

# Union Calendar No. 326

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

# H. R. 5629

**[Report No. 111-567, Part I]**

To ensure full recovery from responsible parties of damages for physical and economic injuries, adverse effects on the environment, and clean up of oil spill pollution, to improve the safety of vessels and pipelines supporting offshore oil drilling, to ensure that there are adequate response plans to prevent environmental damage from oil spills, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2010

Mr. OBERSTAR (for himself, Mr. CUMMINGS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DEFAZIO, Mr. NADLER of New York, Mr. LARSEN of Washington, Mr. CAPUANO, Mr. BISHOP of New York, and Ms. HIRONO) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on the Judiciary and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JULY 27, 2010

Additional sponsors: Ms. JACKSON LEE of Texas, Mr. HARE, Mr. FILNER, Mr. JOHNSON of Georgia, Ms. RICHARDSON, Mr. KAGEN, Mr. HALL of New York, and Mr. CARNAHAN

JULY 27, 2010

Reported from the Committee on Transportation and Infrastructure

[Strike out all after the enacting clause and insert the part printed in *italic*]

JULY 27, 2010

Committees on the Judiciary and Natural Resources discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on June 29, 2010]

# **A BILL**

To ensure full recovery from responsible parties of damages for physical and economic injuries, adverse effects on the environment, and clean up of oil spill pollution, to improve the safety of vessels and pipelines supporting offshore oil drilling, to ensure that there are adequate response plans to prevent environmental damage from oil spills, 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 “Oil*  
 5 *Spill Accountability and Environmental Protection Act of*  
 6 *2010”.*

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

- Sec. 1. Short title; table of contents.*
- Sec. 2. Repeal of and adjustments to limitation on liability.*
- Sec. 3. Evidence of financial responsibility for offshore facilities.*
- Sec. 4. Damages to human health.*
- Sec. 5. Clarification of liability for discharges from mobile offshore drilling units.*
- Sec. 6. Standard of review for damage assessment.*
- Sec. 7. Information on claims.*
- Sec. 8. Limitation of Liability Act.*
- Sec. 9. Death on the High Seas Act.*
- Sec. 10. Jones Act.*
- Sec. 11. Americanization of offshore operations in the exclusive economic zone.*
- Sec. 12. Safety management systems for mobile offshore drilling units.*
- Sec. 13. Safety standards for mobile offshore drilling units.*
- Sec. 14. Coast Guard marine safety workforce.*
- Sec. 15. Operational control of mobile offshore drilling units.*
- Sec. 16. Leave retention authority.*
- Sec. 17. Single-hull tankers.*
- Sec. 18. Repeal of response plan waiver.*
- Sec. 19. National Contingency Plan.*
- Sec. 20. Tracking Database.*
- Sec. 21. Safety of transportation-related offshore platforms.*
- Sec. 22. Evaluation and approval of response plans; maximum penalties.*
- Sec. 23. Oil and hazardous substance cleanup technologies.*
- Sec. 24. Implementation of oil spill prevention and response authorities.*
- Sec. 25. Disaster damage notification and assessment.*
- Sec. 26. Impacts to Indian Tribes.*
- Sec. 27. National Commission study of Federal management and oversight of off-*  
*shore drilling.*
- Sec. 28. Federal enforcement actions.*
- Sec. 29. Time required before electing to proceed with judicial claim or against*  
*the Fund.*
- Sec. 30. Report on former Coast Guard officials employed by recognized organiza-*  
*tions of foreign flag administrations.*
- Sec. 31. Authorized level of Coast Guard personnel.*
- Sec. 32. Clarification of memorandums of understanding.*
- Sec. 33. Study of health effects of oil spill.*
- Sec. 34. Offshore energy security.*
- Sec. 35. Oil spill response vessel database.*

*Sec. 36. Offshore sensing and monitoring systems.*

*Sec. 37. Vice commandant; vice admirals.*

*Sec. 38. Oil and gas exploration and production.*

*Sec. 39. Authorization of appropriations.*

1 **SEC. 2. REPEAL OF AND ADJUSTMENTS TO LIMITATION ON**  
2 **LIABILITY.**

3 (a) *IN GENERAL.*—Section 1004 of the Oil Pollution  
4 Act of 1990 (33 U.S.C. 2704) is amended—

5 (1) *in subsection (a)*—

6 (A) *in paragraph (2)*—

7 (i) *by striking “\$800,000,” and insert-*  
8 *ing “\$800,000,”; and*

9 (ii) *by adding “and” after the semi-*  
10 *colon at the end;*

11 (B) *by striking paragraph (3); and*

12 (C) *by redesignating paragraph (4) as*  
13 *paragraph (3);*

14 (2) *in subsection (b)(2) by striking the second*  
15 *sentence; and*

16 (3) *by striking subsection (d)(4) and inserting*  
17 *the following:*

18 “(4) *ADJUSTMENT OF LIMITS ON LIABILITY.*—

19 *Not later than 3 years after the date of enactment of*  
20 *the Oil Spill Accountability and Environmental Pro-*

21 *tection Act of 2010, and at least once every 3 years*

22 *thereafter, the President shall review the limits on li-*

23 *ability specified in subsection (a) and shall by regula-*

1        *tion revise such limits upward to reflect either the*  
2        *amount of liability that the President determines is*  
3        *commensurate with the risk of discharge of oil pre-*  
4        *sented by a particular category of vessel or any in-*  
5        *crease in the Consumer Price Index, whichever is*  
6        *greater.”.*

7        *(b) APPLICATION.—The repeals and amendments made*  
8        *by this section shall apply to all claims arising from events*  
9        *or activities occurring on or after April 19, 2010, including*  
10       *to claims pending on or before the date of enactment of this*  
11       *Act.*

12       **SEC. 3. EVIDENCE OF FINANCIAL RESPONSIBILITY FOR**  
13       **OFFSHORE FACILITIES.**

14       *(a) MODIFICATION.—Section 1016(c)(1) of the Oil Pol-*  
15       *lution Act of 1990 (33 U.S.C. 2716(c)(1)) is amended—*

16                *(1) in subparagraph (B) by striking “subpara-*  
17                *graph (A) is” and all that follows before the period*  
18                *and inserting “subparagraph (A) is \$1,500,000,000”;*

19                *(2) by striking subparagraph (C) and inserting*  
20        *the following:*

21                        *“(C) GREATER AMOUNT.—*

22                                *“(i) SPECIFIC FACILITIES.—If the*  
23                                *President determines that an amount of fi-*  
24                                *nancial responsibility for a responsible*  
25                                *party that is greater than the amount re-*

1           *quired by subparagraph (B) is justified*  
2           *based on the relative operational, environ-*  
3           *mental, human health, and other risks posed*  
4           *by the quantity, quality, or location of oil*  
5           *that is explored for, drilled for, produced, or*  
6           *transported by the responsible party, the*  
7           *evidence of financial responsibility required*  
8           *shall be for an amount determined by the*  
9           *President.*

10           “(i) *ADJUSTMENT FOR ALL OFFSHORE*  
11           *FACILITIES.—*

12           “(I) *IN GENERAL.—Not later than*  
13           *3 years after the date of enactment of*  
14           *the Oil Spill Accountability and Envi-*  
15           *ronmental Protection Act of 2010, and*  
16           *at least once every 3 years thereafter,*  
17           *the President shall review the level of*  
18           *financial responsibility specified in*  
19           *subparagraph (B) and may by regula-*  
20           *tion revise such level upwards to a*  
21           *level that the President determines is*  
22           *justified based on the relative oper-*  
23           *ational, environmental, human health,*  
24           *and other risks posed by the quantity,*  
25           *quality, or location of oil that is ex-*

1                    *plored for, drilled for, produced, or*  
2                    *transported by the responsible party.*

3                    “(II) NOTICE TO CONGRESS.—

4                    *Upon completion of a review specified*  
5                    *in subclause (I), the President shall no-*  
6                    *tify Congress as to whether the Presi-*  
7                    *dent will revise the levels of financial*  
8                    *responsibility and the factors for mak-*  
9                    *ing such determination.”; and*

10                    *(3) by striking subparagraph (E).*

11                    (b) APPLICATION; TRANSITION PERIOD.—

12                    (1) IN GENERAL.—*The amendments made by*  
13                    *this section shall take effect on the date of enactment*  
14                    *of this Act and shall apply to any lease for explo-*  
15                    *ration, development, or production of minerals, as de-*  
16                    *finied by the Outer Continental Shelf Lands Act (43*  
17                    *U.S.C. 1331 et seq.), that the Secretary of the Interior*  
18                    *awards after the date of enactment of this Act.*

19                    (2) TRANSITION PERIOD.—*Notwithstanding*  
20                    *paragraph (1), not later than 6 months after the date*  
21                    *of enactment of this Act, the President shall require*  
22                    *any person who holds, on the date of enactment of*  
23                    *this Act, a lease for exploration, development, or pro-*  
24                    *duction of minerals, as defined by the Outer Conti-*  
25                    *ental Shelf Lands Act (43 U.S.C. 1331 et seq.), lo-*

1        *cated in the navigable waters, adjoining shoreline, or*  
2        *the Exclusive Economic Zone of the United States to*  
3        *provide evidence of financial responsibility consistent*  
4        *with the amendments made by this section.*

5        **SEC. 4. DAMAGES TO HUMAN HEALTH.**

6        *(a) IN GENERAL.—Section 1002(b)(2) of the Oil Pollu-*  
7        *tion Act of 1990 (33 U.S.C. 2702(b)(2)) is amended by add-*  
8        *ing at the end the following:*

9                        *“(G) HUMAN HEALTH.—*

10                      *“(i) IN GENERAL.—Damages to human*  
11                      *health, including fatal injuries, which shall*  
12                      *be recoverable by any claimant who has a*  
13                      *demonstrable, adverse impact to human*  
14                      *health or, in the case of a fatal injury to an*  
15                      *individual, a claimant filing a claim on be-*  
16                      *half of such individual.*

17                      *“(ii) INCLUSION.—For purposes of*  
18                      *clause (i), the term ‘human health’ includes*  
19                      *mental health.”.*

20        *(b) APPLICATION.—The amendment made by sub-*  
21        *section (a) shall apply to all claims arising from events*  
22        *or activities occurring on or after April 19, 2010, including*  
23        *such claims pending on or before the date of enactment of*  
24        *this Act.*

1 **SEC. 5. CLARIFICATION OF LIABILITY FOR DISCHARGES**  
2 **FROM MOBILE OFFSHORE DRILLING UNITS.**

3 (a) *IN GENERAL.*—Section 1004(b)(2) of the Oil Pollu-  
4 tion 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 or  
8 upon the water”; and

9 (2) by striking “liable” and inserting “liable as  
10 described in paragraph (1)”.

11 (b) *APPLICATION.*—The amendments made by sub-  
12 section (a) shall apply to all claims arising from events  
13 or activities occurring on or after April 19, 2010, including  
14 such claims pending on or before the date of enactment of  
15 this Act.

