on issues relating to quality assurance and standards measurements;

“(iii) third party standard-setting organizations on issues relating to voluntary consensus standards; and

“(iv) the public in accordance with subparagraph (B).

“(B) PUBLIC COMMENT.—Prior to the submission of the research plan to Congress under paragraph (1), the research plan shall be published in the Federal Register and subject to a public comment period of 30 days. The Chair shall review the public comments received
and incorporate those comments into the plan,
as appropriate.”.

(c) REVIEW.—Section 7001(b) of such Act (33 U.S.C. 2761(b)) is amended by adding at the end the following:

“(3) REVIEW.—After the submission of each research plan to Congress under paragraph (1), the Chair shall contract with the National Academy of Sciences—

“(A) to review the research plan;

“(B) to assess the adequacy of the research plan; and

“(C) to submit a report to Congress on the conclusions of the assessment.

“(4) INCORPORATION OF RECOMMENDATIONS.—The Chair shall address any recommendations in the review conducted under paragraph (3) and shall incorporate such recommendations into the research plan, as appropriate.”.

SEC. 4. OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—Section 7001(c)(1) of such Act (33 U.S.C. 2761(c)(1)) is amended by striking “research and development, as provided in this subsection”
and inserting “research, development, and demonstration, as provided in this subsection and subsection (a)(2)”.

(b) INNOVATIVE OIL POLLUTION TECHNOLOGY.—

Section 7001(c)(2) of such Act (33 U.S.C. 2761(c)(2)) is amended—

(1) in the matter before subparagraph (A), by striking “preventing or mitigating” and inserting “preventing, detecting, containing, recovering, or mitigating”;

(2) by striking subparagraph (I);

(3) by redesignating subparagraph (J) as subparagraph (I);

(4) by striking the period at the end of subparagraph (I) (as so redesignated) and by inserting at the end a semicolon; and

(5) by adding at the end the following:

“(J) technologies and methods to address oil discharge on land and in inland waters, coastal areas, offshore areas, including deep-water and ultra-deepwater areas, and polar and other icy areas; and

“(K) modeling and simulation capabilities, including tools and technologies, that can be used to facilitate effective recovery and contain-
ment of oil discharge during incident re-
response.’’.

(c) OIL POLLUTION TECHNOLOGY EVALUATION.—
Section 7001(c)(3) of such Act (33 U.S.C. 2761(c)(3)) is
amended to read as follows:

“(3) OIL POLLUTION TECHNOLOGY EVALUA-
TION.—The program established under this sub-
section shall provide for the evaluation of oil pollu-
tion prevention, containment, and mitigation tech-
nologies, including—

“(A) the evaluation of the performance and
effectiveness of such technologies in preventing,
detecting, containing, recovering, and mitig-
gating oil discharges;

“(B) the evaluation of the environmental
effects of the use of such technologies;

“(C) the evaluation and testing of tech-
nologies developed independently of the research
and development program established under
this subsection, including technologies developed
by small businesses;

“(D) the establishment, with the advice
and guidance of the National Institute of
Standards and Technology, of standards and
testing protocols traceable to national standards
to measure the performance of oil pollution prevention, containment, or mitigation technologies;

“(E) an evaluation of the environmental effects and utility of controlled field testing;

“(F) the use, where appropriate, of controlled field testing to evaluate real-world application of new or improved oil discharge prevention, response, containment, recovery, or mitigation technologies;

“(G) an evaluation of the effectiveness of oil pollution prevention technologies based on probabilistic risk analyses of the system; and

“(H) research conducted by the Environmental Protection Agency and other appropriate Federal agencies for the evaluation and testing of technologies which demonstrate—

“(i) maximum effectiveness, including application and delivery mechanisms; and

“(ii) minimum effects, including toxicity, to human health and the environment in both the near-term and long-term.”.

