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[Report No. 111–236]

To amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 21, 2010

Mr. BINGAMAN (for himself, Ms. MURKOWSKI, Mr. DORGAN, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JULY 28, 2010

Reported by Mr. BINGAMAN, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, 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,*

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Outer Continental Shelf Reform Act of 2010”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.
Sec. 4. National policy for the outer Continental Shelf.
Sec. 5. Structural reform of outer Continental Shelf program management.
Sec. 6. Safety, environmental, and financial reform of the Outer Continental
Shelf Lands Act.
Sec. 7. Reform of other laws.
Sec. 8. Savings provisions.
Sec. 9. Budgetary effects.
Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.
Sec. 4. National policy for the outer Continental Shelf.
Sec. 5. Structural reform of outer Continental Shelf program management.
Sec. 6. Safety, environmental, and financial reform of the Outer Continental
Shelf Lands Act.
Sec. 7. Study on the effect of the moratoria on new deepwater drilling in the Gulf
of Mexico on employment and small businesses.
Sec. 8. Reform of other law.
Sec. 9. Safer oil and gas production.
Sec. 10. National Commission on Outer Continental Shelf Oil Spill Prevention.
Sec. 11. Classification of offshore systems.
Sec. 12. Savings provisions.
Sec. 13. Budgetary effects.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

8 (1) to rationalize and reform the responsibilities
9 of the Secretary of the Interior with respect to the
10 management of the outer Continental Shelf in order
11 to improve the management, oversight, account-
12 ability, safety, and environmental protection of all
13 the resources on the outer Continental Shelf;

(2) to provide independent development and enforcement of safety and environmental laws (including regulations) governing—

(A) energy development and mineral extraction activities on the outer Continental Shelf; and

(B) related offshore activities; and

(3) to ensure a fair return to the taxpayer from, and independent management of, royalty and revenue collection and disbursement activities from mineral and energy resources.

SEC. 3. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—The term “Department” means the Department of the Interior.

(2) OUTER CONTINENTAL SHELF.—The term “outer Continental Shelf” has the meaning given the term in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

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

SEC. 4. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.

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

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

3 “(3) the outer Continental Shelf is a vital na-
4 tional resource reserve held by the Federal Govern-
5 ment for the public, which should be managed in a
6 manner that recognizes—

7 “(A) the need of the United States for do-
8 mestic sources of energy, food, minerals, and
9 other resources;

10 “(B) the potential impacts of development
11 of those resources on the marine and coastal
12 environment and on human health and safety;
13 and

14 “(C) the long-term economic value to the
15 United States of the balanced and orderly man-
16 agement of those resources that safeguards the
17 environment and respects the multiple values
18 and uses of the outer Continental Shelf;”;

19 (1) by striking paragraph (3) and inserting the
20 following:

21 “(3) the outer Continental Shelf is a vital na-
22 tional resource reserve held by the Federal Govern-
23 ment for the public, which should be managed in a
24 manner that—

1 “(A) recognizes the need of the United
2 States for domestic sources of energy, food, min-
3 erals, and other resources;

4 “(B) minimizes the potential impacts of de-
5 velopment of those resources on the marine and
6 coastal environment and on human health and
7 safety; and

8 “(C) acknowledges the long-term economic
9 value to the United States of the balanced and
10 orderly management of those resources that safe-
11 guards the environment and respects the multiple
12 values and uses of the outer Continental Shelf;”;

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

15 (3) in paragraph (5), by striking “; and” and
16 inserting a semicolon;

17 (4) by redesignating paragraph (6) as para-
18 graph (7);

19 (5) by inserting after paragraph (5) the fol-
20 lowing:

21 “(6) exploration, development, and production
22 of energy and minerals on the outer Continental
23 Shelf should be allowed only when those activities
24 can be accomplished in a manner that provides rea-
25 sonable assurance of adequate protection against

1 harm to life, health, the environment, property, or
 2 other users of the waters, seabed, or subsoil; and”;
 3 and

4 (6) in paragraph (7) (as so redesignated)—

5 (A) by striking “should be” and inserting
 6 “shall be”; and

7 (B) by adding “best available” after
 8 “using”.

9 **SEC. 5. STRUCTURAL REFORM OF OUTER CONTINENTAL**
 10 **SHELF PROGRAM MANAGEMENT.**

11 (a) IN GENERAL.—The Outer Continental Shelf
 12 Lands Act (43 U.S.C. 1331 et seq.) is amended by adding
 13 to the end the following:

14 **“SEC. 32. STRUCTURAL REFORM OF OUTER CONTINENTAL**
 15 **SHELF PROGRAM MANAGEMENT.**

16 “(a) LEASING, PERMITTING, AND REGULATION BU-
 17 REAUS.—

18 “(1) ESTABLISHMENT OF BUREAUS.—

19 “(A) IN GENERAL.—Subject to the discre-
 20 tion granted by Reorganization Plan Number 3
 21 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note),
 22 the Secretary shall establish in the Department
 23 of the Interior not more than 2 bureaus to
 24 carry out the leasing, permitting, and safety
 25 and environmental regulatory functions vested

1 in the Secretary by this Act and the Federal Oil
2 and Gas Royalty Management Act of 1982 (30
3 U.S.C. 1701 et seq.) related to the outer Conti-
4 nental Shelf.

5 “(B) CONFLICTS OF INTEREST.—In estab-
6 lishing the bureaus under subparagraph (A),
7 the Secretary shall ensure, to the maximum ex-
8 tent practicable, that any potential organiza-
9 tional conflicts of interest related to leasing,
10 revenue creation, environmental protection, and
11 safety are eliminated.

12 “(2) DIRECTOR.—Each bureau shall be headed
13 by a Director, who shall be appointed by the Presi-
14 dent, by and with the advice and consent of the Sen-
15 ate.

16 “(3) COMPENSATION.—Each Director shall be
17 compensated at the rate provided for level V of the
18 Executive Schedule under section 5316 of title 5,
19 United States Code.

20 “(4) QUALIFICATIONS.—Each Director shall be
21 a person who, by reason of professional background
22 and demonstrated ability and experience, is specially
23 qualified to carry out the duties of the office.

24 “(b) ROYALTY AND REVENUE OFFICE.—

1 “(1) ESTABLISHMENT OF OFFICE.—Subject to
2 the discretion granted by Reorganization Plan Num-
3 ber 3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note),
4 the Secretary shall establish in the Department of
5 the Interior an office to carry out the royalty and
6 revenue management functions vested in the Sec-
7 retary by this Act and the Federal Oil and Gas Roy-
8 alty Management Act of 1982 (30 U.S.C. 1701 et
9 seq.).

10 “(2) DIRECTOR.—The office established under
11 paragraph (1) shall be headed by a Director, who
12 shall be appointed by the President, by and with the
13 advice and consent of the Senate.

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

18 “(4) QUALIFICATIONS.—The Director shall be a
19 person who, by reason of professional background
20 and demonstrated ability and experience, is specially
21 qualified to carry out the duties of the office.

22 “(c) OCS SAFETY AND ENVIRONMENTAL ADVISORY
23 BOARD.—

24 “(1) ESTABLISHMENT.—The Secretary shall es-
25 tablish, under the Federal Advisory Committee Act

(5 U.S.C. App.), an Outer Continental Shelf Safety and Environmental Advisory Board (referred to in this subsection as the ‘Board’), to provide the Secretary and the Directors of the bureaus established under this section with independent *peer-reviewed* scientific and technical advice on safe and environmentally compliant energy and mineral resource exploration, development, and production activities.

“(2) MEMBERSHIP.—

“(A) SIZE.—

“(i) IN GENERAL.—The Board shall consist of not more than 12 members, chosen to reflect a range of expertise in scientific, engineering, management, and other disciplines related to safe and environmentally compliant energy and mineral resource exploration, development, and production activities.

“(ii) CONSULTATION.—The Secretary shall consult with the National Academy of Sciences and the National Academy of Engineering to identify potential candidates for membership on the Board.

“(B) TERM.—The Secretary shall appoint Board members to staggered terms of not more

1 than 4 years, and shall not appoint a member
2 for more than 2 consecutive terms.

3 “(C) CHAIR.—The Secretary shall appoint
4 the Chair for the Board.

5 “(3) MEETINGS.—The Board shall—

6 “(A) meet not less than 3 times per year;
7 and

8 “(B) at least once per year, shall host a
9 public forum to review and assess the overall
10 safety and environmental performance of outer
11 Continental Shelf energy and mineral resource
12 activities.

13 “(4) REPORTS.—Reports of the Board shall—

14 “(A) be submitted to Congress; and

15 “(B) made available to the public in an
16 electronically accessible form.

17 “(5) TRAVEL EXPENSES.—Members of the
18 Board, other than full-time employees of the Federal
19 Government, while attending a meeting of the Board
20 or while otherwise serving at the request of the Sec-
21 retary or the Director while serving away from their
22 homes or regular places of business, may be allowed
23 travel expenses, including per diem in lieu of subsist-
24 ence, as authorized by section 5703 of title 5,

1 United States Code, for individuals in the Federal
2 Government serving without pay.

3 “(d) SPECIAL PERSONNEL AUTHORITIES.—

4 “(1) DIRECT HIRING AUTHORITY FOR CRITICAL
5 PERSONNEL.—

6 “(A) IN GENERAL.—Notwithstanding sec-
7 tions 3104, 3304, and 3309 through 3318 of
8 title 5, United States Code, the Secretary may,
9 upon a determination that there is a severe
10 shortage of candidates or a critical hiring need
11 for particular positions, recruit and directly ap-
12 point highly qualified accountants, scientists,
13 engineers, or critical technical personnel into
14 the competitive service, as officers or employees
15 of any of the organizational units established
16 under this section.

17 “(B) REQUIREMENTS.—In exercising the
18 authority granted under subparagraph (A), the
19 Secretary shall ensure that any action taken by
20 the Secretary—

21 “(i) is consistent with the merit prin-
22 ciples of chapter 23 of title 5, United
23 States Code; and

1 “(ii) complies with the public notice
2 requirements of section 3327 of title 5,
3 United States Code.

4 “(2) CRITICAL PAY AUTHORITY.—

5 “(A) IN GENERAL.—Notwithstanding sec-
6 tion 5377 of title 5, United States Code, and
7 without regard to the provisions of that title
8 governing appointments in the competitive serv-
9 ice or the Senior Executive Service and chap-
10 ters 51 and 53 of that title (relating to classi-
11 fication and pay rates), the Secretary may es-
12 tablish, fix the compensation of, and appoint in-
13 dividuals to critical positions needed to carry
14 out the functions of any of the organizational
15 units established under this section, if the Sec-
16 retary certifies that—

17 “(i) the positions—

18 “(I) require expertise of an ex-
19 tremely high level in a scientific or
20 technical field; and

21 “(II) any of the organizational
22 units established in this section would
23 not successfully accomplish an impor-
24 tant mission without such an indi-
25 vidual; and

1 “(ii) exercise of the authority is nec-
2 essary to recruit an individual exceptionally
3 well qualified for the position.

4 “(B) LIMITATIONS.—The authority grant-
5 ed under subparagraph (A) shall be subject to
6 the following conditions:

7 “(i) The number of critical positions
8 authorized by subparagraph (A) may not
9 exceed 40 at any 1 time in either of the
10 bureaus established under this section.

11 “(ii) The term of an appointment
12 under subparagraph (A) may not exceed 4
13 years.

14 “(iii) An individual appointed under
15 subparagraph (A) may not have been an
16 employee of the Department of the Interior
17 during the 2-year period prior to the date
18 of appointment.