16 **SEC. 6. STANDARD OF REVIEW FOR DAMAGE ASSESSMENT.**

17 Section 1006(e)(2) of the Oil Pollution Act of 1990 (33  
18 U.S.C. 2706(e)(2)) is amended—

19 (1) in the heading by striking “*REBUTTABLE*  
20 *PRESUMPTION*” and inserting “*JUDICIAL REVIEW OF*  
21 *ASSESSMENTS*”; and

22 (2) by striking “have the force and effect” and  
23 all that follows before the period and inserting the fol-  
24 lowing: “be subject to judicial review under sub-  
25 chapter II of chapter 5 of title 5, United States Code  
26 (commonly known as the Administrative Procedure

1       *Act), on the basis of the administrative record devel-*  
2       *oped by the lead Federal trustee as provided in such*  
3       *regulations”.*

4       **SEC. 7. INFORMATION ON CLAIMS.**

5       *(a) IN GENERAL.—Title I of the Oil Pollution Act of*  
6       *1990 (33 U.S.C. 2701 et seq.) is amended by inserting after*  
7       *section 1013 the following:*

8       **“SEC. 1013A. INFORMATION ON CLAIMS.**

9       *“In the event of a spill of national significance, the*  
10       *President may require a responsible party or a guarantor*  
11       *of a source designated under section 1014(a) to provide to*  
12       *the President any information on or related to claims, ei-*  
13       *ther individually, in the aggregate, or both, that the Presi-*  
14       *dent requests, including—*

15               *“(1) the transaction date or dates of such claims,*  
16               *including processing times; and*

17               *“(2) any other data pertaining to such claims*  
18               *necessary to ensure the performance of the responsible*  
19               *party or the guarantor with regard to the processing*  
20               *and adjudication of such claims.”.*

21       **(b) CONFORMING AMENDMENT.—***The table of contents*  
22       *contained in section 2 of such Act is amended by inserting*  
23       *after the item relating to section 1013 the following:*

*“Sec. 1013A. Information on claims.”.*

24       **(c) APPLICATION.—***The amendments made by this sec-*  
25       *tion shall apply to all claims arising from events or activi-*

1 *ties occurring on or after April 19, 2010, including such*  
2 *claims pending on or before the date of enactment of this*  
3 *Act.*

4 **SEC. 8. LIMITATION OF LIABILITY ACT.**

5 (a) *REPEAL.*—Chapter 305 of title 46, United States  
6 Code, is amended—

7 (1) *by repealing sections 30505, 30506, 30507,*  
8 *30511, and 30512; and*

9 (2) *by redesignating sections 30508 through*  
10 *30510 as sections 30505 through 30507, respectively.*

11 (b) *CONFORMING AND CLERICAL AMENDMENTS.*—

12 (1) *OIL POLLUTION ACT OF 1990.*—Section 1018  
13 *of the Oil Pollution Act of 1990 (33 U.S.C. 2718) is*  
14 *amended—*

15 (A) *in subsection (a), by striking “or the*  
16 *Act of March 3, 1851”;* and

17 (B) *in subsection (c), by striking “, the Act*  
18 *of March 3, 1851 (46 U.S.C. 183 et seq.),”.*

19 (2) *TITLE 46.*—Section 14305(a) of title 46,  
20 *United States Code, is amended by striking para-*  
21 *graph (5) and redesignating paragraphs (6) through*  
22 *(15) as paragraphs (5) through (14), respectively.*

23 (3) *CLERICAL AMENDMENT.*—*The analysis at the*  
24 *beginning of chapter 305 of title 46, United States*  
25 *Code, is amended by striking the items relating to sec-*

1        *tions 30505 through 30512 and inserting the fol-*  
 2        *lowing:*

      “30505. Provisions requiring notice of claim or limiting time for bringing action.

      “30506. Provisions limiting liability for personal injury or death.

      “30507. Vicarious liability for medical malpractice with regard to crew.”.

3        *(c) APPLICATION.—The repeals and amendments made*  
 4        *by this section shall apply to all claims arising from events*  
 5        *or activities occurring on or after April 19, 2010, including*  
 6        *to claims pending on or before the date of enactment of this*  
 7        *Act.*

8        **SEC. 9. DEATH ON THE HIGH SEAS ACT.**

9        *(a) IN GENERAL.—The Death on the High Seas Act*  
 10        *(chapter 303 of title 46, United States Code), is amended—*

11                *(1) in section 30302—*

12                        *(A) by inserting “or law” after “admi-*  
 13                        *rality”; and*

14                        *(B) by striking the last sentence and insert-*  
 15                        *ing “The action shall be for the exclusive benefit*  
 16                        *of the survivors, including the decedent’s spouse,*  
 17                        *parent, child, or dependent relatives.”;*

18                *(2) in section 30303—*

19                        *(A) by inserting “and nonpecuniary loss”*  
 20                        *after “pecuniary loss”;*

21                        *(B) by striking “by” and all that follows*  
 22                        *through the end, and inserting “, plus a fair*  
 23                        *compensation for the decedent’s pain and suf-*  
 24                        *fering.”; and*

1           (C) by adding at the end the following: “In  
2           this section, the term ‘nonpecuniary loss’ means  
3           losses authorized under general maritime law in-  
4           cluding loss of care, comfort, and companion-  
5           ship.”;

6           (3) in section 30305 by inserting “or law” after  
7           “admiralty”;

8           (4) in section 30306, by inserting “or law” after  
9           “admiralty”;

10          (5) by striking section 30307; and

11          (6) in the analysis at the beginning of such  
12          chapter, by striking the item relating to section  
13          30307.

14          (b) *APPLICATION.*—The amendments made by sub-  
15          section (a) shall apply to all claims arising from events  
16          or activities occurring on or after April 19, 2010, including  
17          such claims pending on or before the date of enactment of  
18          this Act.

19          **SEC. 10. JONES ACT.**

20          (a) *IN GENERAL.*—Section 30104 of title 46, United  
21          States Code, is amended—

22                  (1) in the second sentence, by striking “Laws”  
23                  and inserting “Except as provided in subsection (b),  
24                  laws”;

1           (2) by inserting “(a) *IN GENERAL.*—” before the  
2       *first sentence; and*

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

4       “(b) *NONPECUNIARY LOSSES FOR DEATH.*—*In addi-*  
5       *tion to other amounts authorized by law, the recovery for*  
6       *a seaman who dies may also include nonpecuniary losses*  
7       *that are authorized under general maritime law, such as*  
8       *the loss of care, comfort, and companionship.”.*

9       (b) *APPLICATION.*—*The amendments made by sub-*  
10       *section (a) shall apply to all claims arising from events*  
11       *or activities occurring on or after April 19, 2010, including*  
12       *such claims pending on or before the date of enactment of*  
13       *this Act.*

14       **SEC. 11. AMERICANIZATION OF OFFSHORE OPERATIONS IN**  
15                **THE EXCLUSIVE ECONOMIC ZONE.**

16       (a) *REGISTRY ENDORSEMENT REQUIRED.*—

17           (1) *IN GENERAL.*—*Section 12111 of title 46,*  
18       *United States Code, is amended by adding at the end*  
19       *the following:*

20       “(e) *RESOURCE ACTIVITIES IN THE EEZ.*—*Except for*  
21       *activities requiring an endorsement under sections 12112*  
22       *or 12113, only a vessel for which a certificate of documenta-*  
23       *tion with a registry endorsement is issued and that is*  
24       *owned by a citizen of the United States (as determined*  
25       *under section 50501(d)) may engage in support of explo-*

1 *ration, development, or production of resources in, on,*  
2 *above, or below the exclusive economic zone or any other*  
3 *activity in the exclusive economic zone to the extent that*  
4 *the regulation of such activity is not prohibited under cus-*  
5 *tomary international law.”.*

6 (2) *APPLICATION.—The amendment made by*  
7 *paragraph (1) applies only with respect to explo-*  
8 *ration, development, production, and support activi-*  
9 *ties that commence on or after July 1, 2011.*

10 (b) *LEGAL AUTHORITY.—Section 2301 of title 46,*  
11 *United States Code, is amended—*

12 (1) *by striking “chapter” and inserting “title”;*  
13 *and*

14 (2) *by inserting after “1988” the following: “and*  
15 *the exclusive economic zone to the extent that the reg-*  
16 *ulation of such operation is not prohibited under cus-*  
17 *tomary international law”.*

18 (c) *TRAINING FOR COAST GUARD PERSONNEL.—Not*  
19 *later than 180 days after the date of enactment of this Act,*  
20 *the Secretary of the department in which the Coast Guard*  
21 *is operating shall establish a program to provide Coast*  
22 *Guard personnel with the training necessary for the imple-*  
23 *mentation of the amendments made by this section.*

1 **SEC. 12. SAFETY MANAGEMENT SYSTEMS FOR MOBILE OFF-**  
2 **SHORE DRILLING UNITS.**

3 *Section 3203 of title 46, United States Code, is amend-*  
4 *ed—*

5 *(1) by redesignating subsection (b) as subsection*  
6 *(c); and*

7 *(2) by inserting after subsection (a) the fol-*  
8 *lowing:*

9 *“(b) MOBILE OFFSHORE DRILLING UNITS.—The safe-*  
10 *ty management system described in subsection (a) for a mo-*  
11 *bile offshore drilling unit operating in waters subject to the*  
12 *jurisdiction of the United States (including the exclusive*  
13 *economic zone) shall include processes, procedures, and poli-*  
14 *cies related to the safe operation and maintenance of the*  
15 *machinery and systems on board the unit that are used for*  
16 *the industrial business and functions of the unit, including*  
17 *drilling operations.”.*

18 **SEC. 13. SAFETY STANDARDS FOR MOBILE OFFSHORE**  
19 **DRILLING UNITS.**

20 *Section 3306 of title 46, United States Code, is amend-*  
21 *ed 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 involving a discharge as that term*  
25 *is defined in section 1001 of the Oil Pollution Act of 1990*  
26 *(33 U.S.C. 2701).”.*

1 **SEC. 14. COAST GUARD MARINE SAFETY WORKFORCE.**

2       (a) *IN GENERAL.*—Chapter 5 of title 14, United States  
3 Code, is amended by adding at the end the following:

4 **“§ 99. Marine safety workforce**

5       “(a) *MARINE SAFETY WORKFORCE.*—The Secretary,  
6 acting through the Commandant—

7               “(1) shall designate a sufficient number of posi-  
8 tions to be in the Coast Guard’s marine safety work-  
9 force to perform vessel inspections and marine cas-  
10 ualty investigations; and

11               “(2) shall ensure that a sufficient number of  
12 fully qualified officers, members, and civilian employ-  
13 ees of the Coast Guard are assigned to those positions.

14       “(b) *CAREER PATHS.*—The Secretary, acting through  
15 the Commandant, shall ensure that appropriate career  
16 paths for an officer, member, or civilian employee of the  
17 Coast Guard who wishes to pursue a career in marine safe-  
18 ty are identified in terms of the education, training, experi-  
19 ence, and assignments necessary for career progression to  
20 the most senior marine safety positions. The Secretary shall  
21 make available published information on such career paths.

22       “(c) *QUALIFICATIONS.*—With regard to the marine  
23 safety workforce, an officer, member, or civilian employee  
24 of the Coast Guard assigned as a—

25               “(1) marine inspector shall have the training,  
26 experience, and qualifications equivalent to that re-

1       *quired for a similar position at a classification soci-*  
2       *ety recognized by the Secretary under section 3316 of*  
3       *title 46 for the type of vessel, system, or equipment*  
4       *that is inspected;*

5               *“(2) marine casualty investigator shall have*  
6       *training, experience, and qualifications in investiga-*  
7       *tion, marine casualty reconstruction, evidence collec-*  
8       *tion and preservation, human factors, and docu-*  
9       *mentation using best investigation practices by Fed-*  
10       *eral and non-Federal entities;*

11               *“(3) marine safety engineer shall have knowl-*  
12       *edge, skill, and practical experience in—*

13                       *“(A) the construction and operation of com-*  
14       *mercial vessels;*

15                       *“(B) judging the character, strength, sta-*  
16       *bility, and safety qualities of such vessels and*  
17       *their equipment; or*

18                       *“(C) the qualifications and training of ves-*  
19       *sel personnel; or*

20               *“(4) marine inspector inspecting mobile offshore*  
21       *drilling units shall have knowledge, skill, and prac-*  
22       *tical experience in—*

23                       *“(A) Federal, State, and international law*  
24       *compliance;*

25                       *“(B) personnel training;*

1                   “(C) drilling operations;

2                   “(D) mobile offshore drilling unit and mar-  
3                   itime safety;

4                   “(E) the effect of weather on mobile offshore  
5                   drilling unit safety and operations;

6                   “(F) ship handling and positioning; and

7                   “(G) emergency procedures.