(d) Oil Pollution Effects Research.—Section 7001(c)(4) of such Act (33 U.S.C. 2761(c)(4)) is amended—
(1) by striking subparagraph (A) and inserting the following:

“(A) IN GENERAL.—

“(i) ESTABLISHMENT.—The Inter-agency Committee, acting through the Administrator of the National Oceanic and Atmospheric Administration, shall establish a research program to monitor and scientifically evaluate the environmental effects, including long-term effects, of oil discharge.

“(ii) SPECIFICATIONS.—Such program shall include the following elements:

“(I) Research on and the development of effective tools to detect, measure, observe, analyze, monitor, model, and forecast the presence, transport, fate, and effect of an oil discharge throughout the environment, including tools and models to accurately measure and predict the flow of oil discharged.

“(II) The development of methods, including economic methods, to assess and predict damages to natural
resources, including air quality, resulting from oil discharges, including in economically disadvantaged communities and areas.

“(III) The identification of types of ecologically sensitive areas at particular risk from oil discharges, such as inland waters, coastal areas, offshore areas, including deepwater and ultra-deepwater areas, and polar and other icy areas.

“(IV) The preparation of scientific monitoring and evaluation plans for the areas identified under subclause (III) to be implemented in the event of major oil discharges in such areas.

“(V) The collection of environmental baseline data in the areas identified under subclause (III) if such data are insufficient.

“(VI) The use of both onshore and offshore air quality monitoring to study the effects of an oil discharge and oil discharge cleanup technologies
on air quality; and making the results, health, and safety warnings readily available to the public, including emergency responders, the research community, local residents, and other interested parties.

“(VII) Research on technologies, methods, and standards for protecting removal personnel and for volunteers that may participate in incident responses, including training, adequate supervision, protective equipment, maximum exposure limits, and decontamination procedures.”;

(2) in subparagraph (B)—

(A) by striking “(B) The Department of Commerce” and all that follows through “future oil discharges.” and inserting the following:

“(B) CONDITIONS.—The Interagency Committee, acting through the Administrator of the National Oceanic and Atmospheric Administration, shall conduct research activities under subparagraph (A) for areas in which—

“(i) the amount of oil discharged exceeds 250,000 gallons; and
“(ii) a study of the long-term environmental effects of the discharge would be of significant scientific value, especially for preventing or responding to future oil discharges.”;

(B) by striking “ATHOS I, and” and inserting “ATHOS I;”; and

(C) by striking the period at the end and inserting “; Prince William Sound, where oil was discharged by the EXXON VALDEZ; and the Gulf of Mexico, where oil was discharged by the DEEPWATER HORIZON.”; and

(3) in subparagraph (C) by striking “Research” and inserting “COORDINATION.—Research”.

(e) DEMONSTRATION PROJECTS.—Section 7001(c)(6) of such Act (33 U.S.C. 2761(c)(6)) is amend-
ed—

(1) by striking the first sentence and inserting the following: “The United States Coast Guard, in conjunction with such agencies as the President may designate, shall conduct a total of 2 port oil pollution minimization demonstration projects, 1 with the Ports of Los Angeles and Long Beach, California, and 1 with a port on the Great Lakes, for the purpose of developing and demonstrating integrated
port oil pollution prevention and cleanup systems
that utilize the information and implement the im-
proved practices and technologies developed from the
research, development, and demonstration program
established in this section.”; and

(2) in the second sentence by striking “oil spill”
and inserting “oil discharge”.

(f) SIMULATED ENVIRONMENTAL TESTING.—Section
7001(c)(7) of such Act (33 U.S.C. 2761(c)(7)) is amended
by inserting “Oil pollution technology testing and evalu-
tions shall be given priority over all other activities per-
formed at such Research Center.” after “evaluations.”.