19 “(iv) Total annual compensation for
20 any individual appointed under subpara-
21 graph (A) may not exceed the highest total
22 annual compensation payable at the rate
23 determined under section 104 of title 3,
24 United States Code.

1 “(v) An individual appointed under
2 subparagraph (A) may not be considered
3 to be an employee for purposes of sub-
4 chapter II of chapter 75 of title 5, United
5 States Code.

6 “(C) NOTIFICATION.—Each year, the Sec-
7 retary shall submit to Congress a notification
8 that lists each individual appointed under this
9 paragraph.

10 “(3) REEMPLOYMENT OF CIVILIAN RETIR-
11 EES.—

12 “(A) IN GENERAL.—Notwithstanding part
13 553 of title 5, Code of Federal Regulations (re-
14 lating to reemployment of civilian retirees to
15 meet exceptional employment needs), or suc-
16 cessor regulations, the Secretary may approve
17 the reemployment of an individual to a par-
18 ticular position without reduction or termi-
19 nation of annuity if the hiring of the individual
20 is necessary to carry out a critical function of
21 any of the organizational units established
22 under this section for which suitably qualified
23 candidates do not exist.

1 “(B) LIMITATIONS.—An annuitant hired
 2 with full salary and annuities under the author-
 3 ity granted by subparagraph (A)—

4 “(i) shall not be considered an em-
 5 ployee for purposes of subchapter III of
 6 chapter 83 and chapter 84 of title 5,
 7 United States Code;

8 “(ii) may not elect to have retirement
 9 contributions withheld from the pay of the
 10 annuitant;

11 “(iii) may not use any employment
 12 under this paragraph as a basis for a sup-
 13 plemental or recomputed annuity; and

14 “(iv) may not participate in the Thrift
 15 Savings Plan under subchapter III of
 16 chapter 84 of title 5, United States Code.

17 “(C) LIMITATION ON TERM.—The term of
 18 employment of any individual hired under sub-
 19 paragraph (A) may not exceed an initial term
 20 of 2 years, with an additional 2-year appoint-
 21 ment under exceptional circumstances.

22 “(e) CONTINUITY OF AUTHORITY.—Subject to the
 23 discretion granted by Reorganization Plan Number 3 of
 24 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), any reference
 25 in any law, rule, regulation, directive, or instruction, or

1 certificate or other official document, in force immediately
2 prior to the date of enactment of this section—

3 “(1) to the Minerals Management Service that
4 pertains to any of the duties and authorities de-
5 scribed in this section shall be deemed to refer and
6 apply to the appropriate bureaus and offices estab-
7 lished under this section;

8 “(2) to the Director of the Minerals Manage-
9 ment Service that pertains to any of the duties and
10 authorities described in this section shall be deemed
11 to refer and apply to the Director of the bureau or
12 office under this section to whom the Secretary has
13 assigned the respective duty or authority; and

14 “(3) to any other position in the Minerals Man-
15 agement Service that pertains to any of the duties
16 and authorities described in this section shall be
17 deemed to refer and apply to that same or equiva-
18 lent position in the appropriate bureau or office es-
19 tablished under this section.”.

20 (b) CONFORMING AMENDMENT.—Section 5316 of
21 title 5, United States Code, is amended by striking “Direc-
22 tor, Bureau of Mines, Department of the Interior” and
23 inserting the following:

24 “Bureau Directors, Department of the Interior
25 (2).

1 “Director, Royalty and Revenue Office, Depart-
2 ment of the Interior.”.

3 **SEC. 6. SAFETY, ENVIRONMENTAL, AND FINANCIAL RE-**
4 **FORM OF THE OUTER CONTINENTAL SHELF**
5 **LANDS ACT.**

6 (a) DEFINITIONS.—Section 2 of the Outer Conti-
7 nental Shelf Lands Act (43 U.S.C. 1331) is amended by
8 adding at the end the following:

9 “(r) SAFETY CASE.—The term ‘safety case’ means
10 a ~~body of evidence~~ *complete set of safety documentation*
11 that provides a basis for determining whether a system
12 is adequately safe for a given application in a given envi-
13 ronment.”.

14 (b) ADMINISTRATION OF LEASING.—Section 5(a) of
15 the Outer Continental Shelf Lands Act (43 U.S.C.
16 1334(a)) is amended in the second sentence—

17 (1) by striking “The Secretary may at any
18 time” and inserting “The Secretary shall”; and

19 (2) by inserting after “provide for” the fol-
20 lowing: “operational safety, the protection of the ma-
21 rine and coastal environment,”.

22 (c) MAINTENANCE OF LEASES.—Section 6 of the
23 Outer Continental Shelf Lands Act (43 U.S.C. 1335) is
24 amended by adding at the end the following:

1 “(f) REVIEW OF BOND AND SURETY AMOUNTS.—
 2 Not later than May 1, 2011, and every 5 years thereafter,
 3 the Secretary shall—

4 “(1) review the minimum ~~bond amounts~~ *finan-*
 5 *cial responsibility requirements* for mineral leases
 6 under subsection (a)(11); and

7 “(2) ~~set any bonds, surety, or other evidence of~~
 8 ~~financial responsibility required in amounts adequate~~
 9 *adjust for inflation based on the Consumer Price*
 10 *Index for all Urban Consumers published by the Bu-*
 11 *reau of Labor Statistics of the Department of Labor,*
 12 *and recommend to Congress any further changes to*
 13 *existing financial responsibility requirements nec-*
 14 *essary* to permit lessees to fulfill all obligations
 15 under this Act or the Oil Pollution Act of 1990 (33
 16 U.S.C. 2701 et seq.).

17 “(g) PERIODIC FISCAL REVIEWS AND REPORTS.—

18 “(1) ROYALTY RATES.—

19 “(A) IN GENERAL.—Not later than 1 year
 20 after the date of enactment of this subsection
 21 and every ~~3~~ 4 years thereafter, the Secretary
 22 shall carry out a review of, and prepare a re-
 23 port that describes—

1 “(i) the royalty and rental rates in-
 2 cluded in new offshore oil and gas leases
 3 and the rationale for the rates;

4 “(ii) whether, in the view of the Sec-
 5 retary, the royalty and rental rates de-
 6 scribed in subparagraph (A) would yield a
 7 fair return to the public while promoting
 8 the production of oil and gas resources in
 9 a timely manner; and

10 “(iii) whether, based on the review,
 11 the Secretary intends to modify the royalty
 12 or rental rates.

13 “(B) PUBLIC PARTICIPATION.—In carrying
 14 out a review and preparing a report under sub-
 15 paragraph (A), the Secretary shall provide to
 16 the public an opportunity to participate.

17 “(2) COMPARATIVE REVIEW OF FISCAL SYS-
 18 TEM.—

19 “(A) IN GENERAL.—Not later than ~~2~~ *years*
 20 *1 year* after the date of enactment of this sub-
 21 section and every ~~5~~ *4* years thereafter, the Sec-
 22 retary in consultation with the Secretary of the
 23 Treasury, shall carry out a comprehensive re-
 24 view of all components of the Federal offshore
 25 oil and gas fiscal system, including require-

1 ments for bonus bids, rental rates, royalties, oil
2 and gas taxes, *income taxes and other signifi-*
3 *cant financial elements*, and oil and gas fees.

4 “(B) INCLUSIONS.—The review shall in-
5 clude—

6 “(i) information and analyses com-
7 paring the offshore bonus bids, rents, roy-
8 alties, taxes, and fees of the Federal Gov-
9 ernment to the offshore bonus bids, rents,
10 royalties, taxes, and fees of other resource
11 owners (including States and foreign coun-
12 tries); and

13 “(ii) an assessment of the overall off-
14 shore oil and gas fiscal system in the
15 United States, as compared to foreign
16 countries.

17 “(C) INDEPENDENT ADVISORY COM-
18 MITTEE.—In carrying out a review under this
19 paragraph, the Secretary shall convene and seek
20 the advice of an independent advisory com-
21 mittee comprised of oil and gas and fiscal ex-
22 perts from States, Indian tribes, academia, the
23 energy industry, and appropriate nongovern-
24 mental organizations.

1 “(D) REPORT.—The Secretary shall pre-
2 pare a report that contains—

3 “(i) the contents and results of the re-
4 view carried out under this paragraph for
5 the period covered by the report; and

6 “(ii) any recommendations of the Sec-
7 retary and the Secretary of the Treasury
8 based on the contents and results of the
9 review.

10 “(E) *COMBINED REPORT.—The Secretary*
11 *may combine the reports required by paragraphs*
12 *(1) and (2)(D) into 1 report.*

13 “(3) REPORT DEADLINE.—Not later than 30
14 days after the date on which the Secretary completes
15 each report under this subsection, the Secretary
16 shall submit copies of the report to—

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

19 “(B) the Committee on Finance of the
20 Senate;

21 “(C) the Committee on Natural Resources
22 of the House of Representatives; and

23 “(D) the Committee on Ways and Means
24 of the House of Representatives.”.

1 (d) LEASES, EASEMENTS, AND RIGHTS-OF-WAY.—
 2 Section 8 of the Outer Continental Shelf Lands Act (43
 3 U.S.C. 1337) is amended by striking subsection (d) and
 4 inserting the following:

5 “(d) DISQUALIFICATION FROM BIDDING.—No bid
 6 for a lease may be submitted by any entity that the Sec-
 7 retary finds, after *prior public* notice and opportunity for
 8 a hearing—

9 “(1) is not meeting due diligence, safety, or en-
 10 vironmental requirements on other leases; or

11 “(2)(A) is a responsible party for a vessel or a
 12 facility from which oil is discharged, for purposes of
 13 section 1002 of the Oil Pollution Act of 1990 (33
 14 U.S.C. 2702); and

15 “(B) has failed to meet the obligations of the
 16 responsible party under that Act to provide com-
 17 pensation for covered removal costs and damages.”.

18 (e) EXPLORATION PLANS.—Section 11 of the Outer
 19 Continental Shelf Lands Act (43 U.S.C. 1340) is amend-
 20 ed—

21 (1) in subsection (c)—

22 (A) in the fourth sentence of paragraph
 23 (1), by striking “within thirty days of its sub-
 24 mission” and inserting “by the deadline de-
 25 scribed in paragraph (5)”;

1 (B) by striking paragraph (3) and insert-
2 ing the following:

3 “(3) MINIMUM REQUIREMENTS.—

4 “(A) IN GENERAL.—An exploration plan
5 submitted under this subsection shall include,
6 in such degree of detail as the Secretary by reg-
7 ulation may require—

8 “(i) a complete description and sched-
9 ule of the exploration activities to be un-
10 dertaken;

11 “(ii) a description of the equipment to
12 be used for the exploration activities, in-
13 cluding—

14 “(I) a description of the drilling
15 unit;

16 “(II) a statement of the design
17 and condition of major safety-related
18 pieces of equipment;

19 “(III) a description of any new
20 technology to be used; and

21 “(IV) a statement demonstrating
22 that the equipment to be used meets
23 the best available technology require-
24 ments under section 21(b);

1 “(iii) a map showing the location of
2 each well to be drilled;

3 “(iv)(I) a scenario for the potential
4 blowout of the well involving the highest
5 ~~potential~~ *expected* volume of liquid hydro-
6 carbons; and

7 “(II) a complete description of a re-
8 sponse plan to control the blowout and
9 manage the accompanying discharge of hy-
10 drocarbons, including—

11 “(aa) the technology and timeline
12 for regaining control of the well; and

13 “(bb) the strategy, organization,
14 and resources ~~necessary~~ *to be used* to
15 avoid harm to the environment and
16 human health from hydrocarbons; and

17 “(v) any other information determined
18 to be relevant by the Secretary.