8                   “(d) APPRENTICESHIP REQUIREMENTS.—

9                   “(1) IN GENERAL.—An officer, member, or civil-  
10                  ian employee of the Coast Guard in training to be-  
11                  come a marine inspector, marine casualty investi-  
12                  gator, or a marine safety engineer shall serve a min-  
13                  imum of one-year apprenticeship, unless otherwise di-  
14                  rected by the Commandant, under the guidance of a  
15                  qualified marine inspector (including an inspector of  
16                  mobile offshore drilling units), marine casualty inves-  
17                  tigator, or marine safety engineer. The Commandant  
18                  may authorize shorter apprenticeship periods for cer-  
19                  tain qualifications, as appropriate.

20                  “(2) HIGHLY SPECIALIZED VESSELS.—

21                  “(A) IN GENERAL.—In addition to the re-  
22                  quirement under paragraph (1), any officer,  
23                  member, or employee of the Coast Guard as-  
24                  signed as a marine inspector or marine casualty  
25                  investigator with responsibility for inspecting or

1           *responding to casualties involving highly special-*  
2           *ized vessels must have served a minimum of 6*  
3           *months apprenticeship with those vessels.*

4                   “(B) *HIGHLY SPECIALIZED VESSELS DE-*  
5           *FINED.—In this paragraph the term ‘highly spe-*  
6           *cialized vessel’ includes mobile offshore drilling*  
7           *units, tank vessels, and vessels carrying certain*  
8           *dangerous cargoes as defined by the Com-*  
9           *mandant.’”.*

10           (b) *CLERICAL AMENDMENT.—The analysis at the be-*  
11           *ginning of such chapter is amended by adding at the end*  
12           *the following:*

*“99. Marine safety workforce.”.*

13           (c) *SUPPORT FOR MARITIME SAFETY AND SECURITY*  
14           *TEAMS PARTICIPATING IN “DEEPWATER HORIZON” RE-*  
15           *SPONSE.—*

16                   (1) *REVIEW AND REPORT.—The Secretary of the*  
17           *department in which the Coast Guard is operating*  
18           *shall review and report to Congress on the needs of*  
19           *maritime safety and security teams participating in*  
20           *patrols and setup of safety zones for, and manage-*  
21           *ment of, the discharge of oil that began in 2010 in*  
22           *connection with the explosion on, and sinking of, the*  
23           *mobile offshore drilling unit Deepwater Horizon.*

24                   (2) *FUNDING.—There is authorized to be appro-*  
25           *propriated to such Secretary, to remain available until*



1 “section 7106 or 7107” and inserting “section 7107  
2 or 7108”.

3 (3) *CLERICAL AMENDMENT.*—*The analysis at the*  
4 *beginning of such chapter is amended by striking the*  
5 *items relating to sections 7104 through 7114 and in-*  
6 *serting 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.”.

7 (b) *REQUIREMENT FOR CERTIFICATE OF INSPEC-*  
8 *TION.*—*Section 8101(a)(2) of title 46, United States Code,*  
9 *is amended by inserting before the semicolon the following:*  
10 *“and shall at all times be under the command of a master*  
11 *licensed under section 7104”.*

12 (c) *EFFECTIVE DATE.*—*The amendments made by this*  
13 *section shall take effect 6 months after the date of enactment*  
14 *of this Act.*

15 **SEC. 16. LEAVE RETENTION AUTHORITY.**

16 (a) *IN GENERAL.*—*Chapter 11 of title 14, United*  
17 *States Code, is amended by inserting after section 425 the*  
18 *following:*

1 **“§ 426. Emergency leave retention authority**

2       “(a) *IN GENERAL.*—A duty assignment for an active  
3 duty member of the Coast Guard in support of a declaration  
4 of a major disaster or emergency by the President under  
5 the Robert T. Stafford Disaster Relief and Emergency As-  
6 sistance Act (42 U.S.C. 5121 et seq.) or in response to a  
7 spill of national significance shall be treated, for the pur-  
8 pose of section 701(f)(2) of title 10, as a duty assignment  
9 in support of a contingency operation.

10       “(b) *DEFINITIONS.*—In this section:

11               “(1) *SPILL OF NATIONAL SIGNIFICANCE.*—The  
12 term ‘spill of national significance’ means a discharge  
13 of oil or a hazardous substance that is declared by the  
14 Commandant to be a spill of national significance.

15               “(2) *DISCHARGE.*—The term ‘discharge’ has the  
16 meaning given that term in section 1001 of the Oil  
17 Pollution Act of 1990 (33 U.S.C. 2701).”.

18       “(b) *CLERICAL AMENDMENT.*—The analysis for such  
19 chapter is amended by inserting after the item relating to  
20 section 425 the following:

      “426. Emergency leave retention authority.”.

21 **SEC. 17. SINGLE-HULL TANKERS.**

22       “(a) *APPLICATION OF TANK VESSEL CONSTRUCTION*  
23 *STANDARDS.*—Section 3703a(b) of title 46, United States  
24 Code, is amended by striking paragraph (3), and redesi-

1 nating paragraphs (4) through (6) as paragraphs (3)  
2 through (5), respectively.

3 (b) *EFFECTIVE DATE.*—The amendment made by sub-  
4 section (a) takes effect on January 1, 2011.

5 **SEC. 18. REPEAL OF RESPONSE PLAN WAIVER.**

6 Section 311(j)(5)(G) of the Federal Water Pollution  
7 Control Act (33 U.S.C. 1321(j)(5)(G)) is amended—

8 (1) by striking “a tank vessel, nontank vessel,  
9 offshore facility, or onshore facility” and inserting “a  
10 nontank vessel”;

11 (2) by striking “tank vessel, nontank vessel, or  
12 facility” and inserting “nontank vessel”; and

13 (3) by adding at the end the following: “A mobile  
14 offshore drilling unit, as such term is defined in sec-  
15 tion 1001 of the Oil Pollution Act of 1990 (33 U.S.C.  
16 2701), is not eligible to operate without a response  
17 plan approved under this section.”.

18 **SEC. 19. NATIONAL CONTINGENCY PLAN.**

19 (a) *GUIDELINES FOR CONTAINMENT BOOMS.*—Section  
20 311(d)(2) of the Federal Water Pollution Control Act (33  
21 U.S.C. 1321(d)(2)) is amended by adding at the end the  
22 following:

23 “(N) Guidelines regarding the use of con-  
24 tainment booms to contain a discharge of oil or  
25 a hazardous substance, including identification

1           *of quantities of containment booms likely to be*  
2           *needed, available sources of containment booms,*  
3           *and best practices for containment boom place-*  
4           *ment, monitoring, and maintenance.”.*

5           ***(b) SCHEDULE FOR USE OF DISPERSANTS, OTHER***  
6           ***CHEMICALS, AND OTHER SPILL MITIGATING DEVICES AND***  
7           ***SUBSTANCES.—Section 311(d) of the Federal Water Pollu-***  
8           ***tion Control Act (33 U.S.C. 1321(d)) is amended by adding***  
9           ***at the end the following:***

10           ***“(5) SCHEDULE FOR USE OF DISPERSANTS,***  
11           ***OTHER CHEMICALS, AND OTHER SPILL MITIGATING***  
12           ***DEVICES AND SUBSTANCES.—***

13           ***“(A) RULEMAKING.—Not later than 15***  
14           ***months after the date of enactment of this para-***  
15           ***graph, the President, acting through the Admin-***  
16           ***istrator, after providing notice and an oppor-***  
17           ***tunity for public comment, shall issue a revised***  
18           ***regulation for the development of the schedule for***  
19           ***the use of dispersants, other chemicals, and other***  
20           ***spill mitigating devices and substances developed***  
21           ***under paragraph (2)(G) in a manner that is***  
22           ***consistent with the requirements of this para-***  
23           ***graph and shall modify the existing schedule to***  
24           ***take into account the requirements of the revised***  
25           ***regulation.***

1                   “(B) *SCHEDULE LISTING REQUIREMENTS.*—

2                   *In issuing the regulation under subparagraph*

3                   *(A), the Administrator shall—*

4                   “(i) *with respect to dispersants, other*

5                   *chemicals, and other spill mitigating sub-*

6                   *stances included or proposed to be included*

7                   *on the schedule under paragraph (2)(G)—*

8                   “(I) *establish minimum toxicity*

9                   *and efficacy testing criteria, taking*

10                  *into account the results of the study*

11                  *carried out under subparagraph (C);*

12                  “(II) *provide for testing or other*

13                  *verification (independent from the in-*

14                  *formation provided by an applicant*

15                  *seeking the inclusion of such dispers-*

16                  *ant, chemical, or substance on the*

17                  *schedule) related to the toxicity and ef-*

18                  *fectiveness of such dispersant, chemical,*

19                  *or substance;*

20                  “(III) *establish a framework for*

21                  *the application of any such dispersant,*

22                  *chemical, or substance, including—*

23                  “(aa) *quantity restrictions or*

24                  *application conditions;*

1                   “(bb) the quantity thresholds  
2                   for which consultation with and  
3                   approval by the Regional Re-  
4                   sponse Team and the Federal On-  
5                   Scene Coordinator is required;

6                   “(cc) the criteria to be used  
7                   to develop the appropriate max-  
8                   imum quantity of any such dis-  
9                   persant, chemical, or substance  
10                  that the Administrator determines  
11                  may be used, both on a daily and  
12                  cumulative basis; and

13                  “(dd) a ranking, by geo-  
14                  graphic area, of any such dispers-  
15                  ant, chemical, or substance based  
16                  on a combination of its effective-  
17                  ness for each type of oil and its  
18                  level of toxicity;

19                  “(IV) establish a requirement that  
20                  the volume of oil or hazardous sub-  
21                  stance discharged, and the volume and  
22                  location of any such dispersant, chem-  
23                  ical, or substance used, be measured  
24                  and made publicly available;

1           “(V) notwithstanding any other  
2           provision of law, require the public  
3           disclosure of the specific chemical iden-  
4           tity, including the chemical and com-  
5           mon name of any ingredients con-  
6           tained in, and specific chemical for-  
7           mulas or mixtures of, any such dis-  
8           persant, chemical, or substance; and

9           “(VI) in addition to existing au-  
10          thority, expressly provide a mechanism  
11          for the delisting of any such dispers-  
12          ant, chemical, or substance based on  
13          any information made available to the  
14          Administrator that demonstrates that  
15          such dispersant, chemical, or substance  
16          poses a significant risk to or impact on  
17          human health or the environment;

18          “(ii) with respect to a dispersant, other  
19          chemical, and other spill mitigating sub-  
20          stance not specifically identified on the  
21          schedule, and prior to the use of such dis-  
22          persant, chemical, or substance in accord-  
23          ance with paragraph (2)(G), establish—

1                   “(I) the minimum toxicity and ef-  
2                   ficacy levels for such dispersant, chem-  
3                   ical, or substance;

4                   “(II) the information, including  
5                   the specific chemical identity, formula,  
6                   and mixtures, on such dispersant,  
7                   other chemical, or other spill miti-  
8                   gating substance that shall be made  
9                   publicly available; and

10                  “(III) such additional informa-  
11                  tion as the Administrator determines  
12                  necessary; and

13                  “(iii) with respect to other spill miti-  
14                  gating devices included or proposed to be  
15                  included on the schedule under paragraph  
16                  (2)(G)—

17                  “(I) require the manufacturer of  
18                  such device to carry out a study of the  
19                  risks and effectiveness of the device ac-  
20                  cording to guidelines developed and  
21                  published by the Administrator; and

22                  “(II) in addition to existing au-  
23                  thority, expressly provide a mechanism  
24                  for the delisting of any such device  
25                  based on any information made avail-

1            *able to the Administrator that dem-*  
2            *onstrates that such device poses a sig-*  
3            *nificant risk to or impact on human*  
4            *health or the environment.*

5            *“(C) STUDY.—*

6            *“(i) IN GENERAL.—Not later than 3*  
7            *months after the date of enactment of this*  
8            *paragraph, the Administrator shall initiate*  
9            *a study of the potential risks and impacts*  
10           *to human health and the environment, in-*  
11           *cluding acute and chronic risks, from the*  
12           *use of dispersants, other chemicals, and*  
13           *other spill mitigating substances, if any,*  
14           *that may be used to carry out the National*  
15           *Contingency Plan, including an assessment*  
16           *of such risks and impacts—*

17           *“(I) on a representative sample of*  
18           *biota and types of oil from locations*  
19           *where such dispersants, chemicals, or*  
20           *substances may potentially be used;*

21           *“(II) on human health, including*  
22           *individuals most likely to come into*  
23           *contact with such dispersants, chemi-*  
24           *cals, or substances, such as oil spill re-*  
25           *sponse action workers; and*

1           “(III) that result from any by-  
2           products created from the use of such  
3           dispersants, chemicals, or substances.