(g) REGIONAL RESEARCH PROGRAM.—

(1) IN GENERAL.—Section 7001(c)(8) of such
Act (33 U.S.C. 2761(c)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking “program of competi-
tive grants” and inserting “program of
peer-reviewed, competitive grants”; and

(ii) by striking “(1989)” and inserting
“(2009)”;

(B) in subparagraph (C) by striking “the
entity or entities which” and inserting “at least
one entity that”; and
(C) by adding at the end the following new subparagraph:

“(H) In carrying out this paragraph, the Interagency Committee shall coordinate the program of peer-reviewed, competitive grants to universities or other research institutions, including Minority Serving Institutions as defined under section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a)), and provide consideration to such institutions in the recommendations for awarding grants.”.

(2) FUNDING.—Section 7001(c)(9) of such Act (33 U.S.C. 2761(c)(9)) is amended by striking “1991” and all that follows through “shall be available” and inserting “2012, 2013, 2014, 2015, and 2016, there are authorized to be appropriated from amounts in the Fund $12,000,000”.

SEC. 5. INTERNATIONAL COOPERATION.

Section 7001(d) of such Act (33 U.S.C. 2761(d)) is amended to read as follows:

“(d) INTERNATIONAL COOPERATION.—In accordance with the research plan submitted under subsection (b), the Interagency Committee shall engage in international cooperation by—

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“(1) harnessing global expertise through collaborative partnerships with foreign governments and research entities, and domestic and foreign private actors, including nongovernmental organizations and private sector companies; and

“(2) leveraging public and private capital, technology, expertise, and services towards innovative models that can be instituted to conduct collaborative oil pollution research, development, and demonstration activities, including controlled field tests of oil discharges and other activities designed to improve oil recovery and cleanup.”

SEC. 6. ANNUAL REPORTS.

Section 7001(e) of such Act (33 U.S.C. 2761(e)) is amended to read as follows:

“(e) ANNUAL REPORT.—

“(1) IN GENERAL.—Concurrent with the submission to Congress of the President’s annual budget request in each year after the date of enactment of the Oil Pollution Research and Development Program Reauthorization Act of 2011, the Chair of the Interagency Committee shall submit to Congress a report describing the—

“(A) activities carried out under this section in the preceding fiscal year, including—
“(i) a description of major research conducted on oil discharge prevention, detection, containment, recovery, and mitigation techniques in all environments by each agency described in subsection (a)(3) (A) and (B); and

“(ii) a summary of—

“(I) projects in which the agency contributed funding or other resources;

“(II) major projects undertaken by State and tribal governments, and foreign governments; and

“(III) major projects undertaken by the private sector and educational institutions;

“(B) activities being carried out under this section in the current fiscal year, including a description of major research and development activities on oil discharge prevention, detection, containment, recovery, and mitigation technologies and techniques in all environments that each agency will conduct or contribute to; and

“(C) activities proposed to be carried out under this section in the subsequent fiscal year,
including an analysis of how these activities will further the purposes of the program authorized by this section.

“(2) ADDITIONAL REQUIREMENT.—If the National Academy of Sciences provides recommendations on the research plan under section 7001(b)(3), the Chair shall include, in the first annual report under paragraph (1) of this subsection, a description of those recommendations incorporated into the research plan, and a description of, and explanation for, any recommendations that are not included in such plan.”.

SEC. 7. ADVISORY COMMITTEE.

Section 7001 of such Act (33 U.S.C. 2761) is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

“(f) ADVISORY COMMITTEE.—

“(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Oil Pollution Research and Development Program Reauthorization Act of 2011, the Chair of the Interagency Committee shall establish an advisory committee to be
known as the Oil Pollution Research Advisory Committee (in this subsection referred to as the ‘advisory committee’).

“(2) Membership.—

“(A) In General.—The advisory committee shall be composed of members appointed by the Chair, in consultation with the each member agency described in subsection (a)(3), including—

“(i) individuals with extensive knowledge and research experience or operational knowledge of prevention, detection, response, containment, and mitigation of oil discharges;

“(ii) individuals broadly representative of stakeholders affected by oil discharges; and

“(iii) other individuals, as determined by the Chair.