19 “(B) DEEPWATER WELLS.—

20 “(i) IN GENERAL.—Before conducting
21 exploration activities in water depths
22 greater than 500 feet, the holder of a lease
23 shall submit to the Secretary for approval
24 a deepwater operations plan prepared by

1 the lessee in accordance with this subpara-
 2 graph.

3 “(ii) TECHNOLOGY REQUIREMENTS.—

4 A deepwater operations plan under this
 5 subparagraph shall be based on the best
 6 available technology to ensure safety in
 7 carrying out the exploration activity and
 8 the blowout response plan.

9 “(iii) SYSTEMS ANALYSIS RE-
 10 QUIRED.—The Secretary shall not approve
 11 a deepwater operations plan under this
 12 subparagraph unless the plan includes a
 13 technical systems analysis of—

14 “(I) the safety of the proposed
 15 exploration activity;

16 “(II) the blowout prevention
 17 technology; and

18 “(III) the blowout and spill re-
 19 sponse plans.”; and

20 (C) by adding at the end the following:

21 “(5) DEADLINE FOR APPROVAL.—

22 “(A) IN GENERAL.—In the case of a lease
 23 issued under a sale held after March 17, 2010,
 24 the deadline for approval of an exploration plan

1 referred to in the fourth sentence of paragraph
2 (1) is—

3 “(i) the date that is 90 days after the
4 date on which the plan or the modifica-
5 tions to the plan are submitted; or

6 “(ii) the date that is not later than an
7 additional 180 days after the deadline de-
8 scribed in clause (i), if the Secretary
9 makes a finding that additional time is
10 necessary to complete any environmental,
11 safety, or other reviews.

12 “(B) EXISTING LEASES.—In the case of a
13 lease issued under a sale held on or before
14 March 17, 2010, the Secretary, with the con-
15 sent of the holder of the lease, may extend the
16 deadline applicable to the lease for such addi-
17 tional time as the Secretary determines is nec-
18 essary to complete any environmental, safety, or
19 other reviews.”;

20 (2) by redesignating subsections (e) through
21 (h) as subsections (f) through (i), respectively; and

22 (3) by striking subsection (d) and inserting the
23 following:

24 “(d) DRILLING PERMITS.—

1 “(1) IN GENERAL.—The Secretary shall, by
2 regulation, require that any lessee operating under
3 an approved exploration plan obtain a permit—

4 “(A) before the lessee drills a well in ac-
5 cordance with the plan; and

6 “(B) before the lessee significantly modi-
7 fies the well design originally approved by the
8 Secretary.

9 “(2) ENGINEERING REVIEW REQUIRED.—The
10 Secretary may not grant any drilling permit until
11 the date of completion of a full ~~engineering~~ review
12 of the well ~~system~~, ~~including a system by not less~~
13 *than 2 agency engineers, including a written deter-*
14 *mination that—*

15 “(A) critical safety systems (including
16 blowout prevention) will use best available tech-
17 nology; and

18 “(B) blowout prevention systems will in-
19 clude redundancy and remote triggering capa-
20 bility.

21 “(3) MODIFICATION REVIEW REQUIRED.—The
22 Secretary may not approve any modification of a
23 permit without a determination, after an additional
24 engineering review, that the modification will not ~~de-~~

1 ~~grade~~ *compromise* the safety of the well system pre-
2 viously approved.

3 “(4) OPERATOR SAFETY AND ENVIRONMENTAL
4 MANAGEMENT REQUIRED.—The Secretary may not
5 grant any drilling permit or modification of the per-
6 mit until the date of completion and approval of a
7 safety and environmental management plan that—

8 “(A) is to be used by the operator during
9 all well operations; and

10 “(B) includes—

11 “(i) a description of the expertise and
12 experience level of crew members who will
13 be present on the rig; and

14 “(ii) designation of at least 2 environ-
15 mental and safety managers that—

16 “(I) are employees of the oper-
17 ator;

18 “(II) would be present on the rig
19 at all times; and

20 “(III) have overall responsibility
21 for the safety and environmental man-
22 agement of the well system and spill
23 response plan; and

24 “(C) not later than May 1, 2012, requires
25 that all employees on the rig meet the training

1 and experience requirements under section
2 21(b)(4).

3 “(e) DISAPPROVAL OF EXPLORATION PLAN.—

4 “(1) IN GENERAL.—The Secretary shall dis-
5 approve an exploration plan submitted under this
6 section if the Secretary determines that, because of
7 exceptional geological conditions in the lease areas,
8 exceptional resource values in the marine or coastal
9 environment, or other exceptional circumstances,
10 that—

11 “(A) implementation of the exploration
12 plan would probably cause serious harm or
13 damage to life (including fish and other aquatic
14 life), property, mineral deposits, national secu-
15 rity or defense, or the marine, coastal or human
16 environments;

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

20 “(C) the advantages of disapproving the
21 exploration plan outweigh the advantages of ex-
22 ploration.

23 “(2) COMPENSATION.—If an exploration plan is
24 disapproved under this subsection, the provisions of
25 subparagraphs (B) and (C) of section 25(h)(2) shall

1 apply to the lease and the plan or any modified plan,
 2 except that the reference in section 25(h)(2)(C) to a
 3 development and production plan shall be considered
 4 to be a reference to an exploration plan.”.

5 (f) OUTER CONTINENTAL SHELF LEASING PRO-
 6 GRAM.—Section 18 of the Outer Continental Shelf Lands
 7 Act (43 U.S.C. 1344) is amended—

8 (1) in subsection (a)—

9 (A) in the second sentence, by inserting
 10 after “national energy needs” the following:
 11 “and the need for the protection of the marine
 12 and coastal environment and resources”;

13 (B) in paragraph (1), by striking “con-
 14 siders” and inserting “gives equal consideration
 15 to”; and

16 (C) in paragraph (3), by striking “, to the
 17 maximum extent practicable,”;

18 (2) in subsection (b)—

19 (A) in paragraph (3), by striking “and” at
 20 the end;

21 (B) in paragraph (4), by striking the pe-
 22 riod at the end and inserting “; and”; and

23 (C) by adding at the end the following:

24 “(5) provide technical review and oversight of
 25 the exploration plan and a systems review of the

1 safety of the well design and other operational deci-
2 sions;

3 “(6) conduct regular and thorough safety re-
4 views and inspections, and;

5 “(7) enforce all applicable laws (including regu-
6 lations).”;

7 (3) in the second sentence of subsection (d)(2),
8 by inserting “, the head of an interested Federal
9 agency,” after “Attorney General”;

10 (4) in the first sentence of subsection (g), by in-
11 serting before the period at the end the following: “,
12 including existing inventories and mapping of ma-
13 rine resources previously undertaken by the Depart-
14 ment of the Interior and the National Oceanic and
15 Atmospheric Administration, information provided
16 by the Department of Defense, and other available
17 data regarding energy or mineral resource potential,
18 navigation uses, fisheries, aquaculture uses, rec-
19 reational uses, habitat, conservation, and military
20 uses on the outer Continental Shelf”; and

21 (5) by adding at the end the following:

22 “(i) RESEARCH AND DEVELOPMENT.—

23 “(1) IN GENERAL.—The Secretary shall carry
24 out a program of research and development to en-
25 sure the continued improvement of methodologies for

1 characterizing resources of the outer Continental
2 Shelf and conditions that may affect the ability to
3 develop and use those resources in a safe, sound,
4 and environmentally responsible manner.

5 “(2) INCLUSIONS.—Research and development
6 activities carried out under paragraph (1) may in-
7 clude activities to provide accurate estimates of en-
8 ergy and mineral reserves and potential on the outer
9 Continental Shelf and any activities that may assist
10 in filling gaps in environmental data needed to de-
11 velop each leasing program under this section.

12 “(3) LEASING ACTIVITIES.—Research and de-
13 velopment activities carried out under paragraph (1)
14 shall not be considered to be leasing or pre-leasing
15 activities for purposes of this Act.”.

16 (g) ENVIRONMENTAL STUDIES.—Section 20 of the
17 Outer Continental Shelf Lands Act (43 U.S.C. 1346) is
18 amended—

19 (1) by redesignating subsections (a) through (f)
20 as subsections (b) through (g), respectively;

21 (2) by inserting before subsection (b) (as so re-
22 designated) the following:

23 “(a) COMPREHENSIVE AND INDEPENDENT STUD-
24 IES.—

1 “(1) IN GENERAL.—The Secretary shall develop
2 and carry out programs for the collection, evalua-
3 tion, assembly, analysis, and dissemination of envi-
4 ronmental and other resource data that are relevant
5 to carrying out the purposes of this Act.

6 “(2) SCOPE OF RESEARCH.—The programs
7 under this subsection shall include—

8 “(A) the gathering of baseline data in
9 areas before energy or mineral resource devel-
10 opment activities occur;

11 “(B) ecosystem research and monitoring
12 studies to support integrated resource manage-
13 ment decisions; and

14 “(C) the improvement of scientific under-
15 standing of the fate, transport, and effects of
16 discharges and spilled materials, including deep
17 water hydrocarbon spills, in the marine environ-
18 ment.

19 “(3) USE OF DATA.—The Secretary shall en-
20 sure that information from the studies carried out
21 under this section—

22 “(A) informs the management of energy
23 and mineral resources on the outer Continental
24 Shelf including any areas under consideration
25 for oil and gas leasing; and

1 “(B) contributes to a broader coordination
2 of energy and mineral resource development ac-
3 tivities within the context of best available
4 science.

5 “(4) INDEPENDENCE.—The Secretary shall cre-
6 ate a program within the appropriate bureau estab-
7 lished under section 32 that shall—

8 “(A) be programmatically separate and
9 distinct from the leasing program;

10 “(B) carry out the environmental studies
11 under this section;

12 “(C) conduct additional environmental
13 studies relevant to the sound management of
14 energy and mineral resources on the outer Con-
15 tinental Shelf;

16 “(D) provide for external scientific review
17 of studies under this section, including through
18 appropriate arrangements with the National
19 Academy of Sciences; and

20 “(E) subject to the restrictions of sub-
21 sections (g) and (h) of section 18, make avail-
22 able to the public studies conducted and data
23 gathered under this section.”; and

1 (3) in the first sentence of subsection (b)(1) (as
2 so redesignated), by inserting “every 3 years” after
3 “shall conduct”.

4 (h) SAFETY RESEARCH AND REGULATIONS.—Section
5 21 of the Outer Continental Shelf Lands Act (43 U.S.C.
6 1347) is amended—

7 (1) in the first sentence of subsection (a), by
8 striking “Upon the date of enactment of this sec-
9 tion,” and inserting “Not later than May 1, 2011,
10 and every 3 years thereafter,”;

11 (2) by striking subsection (b) and inserting the
12 following:

13 “(b) BEST AVAILABLE TECHNOLOGIES AND PRAC-
14 TICES.—

15 “(1) IN GENERAL.—In exercising respective re-
16 sponsibilities under this Act, the Secretary, and the
17 Secretary of the Department in which the Coast
18 Guard is operating, shall require, on all new drilling
19 and production operations and, to the maximum ex-
20 tent practicable, on existing operations, the use of
21 the best available and safest technologies and prac-
22 tices, if the failure of equipment would have a sig-
23 nificant effect on safety, health, or the environment.

24 “(2) IDENTIFICATION OF BEST AVAILABLE
25 TECHNOLOGIES.—Not later than May 1, 2011, and

1 not later than every 3 years thereafter, the Secretary
2 shall identify and publish an updated list of best
3 available technologies for key areas of well design
4 and operation, including blowout prevention and
5 blowout and oil spill response.