4           “(i) INFORMATION FROM MANUFAC-  
5           TURERS.—

6           “(I) IN GENERAL.—In conjunc-  
7           tion with the study authorized by  
8           clause (i), the Administrator shall de-  
9           termine the requirements for manufac-  
10          turers of dispersants, chemicals, or sub-  
11          stances to evaluate the potential risks  
12          and impacts to human health and the  
13          environment, including acute and  
14          chronic risks, associated with the use of  
15          the dispersants, chemicals, or sub-  
16          stances and any byproducts generated  
17          by such use and to provide the details  
18          of such evaluation as a condition for  
19          listing on the schedule according to  
20          guidelines developed and published by  
21          the Administrator.

22          “(II) MINIMUM REQUIREMENTS  
23          FOR EVALUATION.—Any evaluation  
24          carried out by a manufacturer under  
25          this clause shall include—

1                   “(aa) information on the oils  
2                   and locations where such  
3                   dispersants, chemicals, or sub-  
4                   stances may potentially be used;

5                   “(bb) an evaluation of the  
6                   variety of different dispersants,  
7                   chemicals, or substances that may  
8                   be used in a response; and

9                   “(cc) an assessment of appli-  
10                  cation and impacts from subsea  
11                  use of the dispersant, chemical, or  
12                  substance, including the potential  
13                  long term effects of such use.

14                 “(D) PERIODIC REVISIONS.—

15                   “(i) IN GENERAL.—Not later than 5  
16                   years after the date of the issuance of the  
17                   regulation under this paragraph, and at  
18                   least once every 5 years thereafter, the Ad-  
19                   ministrator shall review the schedule for the  
20                   use of dispersants, other chemicals, and  
21                   other spill mitigating devices and sub-  
22                   stances that may be used to carry out the  
23                   National Contingency Plan and update or  
24                   revise the schedule, as necessary, to ensure

1           the protection of human health and the en-  
2           vironment.

3           “(ii) *EFFECTIVENESS.*—*The Adminis-*  
4           *trator shall ensure, to the maximum extent*  
5           *practicable, that each update or revision to*  
6           *the schedule increases the minimum effec-*  
7           *tiveness value necessary for listing a dis-*  
8           *persant, other chemical, or other spill miti-*  
9           *gating device or substance on the schedule.*

10          “(E) *APPROVAL OF USE AND APPLICATION*  
11          *OF DISPERSANTS.*—

12                 “(i) *IN GENERAL.*—*In issuing the reg-*  
13                 *ulation under subparagraph (A), the Ad-*  
14                 *ministrator shall require the approval of the*  
15                 *Federal On-Scene Coordinator, in coordina-*  
16                 *tion with the Administrator, for all uses of*  
17                 *a dispersant, other chemical, or other spill*  
18                 *mitigating substance in any removal action,*  
19                 *including—*

20                         “(I) *any such dispersant, chem-*  
21                         *ical, or substance that is included on*  
22                         *the schedule developed pursuant to this*  
23                         *subsection; or*

24                         “(II) *any dispersant, chemical, or*  
25                         *other substance that is included as part*

1            *an approved area contingency plan or*  
2            *response plan developed under this sec-*  
3            *tion.*

4            “(ii) *REPEAL.—Any part of section*  
5            *300.910 of title 40, Code of Federal Regula-*  
6            *tions, that is inconsistent with this para-*  
7            *graph is hereby repealed.*

8            “(6) *REVIEW OF AND DEVELOPMENT OF CRI-*  
9            *TERIA FOR EVALUATING RESPONSE PLANS.—*

10            “(A) *REVIEW.—Not later than 6 months*  
11            *after the date of enactment of this paragraph, the*  
12            *President shall review the procedures and stand-*  
13            *ards developed under paragraph (2)(J) to deter-*  
14            *mine their sufficiency in ceasing and removing*  
15            *a worst case discharge of oil or hazardous sub-*  
16            *stances, and for mitigating or preventing a sub-*  
17            *stantial threat of such a discharge.*

18            “(B) *RULEMAKING.—Not later than 1 year*  
19            *after the date of enactment of this paragraph, the*  
20            *President, after providing notice and an oppor-*  
21            *tunity for public comment, shall undertake a*  
22            *rulemaking to—*

23            “(i) *revise the procedures and stand-*  
24            *ards for ceasing and removing a worst case*  
25            *discharge of oil or hazardous substances,*

1                   and for mitigating or preventing a substan-  
2                   tial threat of such a discharge; and

3                   “(ii) develop a metric for evaluating  
4                   the National Contingency Plan, Area Con-  
5                   tingency Plans, and tank vessel, nontank  
6                   vessel, and facility response plans consistent  
7                   with the procedures and standards devel-  
8                   oped pursuant to this paragraph.”.

9           (c) *INCLUSION OF CONTAINMENT BOOMS IN AREA*  
10 *CONTINGENCY PLANS.*—Section 311(j)(4)(C)(iv) of such Act  
11 (33 U.S.C. 1321(j)(4)(C)(iv)) is amended by striking “(in-  
12 cluding firefighting equipment)” and inserting “(including  
13 firefighting equipment and containment booms)”.

14 **SEC. 20. TRACKING DATABASE.**

15           Section 311(b) of the Federal Water Pollution Control  
16 Act (33 U.S.C. 1321(b)) is amended by adding at the end  
17 the following:

18                   “(13) *TRACKING DATABASE.*—

19                   “(A) *IN GENERAL.*—The President shall cre-  
20                   ate a database to track all discharges of oil or  
21                   hazardous substances—

22                   “(i) into the waters of the United  
23                   States, adjoining shorelines, or into or upon  
24                   the waters of the contiguous zone;

1           “(ii) *in connection with activities*  
2           *under the Outer Continental Shelf Lands*  
3           *Act (43 U.S.C. 1331 et seq.) or the Deep-*  
4           *water Port Act of 1974 (33 U.S.C. 1501 et*  
5           *seq.); or*

6           “(iii) *which may affect natural re-*  
7           *sources belonging to, appertaining to, or*  
8           *under the exclusive management authority*  
9           *of the United States (including resources*  
10           *under the Fishery Conservation and Man-*  
11           *agement Act of 1976 (16 U.S.C. 1801 et*  
12           *seq.)).*

13           “(B) *REQUIREMENTS.—The database*  
14           *shall—*

15           “(i) *include—*

16           “(I) *the name of the vessel or fa-*  
17           *ility;*

18           “(II) *the name of the owner, oper-*  
19           *ator, or person in charge of the vessel*  
20           *or facility;*

21           “(III) *the date of the discharge;*

22           “(IV) *the volume of the discharge;*

23           “(V) *the location of the discharge,*  
24           *including an identification of any re-*

1           *ceiving waters that are or could be af-*  
2           *ected by the discharge;*

3           “(VI) *a record of any determina-*  
4           *tion of a violation of this section or*  
5           *section 1002 of the Oil Pollution Act of*  
6           *1990 (33 U.S.C. 2702);*

7           “(VII) *a record of any adminis-*  
8           *trative or enforcement action taken*  
9           *against the owner, operator, or person*  
10          *in charge; and*

11          “(VIII) *any additional informa-*  
12          *tion that the President determines nec-*  
13          *essary;*

14          “(ii) *use data provided by the Envi-*  
15          *ronmental Protection Agency, the Coast*  
16          *Guard, the Pipeline and Hazardous Mate-*  
17          *rials Safety Administration, and other ap-*  
18          *propriate Federal agencies;*

19          “(iii) *use data protocols developed and*  
20          *managed by the Environmental Protection*  
21          *Agency; and*

22          “(iv) *be publicly accessible, including*  
23          *by electronic means.”.*

1 **SEC. 21. SAFETY OF TRANSPORTATION-RELATED OFF-**  
2 **SHORE PLATFORMS.**

3 (a) *IN GENERAL.*—Chapter 601 of title 49, United  
4 States Code, is amended by adding at the end the following:

5 **“§ 60138. Safety of transportation-related offshore**  
6 **platforms**

7 “(a) *IN GENERAL.*—The Secretary of Transportation  
8 shall conduct an analysis of the adequacy of existing regula-  
9 tions and standards for the safety of transportation-related  
10 offshore platforms and the impact of the integrity of such  
11 platforms on pipeline safety.

12 “(b) *CONSULTATION.*—In carrying out subsection (a),  
13 the Secretary may consult with any agency, organization,  
14 or person with expertise in the design, construction, testing,  
15 operation, or maintenance of offshore platforms.

16 “(c) *REPORT TO CONGRESS.*—Not later than 24  
17 months after the date of enactment of this section, the Sec-  
18 retary shall submit to the Committee on Transportation  
19 and Infrastructure of the House of Representatives and the  
20 Committee on Commerce, Science, and Transportation of  
21 the Senate a report describing the results of the analysis  
22 conducted under subsection (a). The report shall include  
23 any recommendations the Secretary may have for address-  
24 ing the safety or integrity of transportation-related offshore  
25 platforms, including any recommendations for legislative or  
26 regulatory action.