“(B) Limitations.—The Chair shall—

“(i) appoint no more than 25 members that shall not include representatives of the Federal Government, but may include representatives from State, tribal, and local governments; and
“(ii) ensure that no class of individuals described in clause (ii) or (iii) of subparagraph (A) comprises more than 1⁄3 of the membership of the advisory committee.

“(C) TERMS OF SERVICE.—

“(i) IN GENERAL.—Members shall be appointed for a 3-year term and may serve for not more than 2 terms, except as provided in clause (iii).

“(ii) VACANCIES.—Vacancy appointments shall be for the remainder of the unexpired term of the vacancy.

“(iii) SPECIAL RULE.—If a member is appointed to fill a vacancy and the remainder of the unexpired term is less than 1 year, the member may subsequently be appointed for 2 full terms.

“(D) COMPENSATION AND EXPENSES.—Members of the advisory committee shall not be compensated for service on the advisory committee, but may be allowed travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.
“(3) DUTIES.—The advisory committee shall review, advise, and comment on Interagency Committee activities, including the following:

“(A) Management and functioning of the Interagency Committee.

“(B) Collaboration of the Interagency Committee and the agencies listed in subsection (a)(3)(B).

“(C) The research and technology development of new or improved response capabilities.

“(D) The use of cost-effective research mechanisms.

“(E) Research, computation, and modeling needs and other resources needed to develop a comprehensive program of oil pollution research.

“(4) SUBCOMMITTEES.—The advisory committee may establish subcommittees of its members.

“(5) MEETINGS.—The advisory committee shall meet at least once per year and at other times at the call of the chairperson.

“(6) REPORT.—The advisory committee shall submit biennial reports to the Interagency Committee and Congress on the function, activities, and
progress of the Interagency Committee and the pro-
gams established under this section.

“(7) Expiration.—Section 14 of the Federal
Advisory Committee Act (5 U.S.C. App.) shall not
apply to the advisory committee.”.

SEC. 8. FUNDING.

(a) In General.—Section 7001(g) of such Act, as
redesignated by section 7 of this Act, is amended to read
as follows:

“(g) Funding.—

“(1) In General.—There are authorized to be
appropriated from amounts in the Fund not more
than $48,000,000 annually to carry out this section,
except for subsection (c)(8).

“(2) Specific Allocations.—From the
amounts in paragraph (1), there are authorized to be appropriated—

“(A) $16,000,000 to the Administrator of
the National Oceanic and Atmospheric Admin-
istration annually to carry out this section; and

“(B) $2,000,000 for each of fiscal years
2012, 2013, 2014, and 2015 to carry out the
activities in subsection (c)(6).”.
(b) AUTHORIZATION.—Section 1012(a)(5)(C) of such Act (33 U.S.C. 2712(a)(5)(C)) is amended to read as follows:

“(C) notwithstanding section 9509(f) of the Internal Revenue Code of 1986, not more than $48,000,000 in each fiscal year shall be available to carry out title VII of this Act; and”.

SEC. 9. ACCESS TO RESEARCH DURING AN EMERGENCY.

Section 7001 of such Act (33 U.S.C. 2761) is amended by adding at the end the following new subsection:

“(h) Access to Research During an Emergency.—Any entity that receives Federal funding for research, the methodologies or results of which may be useful for response activities in the event of an oil discharge incident described in sections 300.300–334 of title 40 of the Code of Federal Regulations, shall, upon request to that entity, make the methodologies or results of such research available to the Interagency Committee and the Federal On-Scene Coordinator (as defined in section 311(a)(21) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)(21))). Any methodologies or research results made available under this subsection shall be for use only for purposes of the response activities with respect to the oil discharge incident, and shall not be avail-
able for disclosure under section 552 of title 5, United States Code, or included in information made publicly available pursuant to this Act.”."