6 “(3) SAFETY CASE.—Not later than May 1,
7 2011, the Secretary shall promulgate regulations re-
8 quiring a safety case be submitted along with each
9 new application for a permit to drill on the outer
10 Continental Shelf.

11 “(4) EMPLOYEE TRAINING.—

12 “(A) IN GENERAL.—Not later than May 1,
13 2011, the Secretary shall promulgate regula-
14 tions setting standards for training for all
15 workers on offshore facilities (including mobile
16 offshore drilling units) conducting energy and
17 mineral resource exploration, development, and
18 production operations on the outer Continental
19 Shelf.

20 “(B) REQUIREMENTS.—The training
21 standards under this paragraph shall require
22 that employers of workers described in subpara-
23 graph (A)—

24 “(i) establish training programs ap-
25 proved by the Secretary; and

1 “(ii) demonstrate that employees in-
2 volved in the offshore operations meet
3 standards that demonstrate the aptitude of
4 the employees in critical technical skills.

5 “(C) EXPERIENCE.—The training stand-
6 ards under this section shall require that any
7 offshore worker with less than 5 years of ap-
8 plied experience in offshore facilities operations
9 pass a certification requirement after receiving
10 the appropriate training.

11 “(D) MONITORING TRAINING COURSES.—
12 The Secretary shall ensure that Department
13 employees responsible for inspecting offshore fa-
14 cilities monitor, observe, and report on training
15 courses established under this paragraph, in-
16 cluding attending a representative number of
17 the training sessions, as determined by the Sec-
18 retary.”; and

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

20 “(g) TECHNOLOGY RESEARCH AND RISK ASSESS-
21 MENT PROGRAM.—

22 “(1) IN GENERAL.—The Secretary shall carry
23 out a program of research, development, and risk as-
24 sessment to address technology and development
25 issues associated with outer Continental Shelf en-

1 ergy and mineral resource activities, with the pri-
 2 mary purpose of informing the role of research, de-
 3 velopment, and risk assessment relating to safety,
 4 environmental protection, and spill response.

5 “(2) SPECIFIC AREAS OF FOCUS.—The program
 6 under this subsection shall include research, develop-
 7 ment, and other activities related to—

8 “(A) risk assessment, using all available
 9 data from safety and compliance records both
 10 within the United States and internationally;

11 “(B) analysis of industry trends in tech-
 12 nology, investment, and interest in frontier
 13 areas;

14 “(C) analysis of incidents investigated
 15 under section 22;

16 “(D) reviews of best available technologies,
 17 including technologies associated with pipelines,
 18 blowout preventer mechanisms, casing, well de-
 19 sign, and other associated infrastructure related
 20 to offshore energy development;

21 “(E) oil spill response and mitigation;

22 “(F) risks associated with human factors;

23 and

24 “(G) renewable energy operations.

25 “(3) INFORMATION SHARING ACTIVITIES.—

1 “(A) DOMESTIC ACTIVITIES.—The Sec-
2 retary shall carry out programs to facilitate the
3 exchange and dissemination of scientific and
4 technical information and best practices related
5 to the management of safety and environmental
6 issues associated with energy and mineral re-
7 source exploration, development, and produc-
8 tion.

9 “(B) INTERNATIONAL COOPERATION.—
10 The Secretary shall carry out programs to co-
11 operate with international organizations and
12 foreign governments to share information and
13 best practices related to the management of
14 safety and environmental issues associated with
15 energy and mineral resource exploration, devel-
16 opment, and production.

17 “(4) REPORTS.—The program under this sub-
18 section shall provide to the Secretary, each Bureau
19 Director under section 32, and the public quarterly
20 reports that address—

21 “(A) developments in each of the areas
22 under paragraph (2); and

23 “(B)(i) any accidents that have occurred in
24 the past quarter; and

1 “(ii) appropriate responses to the acci-
2 dents.

3 “(5) INDEPENDENCE.—The Secretary shall cre-
4 ate a program within the appropriate bureau estab-
5 lished under section 32 that shall—

6 “(A) be programmatically separate and
7 distinct from the leasing program;

8 “(B) carry out the studies, analyses, and
9 other activities under this subsection;

10 “(C) provide for external scientific review
11 of studies under this section, including through
12 appropriate arrangements with the National
13 Academy of Sciences; and

14 “(D) make available to the public studies
15 conducted and data gathered under this section.

16 “(6) USE OF DATA.—The Secretary shall en-
17 sure that the information from the studies and re-
18 search carried out under this section inform the de-
19 velopment of safety practices and regulations as re-
20 quired by this Act and other applicable laws.”.

21 (i) ENFORCEMENT.—Section 22 of the Outer Conti-
22 nental Shelf Lands Act (43 U.S.C. 1348) is amended—

23 (1) in subsection (d)—

24 (A) in paragraph (1)—

1 (i) in the first sentence, by inserting
 2 “, each loss of well control, blowout, activa-
 3 tion of the blowout preventer, and other
 4 accident that presented a serious risk to
 5 human or environmental safety,” after
 6 “fire”; and

7 (ii) in the last sentence, by inserting
 8 “as a condition of the lease” before the pe-
 9 riod at the end;

10 (B) in the last sentence of paragraph (2),
 11 by inserting “as a condition of lease” before the
 12 period at the end;

13 (2) in subsection (e)—

14 (A) by striking “(e) The” and inserting the
 15 following:

16 “(e) REVIEW OF ALLEGED SAFETY VIOLATIONS.—

17 “(1) IN GENERAL.—The”; and

18 (B) by adding at the end the following:

19 “(2) INVESTIGATION.—The Secretary shall in-
 20 vestigate any allegation from any employee of the
 21 lessee or any subcontractor of the lessee made under
 22 paragraph (1).”; and

23 (3) by adding at the end of the section the fol-
 24 lowing:

25 “(g) INDEPENDENT INVESTIGATION.—

1 “(1) IN GENERAL.—At the request of the Sec-
2 retary, the National Transportation Safety Board
3 may conduct an independent investigation of any ac-
4 cident, occurring in the outer Continental Shelf and
5 involving activities under this Act, that does not oth-
6 erwise fall within the definition of an accident or
7 major marine casualty, as those terms are used in
8 chapter 11 of title 49, United States Code.

9 “(2) TRANSPORTATION ACCIDENT.—For pur-
10 poses of an investigation under this subsection, the
11 accident that is the subject of the request by the
12 Secretary shall be determined to be a transportation
13 accident within the meaning of that term in chapter
14 11 of title 49, United States Code.

15 “(h) INFORMATION ON CAUSES AND CORRECTIVE
16 ACTIONS.—

17 “(1) IN GENERAL.—For each incident inves-
18 tigated under this section, the Secretary shall
19 promptly make available to all lessees and the public
20 technical information about the causes and correc-
21 tive actions taken.

22 “(2) PUBLIC DATABASE.—All data and reports
23 related to an incident described in paragraph (1)
24 shall be maintained in a database that is available
25 to the public.

1 “(i) INSPECTION FEE.—

2 “(1) IN GENERAL.—~~The~~*To the extent necessary*
 3 *to fund the inspections described in this paragraph,*
 4 *the* Secretary shall collect a non-refundable inspec-
 5 tion fee, which shall be deposited in the Ocean En-
 6 ergy Enforcement Fund established under para-
 7 graph (3), from the designated operator for facilities
 8 subject to inspection under subsection (c).

9 “(2) ESTABLISHMENT.—The Secretary shall es-
 10 tablish, by rule, inspection fees—

11 “(A) at an aggregate level equal to the
 12 amount necessary to offset the annual expenses
 13 of inspections of outer Continental Shelf facili-
 14 ties (including mobile offshore drilling units) by
 15 the Department of the Interior; and

16 “(B) using a schedule that reflects the dif-
 17 ferences in complexity among the classes of fa-
 18 cilities to be inspected.

19 “(3) OCEAN ENERGY ENFORCEMENT FUND.—
 20 There is established in the Treasury a fund, to be
 21 known as the ‘Ocean Energy Enforcement Fund’
 22 (referred to in this subsection as the ‘Fund’), into
 23 which shall be deposited amounts collected under
 24 paragraph (1) and which shall be available as pro-
 25 vided under paragraph (4).

1 “(4) AVAILABILITY OF FEES.—Notwithstanding
2 section 3302 of title 31, United States Code, all
3 amounts collected by the Secretary under this sec-
4 tion—

5 “(A) shall be credited as offsetting collec-
6 tions;

7 “(B) shall be available for expenditure only
8 for purposes of carrying out inspections of
9 outer Continental Shelf facilities (including mo-
10 bile offshore drilling units) and the administra-
11 tion of the inspection program;

12 “(C) shall be available only to the extent
13 provided for in advance in an appropriations
14 Act; and

15 “(D) shall remain available until expended.

16 “(5) ANNUAL REPORTS.—

17 “(A) IN GENERAL.—Not later than 60
18 days after the end of each fiscal year beginning
19 with fiscal year 2011, the Secretary shall sub-
20 mit to the Committee on Energy and Natural
21 Resources of the Senate and the Committee on
22 Natural Resources of the House of Representa-
23 tives a report on the operation of the Fund dur-
24 ing the fiscal year.

1 “(B) CONTENTS.—Each report shall in-
 2 clude, for the fiscal year covered by the report,
 3 the following:

4 “(i) A statement of the amounts de-
 5 posited into the Fund.

6 “(ii) A description of the expenditures
 7 made from the Fund for the fiscal year, in-
 8 cluding the purpose of the expenditures.

9 “(iii) Recommendations for additional
 10 authorities to fulfill the purpose of the
 11 Fund.

12 “(iv) A statement of the balance re-
 13 maining in the Fund at the end of the fis-
 14 cal year.”.

15 (j) REMEDIES AND PENALTIES.—Section 24 of the
 16 Outer Continental Shelf Lands Act (43 U.S.C. 1350) is
 17 amended—

18 (1) by striking subsection (b) and inserting the
 19 following:

20 “(b) CIVIL PENALTY.—

21 “(1) IN GENERAL.—Subject to paragraphs (2)
 22 through (3), if any person fails to comply with this
 23 Act, any term of a lease or permit issued under this
 24 Act, or any regulation or order issued under this
 25 Act, the person shall be liable for a civil administra-

1 tive penalty of not more than \$75,000 for each day
2 of continuance of each failure.

3 “(2) ADMINISTRATION.—The Secretary may as-
4 sess, collect, and compromise any penalty under
5 paragraph (1).

6 “(3) HEARING.—No penalty shall be assessed
7 under this subsection until the person charged with
8 a violation has been given the opportunity for a
9 hearing.

10 “(4) ADJUSTMENT.—The penalty amount speci-
11 fied in this subsection shall increase each year to re-
12 flect any increases in the Consumer Price Index for
13 All Urban Consumers published by the Bureau of
14 Labor Statistics of the Department of Labor.”;

15 (2) in subsection (c)—

16 (A) in the first sentence, by striking
17 “\$100,000” and inserting “\$10,000,000”; and

18 (B) by adding at the end the following:

19 “The penalty amount specified in this sub-
20 section shall increase each year to reflect any
21 increases in the Consumer Price Index for All
22 Urban Consumers published by the Bureau of
23 Labor Statistics of the Department of Labor.”;

24 and

1 (3) in subsection (d), by inserting “, or with
2 reckless disregard,” after “knowingly and willfully”.

3 (k) OIL AND GAS DEVELOPMENT AND PRODUC-
4 TION.—Section 25 of the Outer Continental Shelf Lands
5 Act (43 U.S.C. 1351) is amended by striking “, other than
6 the Gulf of Mexico,” each place it appears in subsections
7 (a)(1), (b), and (e)(1).