1       “(d) *TRANSPORTATION-RELATED OFFSHORE PLAT-*  
 2 *FORM DEFINED.*—*In this section, the term ‘transportation-*  
 3 *related offshore platform’ means any platform—*

4               “(1) *located beyond the shoreline of the United*  
 5 *States in State or Federal waters;*

6               “(2) *used for transporting gas or hazardous liq-*  
 7 *uid; and*

8               “(3) *the design, construction, testing, operation,*  
 9 *maintenance, and security of which is not regulated*  
 10 *by another Federal agency.*

11       “(e) *LIMITATION.*—*Nothing in this section applies to*  
 12 *a production facility.”.*

13       (b) *CLERICAL AMENDMENT.*—*The analysis for such*  
 14 *chapter is amended by adding at the end the following:*

“60138. *Safety of transportation-related offshore platforms.”.*

15 **SEC. 22. EVALUATION AND APPROVAL OF RESPONSE**  
 16 **PLANS; MAXIMUM PENALTIES.**

17       (a) *AGENCY REVIEW OF RESPONSE PLANS.*—

18               (1) *LEAD FEDERAL AGENCY FOR REVIEW OF RE-*  
 19 *SPONSE PLANS.*—*Section 311(j)(5)(A) of the Federal*  
 20 *Water Pollution Control Act (33 U.S.C.*  
 21 *1321(j)(5)(A)) is amended by adding at the end the*  
 22 *following:*

23               “(iii) *In issuing the regulations under this para-*  
 24 *graph, the President shall ensure that—*

1           “(I) the owner, operator, or person in  
2 charge of a tank vessel, nontank vessel, or off-  
3 shore facility described in subparagraph (C) will  
4 not be considered to have complied with this  
5 paragraph until the owner, operator, or person  
6 in charge submits a plan under clause (i) or (ii),  
7 as appropriate, to the Secretary of the depart-  
8 ment in which the Coast Guard is operating, or  
9 the Administrator, with respect to such offshore  
10 facilities as the President may designate, and the  
11 Secretary or Administrator, as appropriate, de-  
12 termines and notifies the owner, operator, or per-  
13 son in charge that the plan, if implemented, will  
14 provide an adequate response to a worst case dis-  
15 charge of oil or a hazardous substance or a sub-  
16 stantial threat of such a discharge; and

17           “(II) the owner, operator, or person in  
18 charge of an onshore facility described in sub-  
19 paragraph (C)(iv) will not be considered to have  
20 complied with this paragraph until the owner,  
21 operator, or person in charge submits a plan  
22 under clause (i) either to the Secretary of Trans-  
23 portation, with respect to transportation-related  
24 onshore facilities, or the Administrator, with re-  
25 spect to all other onshore facilities, and the Sec-

1            *retary or Administrator, as appropriate, deter-*  
2            *mines and notifies the owner, operator, or person*  
3            *in charge that the plan, if implemented, will*  
4            *provide an adequate response to a worst-case dis-*  
5            *charge of oil or a hazardous substance or a sub-*  
6            *stantial threat of such a discharge.*

7            *“(iv)(I) The Secretary of the department in*  
8            *which the Coast Guard is operating, the Secretary of*  
9            *Transportation, or the Administrator, as appropriate,*  
10           *shall require that a plan submitted to the Secretary*  
11           *or Administrator for a vessel or facility under clause*  
12           *(iii)(I) or (iii)(II) by an owner, operator, or person*  
13           *in charge—*

14                    *“(aa) contain a probabilistic risk analysis*  
15                    *for all critical engineered systems of the vessel or*  
16                    *facility; and*

17                    *“(bb) adequately address all risks identified*  
18                    *in the risk analysis.*

19            *“(II) The Secretary or Administrator, as appro-*  
20            *prate, shall require that a risk analysis developed*  
21            *under subclause (I) include, at a minimum, the fol-*  
22            *lowing:*

23                    *“(aa) An analysis of human factors risks,*  
24                    *including both organizational and management*  
25                    *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 reducing*  
9           *known risks.*

10          “(III) *The Secretary or Administrator, as appro-*  
11          *priate, shall require an owner, operator, or person in*  
12          *charge that develops a risk analysis under subclause*  
13          *(I) to make the risk analysis available to the public.”.*

14          (2) *REVIEW AND APPROVAL OF RESPONSE*  
15          *PLANS.—Section 311(j)(5)(E) of such Act (33 U.S.C.*  
16          *1321(j)(5)(E)) is amended to read as follows:*

17               “(E) *With respect to any response plan sub-*  
18               *mitted under this paragraph for an onshore facility*  
19               *that, because of its location, could reasonably be ex-*  
20               *pected to cause significant and substantial harm to*  
21               *the environment by discharging into or on the navi-*  
22               *gable waters or adjoining shorelines or the exclusive*  
23               *economic zone, and with respect to each response plan*  
24               *submitted under this paragraph for a tank vessel,*

1        *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 plan;*

11                *“(iv) taking into consideration any public*  
12                *comments received and other appropriate factors,*  
13                *as determined by the President, require revisions*  
14                *to the response plan;*

15                *“(v) approve, approve with revisions, or*  
16                *disapprove the response plan;*

17                *“(vi) review the response plan periodically*  
18                *thereafter, and if applicable requirements are not*  
19                *met, acting through the head of the appropriate*  
20                *Federal department or agency—*

21                        *“(I) issue administrative orders direct-*  
22                        *ing the owner, operator, or person in charge*  
23                        *to comply with the response plan or any*  
24                        *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, re-  
5           ceive 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 appro-  
10          priate Federal department or agency, require, at  
11          a minimum, biennial inspections conducted by  
12          such agency of the tank vessel, nontank vessel, or  
13          facility to ensure compliance with the response  
14          plan or identify 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 the  
24          extent practicable.”.

1           (3) *BIENNIAL REPORT*.—Section 311(j)(5) of  
2 such Act (33 U.S.C. 1321(j)(5)) is amended by adding  
3 at the end the following:

4           “(J) Not later than 2 years after the date of en-  
5 actment of this subparagraph, and biennially there-  
6 after, the President, acting through the Adminis-  
7 trator, the Secretary of the department in which the  
8 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 other  
13 facility 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 owner,  
18 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 owner,  
22 operator, or person in charge.

23           “(iii) A summary of each administrative or  
24 enforcement action taken with respect each tank  
25 vessel, nontank vessel, and facility of the owner,

1           operator, or person in charge, including a de-  
2           scription of the violation, the date of violation,  
3           the amount of each penalty proposed, and the  
4           final assessment of each penalty and an expla-  
5           nation 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 (A)  
9           and (B) by inserting “, the Secretary of Transpor-  
10          tation,” before “or the Secretary of the department in  
11          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 Ad-  
19           ministrators”.

20           (B) *ADMINISTRATIVE PENALTIES FOR FAIL-*  
21           *URE TO PROVIDE NOTICE.*—Section 311(b)(6)(A)  
22           of such Act (33 U.S.C. 1321(b)(6)(A)) is further  
23           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” and inserting “any order or action  
6           required by the President under subsection  
7           (c) or (e) or any regulation”;

8           (iii) by redesignating clause (ii) as  
9           clause (iii);

10          (iv) by inserting after clause (i) the  
11          following:

12                 “(ii) who fails to provide notice to the  
13                 appropriate Federal agency pursuant to  
14                 paragraph (5), or”; and

15          (v) by adding at the end the following:  
16                 “Whenever the President delegates the au-  
17                 thority to issue regulations under subsection  
18                 (j), the agency that issues regulations pur-  
19                 suant to that authority shall have the au-  
20                 thority to assess a civil penalty in accord-  
21                 ance with this section for violations of such  
22                 regulations.”.

23                 (C)         PENALTY         AMOUNTS.—Section  
24                 311(b)(6)(B) of such Act (33 U.S.C.  
25                 1321(b)(6)(B)) is amended—

1 (i) in clause (i)—

2 (I) by striking “\$10,000” and in-  
3 sserting “\$100,000”; and

4 (II) by striking “\$25,000” and in-  
5 sserting “\$250,000”; and

6 (ii) in clause (ii)—

7 (I) by striking “\$10,000” and in-  
8 sserting “\$100,000”; and

9 (II) by striking “\$125,000” and  
10 inserting “\$1,000,000”.

11 (2) *CIVIL PENALTIES*.—Section 311(b)(7) of such  
12 Act (33 U.S.C. 1321(b)(7)) is amended—

13 (A) in subparagraph (A)—

14 (i) by striking “\$25,000” and inserting  
15 “\$100,000”; and

16 (ii) by striking “\$1,000” and inserting  
17 “\$2,500”;

18 (B) in subparagraph (B)—

19 (i) by striking “described in subpara-  
20 graph (A)”;

21 (ii) in clause (i) by striking “carry out  
22 removal of the discharge under an order of  
23 the President pursuant to subsection (c); or”  
24 and inserting “comply with any action re-

1           *quired by the President pursuant to sub-*  
2           *section (c),”;*

3           (iii) *in clause (ii) by striking*  
4           *“(1)(B)”;*

5           (iv) *by redesignating clause (ii) as*  
6           *clause (iii);*

7           (v) *by inserting after clause (i) the fol-*  
8           *lowing:*

9           *“(ii) fails to provide notice to the ap-*  
10           *propriate Federal agency pursuant to para-*  
11           *graph (5), or”;* and

12           (vi) *by striking “\$25,000” and insert-*  
13           *ing “\$100,000”;*

14           (C) *in subparagraph (C)—*

15           (i) *by striking “\$25,000” and inserting*  
16           *“\$100,000”; and*

17           (ii) *by adding at the end the following:*

18           *“Whenever the President delegates the au-*  
19           *thority to issue regulations under subsection*  
20           *(j), the agency that issues regulations pur-*  
21           *suant to that authority shall have the au-*  
22           *thority to order injunctive relief or assess a*  
23           *civil penalty in accordance with this section*  
24           *for violations of such regulations and the*  
25           *authority to refer the matter to the Attorney*

1           *General for action under subparagraph*  
2           *(E).”;*

3           *(D) in subparagraph (D)—*

4                     *(i) by striking “\$100,000” and insert-*  
5                     *ing “\$1,000,000”; and*

6                     *(ii) by striking “\$3,000” and inserting*  
7                     *“\$7,500”; and*

8           *(E) in subparagraph (E) by adding at the*  
9           *end the following: “The court may award appro-*  
10           *priate relief, including a temporary or perma-*  
11           *nent injunction, civil penalties, compliance re-*  
12           *quirements, and punitive damages.”.*

13           *(3) APPLICATION.—The amendments made by*  
14           *this subsection shall apply to violations occurring on*  
15           *or after April 19, 2010.*

16           *(c) CLARIFICATION OF FEDERAL REMOVAL AUTHOR-*  
17           *ITY.—Section 311(c)(1)(B)(ii) of such Act (33 U.S.C.*  
18           *1321(c)(1)(B)(ii)) is amended by striking the term “mon-*  
19           *itor all” and inserting “monitor, including through the use*  
20           *of an administrative order, all”.*

21           **SEC. 23. OIL AND HAZARDOUS SUBSTANCE CLEANUP TECH-**  
22                                     **NOLOGIES.**

23           *Section 311(j) of the Federal Water Pollution Control*  
24           *Act (33 U.S.C. 1321(j)) is amended by adding at the end*  
25           *the following:*

1           “(9) OIL AND HAZARDOUS SUBSTANCE CLEANUP  
2           TECHNOLOGIES.—The President, acting through the  
3           Secretary of the department in which the Coast  
4           Guard is operating, shall—

5                   “(A) in coordination with the heads of other  
6                   appropriate Federal agencies, establish a process  
7                   for—

8                           “(i) quickly and effectively soliciting,  
9                           assessing, and deploying offshore oil and  
10                           hazardous substance cleanup technologies in  
11                           the event of a discharge or substantial  
12                           threat of a discharge of oil or a hazardous  
13                           substance in United States waters; and

14                           “(ii) effectively coordinating with other  
15                           appropriate agencies, industry, academia,  
16                           small businesses, and others to ensure the  
17                           best technology available is implemented in  
18                           the event of such a discharge or threat; and

19                   “(B) in coordination with the heads of other  
20                   appropriate Federal agencies, maintain a data-  
21                   base on best available oil and hazardous sub-  
22                   stance cleanup technologies in the event of a dis-  
23                   charge or substantial threat of a discharge of oil  
24                   or a hazardous substance in United States wa-  
25                   ters.”.

1 **SEC. 24. IMPLEMENTATION OF OIL SPILL PREVENTION AND**  
2 **RESPONSE AUTHORITIES.**

3 *Section 311(l) of the Federal Water Pollution Control*  
4 *Act (33 U.S.C. 1321(l)) is amended—*

5 *(1) by striking “(l) The President” and inserting*  
6 *the following:*

7 *“(l) DELEGATION AND IMPLEMENTATION.—*

8 *“(1) DELEGATION.—The President”;* and

9 *(2) by adding at the end the following:*

10 *“(2) ENVIRONMENTAL PROTECTION AGENCY.—*

11 *“(A) IN GENERAL.—The President shall del-*  
12 *egate the responsibilities under subparagraph*  
13 *(B) to the Administrator.*

14 *“(B) RESPONSIBILITIES.—The Adminis-*  
15 *trator shall ensure that Environmental Protec-*  
16 *tion Agency personnel develop and maintain*  
17 *operational capability—*

18 *“(i) for effective inspection, moni-*  
19 *toring, prevention, preparedness, and re-*  
20 *sponse authorities related to the discharge*  
21 *or substantial threat of a discharge of oil or*  
22 *a hazardous substance;*

23 *“(ii) to protect human health and safe-*  
24 *ty from impacts of a discharge or substan-*  
25 *tial threat of a discharge of oil or a haz-*  
26 *ardous substance;*

1           “(iii) to review and approve of, dis-  
2           approve of, or require revisions (if nec-  
3           essary) to onshore facility response plans  
4           and to carry out all other responsibilities  
5           under subsection (j)(5)(E); and

6           “(iv) to protect the environment and  
7           natural resources from impacts of a dis-  
8           charge or substantial threat of a discharge  
9           of oil or a hazardous substance.

10          “(3) COAST GUARD.—

11                 “(A) IN GENERAL.—The President shall del-  
12                 egate the responsibilities under subparagraph  
13                 (B) to the Secretary of the department in which  
14                 the Coast Guard is operating.

15                 “(B) RESPONSIBILITIES.—The Secretary  
16                 shall ensure that Coast Guard personnel develop  
17                 and maintain operational capability—

18                         “(i) to establish and enforce regula-  
19                         tions and standards for procedures, meth-  
20                         ods, equipment, and other requirements to  
21                         prevent and to contain a discharge of oil or  
22                         a hazardous substance from a tank vessel,  
23                         nontank vessel, or offshore facility;

1           “(ii) to establish and enforce regula-  
2           tions, and to carry out all other responsibil-  
3           ities, under subsection (j)(5)(A);

4           “(iii) to review and approve of, dis-  
5           approve of, or require revisions (if nec-  
6           essary) to tank vessel, nontank vessel, and  
7           offshore facility response plans and to carry  
8           out all other responsibilities under sub-  
9           section (j)(5)(E);

10           “(iv) for effective inspection, moni-  
11           toring, prevention, preparedness, and re-  
12           sponse authorities related to the discharge  
13           or substantial threat of a discharge of oil or  
14           a hazardous substance from a tank vessel,  
15           nontank vessel, or offshore facility;

16           “(v) to protect the public from impacts  
17           of a discharge or substantial threat of a dis-  
18           charge of oil or a hazardous substance in  
19           United States waters; and

20           “(vi) to protect the environment and  
21           natural resources from impacts of a dis-  
22           charge or substantial threat of a discharge  
23           of oil or a hazardous substance in United  
24           States waters.

25           “(C) *ROLE AS FIRST RESPONDER.*—

1           “(i) *IN GENERAL.*—*The responsibilities*  
2           *delegated to the Secretary under subpara-*  
3           *graph (B) shall be sufficient to allow the*  
4           *Coast Guard to act as a first responder to*  
5           *a discharge or substantial threat of a dis-*  
6           *charge of oil or a hazardous substance from*  
7           *a tank vessel, nontank vessel, or offshore fa-*  
8           *cility.*

9           “(ii) *CAPABILITIES.*—*The President*  
10           *shall ensure that the Coast Guard has suffi-*  
11           *cient personnel and resources to act as a*  
12           *first responder as described in clause (i), in-*  
13           *cluding the resources necessary for on-going*  
14           *training of personnel, acquisition of equip-*  
15           *ment (including containment booms,*  
16           *dispersants, and skimmers), and*  
17           *repositioning 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 del-*  
2           *egate the responsibilities under subparagraph*  
3           *(B) to the Secretary of Transportation.*

4           “(B) *RESPONSIBILITIES.*—*The Secretary of*  
5           *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-related*  
15                   *onshore facility response plans and to carry*  
16                   *out all other responsibilities under sub-*  
17                   *section (j)(5)(E); and*

18                   “(iii) *ensure that Department of*  
19                   *Transportation personnel develop and*  
20                   *maintain operational capability—*

21                           “(I) *for effective inspection, moni-*  
22                           *toring, 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;*

3                   “*(II) to protect the public from*  
4                   *the impacts of a discharge or substan-*  
5                   *tial threat of a discharge of oil or a*  
6                   *hazardous substance from a transpor-*  
7                   *tation-related onshore facility; and*

8                   “*(III) to protect the environment*  
9                   *and natural resources from the impacts*  
10                  *of a discharge or substantial threat of*  
11                  *a discharge of oil or a hazardous sub-*  
12                  *stance from a transportation-related*  
13                  *onshore facility.*”.

14 **SEC. 25. DISASTER DAMAGE NOTIFICATION AND ASSESS-**  
15 **MENT.**

16           (a) *IN GENERAL.*—Section 60108 of title 49, United  
17 States Code, is amended by adding at the end the following:

18           “*(e) DISASTER DAMAGE NOTIFICATION AND ASSESS-*  
19 *MENT.*—

20                   “*(1) NOTIFICATION REQUIRED.*—*In the event of*  
21                   *a manmade or natural disaster, the operator of a*  
22                   *pipeline facility in an affected location shall notify*  
23                   *the Secretary not later than 12 hours after the ces-*  
24                   *sation of the disaster, as determined by the Secretary,*  
25                   *or an earlier time determined appropriate by the Sec-*

1        *retary, of any changes to the operational status of the*  
2        *pipeline facility, including information concerning*  
3        *physical damages, releases of highly volatile liquid,*  
4        *other hazardous liquid, or gas, disruptions in service,*  
5        *and projected dates for return to service.*

6            *“(2) PREPARATION OF DAMAGE ASSESSMENTS.—*  
7        *Not later than 30 days after the cessation of a man-*  
8        *made or natural disaster, as determined by the Sec-*  
9        *retary, the operator of a pipeline facility in an af-*  
10       *ected location shall develop and transmit to the Sec-*  
11       *retary a written damage assessment. The damage as-*  
12       *essment, at a minimum, shall—*

13            *“(A) identify any physical damage to the*  
14        *pipeline facility and any other credible threat or*  
15        *hazard to the pipeline facility;*

16            *“(B) assess the extent of any physical dam-*  
17        *age to the pipeline facility and any other cred-*  
18        *ible threat or hazard to the pipeline facility;*

19            *“(C) evaluate the integrity of the pipeline*  
20        *facility;*

21            *“(D) if necessary, provide a schedule for re-*  
22        *pairing or abandoning the pipeline facility; and*

23            *“(E) meet any other requirements the Sec-*  
24        *retary determines are appropriate by regulation.*

1           “(3) *ABANDONMENT.*—An operator of a pipeline  
2           *facility shall notify the Secretary promptly if the op-*  
3           *erator determines that the pipeline facility must be*  
4           *abandoned as a result of a manmade or natural dis-*  
5           *aster.*

6           “(4) *OTHER.*—An operator of a pipeline facility  
7           *shall retain, and make available to the Secretary on*  
8           *request, a copy of any report prepared under this sub-*  
9           *section for at least 5 years.*

10           “(5) *DEFINITIONS.*—In this subsection, the fol-  
11           *lowing definitions apply:*

12                   “(A) *ABANDON.*—The term ‘abandon’ means  
13                   *permanently remove from service.*

14                   “(B) *AFFECTED LOCATION.*—The term ‘af-  
15                   *fected location’ means any area directly or sub-*  
16                   *stantially affected by a manmade or natural dis-*  
17                   *aster, as determined by the Secretary.*

18                   “(C) *MANMADE OR NATURAL DISASTER.*—  
19                   *The term ‘manmade or natural disaster’ means*  
20                   *any hurricane, tornado, tidal wave, tsunami,*  
21                   *earthquake, volcanic eruption, or, regardless of*  
22                   *cause, any fire, flood, or explosion, or any simi-*  
23                   *lar catastrophe in the United States that causes,*  
24                   *or may cause, substantial damage or injury to*

1           *persons, property, or the environment, as deter-*  
2           *mined by the Secretary.”.*

3       **(b) REGULATIONS.—**

4           **(1) FINAL RULE.—***The Secretary of Transpor-*  
5           *tation shall issue a final rule establishing procedures*  
6           *to carry out section 60108(e) of title 49, United*  
7           *States Code, not later than 1 year after the date of*  
8           *enactment of this Act.*

9           **(2) INTERIM GUIDANCE.—***For the period begin-*  
10          *ning on the date of enactment of this Act and ending*  
11          *on the date of issuance of a rule under paragraph (1),*  
12          *or the date that is 45 days after such date of enact-*  
13          *ment, whichever is earlier, the Secretary shall issue*  
14          *interim guidance to the operator of a pipeline facility*  
15          *requiring notification of the Secretary and an assess-*  
16          *ment of pipeline facilities located in an affected area*  
17          *in the case of a manmade or natural disaster.*

18       **SEC. 26. IMPACTS TO INDIAN TRIBES.**

19          *Section 1002(b)(2) of the Oil Pollution Act of 1990 (33*  
20       *U.S.C. 2702(b)(2)) is amended—*

21               **(1)** *in subparagraph (D) by striking “or a polit-*  
22               *ical subdivision thereof” and inserting “a political*  
23               *subdivision of a State, or an Indian tribe”; and*

1           (2) *in subparagraph (F) by striking “or a polit-*  
2           *ical subdivision of a State” and inserting “a political*  
3           *subdivision of a State, or an Indian tribe”.*

4 **SEC. 27. NATIONAL COMMISSION STUDY OF FEDERAL MAN-**  
5           **AGEMENT AND OVERSIGHT OF OFFSHORE**  
6           **DRILLING.**

7           (a) *IN GENERAL.—The National Commission on the*  
8           *BP Deepwater Horizon Oil Spill and Offshore Drilling es-*  
9           *tablished by Executive Order No. 13543 dated May 21, 2010*  
10           *(in this section referred to as the “Commission”), shall de-*  
11           *velop recommendations for—*

12                   (1) *improvements to Federal laws, regulations,*  
13                   *and industry practices applicable to offshore drilling*  
14                   *that would—*

15                           (A) *ensure the effective oversight, inspection,*  
16                           *monitoring, and response capabilities; and*

17                           (B) *protect human health and safety, occu-*  
18                           *pational health and safety, and the environment*  
19                           *and natural resources; and*

20                   (2) *organizational or other reforms of Federal*  
21                   *agencies or processes, including the creation of new*  
22                   *agencies, as necessary, to ensure that the improve-*  
23                   *ments described in paragraph (1) are implemented*  
24                   *and maintained.*

1       (b) *PURPOSES.*—*In developing recommendations*  
2 *under subsection (a), the Commission shall ensure that the*  
3 *following goals are met:*

4           (1) *Ensuring the safe operation and mainte-*  
5 *nance of offshore drilling platforms or vessels.*

6           (2) *Protecting the health and safety of workers*  
7 *on offshore drilling platforms or vessels.*

8           (3) *Protecting the overall environment and nat-*  
9 *ural resources surrounding ongoing and potential off-*  
10 *shore drilling sites.*

11          (4) *Protecting the health and safety of workers*  
12 *that service offshore drilling platforms or vessels.*

13          (5) *Developing and maintaining Federal agency*  
14 *expertise on the safe and effective use of offshore drill-*  
15 *ing technologies, including technologies to minimize*  
16 *the risk of release of oil from offshore drilling plat-*  
17 *forms or vessels.*