8 (l) *CONFLICTS OF INTEREST.*—Section 29 of the Outer
9 Continental Shelf Lands Act (43 U.S.C. 1355) is amended
10 to read as follows:

11 **“SEC. 29. CONFLICTS OF INTEREST.**

12 “(a) *RESTRICTIONS ON EMPLOYMENT.*—No full-time
13 officer or employee of the Department of the Interior who
14 directly or indirectly discharges duties or responsibilities
15 under this Act shall—

16 “(1) within 2 years after his employment with
17 the Department has ceased—

18 “(A) knowingly act as agent or attorney for,
19 or otherwise represent, any other person (except
20 the United States) in any formal or informal
21 appearance before;

22 “(B) with the intent to influence, make any
23 oral or written communication on behalf of any
24 other person (except the United States) to; or

25 “(C) knowingly aid, advise, or assist in—

1 “(i) representing any other person (ex-
2 cept the United States in any formal or in-
3 formal appearance before; or

4 “(ii) making, with the intent to influ-
5 ence, any oral or written communication on
6 behalf of any other person (except the
7 United States) to,

8 any department, agency, or court of the United
9 States, or any officer or employee thereof, in connec-
10 tion with any judicial or other proceeding, applica-
11 tion, request for a ruling or other determination, reg-
12 ulation, order lease, permit, rulemaking, inspection,
13 enforcement action, or other particular matter involv-
14 ing a specific party or parties in which the United
15 States is a party or has a direct and substantial in-
16 terest which was actually pending under his official
17 responsibility as an officer or employee within a pe-
18 riod of one year prior to the termination of such re-
19 sponsibility or in which he participated personally
20 and substantially as an officer or employee;

21 “(2) within 1 year after his employment with
22 the Department has ceased—

23 “(A) knowingly act as agent or attorney for,
24 or otherwise represent, any other person (except

1 *the United States) in any formal or informal*
2 *appearance before;*

3 “(B) *with the intent to influence, make any*
4 *oral or written communication on behalf of any*
5 *other person (except the United States) to; or*

6 “(C) *knowingly aid , advise, or assist in —*

7 “(i) *representing any other person (ex-*
8 *cept the United States in any formal or in-*
9 *formal appearance before, or*

10 “(ii) *making, with the intent to influ-*
11 *ence, any oral or written communication on*
12 *behalf of any other person (except the*
13 *United States) to,*

14 *the Department of the Interior, or any officer or em-*
15 *ployee thereof, in connection with any judicial, rule-*
16 *making, regulation, order, lease, permit, regulation,*
17 *inspection, enforcement action, or other particular*
18 *matter which is pending before the Department of the*
19 *Interior or in which the Department has a direct and*
20 *substantial interest; or*

21 “(3) *accept employment or compensation, during*
22 *the 1-year period beginning on the date on which em-*
23 *ployment with the Department has ceased, from any*
24 *person (other than the United States) that has a di-*
25 *rect and substantial interest—*

1 “(A) that was pending under the official re-
 2 sponsibility of the employee as an officer or em-
 3 ployee of the Department during the 1-year pe-
 4 riod preceding the termination of the responsi-
 5 bility; or

6 “(B) in which the employee participated
 7 personally and substantially as an officer or em-
 8 ployee.

9 “(b) *PRIOR EMPLOYMENT RELATIONSHIPS.*—No full-
 10 time officer or employee of the Department of the Interior
 11 who directly or indirectly discharges duties or responsibil-
 12 ities under this Act shall participate personally and sub-
 13 stantially as a Federal officer or employee, through deci-
 14 sion, approval, disapproval, recommendation, the rendering
 15 of advice, investigation, or otherwise, in a proceeding, ap-
 16 plication, request for a ruling or other determination, con-
 17 tract, claim, controversy, charge, accusation, inspection, en-
 18 forcement action, or other particular matter in which, to
 19 the knowledge of the officer or employee—

20 “(1) the officer or employee or the spouse, minor
 21 child, or general partner of the officer or employee has
 22 a financial interest;

23 “(2) any organization in which the officer or em-
 24 ployee is serving as an officer, director, trustee, gen-
 25 eral partner, or employee has a financial interest;

1 “(3) *any person or organization with whom the*
 2 *officer or employee is negotiating or has any arrange-*
 3 *ment concerning prospective employment has a finan-*
 4 *cial interest; or*

5 “(4) *any person or organization in which the of-*
 6 *ficer or employee has, within the preceding 1-year pe-*
 7 *riod, served as an officer, director, trustee, general*
 8 *partner, agent, attorney, consultant, contractor, or*
 9 *employee has a financial interest.*

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

16 “(d) *EXEMPTIONS.—The Secretary may, by rule, ex-*
 17 *empt from this section clerical and support personnel who*
 18 *do not conduct inspections, perform audits, or otherwise ex-*
 19 *ercise regulatory or policy making authority under this Act.*

20 “(e) *PENALTIES.—*

21 “(1) *CRIMINAL PENALTIES.—Any person who*
 22 *violates paragraph (1) or (2) of subsection (a) or sub-*
 23 *section (b) shall be punished in accordance with sec-*
 24 *tion 216 of title 18, United States Code.*

1 “(2) *CIVIL PENALTIES.*—Any person who violates
 2 subsection (a)(3) or (c) shall be punished in accord-
 3 ance with subsection (b) of section 216 of title 18,
 4 *United States Code.*”.

5 **SEC. 7. STUDY ON THE EFFECT OF THE MORATORIA ON**
 6 **NEW DEEPWATER DRILLING IN THE GULF OF**
 7 **MEXICO ON EMPLOYMENT AND SMALL BUSI-**
 8 **NESSES.**

9 (a) *IN GENERAL.*—The Secretary of Energy, acting
 10 through the Energy Information Administration, shall pub-
 11 lish a monthly study evaluating the effect of the moratoria
 12 resulting from the blowout and explosion of the mobile off-
 13 shore drilling unit *Deepwater Horizon* that occurred on
 14 April 20, 2010, and resulting hydrocarbon releases into the
 15 environment, on employment and small businesses.

16 (b) *REPORT.*—Not later than 60 days after the date
 17 of enactment of this Act and at the beginning of each month
 18 thereafter during the effective period of the moratoria de-
 19 scribed in subsection (a), the Secretary of Energy, acting
 20 through the Energy Information Administration, shall sub-
 21 mit to the Committee on Energy and Natural Resources of
 22 the Senate and the Committee on Energy and Commerce
 23 of the House of Representatives a report regarding the re-
 24 sults of the study conducted under subsection (a), includ-
 25 ing—

1 (1) a survey of the effect of the moratoria on
 2 deepwater drilling on employment in the industries
 3 directly involved in oil and natural gas exploration
 4 in the outer Continental Shelf;

5 (2) a survey of the effect of the moratoria on em-
 6 ployment in the industries indirectly involved in oil
 7 and natural gas exploration in the outer Continental
 8 Shelf, including suppliers of supplies or services and
 9 customers of industries directly involved in oil and
 10 natural gas exploration;

11 (3) an estimate of the effect of the moratoria on
 12 the revenues of small business located near the Gulf
 13 of Mexico and, to the maximum extent practicable,
 14 throughout the United States; and

15 (4) any recommendations to mitigate possible
 16 negative effects on small business concerns resulting
 17 from the moratoria.

18 **SEC. 78. REFORM OF OTHER LAWS.**

19 ~~(a) COORDINATED MAPPING INITIATIVE.—~~

20 Section 388(b) of the Energy Policy Act of 2005 (43
 21 U.S.C. 1337 note; Public Law 109–58) is amended by
 22 adding at the end the following:

23 “(4) FEDERAL AGENCIES.—Any head of a Fed-
 24 eral department or agency shall, on request of the
 25 Secretary, provide to the Secretary all data and in-

1 formation that the Secretary determines to be nec-
 2 essary for the purpose of including the data and in-
 3 formation in the mapping initiative, except that no
 4 Federal department or agency shall be required to
 5 provide any data or information that is privileged or
 6 proprietary.”.

7 ~~(b) DEDICATED FUNDING FOR OUTER CONTINENTAL~~
 8 ~~SHELF RESEARCH ACTIVITIES.—Section 999H(d) of the~~
 9 ~~Energy Policy Act of 2005 (42 U.S.C. 16378(d)) is~~
 10 ~~amended by striking paragraph (4) and inserting the fol-~~
 11 ~~lowing:~~

12 ~~“(4) 25 percent shall be used for research ac-~~
 13 ~~tivities required under sections 20 and 21 of the~~
 14 ~~Outer Continental Shelf Lands Act (43 U.S.C. 1346,~~
 15 ~~1347).”.~~

16 **SEC. 9. SAFER OIL AND GAS PRODUCTION.**

17 ~~(a) PROGRAM AUTHORITY.—Section 999A of the En-~~
 18 ~~ergy Policy Act of 2005 (42 U.S.C. 16371) is amended—~~

19 ~~(1) in subsection (a)—~~

20 ~~(A) by striking “ultra-deepwater” and in-~~
 21 ~~serting “deepwater”; and~~

22 ~~(B) by inserting “well control and accident~~
 23 ~~prevention,” after “safe operations,”;~~

24 ~~(2) in subsection (b)—~~

1 (A) by striking paragraph (1) and inserting
2 the following:

3 “(1) Deepwater architecture, well control and ac-
4 cident prevention, and deepwater technology, includ-
5 ing drilling to deep formations in waters greater than
6 500 feet.”; and

7 (B) by striking paragraph (4) and inserting
8 the following:

9 “(4) Safety technology research and development
10 for drilling activities aimed at well control and acci-
11 dent prevention performed by the Office of Fossil En-
12 ergy of the Department.”; and

13 (3) in subsection (d)—

14 (A) in the subsection heading, by striking
15 “NATIONAL ENERGY TECHNOLOGY LABORA-
16 TORY” and inserting “OFFICE OF FOSSIL EN-
17 ERGY OF THE DEPARTMENT”; and

18 (B) by striking “National Energy Tech-
19 nology Laboratory” and inserting “Office of Fos-
20 sil Energy of the Department”.

21 (b) DEEPWATER AND UNCONVENTIONAL ONSHORE
22 NATURAL GAS AND OTHER PETROLEUM RESEARCH AND
23 DEVELOPMENT PROGRAM.—Section 999B of the Energy
24 Policy Act of 2005 (42 U.S.C. 16372) is amended—

1 (1) *in the section heading, by striking “**ULTRA-***
 2 ***DEEPWATER AND UNCONVENTIONAL ONSHORE***
 3 ***NATURAL GAS AND OTHER PETROLEUM” and***
 4 *inserting “**SAFE OIL AND GAS PRODUCTION AND***
 5 ***ACCIDENT PREVENTION”**;*

6 (2) *in subsection (a), by striking “, by increas-*
 7 *ing” and all that follows through the period at the*
 8 *end and inserting “and the safe and environmentally*
 9 *responsible exploration, development, and production*
 10 *of hydrocarbon resources.”;*

11 (3) *in subsection (c)(1)—*

12 (A) *by redesignating subparagraphs (D)*
 13 *and (E) as subparagraphs (E) and (F), respec-*
 14 *tively; and*

15 (B) *by inserting after subparagraph (C) the*
 16 *following:*

17 “(D) *projects will be selected on a competi-*
 18 *tive, peer-reviewed basis.”; and*

19 (4) *in subsection (d)—*

20 (A) *in paragraph (6), by striking “ultra-*
 21 *deepwater” and inserting “deepwater”;*

22 (B) *in paragraph (7)—*

23 (i) *in subparagraph (A)—*

1 (I) in the subparagraph heading,
 2 by striking “ULTRA-DEEPWATER” and
 3 inserting “DEEPWATER”;

4 (II) by striking “development
 5 and” and inserting “research, develop-
 6 ment, and”; and

7 (III) by striking “as well as” and
 8 all that follows through the period at
 9 the end and inserting “aimed at im-
 10 proving operational safety of drilling
 11 activities, including well integrity sys-
 12 tems, well control, blowout prevention,
 13 the use of non-toxic materials, and in-
 14 tegrated systems approach-based man-
 15 agement for exploration and produc-
 16 tion in deepwater.”;

17 (ii) in subparagraph (B), by striking
 18 “and environmental mitigation” and in-
 19 serting “use of non-toxic materials, drilling
 20 safety, and environmental mitigation and
 21 accident prevention”;

22 (iii) in subparagraph (C), by inserting
 23 “safety and accident prevention, well con-
 24 trol and systems integrity,” after “includ-
 25 ing”; and

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

2 “(D) SAFETY AND ACCIDENT PREVENTION
3 TECHNOLOGY RESEARCH AND DEVELOPMENT.—
4 Awards from allocations under section
5 999H(d)(4) shall be expended on areas includ-
6 ing—

7 “(i) development of improved cement-
8 ing and casing technologies;

9 “(ii) best management practices for ce-
10 menting, casing, and other well control ac-
11 tivities and technologies;

12 “(iii) development of integrity and
13 stewardship guidelines for—

14 “(I) well-plugging and abandon-
15 ment;

16 “(II) development of wellbore seal-
17 ant technologies; and

18 “(III) improvement and stand-
19 ardization of blowout prevention de-
20 vices.”; and

21 (C) by adding at the end the following:

22 “(8) STUDY; REPORT.—

23 “(A) STUDY.—As soon as practicable after
24 the date of enactment of this paragraph, the Sec-
25 retary shall enter into an arrangement with the

1 *National Academy of Sciences under which the*
 2 *Academy shall conduct a study to determine—*

3 “(i) *whether the benefits provided*
 4 *through each award under this subsection*
 5 *during calendar year 2011 have been maxi-*
 6 *mized; and*

7 “(ii) *the new areas of research that*
 8 *could be carried out to meet the overall ob-*
 9 *jectives of the program.*

10 “(B) *REPORT.—Not later than January 1,*
 11 *2012, the Secretary shall submit to the appro-*
 12 *priate committees of Congress a report that con-*
 13 *tains a description of the results of the study*
 14 *conducted under subparagraph (A).*

15 “(C) *OPTIONAL UPDATES.—The Secretary*
 16 *may update the report described in subpara-*
 17 *graph (B) for the 5-year period beginning on the*
 18 *date described in that subparagraph and each 5-*
 19 *year period thereafter.”;*

20 (5) *in subsection (e)—*

21 (A) *in paragraph (2)—*

22 (i) *in the second sentence of subpara-*
 23 *graph (A), by inserting “to the Secretary*
 24 *for review” after “submit”; and*

(ii) in the first sentence of subparagraph (B), by striking “Ultra-Deepwater” and all that follows through “and such Advisory Committees” and inserting “Program Advisory Committee established under section 999D(a), and the Advisory Committee”; and

(B) by adding at the end the following:

“(6) *RESEARCH FINDINGS AND RECOMMENDATIONS FOR IMPLEMENTATION.*—The Secretary, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register an annual report on the research findings of the program carried out under this section and any recommendations for implementation that the Secretary, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, determines to be necessary.”;

(6) in subsection (i)—

(A) in the subsection heading, by striking “UNITED STATES GEOLOGICAL SURVEY” and inserting “DEPARTMENT OF THE INTERIOR”; and

(B) by striking “, through the United States Geological Survey,”; and

1 (7) *in the first sentence of subsection (j), by*
 2 *striking “National Energy Technology Laboratory”*
 3 *and inserting “Office of Fossil Energy of the Depart-*
 4 *ment”.*

5 (c) *ADDITIONAL REQUIREMENTS FOR AWARDS.—Sec-*
 6 *tion 999C(b) of the Energy Policy Act of 2005 (42 U.S.C.*
 7 *16373(b)) is amended by striking “an ultra-deepwater tech-*
 8 *nology or an ultra-deepwater architecture” and inserting*
 9 *“a deepwater technology”.*

10 (d) *PROGRAM ADVISORY COMMITTEE.—Section 999D*
 11 *of the Energy Policy Act of 2005 (42 U.S.C. 16374) is*
 12 *amended to read as follows:*

13 **“SEC. 999D. PROGRAM ADVISORY COMMITTEE.**

14 “(a) *ESTABLISHMENT.—Not later than 270 days after*
 15 *the date of enactment of the Safe and Responsible Energy*
 16 *Production Improvement Act of 2010, the Secretary shall*
 17 *establish an advisory committee to be known as the ‘Pro-*
 18 *gram Advisory Committee’ (referred to in this section as*
 19 *the ‘Advisory Committee’).*

20 “(b) *MEMBERSHIP.—*

21 “(1) *IN GENERAL.—The Advisory Committee*
 22 *shall be composed of members appointed by the Sec-*
 23 *retary, including—*

1 “(A) *individuals with extensive research ex-*
 2 *perience or operational knowledge of hydrocarbon*
 3 *exploration and production;*

4 “(B) *individuals broadly representative of*
 5 *the affected interests in hydrocarbon production,*
 6 *including interests in environmental protection*
 7 *and safety operations;*

8 “(C) *representatives of Federal agencies, in-*
 9 *cluding the Environmental Protection Agency*
 10 *and the Department of the Interior;*

11 “(D) *State regulatory agency representa-*
 12 *tives; and*

13 “(E) *other individuals, as determined by*
 14 *the Secretary.*

15 “(2) *LIMITATIONS.—*

16 “(A) *IN GENERAL.—The Advisory Com-*
 17 *mittee shall not include individuals who are*
 18 *board members, officers, or employees of the pro-*
 19 *gram consortium.*

20 “(B) *CATEGORICAL REPRESENTATION.—In*
 21 *appointing members of the Advisory Committee,*
 22 *the Secretary shall ensure that no class of indi-*
 23 *viduals described in any of subparagraphs (A),*
 24 *(B), (D), or (E) of paragraph (1) comprises*

1 *more than 1/3 of the membership of the Advisory*
 2 *Committee.*

3 “(c) *SUBCOMMITTEES.—The Advisory Committee may*
 4 *establish subcommittees for separate research programs car-*
 5 *ried out under this subtitle.*

6 “(d) *DUTIES.—The Advisory Committee shall—*
 7 *“(1) advise the Secretary on the development and*
 8 *implementation of programs under this subtitle; and*
 9 *“(2) carry out section 999B(e)(2)(B).*

10 “(e) *COMPENSATION.—A member of the Advisory Com-*
 11 *mittee shall serve without compensation but shall be entitled*
 12 *to receive travel expenses in accordance with subchapter I*
 13 *of chapter 57 of title 5, United States Code.*

14 “(f) *PROHIBITION.—The Advisory Committee shall not*
 15 *make recommendations on funding awards to particular*
 16 *consortia or other entities, or for specific projects.”.*

17 “(e) *DEFINITIONS.—Section 999G of the Energy Policy*
 18 *Act of 2005 (42 U.S.C. 16377) is amended—*

19 *(1) in paragraph (1), by striking “200 but less*
 20 *than 1,500 meters” and inserting “500 feet”;*

21 *(2) by striking paragraphs (8), (9), and (10);*

22 *(3) by redesignating paragraphs (2) through (7)*
 23 *and (11) as paragraphs (4) through (9) and (10), re-*
 24 *spectively;*

1 (4) *by inserting after paragraph (1) the fol-*
 2 *lowing:*

3 “(2) *DEEPWATER ARCHITECTURE.*—*The term*
 4 *‘deepwater architecture’ means the integration of tech-*
 5 *nologies for the exploration for, or production of, nat-*
 6 *ural gas or other petroleum resources located at deep-*
 7 *water depths.*

8 “(3) *DEEPWATER TECHNOLOGY.*—*The term*
 9 *‘deepwater technology’ means a discrete technology*
 10 *that is specially suited to address 1 or more chal-*
 11 *lenges associated with the exploration for, or produc-*
 12 *tion of, natural gas or other petroleum resources lo-*
 13 *cated at deepwater depths.’; and*

14 (5) *in paragraph (10) (as redesignated by para-*
 15 *graph (3)), by striking “in an economically inacces-*
 16 *sible geological formation, including resources of*
 17 *small producers”.*

18 (f) *FUNDING.*—*Section 999H of the Energy Policy Act*
 19 *of 2005 (42 U.S.C. 16378) is amended—*

20 (1) *in the first sentence of subsection (a) by*
 21 *striking “Ultra-Deepwater and Unconventional Nat-*
 22 *ural Gas and Other Petroleum Research Fund” and*
 23 *inserting “Safe and Responsible Energy Production*
 24 *Research Fund”;*

25 (2) *in subsection (d)—*

1 (A) in paragraph (1), by striking “35 per-
2 cent” and inserting “21.5 percent”;

3 (B) in paragraph (2), by striking “32.5
4 percent” and inserting “21 percent”;

5 (C) in paragraph (4)—

6 (i) by striking “25 percent” and in-
7 serting “30 percent”;

8 (ii) by striking “complementary re-
9 search” and inserting “safety technology re-
10 search and development”; and

11 (iii) by striking “contract manage-
12 ment,” and all that follows through the pe-
13 riod at the end and inserting “and contract
14 management.”; and

15 (D) by adding at the end the following:

16 “(5) 20 percent shall be used for research activi-
17 ties required under sections 20 and 21 of the Outer
18 Continental Shelf Lands Act (43 U.S.C. 1346,
19 1347).”.

20 (3) in subsection (f), by striking “Ultra-Deep-
21 water and Unconventional Natural Gas and Other
22 Petroleum Research Fund” and inserting “Safer Oil
23 and Gas Production and Accident Prevention Re-
24 search Fund”.

1 (g) *CONFORMING AMENDMENT.*—*Subtitle J of title IX*
 2 *of the Energy Policy Act of 2005 (42 U.S.C. 16371 et seq.)*
 3 *is amended in the subtitle heading by striking “Ultra-*
 4 *Deepwater and Unconventional Natural Gas*
 5 *and Other Petroleum Resources” and inserting*
 6 *“Safer Oil and Gas Production and Accident*
 7 *Prevention”.*

8 *SEC. 10. NATIONAL COMMISSION ON OUTER CONTINENTAL*
 9 *SHELF OIL SPILL PREVENTION.*

10 (a) *ESTABLISHMENT.*—*There is established in the Leg-*
 11 *islative branch the National Commission on Outer Conti-*
 12 *mental Shelf Oil Spill Prevention (referred to in this section*
 13 *as the “Commission”).*

14 (b) *PURPOSES.*—*The purposes of the Commission*
 15 *are—*

16 (1) *to examine and report on the facts and*
 17 *causes relating to the Deepwater Horizon explosion*
 18 *and oil spill of 2010;*

19 (2) *to ascertain, evaluate, and report on the evi-*
 20 *dence developed by all relevant governmental agencies*
 21 *regarding the facts and circumstances surrounding*
 22 *the incident;*

23 (3) *to build upon the investigations of other enti-*
 24 *ties, and avoid unnecessary duplication, by reviewing*
 25 *the findings, conclusions, and recommendations of—*

1 (A) the Committees on Energy and Natural
 2 Resources and Commerce, Science, and Trans-
 3 portation of the Senate;

4 (B) the Committee on Natural Resources
 5 and the Subcommittee on Oversight and Inves-
 6 tigations of the House of Representatives; and

7 (C) other Executive branch, congressional,
 8 or independent commission investigations into
 9 the Deepwater Horizon incident of 2010, other
 10 fatal oil platform accidents and major spills,
 11 and major oil spills generally;

12 (4) to make a full and complete accounting of the
 13 circumstances surrounding the incident, and the ex-
 14 tent of the preparedness of the United States for, and
 15 immediate response of the United States to, the inci-
 16 dent; and

17 (5) to investigate and report to the President
 18 and Congress findings, conclusions, and recommenda-
 19 tions for corrective measures that may be taken to
 20 prevent similar incidents.

21 (c) COMPOSITION OF COMMISSION.—

22 (1) MEMBERS.—The Commission shall be com-
 23 posed of 10 members, of whom—

1 (A) 1 member shall be appointed by the
2 President, who shall serve as Chairperson of the
3 Commission;

4 (B) 1 member shall be appointed by the ma-
5 jority or minority (as the case may be) leader of
6 the Senate from the Republican Party and the
7 majority or minority (as the case may be) leader
8 of the House of Representatives from the Repub-
9 lican Party, who shall serve as Vice Chairperson
10 of the Commission;

11 (C) 2 members shall be appointed by the
12 senior member of the leadership of the Senate
13 from the Democratic Party;

14 (D) 2 members shall be appointed by the
15 senior member of the leadership of the House of
16 Representatives from the Republican Party;

17 (E) 2 members shall be appointed by the
18 senior member of the leadership of the Senate
19 from the Republican Party; and

20 (F) 2 members shall be appointed by the
21 senior member of the leadership of the House of
22 Representatives from the Democratic Party.

23 (2) QUALIFICATIONS; INITIAL MEETING.—

1 (A) *POLITICAL PARTY AFFILIATION.*—Not
2 more than 5 members of the Commission shall be
3 from the same political party.

4 (B) *NONGOVERNMENTAL APPOINTEES.*—An
5 individual appointed to the Commission may
6 not be a current officer or employee of the Fed-
7 eral Government or any State or local govern-
8 ment.

9 (C) *OTHER QUALIFICATIONS.*—It is the
10 sense of Congress that individuals appointed to
11 the Commission should be prominent United
12 States citizens, with national recognition and
13 significant depth of experience and expertise in
14 such areas as—

- 15 (i) engineering;
- 16 (ii) environmental compliance;
- 17 (iii) health and safety law (particu-
18 larly oil spill legislation);
- 19 (iv) oil spill insurance policies;
- 20 (v) public administration;
- 21 (vi) oil and gas exploration and pro-
22 duction;
- 23 (vii) environmental cleanup; and
- 24 (viii) fisheries and wildlife manage-
25 ment.

1 (D) *DEADLINE FOR APPOINTMENT.*—All
 2 members of the Commission shall be appointed
 3 on or before September 15, 2010.

4 (E) *INITIAL MEETING.*—The Commission
 5 shall meet and begin the operations of the Com-
 6 mission as soon as practicable after the date of
 7 enactment of this Act.

8 (3) *QUORUM; VACANCIES.*—

9 (A) *IN GENERAL.*—After the initial meeting
 10 of the Commission, the Commission shall meet
 11 upon the call of the Chairperson or a majority
 12 of the members of the Commission.

13 (B) *QUORUM.*—6 members of the Commis-
 14 sion shall constitute a quorum.

15 (C) *VACANCIES.*—Any vacancy in the Com-
 16 mission shall not affect the powers of the Com-
 17 mission, but shall be filled in the same manner
 18 in which the original appointment was made.

19 (d) *FUNCTIONS OF COMMISSION.*—

20 (1) *IN GENERAL.*—The functions of the Commis-
 21 sion are—

22 (A) *to conduct an investigation that—*

23 (i) *investigates relevant facts and cir-*
 24 *cumstances relating to the Deepwater Hori-*
 25 *zon incident of April 20, 2010, and the as-*

1 *sociated oil spill thereafter, including any*
2 *relevant legislation, Executive order, regula-*
3 *tion, plan, policy, practice, or procedure;*
4 *and*

5 *(ii) may include relevant facts and cir-*
6 *cumstances relating to—*

7 *(I) permitting agencies;*

8 *(II) environmental and worker*
9 *safety law enforcement agencies;*

10 *(III) national energy require-*
11 *ments;*

12 *(IV) deepwater and*
13 *ultradeepwater oil and gas exploration*
14 *and development;*

15 *(V) regulatory specifications, test-*
16 *ing, and requirements for offshore oil*
17 *and gas well explosion prevention;*

18 *(VI) regulatory specifications,*
19 *testing, and requirements offshore oil*
20 *and gas well casing and cementing reg-*
21 *ulation;*

22 *(VII) the role of congressional*
23 *oversight and resource allocation; and*

24 *(VIII) other areas of the public*
25 *and private sectors determined to be*

1 *relevant to the Deepwater Horizon inci-*
2 *dent by the Commission;*

3 *(B) to identify, review, and evaluate the les-*
4 *sons learned from the Deepwater Horizon inci-*
5 *dent of April 20, 2010, regarding the structure,*
6 *coordination, management policies, and proce-*
7 *dures of the Federal Government, and, if appro-*
8 *priate, State and local governments and non-*
9 *governmental entities, and the private sector, rel-*
10 *ative to detecting, preventing, and responding to*
11 *those incidents; and*

12 *(C) to submit to the President and Congress*
13 *such reports as are required under this section*
14 *containing such findings, conclusions, and rec-*
15 *ommendations as the Commission determines to*
16 *be appropriate, including proposals for organiza-*
17 *tion, coordination, planning, management ar-*
18 *rangements, procedures, rules, and regulations.*

19 (2) *RELATIONSHIP TO INQUIRY BY CONGRES-*
20 *SIONAL COMMITTEES.—In investigating facts and cir-*
21 *cumstances relating to energy policy, the Commission*
22 *shall—*

23 *(A) first review the information compiled*
24 *by, and any findings, conclusions, and rec-*
25 *ommendations of, the committees identified in*

1 subparagraphs (A) and (B) of subsection (b)(3);
 2 and

3 (B) after completion of that review, pursue
 4 any appropriate area of inquiry, if the Commis-
 5 sion determines that—

6 (i) those committees have not inves-
 7 tigated that area;

8 (ii) the investigation of that area by
 9 those committees has not been completed; or

10 (iii) new information not reviewed by
 11 the committees has become available with
 12 respect to that area.

13 (e) *POWERS OF COMMISSION.*—

14 (1) *HEARINGS AND EVIDENCE.*—*The Commission*
 15 *or, on the authority of the Commission, any sub-*
 16 *committee or member of the Commission, may, for the*
 17 *purpose of carrying out this section—*

18 (A) *hold such hearings, meet and act at*
 19 *such times and places, take such testimony, re-*
 20 *ceive such evidence, and administer such oaths;*
 21 *and*

22 (B) *require, by subpoena or otherwise, the*
 23 *attendance and testimony of such witnesses and*
 24 *the production of such books, records, correspond-*

1 ence, memoranda, papers, documents, tapes, and
 2 materials;
 3 *as the Commission or such subcommittee or member con-*
 4 *siders to be advisable.*

5 (2) *SUBPOENAS.*—

6 (A) *ISSUANCE.*—

7 (i) *IN GENERAL.*—*A subpoena may be*
 8 *issued under this paragraph only—*

9 (I) *by the agreement of the Chair-*
 10 *person and the Vice Chairperson; or*

11 (II) *by the affirmative vote of 6*
 12 *members of the Commission.*

13 (ii) *SIGNATURE.*—*Subject to clause (i),*
 14 *a subpoena issued under this paragraph—*

15 (I) *shall bear the signature of the*
 16 *Chairperson or any member designated*
 17 *by a majority of the Commission;*

18 (II) *and may be served by any*
 19 *person or class of persons designated*
 20 *by the Chairperson or by a member*
 21 *designated by a majority of the Com-*
 22 *mission for that purpose.*

23 (B) *ENFORCEMENT.*—

24 (i) *IN GENERAL.*—*In the case of contu-*
 25 *macy or failure to obey a subpoena issued*

1 under subparagraph (A), the United States
2 district court for the district in which the
3 subpoenaed person resides, is served, or may
4 be found, or where the subpoena is return-
5 able, may issue an order requiring the per-
6 son to appear at any designated place to
7 testify or to produce documentary or other
8 evidence.

9 (ii) *JUDICIAL ACTION FOR NONCOMPLI-*
10 *ANCE.*—Any failure to obey the order of the
11 court may be punished by the court as a
12 contempt of that court.

13 (iii) *ADDITIONAL ENFORCEMENT.*—In
14 the case of any failure of any witness to
15 comply with any subpoena or to testify
16 when summoned under authority of this
17 subsection, the Commission may, by major-
18 ity vote, certify a statement of fact consti-
19 tuting such failure to the appropriate
20 United States attorney, who may bring the
21 matter before the grand jury for action,
22 under the same statutory authority and
23 procedures as if the United States attorney
24 had received a certification under sections

1 102 through 104 of the Revised Statutes (2
2 U.S.C. 192 through 194).

3 (3) *CONTRACTING.*—*The Commission may, to*
4 *such extent and in such amounts as are provided in*
5 *appropriation Acts, enter into contracts to enable the*
6 *Commission to discharge the duties of the Commission*
7 *under this section.*

8 (4) *INFORMATION FROM FEDERAL AGENCIES.*—

9 (A) *IN GENERAL.*—*The Commission may se-*
10 *cure directly from any Executive department,*
11 *bureau, agency, board, commission, office, inde-*
12 *pendent establishment, or instrumentality of the*
13 *Federal Government, information, suggestions,*
14 *estimates, and statistics for the purposes of this*
15 *section.*

16 (B) *COOPERATION.*—*Each Federal depart-*
17 *ment, bureau, agency, board, commission, office,*
18 *independent establishment, or instrumentality*
19 *shall, to the extent authorized by law, furnish in-*
20 *formation, suggestions, estimates, and statistics*
21 *directly to the Commission, upon request made*
22 *by the Chairperson, the Chairperson of any sub-*
23 *committee created by a majority of the Commis-*
24 *sion, or any member designated by a majority of*
25 *the Commission.*

1 (C) *RECEIPT, HANDLING, STORAGE, AND*
2 *DISSEMINATION.*—*Information shall be received,*
3 *handled, stored, and disseminated only by mem-*
4 *bers of the Commission and the staff of the Com-*
5 *mission in accordance with all applicable laws*
6 *(including regulations and Executive orders).*

7 (5) *ASSISTANCE FROM FEDERAL AGENCIES.*—

8 (A) *GENERAL SERVICES ADMINISTRA-*
9 *TION.*—*The Administrator of General Services*
10 *shall provide to the Commission on a reimburs-*
11 *able basis administrative support and other serv-*
12 *ices for the performance of the functions of the*
13 *Commission.*

14 (B) *OTHER DEPARTMENTS AND AGEN-*
15 *CIES.*—*In addition to the assistance prescribed*
16 *in subparagraph (A), departments and agencies*
17 *of the United States may provide to the Commis-*
18 *sion such services, funds, facilities, staff, and*
19 *other support services as are determined to be*
20 *advisable and authorized by law.*

21 (6) *GIFTS.*—*The Commission may accept, use,*
22 *and dispose of gifts or donations of services or prop-*
23 *erty, including travel, for the direct advancement of*
24 *the functions of the Commission.*

1 (7) *POSTAL SERVICES.*—*The Commission may*
 2 *use the United States mails in the same manner and*
 3 *under the same conditions as departments and agen-*
 4 *cies of the United States.*

5 (f) *PUBLIC MEETINGS AND HEARINGS.*—

6 (1) *PUBLIC MEETINGS AND RELEASE OF PUBLIC*
 7 *VERSIONS OF REPORTS.*—*The Commission shall—*

8 (A) *hold public hearings and meetings, to*
 9 *the extent appropriate; and*

10 (B) *release public versions of the reports re-*
 11 *quired under paragraphs (1) and (2) of sub-*
 12 *section (j).*

13 (2) *PUBLIC HEARINGS.*—*Any public hearings of*
 14 *the Commission shall be conducted in a manner con-*
 15 *sistent with the protection of proprietary or sensitive*
 16 *information provided to or developed for or by the*
 17 *Commission as required by any applicable law (in-*
 18 *cluding a regulation or Executive order).*

19 (g) *STAFF OF COMMISSION.*—

20 (1) *IN GENERAL.*—

21 (A) *APPOINTMENT AND COMPENSATION.*—

22 (i) *IN GENERAL.*—*The Chairperson, in*
 23 *consultation with the Vice Chairperson and*
 24 *in accordance with rules agreed upon by the*
 25 *Commission, may, without regard to the*

1 *civil service laws (including regulations),*
 2 *appoint and fix the compensation of a staff*
 3 *director and such other personnel as are*
 4 *necessary to enable the Commission to carry*
 5 *out the functions of the Commission.*

6 (ii) *MAXIMUM RATE OF PAY.—No rate*
 7 *of pay fixed under this subparagraph may*
 8 *exceed the equivalent of that payable for a*
 9 *position at level V of the Executive Schedule*
 10 *under section 5316 of title 5, United States*
 11 *Code.*

12 (B) *PERSONNEL AS FEDERAL EMPLOY-*
 13 *EES.—*

14 (i) *IN GENERAL.—The staff director*
 15 *and any personnel of the Commission who*
 16 *are employees shall be considered to be em-*
 17 *ployees under section 2105 of title 5, United*
 18 *States Code, for purposes of chapters 63, 81,*
 19 *83, 84, 85, 87, 89, and 90 of that title.*

20 (ii) *MEMBERS OF COMMISSION.—*
 21 *Clause (i) shall not apply to members of the*
 22 *Commission.*

23 (2) *DETAILEES.—*

1 (A) *IN GENERAL.*—*An employee of the Fed-*
 2 *eral Government may be detailed to the Commis-*
 3 *sion without reimbursement.*

4 (B) *CIVIL SERVICE STATUS.*—*The detail of*
 5 *the employee shall be without interruption or*
 6 *loss of civil service status or privilege.*

7 (3) *PROCUREMENT OF TEMPORARY AND INTER-*
 8 *MITTENT SERVICES.*—*The Chairperson of the Com-*
 9 *mission may procure temporary and intermittent*
 10 *services in accordance with section 3109(b) of title 5,*
 11 *United States Code, at rates for individuals that do*
 12 *not exceed the daily equivalent of the annual rate of*
 13 *basic pay prescribed for level V of the Executive*
 14 *Schedule under section 5316 of that title.*

15 (h) *COMPENSATION AND TRAVEL EXPENSES.*—

16 (1) *COMPENSATION OF MEMBERS.*—

17 (A) *NON-FEDERAL EMPLOYEES.*—*A member*
 18 *of the Commission who is not an officer or em-*
 19 *ployee of the Federal Government shall be com-*
 20 *pensated at a rate equal to the daily equivalent*
 21 *of the annual rate of basic pay prescribed for*
 22 *level IV of the Executive Schedule under section*
 23 *5315 of title 5, United States Code, for each day*
 24 *(including travel time) during which the member*

1 *is engaged in the performance of the duties of the*
 2 *Commission.*

3 *(B) FEDERAL EMPLOYEES.—A member of*
 4 *the Commission who is an officer or employee of*
 5 *the Federal Government shall serve without com-*
 6 *ensation in addition to the compensation re-*
 7 *ceived for the services of the member as an officer*
 8 *or employee of the Federal Government.*

9 *(2) TRAVEL EXPENSES.—A member of the Com-*
 10 *mission shall be allowed travel expenses, including*
 11 *per diem in lieu of subsistence, at rates authorized for*
 12 *an employee of an agency under subchapter I of chap-*
 13 *ter 57 of title 5, United States Code, while away from*
 14 *the home or regular place of business of the member*
 15 *in the performance of the duties of the Commission.*

16 *(i) SECURITY CLEARANCES FOR COMMISSION MEM-*
 17 *BERS AND STAFF.—*

18 *(1) IN GENERAL.—Subject to paragraph (2), the*
 19 *appropriate Federal agencies or departments shall co-*
 20 *operate with the Commission in expeditiously pro-*
 21 *viding to the members and staff of the Commission*
 22 *appropriate security clearances, to the maximum ex-*
 23 *tent practicable, pursuant to existing procedures and*
 24 *requirements.*

1 (2) *PROPRIETARY INFORMATION*.—No person
 2 shall be provided with access to proprietary informa-
 3 tion under this section without the appropriate secu-
 4 rity clearances.

5 (j) *REPORTS OF COMMISSION; ADJOURNMENT*.—

6 (1) *INTERIM REPORTS*.—The Commission may
 7 submit to the President and Congress interim reports
 8 containing such findings, conclusions, and rec-
 9 ommendations for corrective measures as have been
 10 agreed to by a majority of members of the Commis-
 11 sion.

12 (2) *FINAL REPORT*.—Not later than 180 days
 13 after the date of the enactment of this Act, the Com-
 14 mission shall submit to the President and Congress a
 15 final report containing such findings, conclusions,
 16 and recommendations for corrective measures as have
 17 been agreed to by a majority of members of the Com-
 18 mission.

19 (3) *TEMPORARY ADJOURNMENT*.—

20 (A) *IN GENERAL*.—The Commission, and all
 21 the authority provided under this section, shall
 22 adjourn and be suspended, respectively, on the
 23 date that is 60 days after the date on which the
 24 final report is submitted under paragraph (2).

1 (B) *ADMINISTRATIVE ACTIVITIES BEFORE*
 2 *TERMINATION.—The Commission may use the*
 3 *60-day period referred to in subparagraph (A)*
 4 *for the purpose of concluding activities of the*
 5 *Commission, including—*

6 (i) *providing testimony to committees*
 7 *of Congress concerning reports of the Com-*
 8 *mission; and*

9 (ii) *disseminating the final report sub-*
 10 *mitted under paragraph (2).*

11 (C) *RECONVENING OF COMMISSION.—The*
 12 *Commission shall stand adjourned until such*
 13 *time as the President or the Secretary of Home-*
 14 *land Security declares an oil spill of national*
 15 *significance to have occurred, at which time—*

16 (i) *the Commission shall reconvene in*
 17 *accordance with subsection (c)(3); and*

18 (ii) *the authority of the Commission*
 19 *under this section shall be of full force and*
 20 *effect.*

21 (k) *FUNDING.—*

22 (1) *AUTHORIZATION OF APPROPRIATIONS.—*
 23 *There are authorized to be appropriated to carry out*
 24 *this section—*

1 (A) \$10,000,000 for the first fiscal year in
2 which the Commission convenes; and

3 (B) \$3,000,000 for each fiscal year there-
4 after in which the Commission convenes.

5 (2) *AVAILABILITY*.—Amounts made available to
6 carry out this section shall be available—

7 (A) for transfer to the Commission for use
8 in carrying out the functions and activities of
9 the Commission under this section; and

10 (B) until the date on which the Commission
11 adjourns for the fiscal year under subsection
12 (j)(3).

13 (l) *NONAPPLICABILITY OF FEDERAL ADVISORY COM-*
14 *MITTEE ACT*.—The Federal Advisory Committee Act (5
15 *U.S.C. App.*) shall not apply to the Commission.

16 **SEC. 11. CLASSIFICATION OF OFFSHORE SYSTEMS.**

17 (a) *REGULATIONS*.—

18 (1) *IN GENERAL*.—Not later than 2 years after
19 the date of enactment of this Act, the Secretary and
20 the Secretary of the Department in which the Coast
21 Guard is operating shall jointly issue regulations re-
22 quiring systems (including existing systems) used in
23 the offshore exploration, development, and production
24 of oil and gas in the outer Continental Shelf to be
25 constructed, maintained, and operated so as to meet

1 *classification, certification, rating, and inspection*
2 *standards that are necessary—*

3 *(A) to protect the health and safety of affili-*
4 *ated workers; and*

5 *(B) to prevent environmental degradation.*

6 *(2) THIRD-PARTY VERIFICATION.—The standards*
7 *established by regulation under paragraph (1) shall*
8 *be verified through certification and classification by*
9 *independent third parties that—*

10 *(A) have been preapproved by both the Sec-*
11 *retary and the Secretary of the Department in*
12 *which the Coast Guard is operating; and*

13 *(B) have no financial conflict of interest in*
14 *conducting the duties of the third parties.*

15 *(3) MINIMUM SYSTEMS COVERED.—At a min-*
16 *imum, the regulations issued under paragraph (1)*
17 *shall require the certification and classification by an*
18 *independent third party who meets the requirements*
19 *of paragraph (2) of—*

20 *(A) mobile offshore drilling units;*

21 *(B) fixed and floating drilling or produc-*
22 *tion facilities;*

23 *(C) drilling systems, including risers and*
24 *blowout preventers; and*

1 (D) any other equipment dedicated to the
 2 safety systems relating to offshore extraction and
 3 production of oil and gas.

4 (4) *EXCEPTIONS.*—The Secretary and the Sec-
 5 retary of the Department in which the Coast Guard
 6 is operating may waive the standards established by
 7 regulation under paragraph (1) for an existing sys-
 8 tem only if—

9 (A) the system is of an age or type where
 10 meeting such requirements is impractical; and

11 (B) the system poses an acceptably low level
 12 of risk to the environment and to human safety.

13 (b) *AUTHORITY OF COAST GUARD.*—Nothing in this
 14 section preempts or interferes with the authority of the
 15 Coast Guard.

16 **SEC. 812. SAVINGS PROVISIONS.**

17 (a) *EXISTING LAW.*—All regulations, rules, stand-
 18 ards, determinations, contracts and agreements, memo-
 19 randa of understanding, certifications, authorizations, ap-
 20 pointments, delegations, results and findings of investiga-
 21 tions, or any other actions issued, made, or taken by, or
 22 pursuant to or under, the authority of any law (including
 23 regulations) that resulted in the assignment of functions
 24 or activities to the Secretary, the Director of the Minerals
 25 Management Service (including by delegation from the

1 Secretary), or the Department (as related to the imple-
2 mentation of the purposes referenced in this Act) that
3 were in effect on the date of enactment of this Act shall
4 continue in full force and effect after the date of enact-
5 ment of this Act unless previously scheduled to expire or
6 until otherwise modified or rescinded by this Act or any
7 other Act.

8 (b) EFFECT ON OTHER AUTHORITIES.—This Act
9 does not amend or alter the provisions of other applicable
10 laws, unless otherwise noted.

11 **SEC. 913. BUDGETARY EFFECTS.**

12 The budgetary effects of this Act, for the purpose of
13 complying with the Statutory Pay-As-You-Go Act of 2010,
14 shall be determined by reference to the latest statement
15 titled “Budgetary Effects of PAYGO Legislation” for this
16 Act, submitted for printing in the Congressional Record
17 by the Chairman of the Senate Budget Committee, pro-
18 vided that such statement has been submitted prior to the
19 vote on passage.

Calendar No. 492

111TH CONGRESS
2^D Session

S. 3516

[Report No. 111-236]

A BILL

To amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, and for other purposes.

JULY 28, 2010

Reported with amendments