18          (6) *Encouraging the development and implemen-*  
19 *tation of efficient and effective oil spill response tech-*  
20 *niques and technologies that minimize or eliminate*  
21 *any adverse effects on natural resources or the envi-*  
22 *ronment that result from response activities.*

23          (7) *Protecting the health and safety of first re-*  
24 *sponders against releases of oil from offshore drilling*  
25 *platforms or vessels.*

1           (8) *Ensuring that the Federal agencies regu-*  
2 *lating offshore drilling are staffed with, and managed*  
3 *by, career professionals, who are—*

4                   (A) *permitted to exercise independent pro-*  
5 *fessional judgments and make safety the highest*  
6 *priority in carrying out their responsibilities;*

7                   (B) *not subject to undue influence from reg-*  
8 *ulated interests or political appointees; and*

9                   (C) *subject to strict regulation to prevent*  
10 *improper relationships with regulated interests*  
11 *and to eliminate real or perceived conflicts of in-*  
12 *terests.*

13           (c) *REPORT TO CONGRESS.—In coordination with the*  
14 *final public report to the President, the Commission shall*  
15 *submit to Congress a report containing the recommenda-*  
16 *tions developed under subsection (a).*

17 **SEC. 28. FEDERAL ENFORCEMENT ACTIONS.**

18           Section 309(g)(6)(A) of the *Federal Water Pollution*  
19 *Control Act (33 U.S.C. 1319(g)(6)(A)) is amended by strik-*  
20 *ing “or section 311(b)”.*

1 **SEC. 29. TIME REQUIRED BEFORE ELECTING TO PROCEED**  
2 **WITH JUDICIAL CLAIM OR AGAINST THE**  
3 **FUND.**

4 *Paragraph (2) of section 1013(c) of the Oil Pollution*  
5 *Act of 1990 (33 U.S.C. 2713(c)) is amended by striking*  
6 *“90” and inserting “45”.*

7 **SEC. 30. REPORT ON FORMER COAST GUARD OFFICIALS EM-**  
8 **PLOYED BY RECOGNIZED ORGANIZATIONS OF**  
9 **FOREIGN FLAG ADMINISTRATIONS.**

10 *(a) REPORT REQUIRED.—Not later than 1 year after*  
11 *the date of enactment of this Act and annually thereafter,*  
12 *the Comptroller General of the United States shall submit*  
13 *a report to the Committee on Transportation and Infra-*  
14 *structure of the House of Representatives and the Committee*  
15 *on Commerce, Science, and Transportation of the Senate*  
16 *on the employment during the preceding year of individuals*  
17 *who were Coast Guard officials in the previous 5-year pe-*  
18 *riod, by recognized organizations contracted to administer*  
19 *maritime programs for foreign flag administrations.*

20 *(b) OBJECTIVES OF REPORT.—At a minimum, the re-*  
21 *port required by this section shall assess the extent to which*  
22 *former Coast Guard officials who received compensation*  
23 *from recognized organizations were assigned to work on*  
24 *matters over which the former Coast Guard officials had*  
25 *oversight, inspection responsibility, or decision-making au-*  
26 *thority when the officials served in or worked for the Coast*

1 *Guard. The report shall assess the extent to which former*  
2 *Coast Guard officials were provided compensation by recog-*  
3 *nized organizations and the positions held by former Coast*  
4 *Guard officials in the preceding calendar year.*

5 *(c) CONFIDENTIALITY REQUIREMENT.—The report re-*  
6 *quired by this subsection shall not include the names of the*  
7 *former Coast Guard officials who received compensation*  
8 *from recognized organizations.*

9 *(d) ACCESS TO INFORMATION.—The Comptroller Gen-*  
10 *eral may seek agreements with recognized organizations to*  
11 *obtain access to information for the purpose of preparing*  
12 *reports required by this section.*

13 *(e) DEFINITIONS.—In this section:*

14 *(1) FOREIGN FLAG ADMINISTRATION.—The term*  
15 *“foreign flag administration” means the maritime*  
16 *administration, maritime agency, or similar govern-*  
17 *mental organization of a country other than the*  
18 *United States that maintains a register of vessels and*  
19 *performs some or all of the following statutory func-*  
20 *tions with respect to maritime programs:*

21 *(A) Issues certificates of registry and man-*  
22 *ning certificates.*

23 *(B) Conducts or contracts with recognized*  
24 *organizations to conduct safety inspections.*

25 *(C) Issues radio station licenses.*

1           (D) Certifies maritime officers and unli-  
2 censed seamen and conducts inquiries into  
3 charges of incompetence or misconduct.

4           (E) Regulates the construction, equipment,  
5 and operation of vessels under its flag.

6           (F) Monitors vessels' compliance with inter-  
7 national and national standards for marine  
8 safety, pollution prevention, and security.

9           (G) Investigates marine casualties.

10          (2) *RECOGNIZED ORGANIZATION.*—The term  
11 “recognized organization” means an organization,  
12 such as a classification society or a corporation, to  
13 which a foreign flag administration has delegated  
14 some or all of its statutory functions with respect to  
15 maritime programs.

16          (3) *COAST GUARD OFFICIAL.*—The term “Coast  
17 Guard official” includes former Coast Guard officers,  
18 enlisted personnel, or civilian employees who had re-  
19 sponsibilities for—

20           (A) issuing certificates of registry and man-  
21 ning certificates;

22           (B) safety inspections;

23           (C) certification of maritime officers and  
24 unlicensed seamen;

1           (D) conducting inquiries into charges of in-  
2           competence or misconduct of maritime officers  
3           and unlicensed seamen;

4           (E) regulation of the construction, equip-  
5           ment, and operation of vessels;

6           (F) monitoring vessels' compliance with  
7           international and national standards for marine  
8           safety, pollution prevention, and security; or

9           (G) investigating marine casualties.

10 **SEC. 31. AUTHORIZED LEVEL OF COAST GUARD PER-**  
11 **SONNEL.**

12           *The Coast Guard is authorized an end-of-year strength*  
13 *for active duty personnel of 47,300 for fiscal year 2011, of*  
14 *which at least 300 personnel shall be assigned to implement*  
15 *the activities of the Coast Guard under this Act, including*  
16 *the amendments made by this Act.*

17 **SEC. 32. CLARIFICATION OF MEMORANDUMS OF UNDER-**  
18 **STANDING.**

19           *Not later than September 30, 2011, the President (act-*  
20 *ing through the head of the appropriate Federal department*  
21 *or agency) shall implement or revise, as appropriate, mem-*  
22 *orandums of understanding to clarify the roles and jurisdic-*  
23 *tional responsibilities of the Environmental Protection*  
24 *Agency, the Coast Guard, the Department of Transpor-*  
25 *tation, and other Federal agencies relating to the prevention*

1 *of oil discharges from tank vessels, nontank vessels, and fa-*  
2 *cilities subject to the Oil Pollution Act of 1990.*

3 **SEC. 33. STUDY OF HEALTH EFFECTS OF OIL SPILL.**

4 *(a) STUDY.—The Director of the Agency for Toxic Sub-*  
5 *stances and Disease Registry and the Director of the Centers*  
6 *for Disease Control and Prevention shall jointly—*

7 *(1) conduct a comprehensive study of—*

8 *(A) the effects on human health of exposure*  
9 *to petroleum and other substances released in the*  
10 *oil spill or used or produced in response to the*  
11 *oil spill, including chemicals used to disperse the*  
12 *oil;*

13 *(B) the effects on human health of secondary*  
14 *exposure to such substances in an aerosolized*  
15 *form;*

16 *(C) whether such substances include or*  
17 *produce airborne carcinogens, and the effects of*  
18 *any such carcinogens; and*

19 *(D) the effects of exposure described in sub-*  
20 *paragraphs (A) and (B) on a child of an indi-*  
21 *vidual born after the individual has been subject*  
22 *to such exposure; and*

23 *(2) beginning as soon as practicable after the*  
24 *date of enactment of this Act, complete a baseline as-*  
25 *essment to determine the health status of individuals*

1        *exposed as described in subparagraph (A) or (B) of*  
2        *paragraph (1) in order to gather data that may be*  
3        *compared with data gathered later under paragraph*  
4        *(1) to determine any change in health status from*  
5        *continued exposure.*

6        *(b) PUBLIC HEALTH ASSESSMENT.—The Director of*  
7        *the Agency for Toxic Substances and Disease Registry shall*  
8        *conduct a public health assessment of persons who are*  
9        *thought to have an epidemiological link to the substances*  
10       *described in subsection (a)(1)(A).*

11       *(c) REPORT.—The Directors shall submit to Congress*  
12       *a report on the results of the study and baseline assessment*  
13       *under subsection (a) and the assessment under subsection*  
14       *(b). The report shall be submitted not later than two years*  
15       *after the date of enactment of this Act and shall include*  
16       *the findings of the Directors on the matters covered by the*  
17       *report. The Directors shall include in the report a list of*  
18       *diseases or conditions that are found to exist within the*  
19       *populations specified in subsection (a)(1) and their rate of*  
20       *occurrence compared to the general population.*

21       *(d) OIL SPILL DEFINED.—For purposes of this section,*  
22       *the term “oil spill” means the oil spill resulting from the*  
23       *explosion and collapse of the mobile offshore drilling unit*  
24       *Deepwater Horizon.*

1 **SEC. 34. OFFSHORE ENERGY SECURITY.**

2       (a) *Offshore facilities constructed after the date of en-*  
3 *actment of this Act for operation in the United States Ex-*  
4 *clusive Economic Zone for purposes of any form of energy*  
5 *production shall be built in the United States.*

6       (b) *Foreign-built offshore facilities not operating in the*  
7 *United States Exclusive Economic Zone for purposes of any*  
8 *form of energy production on the date of enactment of this*  
9 *Act shall not operate in the United States Exclusive Eco-*  
10 *nomie Zone for such purposes after the date of enactment*  
11 *of this Act.*

12 **SEC. 35. OIL SPILL RESPONSE VESSEL DATABASE.**

13       (a) *REQUIREMENT.*—*Not later than 90 days after the*  
14 *date of enactment of this Act, the Commandant of the Coast*  
15 *Guard shall complete an inventory of all vessels operating*  
16 *in the waters of the United States that are capable of meet-*  
17 *ing oil spill response needs designated in the National Con-*  
18 *tingency Plan authorized by section 311(d) of the Federal*  
19 *Water Pollution Control Act (33 U.S.C. 1321(d)).*

20       (b) *CATEGORIZATION.*—*The inventory required under*  
21 *subsection (a) shall categorize such vessels by capabilities,*  
22 *type, function, and location.*

23       (c) *MAINTENANCE OF DATABASE.*—*The Commandant*  
24 *shall maintain a database containing the results of the in-*  
25 *ventory required under subsection (a) and update the infor-*  
26 *mation in the database on no less than a quarterly basis.*

1           (d) *AVAILABILITY.*—*The Commandant may make in-*  
2 *formation regarding the location and capabilities of oil spill*  
3 *response vessels available to a Federal On-Scene Coordi-*  
4 *nator designated under section 311 of such Act (33 U.S.C.*  
5 *1321) to assist in the response to an oil spill or other inci-*  
6 *dent in the waters of the United States.*

7 **SEC. 36. OFFSHORE SENSING AND MONITORING SYSTEMS.**

8           (a) *REQUIREMENT.*—*Subtitle A of title IV of the Oil*  
9 *Pollution Act of 1990 is amended by adding at the end the*  
10 *following new section:*

11 **“SEC. 4119. OFFSHORE SENSING AND MONITORING SYS-**  
12 **TEMS.**

13           “(a) *IN GENERAL.*—*The equipment required to be*  
14 *available under section 311(j)(5)(D)(iii) of the Federal*  
15 *Water Pollution Control Act for facilities listed in section*  
16 *311(j)(5)(C)(iii) of such Act and located in more than 500*  
17 *feet of water includes sensing and monitoring systems that*  
18 *meet the requirements of this section.*

19           “(b) *SYSTEMS REQUIREMENTS.*—*Sensing and moni-*  
20 *toring systems required under subsection (a) shall—*

21                   “(1) *use an integrated, modular, expandable,*  
22 *multi-sensor, open-architecture design and technology*  
23 *with interoperable capability;*

24                   “(2) *be capable of—*

25                           “(A) *operating for at least 25 years;*

1           “(B) real-time physical, biological, geologi-  
2 cal, and environmental monitoring;

3           “(C) providing alerts in the event of anoma-  
4 lous circumstances;

5           “(D) providing docking bases to accommo-  
6 date spatial sensors for remote inspection and  
7 monitoring; and

8           “(E) collecting chemical boundary condition  
9 data for drift and flow modeling; and

10          “(3) include—

11           “(A) an uninterruptible power source;

12           “(B) a spatial sensor; and

13           “(C) secure Internet access to real-time  
14 physical, biological, geological, and environ-  
15 mental monitoring data gathered by the system  
16 sensors.”.

17          (b) *REQUEST FOR INFORMATION.*—Within 60 days  
18 after the date of enactment of this Act, the Secretary of the  
19 department in which the Coast Guard is operating shall  
20 issue a request for information to determine the most capa-  
21 ble and efficient domestic systems that meet the require-  
22 ments under section 4119 of the Oil Pollution Act of 1990,  
23 as amended by this section.

24          (c) *IMPLEMENTING REGULATIONS.*—Within 180 days  
25 after the date of enactment of this Act, the Secretary of the

1 department in which the Coast Guard is operating shall  
2 issue regulations to implement section 4119 of the Oil Pol-  
3 lution Act of 1990 as amended by this section.

4 (d) CLERICAL AMENDMENT.—The table of contents in  
5 section 2 of the Oil Pollution Act of 1990 is amended by  
6 adding at the end of the items relating to such subtitle the  
7 following new item:

“Sec. 4119. Offshore sensing and monitoring systems.”.

8 **SEC. 37. VICE COMMANDANT; VICE ADMIRALS.**

9 (a) VICE COMMANDANT.—

10 (1) Section 41 of title 14, United States Code, is  
11 amended by striking “an admiral,” and inserting  
12 “admirals,”.

13 (2) The fourth sentence of section 47 of such title  
14 is amended by striking “vice admiral” and inserting  
15 “admiral”.

16 (b) VICE ADMIRALS.—Section 50 of such title is  
17 amended to read as follows:

18 **“§ 50. Vice admirals**

19 “(a)(1) The President may designate no more than 4  
20 positions of importance and responsibility that shall be held  
21 by officers who—

22 “(A) while so serving, shall have the grade  
23 of vice admiral, with the pay and allowances of  
24 that grade; and

1                   “(B) shall perform such duties as the Com-  
2                   mandant may prescribe.

3           “(2) The President may appoint, by and with the ad-  
4 vice and consent of the Senate, and reappoint, by and with  
5 the advice and consent of the Senate, to any such position  
6 an officer of the Coast Guard who is serving on active duty  
7 above the grade of captain. The Commandant shall make  
8 recommendations for such appointments.

9           “(b)(1) The appointment and the grade of vice admiral  
10 shall be effective on the date the officer assumes that duty  
11 and, except as provided in paragraph (2) of this subsection  
12 or in section 51(d) of this title, shall terminate on the date  
13 the officer is detached from that duty.

14           “(2) An officer who is appointed to a position des-  
15 ignated under subsection (a) shall continue to hold the  
16 grade of vice admiral—

17                   “(A) while under orders transferring the officer  
18 to another position designated under subsection (a),  
19 beginning on the date the officer is detached from that  
20 duty and terminating on the date before the day the  
21 officer assumes the subsequent duty, but not for more  
22 than 60 days;

23                   “(B) while hospitalized, beginning on the day of  
24 the hospitalization and ending on the day the officer

1        *is discharged from the hospital, but not for more than*  
2        *180 days; and*

3            *“(C) while awaiting retirement, beginning on the*  
4        *date the officer is detached from duty and ending on*  
5        *the day before the officer’s retirement, but not for*  
6        *more than 60 days.*

7            *“(c)(1) An appointment of an officer under subsection*  
8        *(a) does not vacate the permanent grade held by the officer.*

9            *“(2) An officer serving in a grade above rear admiral*  
10       *who holds the permanent grade of rear admiral (lower half)*  
11       *shall be considered for promotion to the permanent grade*  
12       *of rear admiral as if the officer was serving in the officer’s*  
13       *permanent grade.*

14           *“(d) Whenever a vacancy occurs in a position des-*  
15       *ignated under subsection (a), the Commandant shall inform*  
16       *the President of the qualifications needed by an officer serv-*  
17       *ing in that position or office to carry out effectively the*  
18       *duties and responsibilities of that position or office.”.*

19           *(c) REPEAL.—Section 50a of such title is repealed.*

20           *(d) CONFORMING AMENDMENTS.—Section 51 of such*  
21       *title is amended—*

22                *(1) by striking subsections (a), (b), and (c) and*  
23        *inserting the following:*

24            *“(a) An officer, other than the Commandant, who,*  
25        *while serving in the grade of admiral or vice admiral, is*

1 *retired for physical disability shall be placed on the retired*  
2 *list with the highest grade in which that officer served.*

3       “(b) *An officer, other than the Commandant, who is*  
4 *retired while serving in the grade of admiral or vice admiral,*  
5 *or who, after serving at least 2½ years in the grade*  
6 *of admiral or vice admiral, is retired while serving in a*  
7 *lower grade, may in the discretion of the President, be re-*  
8 *tired with the highest grade in which that officer served.*

9       “(c) *An officer, other than the Commandant, who, after*  
10 *serving less than 2½ years in the grade of admiral or vice*  
11 *admiral, is retired while serving in a lower grade, shall*  
12 *be retired in his permanent grade.”; and*

13               (2) *by striking “Area Commander, or Chief of*  
14 *Staff” in subsection (d)(2) and inserting “or Vice Ad-*  
15 *miral”.*

16       (e) *CONTINUITY OF GRADE.—Section 52 of such title*  
17 *is amended by inserting “or admiral” after “vice admiral”*  
18 *the first place it appears.*

19       (f) *CONTINUATION ON ACTIVE DUTY.—The second sen-*  
20 *tence of section 290(a) of such title is amended to read as*  
21 *follows: “Officers, other than the Commandant, serving for*  
22 *the time being or who have served in the grade of vice admiral*  
23 *or admiral are not subject to consideration for continu-*  
24 *ation under this subsection, and as to all other provisions*

1 *of this section shall be considered as having been continued*  
 2 *at the grade of rear admiral.”.*

3 (g) *CLERICAL AMENDMENTS.—*

4 (1) *The section caption for section 47 of such*  
 5 *title is amended to read as follows:*

6 **“§47. Vice Commandant; appointment”.**

7 (2) *The section caption for section 52 of such*  
 8 *title is amended to read as follows:*

9 **“§52. Vice admirals and admiral, continuity of**  
 10 ***grade”.***

11 (3) *The analysis for chapter 3 of such title is*  
 12 *amended—*

13 (A) *by striking the item relating to section*  
 14 *47 and inserting the following:*

*“47. Vice Commandant; appointment.”;*

15 (B) *by striking the item relating to section*  
 16 *50a;*

17 (C) *by striking the item relating to section*  
 18 *50 and inserting the following:*

*“50. Vice admirals.”; and*

19 (D) *by striking the item relating to section*  
 20 *52 and inserting the following:*

*“52. Vice admirals and admiral, continuity of grade.”.*

21 (h) *TECHNICAL CORRECTION.—Section 47 of such title*  
 22 *is further amended by striking “subsection” in the fifth sen-*  
 23 *tence and inserting “section”.*

1           (i) *TREATMENT OF INCUMBENTS; TRANSITION.*—

2                 (1) *Notwithstanding any other provision of law,*  
3 *the officer who, on the date of enactment of this Act,*  
4 *is serving as Vice Commandant—*

5                     (A) *shall continue to serve as Vice Com-*  
6 *mandant;*

7                     (B) *shall have the grade of admiral with*  
8 *pay and allowances of that grade; and*

9                     (C) *shall not be required to be reappointed*  
10 *by reason of the enactment of that Act.*

11                 (2) *Notwithstanding any other provision of law,*  
12 *an officer who, on the date of enactment of this Act,*  
13 *is serving as Chief of Staff, Commander, Atlantic*  
14 *Area, or Commander, Pacific Area—*

15                     (A) *shall continue to have the grade of vice*  
16 *admiral with pay and allowance of that grade*  
17 *until such time that the officer is relieved of his*  
18 *duties and appointed and confirmed to another*  
19 *position as a vice admiral or admiral; or*

20                     (B) *for the purposes of transition, may con-*  
21 *tinue at the grade of vice admiral with pay and*  
22 *allowance of that grade, for not more than 1*  
23 *year after the date of enactment of this Act, to*  
24 *perform the duties of the officer's former position*

1           *and any other such duties that the Commandant*  
2           *prescribes.*

3 **SEC. 38. OIL AND GAS EXPLORATION AND PRODUCTION.**

4           *Section 502 of the Federal Water Pollution Control Act*  
5 *(33 U.S.C. 1362) is amended—*

6           (1) *by striking paragraph (24); and*

7           (2) *by redesignating paragraph (25) as para-*  
8 *graph (24).*

9 **SEC. 39. AUTHORIZATION OF APPROPRIATIONS.**

10          (a) *COAST GUARD.—In addition to amounts made*  
11 *available pursuant to section 1012(a)(5)(A) of the Oil Pol-*  
12 *lution Act of 1990 (33 U.S.C. 2712(a)(5)(A)), there is au-*  
13 *thorized to be appropriated to the Secretary of the depart-*  
14 *ment in which the Coast Guard is operating from the Oil*  
15 *Spill Liability Trust Fund established by section 9509 of*  
16 *the Internal Revenue Code of 1986 (26 U.S.C. 9509) the*  
17 *following:*

18           (1) *For fiscal year 2011, \$15,000,000.*

19           (2) *For each of fiscal years 2012 through 2015,*  
20 *\$16,000,000.*

21          (b) *ENVIRONMENTAL PROTECTION AGENCY.—There is*  
22 *authorized to be appropriated to the Administrator of the*  
23 *Environmental Protection Agency from the Oil Spill Li-*  
24 *ability Trust Fund to implement this Act and the amend-*

1 *ments made by this Act \$10,000,000 for each of fiscal years*  
2 *2011 through 2015.*

3 *(c) DEPARTMENT OF TRANSPORTATION.—There is au-*  
4 *thorized to be appropriated to the Secretary of Transpor-*  
5 *tation from the Oil Spill Liability Trust Fund to carry*  
6 *out the purposes of this Act and the amendments made by*  
7 *this Act the following:*

8 *(1) For each of fiscal years 2011 through 2013,*  
9 *\$7,000,000.*

10 *(2) For each of fiscal years 2014 and 2015,*  
11 *\$6,000,000.*



Union Calendar No. 326

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

**H. R. 5629**

[Report No. 111-567, Part I]

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## **A BILL**

To ensure full recovery from responsible parties of damages for physical and economic injuries, adverse effects on the environment, and clean up of oil spill pollution, to improve the safety of vessels and pipelines supporting offshore oil drilling, to ensure that there are adequate response plans to prevent environmental damage from oil spills, and for other purposes.

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JULY 27, 2010

Reported from the Committee on Transportation and  
Infrastructure

JULY 27, 2010

Committees on the Judiciary and Natural Resources discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed