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2^D SESSION

S. 3597

To improve the ability of the National Oceanic and Atmospheric Administration, the Coast Guard, and coastal States to sustain healthy ocean and coastal ecosystems by maintaining and sustaining their capabilities relating to oil spill preparedness, prevention, response, restoration, and research, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 15, 2010

Mr. ROCKEFELLER (for himself and Mr. NELSON of Florida) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 17, 2010

Reported by Mr. ROCKEFELLER, with an amendment

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

A BILL

To improve the ability of the National Oceanic and Atmospheric Administration, the Coast Guard, and coastal States to sustain healthy ocean and coastal ecosystems by maintaining and sustaining their capabilities relating to oil spill preparedness, prevention, response, restoration, and research, 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 “Securing Health for Ocean Resources and Environment
 4 Act” or the “SHORE Act”.

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

Sec. 1. Short title; table of contents.

**TITLE I—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRA-
 TION OIL SPILL RESPONSE, CONTAINMENT, AND PREVENTION**

Sec. 101. Improvements to National Oceanic and Atmospheric Administration
 oil spill response, containment, and prevention.

Sec. 102. Use of Oil Spill Liability Trust Fund for expenses of National Oee-
 anic and Atmospheric Administration.

Sec. 103. Investment of amounts in Damage Assessment and Restoration Re-
 volving Fund in interest-bearing obligations.

Sec. 104. Strengthening coastal State oil spill planning and response.

Sec. 105. Gulf of Mexico long-term marine environmental monitoring and re-
 search program.

Sec. 106. Arctic research and action to conduct oil spill prevention.

**TITLE II—IMPROVING COAST GUARD RESPONSE AND
 INSPECTION CAPACITY**

Sec. 201. Secretary defined.

Sec. 202. Arctic maritime readiness and oil spill prevention.

Sec. 203. Response plan update requirement.

Sec. 204. Advance planning and prompt decisionmaking in closing and reopen-
 ing fishing grounds.

Sec. 205. Oil spill technology evaluation.

Sec. 206. Coast Guard inspections.

Sec. 207. Certificate of inspection requirements.

Sec. 208. Navigational measures for protection of natural resources.

Sec. 209. Notice to States of bulk oil transfers.

Sec. 210. Gulf of Mexico Regional Citizens Advisory Council.

Sec. 211. Vessel liability.

Sec. 212. Coast Guard research and development.

Sec. 213. Prompt intergovernmental notice of marine casualties.

Sec. 214. Prompt publication of oil spill information.

TITLE III—OTHER MATTERS RELATING TO OIL SPILLS

Sec. 301. Coordination of Federal and State activities with respect to oil spill
 surveys.

Sec. 302. Coordination between National Oceanic and Atmospheric Administra-
 tion, Coast Guard, and Department of Interior on oil spill mat-
 ters.

Sec. 303. Federal Oil Spill Research Committee.

1 **TITLE I—NATIONAL OCEANIC**
 2 **AND ATMOSPHERIC ADMINIS-**
 3 **TRATION OIL SPILL RE-**
 4 **SPONSE, CONTAINMENT, AND**
 5 **PREVENTION**

6 **SEC. 101. IMPROVEMENTS TO NATIONAL OCEANIC AND AT-**
 7 **MOSPHERIC ADMINISTRATION OIL SPILL RE-**
 8 **SPONSE, CONTAINMENT, AND PREVENTION.**

9 (a) REVIEW OF ABILITY OF NATIONAL OCEANIC AND
 10 ATMOSPHERIC ADMINISTRATION TO RESPOND TO OIL
 11 SPILLS.—

12 (1) COMPREHENSIVE REVIEW REQUIRED.—Not
 13 later than 1 year after the date of the enactment of
 14 this Act, the Under Secretary for Oceans and At-
 15 mosphere shall conduct a comprehensive review of
 16 the current capacity of the National Oceanic and At-
 17 mospheric Administration to respond to oil spills.

18 (2) ELEMENTS.—The review conducted under
 19 paragraph (1) shall include the following:

20 (A) A comparison of oil spill modeling re-
 21 quirements with the state-of-the-art oil spill
 22 modeling with respect to near shore and off-
 23 shore areas.

1 (B) Development of recommendations on
2 priorities for improving forecasting of oil spill,
3 trajectories, and impacts.

4 (C) An inventory of the products and tools
5 of the National Oceanic and Atmospheric Ad-
6 ministration that can aid in assessment of the
7 potential risk and impacts of oil spills. Such
8 products and tools may include environmental
9 sensitivity index maps, the United States Inte-
10 grated Ocean Observing System, and oil spill
11 trajectory models.

12 (D) An identification of the baseline ocean-
13 ographic and climate data required to support
14 state of the art modeling.

15 (E) An assessment of the Administration's
16 ability to respond to the effects of an oil spill
17 on its trust resources, including—

18 (i) marine sanctuaries, monuments,
19 and other protected areas; and

20 (ii) marine mammals, sea turtles, and
21 other protected species, and efforts to re-
22 habilitate such species.

23 (3) REPORT.—Upon completion of the review
24 required by paragraph (1), the Under Secretary
25 shall submit to Congress a report on such review, in-

1 including the findings of the Under Secretary with re-
2 spect to such review.

3 (b) OIL SPILL TRAJECTORY MODELING.—The Under
4 Secretary for Oceans and Atmosphere shall be responsible
5 for developing and maintaining oil spill trajectory mod-
6 eling capabilities for the United States, including taking
7 such actions as may be required by subsections (c)
8 through (g).

9 (c) ENVIRONMENTAL SENSITIVITY INDEX.—

10 (1) UPDATE.—Beginning not later than 180
11 days after the date of the enactment of this Act and
12 not less frequently than once every 7 years there-
13 after, the Under Secretary shall update the environ-
14 mental sensitivity index products of the National
15 Oceanic and Atmospheric Administration for each
16 coastal area of the United States and for each off-
17 shore area of the United States that is leased or
18 under consideration for leasing for offshore energy
19 production.

20 (2) EXPANDED COVERAGE.—Not later than 270
21 days after the date of the enactment of this Act, the
22 Under Secretary shall, to the maximum extent prac-
23 ticable, create an environmental sensitivity index
24 product for each area described in paragraph (1) for
25 which the National Oceanic and Atmospheric Ad-

1 ministration did not have an environmental sensi-
 2 tivity index product on the day before the date of
 3 the enactment of this Act.

4 (3) ENVIRONMENTAL SENSITIVITY INDEX
 5 PRODUCT DEFINED.—In this subsection, the term
 6 “environmental sensitivity index product” means a
 7 map or similar tool that is utilized to identify sen-
 8 sitive shoreline, coastal or offshore, resources prior
 9 to an oil spill event in order to set baseline priorities
 10 for protection and plan cleanup strategies, typically
 11 including information relating to shoreline type, bio-
 12 logical resources, and human use resources.

13 (d) SUBSEA HYDROCARBON REVIEW.—Not later
 14 than 120 days after the date of the enactment of this Act,
 15 the Under Secretary shall conduct a comprehensive review
 16 of the current state of the National Oceanic and Atmos-
 17 pheric Administration to monitor, map, and track subsea
 18 hydrocarbons, including a review of the effect of subsea
 19 hydrocarbons and dispersants at varying concentrations
 20 on living marine resources.

21 (e) NATIONAL INFORMATION CENTER ON OIL
 22 SPILLS.—The Under Secretary shall establish a national
 23 information center on oil spills that—

24 (1) includes scientific information and research
 25 on oil spill preparedness, response, and restoration;

1 (2) serves as a single access point for emer-
 2 gency responders for such scientific data; and

3 ~~(3) provides outreach and utilizes communica-~~
 4 ~~tion mechanisms to inform partners, the public, and~~
 5 ~~local communities about the availability of oil spill~~
 6 ~~preparedness, prevention, response, and restoration~~
 7 ~~information and services and otherwise improves~~
 8 ~~public understanding and minimizes impacts of oil~~
 9 ~~spills.~~

10 (f) INITIATIVE ON OIL SPILLS FROM AGING AND
 11 ABANDONED OIL INFRASTRUCTURE.—Not later than 270
 12 days after the date of the enactment of this Act, the Under
 13 Secretary shall establish an initiative—

14 (1) to determine the significance, response, fre-
 15 quency, size, potential fate, and potential effects, in-
 16 cluding those on sensitive habitats, of oil spills re-
 17 sulting from aging and abandoned oil infrastructure;
 18 and

19 (2) to formulate recommendations on how best
 20 to address such spills.

21 (g) INVENTORY OF OFFSHORE ABANDONED OR
 22 SUNKEN VESSELS.—Not later than 270 days after the
 23 date of the enactment of this Act, the Under Secretary
 24 shall develop an inventory of offshore abandoned or sunk-
 25 en vessels in the exclusive economic zone of the United

1 States and identify priorities (based on amount of oil, fea-
 2 sibility of oil recovery, fate and effects of oil if released,
 3 and cost-benefit of preemptive action) for potential pre-
 4 emptive removal of oil or other actions that may be effec-
 5 tive to mitigate the risk of oil spills from offshore aban-
 6 doned or sunken vessels.

7 **SEC. 102. USE OF OIL SPILL LIABILITY TRUST FUND FOR**
 8 **EXPENSES OF NATIONAL OCEANIC AND AT-**
 9 **MOSPHERIC ADMINISTRATION.**

10 Section 1012(a)(5) of the Oil Pollution Act of 1990
 11 (~~33 U.S.C. 2712(a)(5)~~) is amended—

12 (1) by redesignating subparagraphs (B) and
 13 (C) as subparagraphs (D) and (E), respectively; and

14 (2) by inserting after subparagraph (A) the fol-
 15 lowing:

16 “(B) not more than \$25,000,000 in each
 17 fiscal year shall be available to the Under Sec-
 18 retary for Oceans and Atmosphere without fur-
 19 ther appropriation for expenses incurred by,
 20 and activities related to, preparedness, re-
 21 sponse, restoration, and damage assessment ca-
 22 pabilities of the National Oceanic and Atmos-
 23 pheric Administration;

24 “(C) not more than \$20,000,000 in each
 25 fiscal year shall be available to the Under Sec-

retary for Oceans and Atmosphere for the research and development of technologies identified by the Office of Response and Restoration of the National Oceanic and Atmospheric Administration as beneficial for prevention, removal, and enforcement related to oil discharges;”.

SEC. 103. INVESTMENT OF AMOUNTS IN DAMAGE ASSESSMENT AND RESTORATION REVOLVING FUND IN INTEREST-BEARING OBLIGATIONS.

The Secretary of the Treasury shall invest such a portion of the amounts in the Damage Assessment and Restoration Revolving Fund described in title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1991 (33 U.S.C. 2706 note) as is not required to meet current withdrawals, as determined by the Secretary, in interest-bearing obligations of the United States in accordance with section 9602 of the Internal Revenue Code of 1986.

SEC. 104. STRENGTHENING COASTAL STATE OIL SPILL PLANNING AND RESPONSE.

The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) is amended adding at the end the following new section:

1 **“SEC. 320. STRENGTHENING COASTAL STATE OIL SPILL RE-**
 2 **SPONSE AND PLANNING.**

3 “(a) GRANTS TO STATES.—The Secretary may make
 4 grants to eligible coastal states—

5 “(1) to revise management programs approved
 6 under section 306 and National Estuarine Research
 7 Reserves approved under section 315 to identify and
 8 implement new enforceable policies and procedures
 9 to ensure sufficient response capabilities at the State
 10 level to address the environmental, economic and so-
 11 cial impacts of oil spills or other accidents resulting
 12 from Outer Continental Shelf energy activities with
 13 the potential to affect and land or water use or nat-
 14 ural resource of the coastal zone; and

15 “(2) to review and revise where necessary appli-
 16 cable enforceable policies within approved coastal
 17 State management programs affecting coastal en-
 18 ergy activities and energy to ensure that these poli-
 19 cies are consistent with—

20 “(A) other emergency response plans and
 21 policies developed under Federal or State law;
 22 and

23 “(B) new policies and procedures developed
 24 under paragraph (1).

1 “(b) ELEMENTS.—New enforceable policies and pro-
 2 cedures developed by coastal states with grants awarded
 3 under this section shall consider, but not be limited to—

4 “(1) other existing emergency response plans;
 5 procedures and enforceable policies developed under
 6 other Federal or State law that affect the coastal
 7 zone;

8 “(2) identification of critical infrastructure es-
 9 sential to facilitate spill or accident response activi-
 10 ties;

11 “(3) identification of coordination, logistics and
 12 communication networks between Federal and State
 13 government agencies, and between State agencies
 14 and affected local communities, to ensure the effi-
 15 cient and timely dissemination of data and other in-
 16 formation;

17 “(4) inventories of shore locations and infra-
 18 structure and equipment necessary to respond to oil
 19 spills or other accidents resulting from Outer Conti-
 20 nental Shelf energy activities;

21 “(5) identification and characterization of sig-
 22 nificant or sensitive marine ecosystems or other
 23 areas possessing important conservation, rec-
 24 reational, ecological, historic, or aesthetic values;

1 “(6) inventories and surveys of shore locations
2 and infrastructure capable of supporting alternative
3 energy development; and

4 “(7) other information or actions as may be
5 necessary.

6 “(e) GUIDELINES.—The Secretary shall, within 180
7 days after the date of enactment of this section and after
8 consultation with the coastal states, publish guidelines for
9 the application for and use of grants under this section.

10 “(d) PARTICIPATION.—Coastal states shall provide
11 opportunity for public participation in developing new en-
12 forceable policies and procedures under this section pursu-
13 ant to subsections (d)(1) of (e) of section 306, especially
14 by relevant Federal agencies, other coastal state agencies,
15 local governments, regional organizations, port authori-
16 ties, and other interested parties and stakeholders, public
17 and private, that are related to, or affected by Outer Con-
18 tinental Shelf energy activities.

19 “(e) ANNUAL GRANTS.—

20 “(1) IN GENERAL.—For each of fiscal years
21 2011 through 2015, the Secretary may make a
22 grant to a coastal state to develop new enforceable
23 policies and procedures as required under this sec-
24 tion.

1 ~~“(2) GRANT AMOUNTS AND LIMIT ON~~
2 ~~AWARDS.—The amount of any grant to any one~~
3 ~~coastal state under this section shall not exceed~~
4 ~~\$750,000 for any fiscal year.~~

5 ~~“(3) NO STATE MATCHING CONTRIBUTION RE-~~
6 ~~QUIRED.—A coastal state shall not be required to~~
7 ~~contribute any portion of the cost of a grant award-~~
8 ~~ed under this section.~~

9 ~~“(4) SECRETARIAL REVIEW AND LIMIT ON~~
10 ~~AWARDS.—After an initial grant is made to a coastal~~
11 ~~state under this section, no subsequent grant may be~~
12 ~~made to that coastal state under this section unless~~
13 ~~the Secretary finds that the coastal state is satisfac-~~
14 ~~torily developing revisions to address offshore energy~~
15 ~~impacts. No coastal state is eligible to receive grants~~
16 ~~under this section for more than 2 fiscal years.~~

17 ~~“(f) APPLICABILITY.—The requirements of this sec-~~
18 ~~tion shall only apply if appropriations are provided to the~~
19 ~~Secretary to make grants under this section to enable~~
20 ~~States to develop new or revised enforceable policies and~~
21 ~~procedures. Further, this section shall not be construed~~
22 ~~to convey any new authority to any coastal state, or repeal~~
23 ~~or supersede any existing authority of any coastal state,~~
24 ~~to regulate the siting, licensing, leasing, or permitting of~~
25 ~~alternative energy facilities in areas of the Outer Conti-~~

1 mental Shelf under the administration of the Federal Gov-
 2 ernment. Nothing in this section repeals or supersedes any
 3 existing coastal state authority.

4 “(g) ASSISTANCE BY THE SECRETARY.—The Sec-
 5 retary shall, as authorized under section 310(a) and to
 6 the extent practicable, make available to coastal states the
 7 resources and capabilities of the National Oceanic and At-
 8 mospheric Administration to provide technical assistance
 9 to the coastal states to prepare revisions to approved man-
 10 agement programs to meet the requirements under this
 11 section.”.

12 **SEC. 105. GULF OF MEXICO LONG-TERM MARINE ENVIRON-**
 13 **MENTAL MONITORING AND RESEARCH PRO-**
 14 **GRAM.**

15 (a) ENVIRONMENTAL MONITORING AND RESEARCH
 16 PROGRAM REQUIRED.—

17 (1) IN GENERAL.—As soon as practicable after
 18 the date of the enactment of this Act and subject to
 19 the availability of appropriations or other sources of
 20 funding, the Secretary shall, acting through the
 21 Under Secretary for Oceans and Atmosphere, estab-
 22 lish and carry out a long-term marine environmental
 23 monitoring and research program for the marine
 24 and coastal environment of the Gulf of Mexico to en-
 25 sure that the Federal Government has independent,

1 peer-reviewed scientific data and information to as-
2 sess long-term direct and indirect impacts on trust
3 resources located in the Gulf of Mexico and South-
4 east region resulting from the oil spill caused by the
5 mobile offshore drilling unit Deepwater Horizon.

6 ~~(2) PERIOD OF PROGRAM.—~~The Secretary shall
7 carry out the program required by paragraph ~~(1)~~
8 during the 10-year period beginning on the date of
9 the commencement of the program. The Secretary
10 may extend such period upon a determination by the
11 Secretary that additional monitoring and research is
12 warranted.

13 ~~(b) SCOPE OF PROGRAM.—~~The program established
14 under subsection ~~(a)~~ shall include the following:

15 ~~(1) Monitoring and research of the physical,~~
16 ~~chemical, and biological characteristics of the af-~~
17 ~~ected marine, coastal, and estuarine areas of the~~
18 ~~Gulf of Mexico and other regions of the exclusive~~
19 ~~economic zone of the United States and adjacent re-~~
20 ~~gions affected by the oil spill caused by the mobile~~
21 ~~offshore drilling unit Deepwater Horizon.~~

22 ~~(2) The fate, transport, and persistence of oil~~
23 ~~released during the spill and spatial distribution~~
24 ~~throughout the water column, including in-situ burn~~
25 ~~residues.~~

1 ~~(3) The fate, transport, and persistence of~~
 2 ~~chemical dispersants applied in-situ or on surface~~
 3 ~~waters.~~

4 ~~(4) Identification of lethal and sub-lethal im-~~
 5 ~~pacts to shellfish, fish, and wildlife resources that~~
 6 ~~utilize habitats located within the affected region.~~

7 ~~(5) Impacts to regional, State, and local econo-~~
 8 ~~mies that depend on the natural resources of the af-~~
 9 ~~ected area, including commercial and recreational~~
 10 ~~fisheries, tourism, and other wildlife-dependent~~
 11 ~~recreation.~~

12 ~~(6) Other elements considered necessary by the~~
 13 ~~Secretary to ensure a comprehensive marine re-~~
 14 ~~search and monitoring program to comprehend and~~
 15 ~~understand the implications to trust resources~~
 16 ~~caused by the oil spill from the mobile offshore drill-~~
 17 ~~ing unit Deepwater Horizon.~~

18 ~~(c) COOPERATION AND CONSULTATION.—In devel-~~
 19 ~~oping the research and monitoring program established~~
 20 ~~under subsection (a), the Secretary shall—~~

21 ~~(1) coordinate with the United States Geologi-~~
 22 ~~cal Survey; and~~

23 ~~(2) consult with—~~

1 (A) the National Ocean Research Leader-
2 ship Council established under section 7902 of
3 title 10, United States Code;

4 (B) such representatives from the Gulf
5 coast States and affected countries as the Sec-
6 retary considers appropriate;

7 (C) academic institutions and other re-
8 search organizations; and

9 (D) such other experts with expertise in
10 long-term environmental monitoring and re-
11 search of the marine environment as the Sec-
12 retary considers appropriate.

13 (d) AVAILABILITY OF DATA.—Upon review by and
14 approval of the Attorney General regarding impacts on
15 legal claims or litigation involving the United States, data
16 and information generated through the program estab-
17 lished under subsection (a) shall be managed and archived
18 to ensure that it is accessible and available to govern-
19 mental and non-governmental personnel and to the gen-
20 eral public for their use and information.

21 (e) REPORT.—Not later than 1 year after the date
22 of the commencement of the program under subsection (a)
23 and biennially thereafter, the Secretary shall submit to
24 Congress a comprehensive report—

1 (1) summarizing the activities and findings of
2 the program; and

3 (2) detailing areas and issues requiring future
4 monitoring and research.

5 (f) DEFINITIONS.—In this section:

6 (1) GULF COAST STATE.—The term “Gulf coast
7 State” means each of the States of Texas, Lou-
8 isiana, Mississippi, Alabama, and Florida.

9 (2) SECRETARY.—The term “Secretary” means
10 the Secretary of Commerce.

11 (3) TRUST RESOURCES.—The term “trust re-
12 sources” means the living and non-living natural re-
13 sources belonging to, managed by, held in trust by,
14 appertaining to, or otherwise controlled by the
15 United States, any State, an Indian Tribe, or a local
16 government.

17 **SEC. 106. ARCTIC RESEARCH AND ACTION TO CONDUCT OIL**
18 **SPILL PREVENTION.**

19 (a) IN GENERAL.—The Secretary of Commerce shall,
20 acting through the Under Secretary for Oceans and At-
21 mosphere and in collaboration with the heads of other
22 agencies or departments of the United States with appro-
23 priate Arctic science expertise, direct research and take
24 action to improve the ability of the United States to con-

1 duct oil spill prevention, response, and recovery in Arctic
2 waters.

3 (b) INCLUSIONS.—Research and action under this
4 section shall include the prioritization of resources—

5 (1) to address—

6 (A) ecological baselines and environmental
7 sensitivity indexes, including stock assessments
8 of marine mammals and other protected species
9 in the Arctic;

10 (B) identification of ecological important
11 areas, sensitive habitats, and migratory behav-
12 iors;

13 (C) the development of oil spill trajectory
14 models in Arctic marine conditions;

15 (D) the collection of observational data es-
16 sential for response strategies in the event of an
17 oil spill during both open water and ice-covered
18 seasons, including data relating to oil spill tra-
19 jectory models that include data on—

20 (i) currents;

21 (ii) winds;

22 (iii) weather;

23 (iv) waves; and

24 (v) ice forecasting;

1 (E) the development of a robust oper-
 2 ational monitoring program during the open
 3 water and ice-covered seasons;

4 (F) improvements in technologies and un-
 5 derstanding of cold water oil recovery planning
 6 and restoration implementation; and

7 (G) the integration of local and traditional
 8 knowledge into oil recovery research studies;
 9 and

10 (2) to establish a robust geospatial framework
 11 for safe navigation and oil spill response through in-
 12 creased—

13 (A) hydrographic and bathymetric sur-
 14 veying; mapping; and navigational charting;

15 (B) geodetic positioning; and

16 (C) monitoring of tides, sea levels; and cur-
 17 rents in the Arctic.

18 **TITLE II—IMPROVING COAST** 19 **GUARD RESPONSE AND IN-** 20 **SPECTION CAPACITY**

21 **SEC. 201. SECRETARY DEFINED.**

22 In this title, except as otherwise specifically provided;
 23 the term “Secretary” means the Secretary of the Sec-
 24 retary of the Department in which the Coast Guard is op-
 25 erating.

1 **SEC. 202. ARCTIC MARITIME READINESS AND OIL SPILL**
2 **PREVENTION.**

3 (a) ~~IN GENERAL.~~—The Commandant of the Coast
4 Guard shall assess and take action to reduce the risk and
5 improve the capability of the United States to respond to
6 a maritime disaster in the United States Beaufort and
7 Chukchi Seas.

8 (b) ~~MATTERS TO BE ADDRESSED.~~—The assessment
9 and actions referred to in subsection (a) shall include the
10 prioritization of resources to address the following:

11 (1) ~~Oil spill prevention and response capabilities~~
12 ~~and infrastructure.~~

13 (2) ~~The coordination of contingency plans and~~
14 ~~agreements with other agencies and departments of~~
15 ~~the United States, industry, and foreign govern-~~
16 ~~ments to respond to an Arctic oil spill.~~

17 (3) ~~The expansion of search and rescue capa-~~
18 ~~bilities, infrastructure, and logistics, including im-~~
19 ~~provements of the Search and Rescue Optimal Plan-~~
20 ~~ning System.~~

21 (4) ~~The provisional designation of places of ref-~~
22 ~~uge.~~

23 (5) ~~The evaluation and enhancement of naviga-~~
24 ~~tional infrastructure.~~

25 (6) ~~The evaluation and enhancement of vessel~~
26 ~~monitoring, tracking, and automated identification~~

1 systems and navigational aids and communications
 2 infrastructure for safe navigation and marine acci-
 3 dent prevention in the Arctic.

4 (7) Shipping traffic risk assessments for the
 5 Bering Strait and the Chukchi and Beaufort Seas.

6 (8) The integration of local and traditional
 7 knowledge and concerns into prevention and re-
 8 sponse strategies.

9 **SEC. 203. RESPONSE PLAN UPDATE REQUIREMENT.**

10 (a) IN GENERAL.—The Secretary shall require all re-
 11 sponse plans approved by the Coast Guard under section
 12 311(j) of the Federal Water Pollution Control Act (33
 13 U.S.C. 1321(j)) to be updated not less often than once
 14 every five years.

15 (b) BEST AVAILABLE TECHNOLOGY.—Each response
 16 plan update required by subsection (a) shall utilize the
 17 best commercially available technology and methods to
 18 contain and remove to the maximum extent practicable a
 19 worst case discharge (including a discharge resulting from
 20 fire or explosion), and to mitigate or prevent a substantial
 21 threat of such a discharge.

22 (c) TECHNOLOGY STANDARDS.—The Coast Guard
 23 may establish requirements and guidance for utilizing the
 24 best commercially available technology and methods;

1 which shall be based on performance metrics and stand-
 2 ards whenever practicable.

3 (d) RESUBMISSION.—Each update required by sub-
 4 section (a) shall be considered a significant change requir-
 5 ing it to be resubmitted for approval by the Coast Guard.

6 **SEC. 204. ADVANCE PLANNING AND PROMPT DECISION-**
 7 **MAKING IN CLOSING AND REOPENING FISH-**
 8 **ING GROUNDS.**

9 (a) REQUIREMENT THAT AREA CONTINGENCY
 10 PLANS CONTAIN AREA-SPECIFIC PROTOCOLS AND
 11 STANDARDS.—

12 (1) COOPERATION WITH STATE AND LOCAL OF-
 13 FICIALS.—Section 311(j)(4)(B)(ii) of the Federal
 14 Water Pollution Control Act (33 U.S.C.
 15 1321(j)(4)(B)(ii)) is amended by striking the semi-
 16 colon after “wildlife” and inserting a comma and
 17 “including advance planning with respect to the clos-
 18 ing and reopening of fishing grounds following an oil
 19 spill,”.

20 (2) FRAMEWORK.—Section 311(j)(4)(C) of the
 21 Federal Water Pollution Control Act (33 U.S.C.
 22 1321(j)(4)(C)) is amended—

23 (A) by redesignating clauses (vii) and (viii)
 24 as clauses (viii) and (ix), respectively; and

1 ~~(B)~~ by inserting after clause ~~(vi)~~ the fol-
 2 lowing:

3 ~~“(vii) develop a framework for ad-~~
 4 vance planning and decisionmaking with
 5 respect to the closing and reopening of
 6 fishing grounds following an oil spill, in-
 7 cluding protocols and standards for the
 8 closing and reopening of fishing areas;”.

9 ~~(b)~~ NATIONAL GUIDANCE.—Section ~~311(j)(4)(D)~~ of
 10 the Federal Water Pollution Control Act (~~33 U.S.C.~~
 11 ~~1321(j)(4)(D)~~) is amended—

12 ~~(1)~~ in clause ~~(i)~~ by striking “and” at the end;

13 ~~(2)~~ in clause ~~(ii)~~ by striking the period and in-
 14 serting “; and”; and

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

16 ~~“(iii) acting through the Commandant~~
 17 of the Coast Guard and in consultation
 18 with the Under Secretary for Oceans and
 19 Atmosphere and any other government en-
 20 tities deemed appropriate, issue guidancee
 21 for Area Committees to use in developing
 22 a framework for advance planning and de-
 23 cisionmaking with respect to the closing
 24 and reopening of fishing grounds following
 25 an oil spill, which guidance shall include

1 model protocols and standards for the clos-
2 ing and reopening of fishing areas.”.

3 **SEC. 205. OIL SPILL TECHNOLOGY EVALUATION.**

4 (a) **IN GENERAL.**—The Secretary shall establish a
5 program for the formal evaluation and validation of oil
6 pollution containment and removal methods and tech-
7 nologies.

8 (b) **APPROVAL.**—The program required by subsection
9 (a) shall establish a process for new methods and tech-
10 nologies to be submitted, evaluated, and gain validation
11 for use in spill responses and inclusion in response plans.
12 Following each validation, the Secretary shall consider
13 whether the method or technology meets a performance
14 capability warranting designation of a new standard for
15 best available technology or methods.

16 (c) **TECHNOLOGY CLEARINGHOUSE.**—All tech-
17 nologies and methods validated under this section shall be
18 included in the comprehensive list of spill removal re-
19 sources maintained by the Coast Guard through the Na-
20 tional Response Unit.

21 (d) **CONSULTATION.**—The Secretary shall consult
22 with the Secretary of the Interior, the Under Secretary
23 for Oceans and Atmosphere, the Administrator of the En-
24 vironmental Protection Agency, and the Secretary of
25 Transportation in carrying out this section.

1 **SEC. 206. COAST GUARD INSPECTIONS.**

2 (a) IN GENERAL.—The Secretary shall increase the
 3 frequency and comprehensiveness of safety inspections of
 4 all United States and foreign-flag tank vessels that enter
 5 a United States port or place, including increasing the fre-
 6 quency and comprehensiveness of inspections of vessel age,
 7 hull configuration, and past violations of any applicable
 8 discharge and safety regulations under United States and
 9 international law that may indicate that the class societies
 10 inspecting such vessels may be substandard, and other fac-
 11 tors relevant to the potential risk of an oil spill.

12 (b) ENHANCED VERIFICATION OF STRUCTURAL CON-
 13 DITION.—The Secretary shall adopt, as part of the Sec-
 14 retary's inspection requirements for tank vessels, addi-
 15 tional procedures for enhancing the verification of the re-
 16 ported structural condition of such vessels, taking into ac-
 17 count the Condition Assessment Scheme adopted by the
 18 International Maritime Organization by Resolution 94(46)
 19 on April 27, 2001.

20 **SEC. 207. CERTIFICATE OF INSPECTION REQUIREMENTS.**

21 Chapter 33 of title 46, United States Code, is amend-
 22 ed—

23 (1) in section 3301, by adding at the end the
 24 following:

25 “(16) vessels and other structures, fixed or
 26 floating, including those which dynamically hold po-

sition or are attached to the seabed or subsoil, which are capable of exploring for, drilling for, developing, or producing oil or gas.”; and

(2) in section 3305(a)(1)—

(A) by amending subparagraph (E) to read as follows:

“(E) is in a condition to be operated with safety to life and property, which including the operation of systems used for the capabilities described in paragraph (16) of section 3301, including—

“(i) drilling systems, including risers and blow out preventers; and

“(ii) production systems, if so equipped;”;

(B) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(C) by adding the following:

“(G) for vessels and other structures described in paragraph (16) of section 3301 (including the systems used for the capabilities described in paragraph (16) of section 3301); complies with the highest classification, certification, rating, and inspection standards for ves-

1 sels or structures of the same age and type im-
2 posed by—

3 “(i) the American Bureau of Ship-
4 ping; or

5 “(ii) another classification society ap-
6 proved by the Secretary as meeting accept-
7 able standards for such a society, except
8 that the classification of vessels or struc-
9 tures under this section by a foreign classi-
10 fication society may be accepted by the
11 Secretary only—

12 “(I) to the extent that the gov-
13 ernment of the foreign country in
14 which the society is headquartered ac-
15 cepts classification by the American
16 Bureau of Shipping of vessels and
17 structures used in the offshore explo-
18 ration, development, and production
19 of oil and gas in that country; and

20 “(II) if the foreign classification
21 society has offices and maintains
22 records in the United States.”.

1 **SEC. 208. NAVIGATIONAL MEASURES FOR PROTECTION OF**
 2 **NATURAL RESOURCES.**

3 (a) **DESIGNATION OF AT-RISK AREAS.**—The Com-
 4 mandant of the Coast Guard, in consultation the Under
 5 Secretary for Oceans and Atmosphere, shall identify areas
 6 in waters subject to the jurisdiction of the United States
 7 in which routing or other navigational measures are war-
 8 ranted to reduce the risk of oil spills and potential damage
 9 to natural resources. In identifying such areas, the Com-
 10 mandant shall give priority consideration to natural re-
 11 sources of particular ecological importance or economic
 12 importance, including—

- 13 (1) commercial fisheries;
- 14 (2) aquaculture facilities;
- 15 (3) marine sanctuaries designated by the Sec-
 16 retary of Commerce pursuant to the National Ma-
 17 rine Sanctuaries Act (16 U.S.C. 1431 et seq.);
- 18 (4) estuaries of national significance designated
 19 under section 320 of the Federal Water Pollution
 20 Control Act (33 U.S.C. 1330);
- 21 (5) critical habitat, as defined in section 3(5) of
 22 the Endangered Species Act of 1973 (16 U.S.C.
 23 1532(5));
- 24 (6) estuarine research reserves within the Na-
 25 tional Estuarine Research Reserve System estab-

1 lished by section 315 of the Coastal Zone Manage-
 2 ment Act of 1972 (16 U.S.C. 1461); and

3 ~~(7) national parks and national seashores ad-~~
 4 ministered by the National Park Service under the
 5 National Park Service Organic Act (16 U.S.C. 1 et
 6 seq.).

7 (b) FACTORS CONSIDERED.—In determining whether
 8 navigational measures are warranted for an area under
 9 subsection (a), the Commandant and the Under Secretary
 10 for Oceans and Atmosphere shall consider, at a min-
 11 imum—

12 ~~(1) the frequency of transits of vessels which~~
 13 are required to prepare a response plan under sec-
 14 tion 311(j) of the Federal Water Pollution Control
 15 Act ~~(33 U.S.C. 1321(j))~~;

16 ~~(2) the type and quantity of oil transported as~~
 17 cargo or fuel;

18 ~~(3) the expected benefits of routing measures in~~
 19 reducing risks of spills;

20 ~~(4) the costs of such measures;~~

21 ~~(5) the safety implications of such measures;~~

22 and

23 ~~(6) the nature and value of the resources to be~~
 24 protected by such measures.

1 (c) ESTABLISHMENT OF ROUTING AND OTHER NAVI-
 2 GATIONAL MEASURES.—The Commandant shall establish
 3 such routing or other navigational measures for areas
 4 identified under subsection (a).

5 (d) ESTABLISHMENT OF AREAS TO BE AVOIDED.—
 6 To the extent that the Commandant and the Under Sec-
 7 retary for Oceans and Atmosphere identify areas in which
 8 navigational measures are warranted for an area under
 9 subsection (a), the Secretary and the Under Secretary
 10 shall seek to establish such areas through the Inter-
 11 national Maritime Organization or establish comparable
 12 areas pursuant to regulations and in a manner that is con-
 13 sistent with international law.

14 (e) OIL SHIPMENT DATA AND REPORT.—

15 (1) DATA COLLECTION.—The Commandant of
 16 the Coast Guard, in consultation with the Chief of
 17 Engineers, shall analyze data on oil transported as
 18 cargo on vessels in the navigable waters of the
 19 United States, including information on—

20 (A) the quantity and type of oil being
 21 transported;

22 (B) the vessels used for such transpor-
 23 tation;

24 (C) the frequency with which each type of
 25 oil is being transported; and

1 ~~(D)~~ the point of origin, transit route, and
 2 destination of each such shipment of oil.

3 ~~(2) QUARTERLY REPORT.—~~

4 ~~(A) REQUIREMENT FOR QUARTERLY RE-~~
 5 ~~PORT.—~~The Secretary shall, not less frequently
 6 than once each calendar quarter, submit to the
 7 Committee on Commerce, Science, and Trans-
 8 portation of the Senate and the Committee on
 9 Energy and Commerce of the House of Rep-
 10 resentatives a report on the data collected and
 11 analyzed under paragraph (1).

12 ~~(B) FORMAT.—~~Each report submitted
 13 under subparagraph (A) shall be submitted in
 14 a format that does not disclose information ex-
 15 empted from disclosure.

16 **SEC. 209. NOTICE TO STATES OF BULK OIL TRANSFERS.**

17 ~~(a) IN GENERAL.—~~A State may, by law, require a
 18 person to provide notice of 24 hours or more to the State
 19 and to the Coast Guard prior to transferring oil in bulk
 20 as cargo in an amount equivalent to 250 barrels or more
 21 to, from, or within a vessel in State waters.

22 ~~(b) COAST GUARD ASSISTANCE.—~~The Commandant
 23 of the Coast Guard may assist a State in developing ap-
 24 propriate methodologies for joint Federal and State notifi-

1 cation of an oil transfer described in subsection (a) to min-
 2 imize any potential burden to vessels.

3 **SEC. 210. GULF OF MEXICO REGIONAL CITIZENS ADVISORY**
 4 **COUNCIL.**

5 (a) IN GENERAL.—Subtitle A of title IV of the Oil
 6 Pollution Act of 1990 is amended by inserting after sec-
 7 tion 4118 (33 U.S.C. 1203 note) the following:

8 **“SEC. 4119. GULF OF MEXICO REGIONAL CITIZENS’ ADVI-**
 9 **SORY COUNCIL.**

10 **“(a) ESTABLISHMENT.**—There is established a Gulf
 11 of Mexico Regional Citizens’ Advisory Council (referred to
 12 in this section as the ‘Council’).

13 **“(b) MEMBERSHIP.**—The Council shall be composed
 14 of voting members and nonvoting members, as follows:

15 **“(1) VOTING MEMBERS.**—Each of the States of
 16 Alabama, Florida, Louisiana, Mississippi, and Texas
 17 shall each have 6 voting members on the Council
 18 who shall be residents of the State and appointed by
 19 the Governor of the State from a list of nominees
 20 provided by each of the following interests in the
 21 State, such that each interest in each State is rep-
 22 resented by a voting member:

23 **“(A) Commercial fin fish and shellfish in-**
 24 **dustry.**

25 **“(B) Charter fishing industry.**

1 ~~“(C) Restaurant, hotel, and tourism indus-~~
 2 ~~tries.~~

3 ~~“(D) Indigenous peoples communities.~~

4 ~~“(E) Marine and coastal conservation com-~~
 5 ~~munity.~~

6 ~~“(F) Incorporated and unincorporated mu-~~
 7 ~~nicipalities.~~

8 ~~“(2) NONVOTING MEMBERS.—One ex-officio,~~
 9 ~~nonvoting representative shall be designated by, and~~
 10 ~~represent, each of the following:~~

11 ~~“(A) The Coast Guard.~~

12 ~~“(B) The Environmental Protection Agen-~~
 13 ~~cy.~~

14 ~~“(C) The National Oceanic and Atmos-~~
 15 ~~spheric Administration.~~

16 ~~“(D) The Bureau of Ocean Energy Man-~~
 17 ~~agement, Regulation and Enforcement.~~

18 ~~“(E) The lead maritime environmental and~~
 19 ~~natural resources management and enforcement~~
 20 ~~agency from each of the States of Alabama,~~
 21 ~~Florida, Louisiana, Mississippi, and Texas.~~

22 ~~“(c) TERMS.—~~

23 ~~“(1) IN GENERAL.—The voting members of the~~
 24 ~~Council shall be appointed for a term of 3 years.~~

1 “(2) INITIAL APPOINTMENTS.—For the terms
2 of the group of first appointments of voting mem-
3 bers to the Council, a drawing of lots among the ap-
4 pointees shall be conducted under which—

5 “(A) $\frac{1}{3}$ of that group shall serve for 3
6 years;

7 “(B) $\frac{1}{3}$ of that group shall serve for 2
8 years; and

9 “(C) the remainder of that group shall
10 serve for 1 year.

11 “(3) DURATION OF COUNCIL.—The duration of
12 the Council shall be throughout the lifetime of en-
13 ergy development, transportation, and facility re-
14 moval activities in the Gulf of Mexico.

15 “(d) ADMINISTRATION.—

16 “(1) IN GENERAL.—The Council shall—

17 “(A) elect a chairperson;

18 “(B) select staff; and

19 “(C) make policies with regard to internal
20 operating procedures.

21 “(2) SELF-GOVERNANCE.—After the initial or-
22 ganizational meeting hosted by the Secretary of the
23 department in which the Coast Guard is operating,
24 the Council shall be self-governing.

25 “(3) TRANSPARENCY.—The Council shall—

1 “(A) conduct the operations of the Council
2 in public, to the maximum extent practicable;
3 and

4 “(B) make the work products the Council
5 adopts available to the public.

6 “(4) CONFLICTS OF INTEREST.—An individual
7 selected as a voting member of the Council may not
8 engage in any activity that may conflict with the
9 execution of the functions or duties of the individual
10 as a Council member.

11 “(e) DUTIES.—

12 “(1) IN GENERAL.—The Council shall, with re-
13 gard to facilities and tank vessels in, and on the
14 coast of, the Gulf of Mexico—

15 “(A) with regard to facilities and tank ves-
16 sels in, and on the coast of, the Gulf of Mex-
17 ico—

18 “(i) provide comprehensive oversight
19 and monitoring of policies, permits, and
20 regulations relating to the activities, oper-
21 ation, and maintenance of the facilities and
22 tank vessels;

23 “(ii) monitor the environmental im-
24 pacts of the operation of the facilities and
25 tank vessels;

1 “(iii) monitor oil spill prevention and
 2 response plans, including plans relating to
 3 blowout prevention and response, for the
 4 facilities and tank vessels; and

5 “(iv) recommend standards and condi-
 6 tions for regulations intended to ensure the
 7 safe and environmentally sound operation
 8 and maintenance of the facilities and tank
 9 vessels;

10 “(B) provide recommendations for, and
 11 otherwise assist, any oil spill recovery or spill
 12 research institute established for the Gulf of
 13 Mexico; and

14 “(C) conduct such other activities within
 15 the authority and scope of the Council as the
 16 Council considers appropriate.

17 “(2) GEOGRAPHIC SCOPE.—The Council shall
 18 carry out the duties described in paragraph (1) in a
 19 manner that, to the maximum extent practicable,
 20 covers all activities of facilities and tank vessels oc-
 21 curring in the Gulf of Mexico.

22 “(f) STANDING COMMITTEES.—The Council may cre-
 23 ate standing committees as necessary to carry out the du-
 24 ties described in subsection (e), including—

25 “(1) a scientific and technical committee;

1 ~~“(2) an environmental monitoring committee;~~

2 ~~“(3) an oil spill prevention and response com-~~
3 ~~mittee;~~

4 ~~“(4) an offshore committee for monitoring ac-~~
5 ~~tivities in water that is more than 500 feet in depth;~~

6 ~~“(5) a near-shore committee for monitoring ac-~~
7 ~~tivities in water that is 500 feet or less in depth;~~

8 ~~“(6) an information and education committee;~~
9 ~~and~~

10 ~~“(7) a committee on social impact assessments:~~
11 ~~prevention, mitigation and response.~~

12 ~~“(g) TEMPORARY COMMITTEES.—~~

13 ~~“(1) IN GENERAL.—In addition to the standing~~
14 ~~committees authorized to be created in subsection~~
15 ~~(f), the Council may create temporary committees as~~
16 ~~necessary to carry out the duties of the Council re-~~
17 ~~lating to—~~

18 ~~“(A) the blowout and explosion of the mo-~~
19 ~~bile offshore drilling unit Deepwater Horizon~~
20 ~~that occurred on April 20, 2010; and~~

21 ~~“(B) the resulting hydrocarbon releases~~
22 ~~into the environment, including temporary com-~~
23 ~~mittees relating to—~~

24 ~~“(i) public and occupational health;~~
25 ~~and~~

1 ~~“(ii) assessment and monitoring of en-~~
 2 ~~vironmental, social and economic impacts.~~

3 ~~“(2) DISSOLUTION.—If a 2/3 majority of the~~
 4 ~~Council votes to discontinue activities relating to the~~
 5 ~~incidents described in paragraph (1), any temporary~~
 6 ~~committee established under paragraph (1) shall dis-~~
 7 ~~solve within 60 days after the date of the vote.~~

8 ~~“(h) ESTOPPEL.—~~

9 ~~“(1) IN GENERAL.—The Council shall not be~~
 10 ~~liable under Federal or State law for costs or dam-~~
 11 ~~ages as a result of rendering recommendations under~~
 12 ~~this section.~~

13 ~~“(2) ADVICE.—Any advice given by a voting~~
 14 ~~member of the Council, or by a program representa-~~
 15 ~~tive or agent, shall not be grounds for estopping~~
 16 ~~those interests represented by the voting Council~~
 17 ~~members from seeking damages or other appropriate~~
 18 ~~relief.~~

19 ~~“(i) INFORMATION FROM FEDERAL AGENCIES AND~~
 20 ~~INDUSTRY.—~~

21 ~~“(1) IN GENERAL.—The Council may request~~
 22 ~~directly from any Federal agency (as defined in sec-~~
 23 ~~tion 1004 of the Solid Waste Disposal Act (42~~
 24 ~~U.S.C. 6903)) (referred to in this section as a ‘Fed-~~

1 eral agency') information, suggestions, estimates,
2 and statistics for the purposes of this section.

3 ~~“(2) AGENCY COOPERATION.—~~

4 ~~“(A) IN GENERAL.—Effective beginning~~
5 180 days after the date of enactment of this
6 section, each Federal agency shall, with respect
7 to all permits, site-specific regulations, and
8 other matters governing the activities and ac-
9 tions within the purview of the Council, consult
10 with the Council prior to taking substantive ac-
11 tion with respect to the permit, site-specific reg-
12 ulation, or other matter.

13 ~~“(B) REVIEW.—The consultation shall be~~
14 carried out in a manner that enables the Coun-
15 cil—

16 ~~“(i) to review the permit, site-specific~~
17 regulation, or other matters; and

18 ~~“(ii) to make appropriate recommen-~~
19 dations regarding operations, policy, or
20 agency actions.

21 ~~“(C) EMERGENCIES.—Prior consultation~~
22 shall not be required under this paragraph if an
23 authorized Federal agency representative rea-
24 sonably believes that an emergency exists re-
25 quiring action without delay.

1 “(D) INFORMATION.—Each Federal agen-
 2 cy shall, on the request of the Council, to the
 3 extent authorized by law, furnish information,
 4 suggestions, estimates, and statistics directly to
 5 the Council.

6 “(3) ACCESS.—The Council shall have access to
 7 oil and gas industry facilities and records that are
 8 relevant to the proper execution of the duties of the
 9 Council under this section.

10 “(j) COUNCIL RESEARCH.—In carrying out this sec-
 11 tion, the Council—

12 “(1) may conduct applicable scientific research;
 13 and

14 “(2) shall review applicable scientific work un-
 15 dertaken by or on behalf of—

16 “(A) the energy industry;

17 “(B) the conservation community; or

18 “(C) government agencies.

19 “(k) COUNCIL RECOMMENDATIONS.—

20 “(1) IN GENERAL.—All recommendations of the
 21 Council shall be advisory only.

22 “(2) RECOMMENDATIONS.—If a government
 23 agency, responsible party, or other owner or oper-
 24 ator, lessee, or permittee (referred to in this para-
 25 graph as the ‘covered individual or entity’) decides

1 not to accept, or decides to substantially modify be-
 2 fore adoption, a recommendation of the Council, the
 3 covered individual or entity shall provide to the
 4 Council, not later than 10 days after the date of the
 5 decision of the covered individual or entity, a written
 6 notice of the decision and a summary of reasons for
 7 the rejection or substantial modification of the rec-
 8 ommendation by the covered individual or entity.

9 “(1) LOCATION AND COMPENSATION.—

10 “(1) OFFICE LOCATIONS.—The Council shall
 11 establish offices in 1 or more Gulf States, as the
 12 Council determines to be necessary and appropriate
 13 to the operations of the Council.

14 “(2) PER DIEM AUTHORIZATION.—A member of
 15 the Council may not be compensated for service on
 16 the Council, but shall be allowed travel expenses, in-
 17 cluding per diem, at a rate established by the Coun-
 18 cil, not to exceed the rates authorized for employees
 19 of agencies under sections 5702 and 5703 of title 5,
 20 United States Code (except by express authorization
 21 of the Council in any case in which the rates are in-
 22 adequate to reimburse a member not eligible for
 23 travel rates of the Federal Government).

24 “(m) REPORTS.—

1 “(1) GAO REPORTS.—Not later than 3 years
 2 after the date of establishment of the Council and
 3 every 3 years thereafter, the Comptroller General of
 4 the United States shall submit to the President and
 5 Congress a report covering the operations and ex-
 6 penditures of the Council in carrying out this sec-
 7 tion, including any recommendations.

8 “(2) BIENNIAL REPORTS TO CONGRESS.—Every
 9 2 years, the Council shall submit a report to Con-
 10 gress on—

11 “(A) the achievement of safe operations in
 12 the Gulf of oil and gas activities; and

13 “(B) on the operations and expenditures,
 14 needs, problems, issues, and recommendations
 15 of the Council.

16 “(3) ANNUAL AUDITS.—

17 “(A) IN GENERAL.—The Council shall—

18 “(i) commission an annual inde-
 19 pendent financial statement audit by an
 20 independent accounting firm; and

21 “(ii) publish the results of the audits
 22 in a publicly available annual report.

23 “(B) BIENNIAL REPORTS.—The audits
 24 shall be incorporated into the reports to Con-
 25 gress required by paragraph (2).

1 “(n) SUITS BARRED.—No program, association,
 2 council, committee, or other organization created by this
 3 section may sue any public or private person or entity con-
 4 cerning any matter arising under this section other than
 5 the performance of a contracts.

6 “(o) OPERATIONAL AND ADMINISTRATIVE FUND-
 7 ING.—Owners or operators of tank vessels, onshore facili-
 8 ties, or offshore facilities, lessees, and permittees in the
 9 Gulf of Mexico shall provide, on an annual basis, an aggre-
 10 gate amount of not more than \$10,000,000, as determined
 11 by the Secretary of the department in which the Coast
 12 Guard is operating, that shall—

13 “(1) provide for the establishment and oper-
 14 ation of the Council (including standing committees
 15 and any temporary committees); and

16 “(2) be adjusted annually to reflect changes in
 17 the Consumer Price Index in the Gulf of Mexico re-
 18 gion.”.

19 “(b) TABLE OF CONTENTS.—The table of contents in
 20 section 2 of the Oil Pollution Act of 1990 (33 U.S.C. prece-
 21 2701) is amended by adding at the end of the items relat-
 22 ing to title IV the following:

“Sec. 4119. Gulf of Mexico Regional Citizens’ Advisory Council.”.

1 **SEC. 211. VESSEL LIABILITY.**

2 Section 1004(a) of the Oil Pollution Act of 1990 (33
3 U.S.C. 2704(a)) is amended by striking paragraph (1) and
4 inserting the following:

5 “(1) for a vessel that is—

6 “(A) a tank ship that is a single-hull ves-
7 sel, including a single-hull vessel fitted with
8 double sides only or a double bottom only,
9 \$3,300 per gross ton or \$93,600,000, whichever
10 is greater;

11 “(B) a tank ship that is a double-hull ves-
12 sel, \$1,900 per gross ton or \$16,000,000,
13 whichever is greater;

14 “(C) a tank barge that is a single-hull ves-
15 sel, including a single-hull vessel fitted with
16 double sides only or a double bottom only,
17 \$7,000 per gross ton or \$29,100,000, whichever
18 is greater; or

19 “(D) a tank barge that is a double-hull
20 vessel, \$7,000 per gross ton or \$36,900,000,
21 whichever is greater.”

22 **SEC. 212. COAST GUARD RESEARCH AND DEVELOPMENT.**

23 Section 1012(a)(5)(A) of the Oil Pollution Act of
24 1990 (33 U.S.C. 2712(a)(5)(A)) is amended—

25 (1) by striking “\$25,000,000” and inserting
26 “\$50,000,000”; and

1 (2) by striking the semicolon at the end and in-
 2 serting “, of which amount not less than 40 percent
 3 shall be used to conduct research, development, and
 4 evaluation of oil spill response and removal tech-
 5 nologies and methods;”.

6 **SEC. 213. PROMPT INTERGOVERNMENTAL NOTICE OF MA-**
 7 **RINE CASUALTIES.**

8 Section 6101 of title 46, United States Code, is
 9 amended by adding at the end the following:

10 “(j) NOTICE TO STATES AND TRIBAL GOVERN-
 11 MENTS.—

12 “(1) REQUIREMENT TO NOTIFY.—Not later
 13 than 1 hour after receiving a report of a marine cas-
 14 ualty under this section, the Secretary shall forward
 15 the report to each appropriate State agency and
 16 tribal government of an Indian tribe (as defined in
 17 section 4 of the Indian Self-Determination and Edu-
 18 cation Assistance Act (25 U.S.C. 450b)) that has ju-
 19 risdiction concurrent with the United States or adja-
 20 cent to waters in which the marine casualty oc-
 21 curred.

22 “(2) APPROPRIATE STATE AGENCY.—Each
 23 State shall identify for the Secretary the appropriate
 24 State agency to receive a report under paragraph
 25 (1). Such agency shall be responsible for forwarding

1 appropriate information related to such report to
 2 local and tribal governments within the State.”.

3 **SEC. 214. PROMPT PUBLICATION OF OIL SPILL INFORMA-**
 4 **TION.**

5 (a) IN GENERAL.—In any response to an oil spill in
 6 which the Commandant of the Coast Guard serves as the
 7 Federal On-Scene Coordinator leading a Unified Com-
 8 mand, the Commandant, on a publicly accessible Web site,
 9 all written Incident Action Plans prepared and approved
 10 as a part of the response to such oil spill.

11 (b) TIMELINESS AND DURATION.—The Commandant
 12 shall—

13 (1) publish each Incident Action Plan pursuant
 14 to subsection (a) promptly after such Plan is ap-
 15 proved for implementation by the Unified Command,
 16 and in no event later than 12 hours into the oper-
 17 ational period for which such Plan is prepared; and

18 (2) ensure that such plan remains remain pub-
 19 licly accessible by Web site for the duration of the
 20 response to oil spill.

21 (c) REDACTION OF PERSONAL INFORMATION.—The
 22 Commandant may redact information from an Incident
 23 Action Plans published pursuant to subsection (a) to the
 24 extent necessary to comply with applicable privacy laws
 25 and other requirements regarding personal information.

1 **TITLE III—OTHER MATTERS**
2 **RELATING TO OIL SPILLS**

3 **SEC. 301. COORDINATION OF FEDERAL AND STATE ACTIVI-**
4 **TIES WITH RESPECT TO OIL SPILL SURVEYS.**

5 (a) DEVELOPMENT OF NATIONAL PROTOCOLS FOR
6 OIL SPILL SURVEYS.—Not later than 270 days after the
7 date of the enactment of this Act, the Under Secretary
8 for Oceans and Atmosphere shall, in coordination with the
9 Secretary of Homeland Security, the Administrator of the
10 Environmental Protection Agency, and the heads of such
11 departments and agencies of State governments as the
12 Under Secretary considers appropriate, develop standard
13 national protocols for oil spill response and clean up as-
14 sessments to promote consistent procedures for collecting
15 shoreline characterization data.

16 (b) GUIDANCE AND TOOLS FOR APPLICATION OF NA-
17 TIONAL PROTOCOLS FOR OIL SPILL SURVEYS.—The
18 Under Secretary shall develop guidance and tools for oil
19 spill responders and offer instructional courses to ensure
20 that the protocols developed under subsection (a) are used
21 during oil spill responses in the waters of the United
22 States.

1 **SEC. 302. COORDINATION BETWEEN NATIONAL OCEANIC**
 2 **AND ATMOSPHERIC ADMINISTRATION, COAST**
 3 **GUARD, AND DEPARTMENT OF INTERIOR ON**
 4 **OIL SPILL MATTERS.**

5 (a) 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 (c)(1), by inserting “the Sec-
 9 retary of Commerce, the Secretary of the depart-
 10 ment in which the Coast Guard is operating, and”
 11 before “the Attorney General,”; and

12 (2) in subsection (d)—

13 (A) in paragraph (1), by striking “pro-
 14 gram,” in the first sentence and all that follows
 15 through the end of the paragraph and inserting
 16 “program—

17 “(A) the Attorney General may, after con-
 18 sultation with the Federal Trade Commission,
 19 submit comments on the anticipated effects of
 20 the proposed program on competition;

21 “(B) the Secretary of Commerce may sub-
 22 mit comments on the anticipated effects of the
 23 proposed program on the human, marine, and
 24 coastal environments, including the likelihood of
 25 occurrence and potential severity of spills and
 26 chronic pollution;

1 “(C) the Secretary of the department in
 2 which the Coast Guard is operating may submit
 3 comments on the adequacy of the response ca-
 4 pabilities of the Federal Government for spills
 5 and chronic pollution that may occur as a result
 6 of the proposed program; and

7 “(D) any State, local government, or other
 8 person may submit comments and recommenda-
 9 tions as to any aspect of the proposed pro-
 10 gram.”; and

11 (B) in the second sentence in paragraph
 12 (2); by striking “Attorney General” and insert-
 13 ing “Attorney General, the Secretary of Com-
 14 merce, the Secretary of the department in
 15 which the Coast Guard is operating.”.

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

19 (1) by striking “(f) In executing” and inserting
 20 the following:

21 “(1) IN GENERAL.—In executing”; and

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

23 “(2) NATIONAL OCEANIC AND ATMOSPHERIC
 24 ADMINISTRATION.—

1 “(A) IN GENERAL.—In addition to any
2 other requirement under law, the Secretary
3 shall, prior to the approval of any program,
4 lease, exploration plan, or development and pro-
5 duction plan, consult with the Administrator of
6 the National Oceanic and Atmospheric Admin-
7 istration (referred to in this paragraph as the
8 ‘Administrator’) on the reasonably foreseeable
9 adverse effects of the proposed action to ocean
10 and coastal resources, including oil spills.

11 “(B) INITIATION OF CONSULTATION.—

12 “(i) IN GENERAL.—The Secretary
13 shall initiate consultation under subpara-
14 graph (A) at the earliest practicable time,
15 but in no case later than 90 days before
16 the date of approval of the proposed ac-
17 tion.

18 “(ii) PROVISION OF INFORMATION.—

19 On the initiation of consultation, the Sec-
20 retary shall provide the Administrator with
21 information describing the nature, location,
22 and duration of the proposed action, and a
23 description of all reasonably foreseeable
24 adverse effects to ocean and coastal re-
25 sources.

1 “(C) ALTERNATIVES.—

2 “(i) IN GENERAL.—At any time prior
3 to the date that is 45 days before the ap-
4 proval of the proposed action, the Adminis-
5 trator may recommend alternatives to any
6 proposed action, including measures that
7 will prevent or minimize reasonably fore-
8 seeable adverse effects to ocean and coastal
9 resources.

10 “(ii) SECRETARIAL ACTION.—The
11 Secretary shall incorporate into the ap-
12 proval for the proposed action the alter-
13 natives or mitigation measures rec-
14 ommended under clause (i), unless the Sec-
15 retary—

16 “(I) determines that the alter-
17 natives or mitigation measures are not
18 necessary to prevent or minimize rea-
19 sonably foreseeable adverse effects to
20 marine and coastal resources; and

21 “(II) notifies the Administrator
22 in writing of the reasons for that deci-
23 sion.”.

1 **SEC. 303. FEDERAL OIL SPILL RESEARCH COMMITTEE.**

2 (a) **ESTABLISHMENT.**—There is established a com-
3 mittee to be known as the Federal Oil Spill Research Com-
4 mittee (in this section referred to as the “Committee”).

5 (b) **MEMBERSHIP.**—

6 (1) **COMPOSITION.**—The Committee shall be
7 composed of members selected by the Under Sec-
8 retary for Oceans and Atmosphere to represent the
9 following:

10 (A) The National Oceanic and Atmos-
11 pheric Administration.

12 (B) The Coast Guard.

13 (C) The Environmental Protection Agency.

14 (D) Such other Federal agencies as the
15 Under Secretary considers appropriate.

16 (2) **CHAIRPERSON.**—The Under Secretary shall
17 designate a Chairperson from among members of
18 the Committee who represent the National Oceanic
19 and Atmospheric Administration.

20 (c) **DUTIES OF THE COMMITTEE.**—

21 (1) **RESEARCH.**—The Committee shall—

22 (A) coordinate a comprehensive program of
23 oil pollution research, technology development,
24 and demonstration among the Federal agencies,
25 in cooperation and coordination with industry,
26 universities, research institutions, State and

1 local governments, tribal governments, and
 2 other nations, as the Committee considers ap-
 3 propriate; and

4 (B) foster cost-effective research mecha-
 5 nisms, including the joint funding of research.

6 ~~(2) REPORTS ON CURRENT STATE OF OIL SPILL~~
 7 ~~PREVENTION AND RESPONSE CAPABILITIES.—~~

8 (A) IN GENERAL.—Not later than 180
 9 days after the date of the enactment of this
 10 Act, the Committee shall submit to Congress a
 11 report on the current state of oil spill preven-
 12 tion and response capabilities that—

13 (i) identifies current research pro-
 14 grams conducted by governments, univer-
 15 sities, and corporate entities;

16 (ii) assesses the current status of
 17 knowledge on oil pollution prevention, re-
 18 sponse, and mitigation technologies;

19 (iii) establishes national research pri-
 20 orities and goals for oil pollution tech-
 21 nology development related to prevention,
 22 response, mitigation, and environmental ef-
 23 fects;

24 (iv) identifies regional oil pollution re-
 25 search needs and priorities for a coordi-

1 nated program of research at the regional
2 level developed in consultation with State
3 and local governments and tribes;

4 (v) assesses the current state of spill
5 response equipment, and determines areas
6 in need of improvement including amount,
7 age, quality, effectiveness, or necessary
8 technological improvements;

9 (vi) assesses the current state of real
10 time data available to mariners, including
11 water level, currents and weather informa-
12 tion and predictions, and assesses whether
13 lack of timely information increases the
14 risk of oil spills;

15 (vii) assesses the capacity of the Na-
16 tional Oceanic and Atmospheric Adminis-
17 tration to respond to, and restore, and re-
18 habilitate marine sanctuaries, monuments,
19 sea turtles, and other protected species;

20 (viii) establishes goals for improved oil
21 spill prevention and response upon which
22 to target research for the following 5-year
23 period before the next report is submitted
24 under subparagraph (B); and

1 (ix) includes such recommendations as
 2 the Committee considers appropriate.

3 ~~(B) QUINQUENNIAL UPDATES.~~—The Com-
 4 mittee shall submit a report every fifth year
 5 after its first report under subparagraph (A)
 6 updating the information contained in its pre-
 7 vious report under this paragraph.

8 ~~(d) RESEARCH AND DEVELOPMENT PROGRAM.~~—

9 ~~(1) IN GENERAL.~~—In carrying out its duties
 10 under subsection (c)(1), the Committee shall estab-
 11 lish a program for conducting oil pollution research
 12 and development.

13 ~~(2) PROGRAM ELEMENTS.~~—The program estab-
 14 lished under paragraph (1) shall provide for re-
 15 search, development, and demonstration of new or
 16 improved technologies which are effective in pre-
 17 venting, detecting, or mitigating oil discharges and
 18 which protect the environment, and include the fol-
 19 lowing:

20 ~~(A) High-priority research areas described~~
 21 ~~in the report.~~

22 ~~(B) Direct and indirect environmental ef-~~
 23 ~~fects of acute and chronic oil spills on marine~~
 24 ~~resources, including impacts on marine sanc-~~
 25 ~~tuaries, monuments, other protected areas, ma-~~

1 rine mammals, sea turtles, and other protected
2 species.

3 ~~(C) Monitoring, modeling, and under-~~
4 ~~standing the near- and long-term effects of~~
5 ~~major spills and long-term cumulative effects of~~
6 ~~smaller endemic spills.~~

7 ~~(D) New technologies to detect accidental~~
8 ~~or intentional overboard discharges.~~

9 ~~(E) Mechanical response capabilities, such~~
10 ~~as improved booms, oil skimmers, and storage~~
11 ~~capacity.~~

12 ~~(F) Methods to respond to, restore, and re-~~
13 ~~habilitate natural resources and ecosystem~~
14 ~~health and services damaged by oil discharges,~~
15 ~~including impacts on marine sanctuaries, monu-~~
16 ~~ments, other protected areas, marine mammals,~~
17 ~~sea turtles, and other protected species..~~

18 ~~(G) Research and training, in consultation~~
19 ~~with the National Response Team, to improve~~
20 ~~industry's and Government's ability to remove~~
21 ~~an oil discharge quickly and effectively.~~

22 ~~(3) IMPLEMENTATION PLAN.—~~

23 ~~(A) IN GENERAL.—Not later than 180~~
24 ~~days after submitting the report to Congress~~
25 ~~under subsection (c)(2)(A), the Committee shall~~

1 submit to Congress a plan for the implementa-
 2 tion of the program required by paragraph (1).

3 ~~(B) ASSESSMENT BY NATIONAL ACADEMY~~
 4 ~~OF SCIENCES.—~~The Chairperson shall, acting
 5 through the National Oceanic and Atmospheric
 6 Administration, contract with the National
 7 Academy of Sciences to—

8 (i) provide advice and guidance in the
 9 preparation and development of the plan
 10 required by subparagraph (A); and

11 (ii) assess the adequacy of the plan as
 12 submitted, and submit a report to Con-
 13 gress on the conclusions of such assess-
 14 ment.

15 ~~(c) GRANT PROGRAM IN SUPPORT OF RESEARCH~~
 16 ~~AND DEVELOPMENT PROGRAM.—~~

17 ~~(1) IN GENERAL.—~~The Under Secretary shall,
 18 in consultation with the National Science Founda-
 19 tion, manage a program of competitive grants to
 20 universities or other research institutions, or groups
 21 of universities or research institutions, for the pur-
 22 poses of conducting the program established under
 23 subsection (d).

24 ~~(2) APPLICATIONS AND CONDITIONS.—~~In con-
 25 ducting the program, the Under Secretary—

1 (A) shall establish a notification and appli-
2 cation procedure;

3 (B) may establish such conditions and re-
4 quire such assurances as may be appropriate to
5 ensure the efficiency and integrity of the grant
6 program; and

7 (C) may make grants under the program
8 on a matching or nonmatching basis.

9 (f) ~~ADVICE AND GUIDANCE.~~—The Committee shall
10 accept comments and input from State and local govern-
11 ments, Indian tribes, industry representatives, and other
12 stakeholders in carrying out its duties under subsection
13 (e).

14 (g) ~~FACILITATION.~~—The Committee may develop
15 memoranda of agreement or memoranda of understanding
16 with universities, State and local governments, or other
17 entities to facilitate the research program required by sub-
18 section (d).

19 (h) ~~ANNUAL REPORTS.~~—The Chairperson of the
20 Committee shall submit an annual report to Congress on
21 the activities carried out under this section in the pre-
22 ceding fiscal year, and on activities proposed to be carried
23 out under this section in the current fiscal year.

24 (i) ~~COMMITTEE REPLACES EXISTING AUTHORITY.~~—
25 The authority provided by this section supersedes the au-

1 thority provided by section 7001 of the Oil Pollution Act
 2 of 1990 (33 U.S.C. 2761) for the establishment of the
 3 Interagency Committee on Oil Pollution Research under
 4 subsection (a) of that section, and that Committee shall
 5 cease operations and terminate on the date of the enact-
 6 ment of this Act.

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

8 (a) *SHORT TITLE.*—This Act may be cited as the “Se-
 9 curing Health for Ocean Resources and Environment Act”
 10 or the “SHORE Act”.

11 (b) *TABLE OF CONTENTS.*—The table of contents for
 12 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—IMPROVING NATIONAL OCEANIC AND ATMOSPHERIC AD-
 MINISTRATION OIL SPILL RESPONSE, PREVENTION, AND RES-
 TORATION CAPACITY**

*Sec. 101. Improving National Oceanic and Atmospheric Administration oil spill
 response, prevention, and restoration capacity.*

*Sec. 102. Use of Oil Spill Liability Trust Fund for expenses of National Oceanic
 and Atmospheric Administration.*

*Sec. 103. Investment of amounts in Damage Assessment and Restoration Revolv-
 ing Fund in interest-bearing obligations.*

Sec. 104. Strengthening coastal State oil spill planning and response.

*Sec. 105. Gulf of Mexico long-term marine environmental monitoring and re-
 search program.*

Sec. 106. Arctic research and action to conduct oil spill prevention.

*Sec. 107. National Oceanic and Atmospheric Administration subsea hydrocarbon
 monitoring and assessment.*

**TITLE II—IMPROVING COAST GUARD RESPONSE AND INSPECTION
 CAPACITY**

Sec. 201. Secretary defined.

Sec. 202. Arctic maritime readiness and oil spill prevention.

Sec. 203. Coast Guard response plan requirements.

*Sec. 204. Advance planning and prompt decisionmaking in closing and reopen-
 ing fishing grounds.*

Sec. 205. Oil spill technology evaluation.

Sec. 206. Coast Guard inspections.

Sec. 207. Certificate of inspection requirements.

- Sec. 208. Navigational measures for protection of natural resources.*
- Sec. 209. Notice to States of bulk oil transfers.*
- Sec. 210. Gulf of Mexico Regional Citizens' Advisory Council.*
- Sec. 211. Arctic Regional Citizens' Advisory Council.*
- Sec. 212. Vessel liability.*
- Sec. 213. Coast Guard research and development.*
- Sec. 214. Prompt intergovernmental notice of marine casualties.*
- Sec. 215. Prompt publication of oil spill information.*

TITLE III—OTHER MATTERS RELATING TO OIL SPILLS

- Sec. 301. Coordination of Federal and State activities with respect to oil spill surveys.*
- Sec. 302. Coordination between National Oceanic and Atmospheric Administration, Coast Guard, and Department of Interior on oil spill matters.*
- Sec. 303. Federal Oil Spill Research Committee.*
- Sec. 304. Authority of Secretary of Transportation.*
- Sec. 305. Increased funding for environmental oversight and monitoring by the Cook Inlet and Prince William Sound regional citizens' advisory councils.*

TITLE IV—CORAL REEF CONSERVATION ACT AMENDMENTS

- Sec. 401. Short title; table of contents.*
- Sec. 402. Amendment of Coral Reef Conservation Act of 2000.*
- Sec. 403. Agreements; redesignations.*
- Sec. 404. Emergency assistance.*
- Sec. 405. Emergency response, stabilization, and restoration.*
- Sec. 406. Prohibited activities.*
- Sec. 407. Destruction of coral reefs.*
- Sec. 408. Enforcement.*
- Sec. 409. Permits.*
- Sec. 410. Regulations.*
- Sec. 411. Judicial review.*
- Sec. 412. Definitions.*

1 ***TITLE I—IMPROVING NATIONAL***
 2 ***OCEANIC AND ATMOSPHERIC***
 3 ***ADMINISTRATION OIL SPILL***
 4 ***RESPONSE, PREVENTION,***
 5 ***AND RESTORATION CAPACITY***

6 ***SEC. 101. IMPROVING NATIONAL OCEANIC AND ATMOS-***
 7 ***PHERIC ADMINISTRATION OIL SPILL RE-***
 8 ***SPONSE, PREVENTION, AND RESTORATION***
 9 ***CAPACITY.***

10 *(a) REVIEW OF ABILITY OF NATIONAL OCEANIC AND*
 11 *ATMOSPHERIC ADMINISTRATION TO RESPOND TO OIL*
 12 *SPILLS.—*

13 *(1) COMPREHENSIVE REVIEW REQUIRED.—Not*
 14 *later than 1 year after the date of the enactment of*
 15 *this Act, the Under Secretary for Oceans and Atmos-*
 16 *phere shall conduct a comprehensive review of the cur-*
 17 *rent capacity of the National Oceanic and Atmos-*
 18 *pheric Administration to respond to oil spills.*

19 *(2) ELEMENTS.—The review conducted under*
 20 *paragraph (1) shall include the following:*

21 *(A) A comparison of oil spill modeling re-*
 22 *quirements with the state-of-the-art oil spill mod-*
 23 *eling with respect to near shore and offshore*
 24 *areas.*

1 (B) *Development of recommendations on*
2 *priorities for improving forecasting of oil spill*
3 *trajectories and impacts, including the identi-*
4 *fication of gaps in ocean observing infrastruc-*
5 *ture.*

6 (C) *An inventory of the products and tools*
7 *of the National Oceanic and Atmospheric Ad-*
8 *ministration that can aid in assessment of the*
9 *potential risk and impacts of oil spills. Such*
10 *products and tools may include environmental*
11 *sensitivity index maps, the United States Inte-*
12 *grated Ocean Observing System, and regional*
13 *information coordinating entities established as*
14 *part of such System, high frequency radar, and*
15 *oil spill trajectory models.*

16 (D) *An identification of the baseline oceano-*
17 *graphic and climate data required to support*
18 *state-of-the-art modeling.*

19 (E) *An assessment of the Administration's*
20 *ability to respond to the effects of an oil spill on*
21 *its trust resources, including—*

22 (i) *marine sanctuaries, monuments,*
23 *and other protected areas; and*

1 (ii) marine mammals, sea turtles, and
2 other protected species, and efforts to rescue
3 and rehabilitate such species.

4 (F) An assessment of the capacity of the Ad-
5 ministration to monitor and test effectively and
6 efficiently seafood for oil contamination resulting
7 from an oil spill, including the extent to which
8 all available resources of the Administration in
9 the affected spill region can be utilized.

10 (G) An identification of resources available
11 to the Administration through partnerships with
12 the private sector and academic institutions that
13 can aid in risk assessment and impacts of oil
14 spills.

15 (3) *REPORT.*—Upon completion of the review re-
16 quired by paragraph (1), the Under Secretary shall
17 submit to Congress a report on such review, including
18 the findings of the Under Secretary with respect to
19 such review.

20 (b) *OIL SPILL TRAJECTORY MODELING.*—The Under
21 Secretary for Oceans and Atmosphere shall be responsible
22 for developing and maintaining oil spill trajectory mod-
23 eling capabilities for the United States, including taking
24 such actions as may be required by subsections (c) through
25 (g). In carrying out such actions, the Under Secretary shall

1 *coordinate with national laboratories with established oil*
2 *spill modeling expertise.*

3 *(c) ENVIRONMENTAL SENSITIVITY INDEX.—*

4 *(1) UPDATE.—Beginning not later than 180*
5 *days after the date of the enactment of this Act and*
6 *not less frequently than once every 5 years thereafter,*
7 *the Under Secretary shall update the environmental*
8 *sensitivity index products of the National Oceanic*
9 *and Atmospheric Administration for each coastal*
10 *area of the United States and for each offshore area*
11 *of the United States that is leased or under consider-*
12 *ation for leasing for offshore energy production.*

13 *(2) EXPANDED COVERAGE.—Not later than 270*
14 *days after the date of the enactment of this Act, the*
15 *Under Secretary shall, to the maximum extent prac-*
16 *ticable, create an environmental sensitivity index*
17 *product for each area described in paragraph (1) for*
18 *which the National Oceanic and Atmospheric Admin-*
19 *istration did not have an environmental sensitivity*
20 *index product on the day before the date of the enact-*
21 *ment of this Act.*

22 *(3) ENVIRONMENTAL SENSITIVITY INDEX PROD-*
23 *UCT DEFINED.—In this subsection, the term “environ-*
24 *mental sensitivity index product” means a map or*
25 *similar tool that is utilized to identify sensitive shore-*

1 *line, coastal or offshore, resources prior to an oil spill*
 2 *event in order to set baseline priorities for protection*
 3 *and plan cleanup strategies, typically including in-*
 4 *formation relating to shoreline type, biological re-*
 5 *sources, and human use resources.*

6 *(d) QUINQUENNIAL REPORT ON ECOLOGICAL BASE-*
 7 *LINES, IMPORTANT ECOLOGICAL AREAS, AND ECONOMIC*
 8 *RISKS.—*

9 *(1) IN GENERAL.—Not later than 270 days after*
 10 *the date of the enactment of this Act and not less fre-*
 11 *quently than once every 5 years thereafter, the Under*
 12 *Secretary shall submit to Congress a report that, with*
 13 *respect to regions that are leased or are under consid-*
 14 *eration for leasing for offshore energy production—*

15 *(A) characterizes ecological baselines;*

16 *(B) identifies important ecological areas,*
 17 *critical habitats, and migratory behaviors; and*

18 *(C) identifies potential risks posed by hy-*
 19 *drocarbon development on regional, State, and*
 20 *local economies.*

21 *(2) IMPORTANT ECOLOGICAL AREA DEFINED.—In*
 22 *this subsection, the term “important ecological area”*
 23 *means an area that—*

24 *(A) contributes significantly to local or*
 25 *larger marine ecosystem health; or*

1 (B) is a unique or especially sensitive ma-
 2 rine ecosystem.

3 (e) *SUBSEA HYDROCARBON REVIEW*.—Not later than
 4 120 days after the date of the enactment of this Act, the
 5 Under Secretary shall conduct a comprehensive review of
 6 the current state of the National Oceanic and Atmospheric
 7 Administration to observe, monitor, map, and track subsea
 8 hydrocarbons, including a review of the effect of subsea hy-
 9 drocarbons and dispersants at varying concentrations on
 10 living marine resources.

11 (f) *NATIONAL INFORMATION CENTER ON OIL*
 12 *SPILLS*.—The Under Secretary shall establish a national
 13 information center on oil spills that—

14 (1) includes scientific information and research
 15 on oil spill preparedness, response, and restoration;

16 (2) serves as a single access point for emergency
 17 responders for such scientific data;

18 (3) provides outreach and utilizes communica-
 19 tion mechanisms to inform partners, the public, and
 20 local communities about the availability of oil spill
 21 preparedness, prevention, response, and restoration
 22 information and services and otherwise improves pub-
 23 lic understanding and minimizes impacts of oil spills;
 24 and

1 (4) *applies the data interoperability standards*
 2 *developed by the Integrated Coastal Ocean Observing*
 3 *System to allow for free and open access to all rel-*
 4 *evant Federal and non-federal data using, to the ex-*
 5 *tent practicable, the existing infrastructure of the re-*
 6 *gional information coordinating entities developed as*
 7 *part of the Integrated Coastal Ocean Observing Sys-*
 8 *tem as a portal for accessing non-federal data.*

9 (g) *INITIATIVE ON OIL SPILLS FROM AGING AND*
 10 *ABANDONED OIL INFRASTRUCTURE.—Not later than 270*
 11 *days after the date of the enactment of this Act, the Under*
 12 *Secretary shall establish an initiative—*

13 (1) *to determine the significance, response, fre-*
 14 *quency, size, potential fate, and potential effects, in-*
 15 *cluding those on sensitive habitats, of oil spills result-*
 16 *ing from aging and abandoned oil infrastructure; and*
 17 (2) *to formulate recommendations on how best to*
 18 *address such spills.*

19 (h) *INVENTORY OF OFFSHORE ABANDONED OR SUNK-*
 20 *EN VESSELS.—Not later than 270 days after the date of*
 21 *the enactment of this Act, the Under Secretary shall develop*
 22 *an inventory of offshore abandoned or sunken vessels in the*
 23 *exclusive economic zone of the United States and identify*
 24 *priorities (based on amount of oil, feasibility of oil recovery,*
 25 *fate and effects of oil if released, and cost-benefit of preemp-*

1 *tive action) for potential preemptive removal of oil or other*
 2 *actions that may be effective to mitigate the risk of oil spills*
 3 *from offshore abandoned or sunken vessels.*

4 **SEC. 102. USE OF OIL SPILL LIABILITY TRUST FUND FOR**
 5 **EXPENSES OF NATIONAL OCEANIC AND AT-**
 6 **MOSPHERIC ADMINISTRATION.**

7 *Section 1012(a)(5) of the Oil Pollution Act of 1990 (33*
 8 *U.S.C. 2712(a)(5)) is amended—*

9 *(1) by redesignating subparagraphs (C) and (D)*
 10 *as subparagraphs (D) and (E), respectively; and*

11 *(2) by inserting after subparagraph (A) the fol-*
 12 *lowing:*

13 *“(B) not more than \$25,000,000 in each fis-*
 14 *cal year shall be available to the Under Sec-*
 15 *retary for Oceans and Atmosphere without fur-*
 16 *ther appropriation for expenses incurred by, and*
 17 *activities related to, preparedness, response, res-*
 18 *toration, and damage assessment capabilities of*
 19 *the National Oceanic and Atmospheric Adminis-*
 20 *tration and to the rescue and rehabilitation of*
 21 *injured marine species;*

22 *“(C) not more than \$20,000,000 in each fis-*
 23 *cal year shall be available to the Under Sec-*
 24 *retary for Oceans and Atmosphere for collection*
 25 *of ocean observations and the research and devel-*

opment of technologies identified by the Office of Response and Restoration of the National Oceanic and Atmospheric Administration as beneficial for prevention, removal, wildlife rehabilitation, wildlife rescue and rehabilitation, and enforcement related to oil discharges;”.

SEC. 103. INVESTMENT OF AMOUNTS IN DAMAGE ASSESSMENT AND RESTORATION REVOLVING FUND IN INTEREST-BEARING OBLIGATIONS.

The Secretary of the Treasury shall invest such a portion of the amounts in the Damage Assessment and Restoration Revolving Fund described in title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1991 (33 U.S.C. 2706 note) as is not required to meet current withdrawals, as determined by the Secretary, in interest-bearing obligations of the United States in accordance with section 9602 of the Internal Revenue Code of 1986.

SEC. 104. STRENGTHENING COASTAL STATE OIL SPILL PLANNING AND RESPONSE.

The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) is amended by adding at the end the following new section:

1 **“SEC. 320. STRENGTHENING COASTAL STATE OIL SPILL RE-**
2 **SPONSE AND PLANNING.**

3 “(a) *GRANTS TO STATES.*—*The Secretary may make*
4 *grants to eligible coastal states—*

5 “(1) *to revise management programs approved*
6 *under section 306 and National Estuarine Research*
7 *Reserves approved under section 315 to identify and*
8 *implement new enforceable policies and procedures to*
9 *ensure sufficient response capabilities at the State*
10 *level to address the environmental, economic, and so-*
11 *cial impacts of oil spills or other accidents resulting*
12 *from Outer Continental Shelf energy activities with*
13 *the potential to affect land or water use or natural*
14 *resources of the coastal zone; and*

15 “(2) *to review and revise where necessary appli-*
16 *cable enforceable policies within approved coastal*
17 *State management programs affecting coastal energy*
18 *activities and energy to ensure that these policies are*
19 *consistent with—*

20 “(A) *other emergency response plans and*
21 *policies developed under Federal or State law;*
22 *and*

23 “(B) *new policies and procedures developed*
24 *under paragraph (1).*

1 “(b) *ELEMENTS.*—*New enforceable policies and proce-*
2 *dures developed by coastal states with grants awarded*
3 *under this section shall consider, but not be limited to—*

4 “(1) *other existing emergency response plans,*
5 *procedures, and enforceable policies developed under*
6 *other Federal or State law that affect the coastal zone;*

7 “(2) *identification of critical infrastructure es-*
8 *sential to facilitate spill or accident response activi-*
9 *ties;*

10 “(3) *identification of coordination, logistics and*
11 *communication networks between Federal and State*
12 *government agencies, and between State agencies and*
13 *affected local communities, to ensure the efficient and*
14 *timely dissemination of data and other information;*

15 “(4) *inventories of shore locations and infra-*
16 *structure and equipment necessary to respond, or*
17 *monitor environmental impacts of, oil spills or other*
18 *accidents resulting from Outer Continental Shelf en-*
19 *ergy activities;*

20 “(5) *identification and characterization of sig-*
21 *nificant or sensitive marine ecosystems or other areas*
22 *possessing important conservation, recreational, eco-*
23 *logical, historic, economic, or aesthetic values;*

1 “(6) inventories and surveys of shore locations
2 and infrastructure capable of supporting alternative
3 energy development;

4 “(7) observing capabilities necessary to assess
5 ocean conditions before, during, and after a spill; and

6 “(8) other information or actions as may be nec-
7 essary;

8 “(c) *GUIDELINES.*—The Secretary shall, within 180
9 days after the date of the enactment of this section and after
10 consultation with the coastal states, publish guidelines for
11 the application for and use of grants under this section.

12 “(d) *PARTICIPATION.*—Coastal states shall provide op-
13 portunity for public participation in developing new en-
14 forceable policies and procedures under this section pursu-
15 ant to subsection (d)(1) or (e) of section 306, especially by
16 relevant Federal agencies, other coastal state agencies, local
17 governments, regional organizations, port authorities, and
18 other interested parties and stakeholders, public and pri-
19 vate, that are related to, or affected by Outer Continental
20 Shelf energy activities.

21 “(e) *ANNUAL GRANTS.*—

22 “(1) *IN GENERAL.*—For each of fiscal years 2011
23 through 2015, the Secretary may make a grant to a
24 coastal state to develop new enforceable policies and
25 procedures as required under this section.

1 “(2) *GRANT AMOUNTS AND LIMIT ON AWARDS.*—

2 *The amount of any grant to any one coastal state*
 3 *under this section shall not exceed \$750,000 for any*
 4 *fiscal year.*

5 “(3) *NO STATE MATCHING CONTRIBUTION RE-*

6 *QUIRED.*—*A coastal state shall not be required to con-*
 7 *tribute any portion of the cost of a grant awarded*
 8 *under this section.*

9 “(4) *TRANSFER OF FUNDS.*—*A coastal state that*

10 *receives a grant under this section may transfer grant*
 11 *funds to an appropriate agency of the coastal state.*

12 “(5) *SECRETARIAL REVIEW AND LIMIT ON*

13 *AWARDS.*—*After an initial grant is made to a coastal*
 14 *state under this section, no subsequent grant may be*
 15 *made to that coastal state under this section unless*
 16 *the Secretary finds that the coastal state is satisfac-*
 17 *torily developing revisions to address offshore energy*
 18 *impacts. No coastal state is eligible to receive grants*
 19 *under this section for more than 2 fiscal years.*

20 “(f) *APPLICABILITY.*—*The requirements of this section*

21 *shall only apply if appropriations are provided to the Sec-*
 22 *retary to make grants under this section to enable States*
 23 *to develop new or revised enforceable policies and proce-*
 24 *dures. Further, this section shall not be construed to convey*
 25 *any new authority to any coastal state, or repeal or super-*

1 *seede any existing authority of any coastal state, to regulate*
 2 *the siting, licensing, leasing, or permitting of alternative*
 3 *energy facilities in areas of the Outer Continental Shelf*
 4 *under the administration of the Federal Government. Noth-*
 5 *ing in this section repeals or supersedes any existing coastal*
 6 *state authority.*

7 “(g) *ASSISTANCE BY THE SECRETARY.*—*The Secretary*
 8 *shall, as authorized under section 310(a) and to the extent*
 9 *practicable, make available to coastal states the resources*
 10 *and capabilities of the National Oceanic and Atmospheric*
 11 *Administration to provide technical assistance to the coast-*
 12 *al states to prepare revisions to approved management pro-*
 13 *grams to meet the requirements under this section.*”.

14 **SEC. 105. GULF OF MEXICO LONG-TERM MARINE ENVIRON-**
 15 **MENTAL MONITORING AND RESEARCH PRO-**
 16 **GRAM.**

17 (a) *ENVIRONMENTAL MONITORING AND RESEARCH*
 18 *PROGRAM REQUIRED.*—

19 (1) *IN GENERAL.*—*As soon as practicable after*
 20 *the date of the enactment of this Act and subject to*
 21 *the availability of appropriations or other sources of*
 22 *funding, the Secretary shall, acting through the*
 23 *Under Secretary for Oceans and Atmosphere, estab-*
 24 *lish and carry out a long-term marine environmental*
 25 *monitoring and research program for the marine and*

1 *coastal environment of the Gulf of Mexico to ensure*
2 *that the Federal Government has independent, peer-*
3 *reviewed scientific data and information to assess*
4 *long-term direct and indirect impacts on trust re-*
5 *sources located in the Gulf of Mexico and Southeast*
6 *region resulting from the oil spill caused by the mo-*
7 *bile offshore drilling unit Deepwater Horizon.*

8 (2) *PERIOD OF PROGRAM.*—*The Secretary shall*
9 *carry out the program required by paragraph (1)*
10 *during the 10-year period beginning on the date of*
11 *the commencement of the program. The Secretary*
12 *may extend such period upon a determination by the*
13 *Secretary that additional monitoring and research is*
14 *warranted.*

15 (b) *SCOPE OF PROGRAM.*—*The program established*
16 *under subsection (a) shall include the following:*

17 (1) *Monitoring and research of the physical,*
18 *chemical, and biological characteristics of the affected*
19 *marine, coastal, and estuarine areas of the Gulf of*
20 *Mexico and other regions of the exclusive economic*
21 *zone of the United States and adjacent regions af-*
22 *ected by the oil spill caused by the mobile offshore*
23 *drilling unit Deepwater Horizon.*

24 (2) *The fate, transport, and persistence of oil re-*
25 *leased during the spill and spatial distribution*

1 *throughout the water column, including in-situ burn*
 2 *residues.*

3 (3) *The fate, transport, and persistence of chem-*
 4 *ical dispersants applied in-situ or on surface waters.*

5 (4) *Identification of lethal and sub-lethal im-*
 6 *pacts to shellfish, fish, and wildlife resources that uti-*
 7 *lize habitats located within the affected region.*

8 (5) *Impacts to regional, State, and local econo-*
 9 *mies that depend on the natural resources of the af-*
 10 *ected area, including commercial and recreational*
 11 *fisheries, tourism, and other wildlife-dependent recre-*
 12 *ation.*

13 (6) *Other elements considered necessary by the*
 14 *Secretary to ensure a comprehensive marine research*
 15 *and monitoring program to comprehend and under-*
 16 *stand the implications to trust resources caused by the*
 17 *oil spill from the mobile offshore drilling unit Deep-*
 18 *water Horizon.*

19 (c) *COOPERATION AND CONSULTATION.*—*In developing*
 20 *the research and monitoring program established under sub-*
 21 *section (a), the Secretary shall—*

22 (1) *coordinate with the United States Geological*
 23 *Survey; and*

24 (2) *consult with—*

1 (A) *the National Ocean Research Leader-*
 2 *ship Council established under section 7902 of*
 3 *title 10, United States Code;*

4 (B) *the Gulf of Mexico Fishery Management*
 5 *Council established under section 302(a)(1) of*
 6 *the Magnuson-Stevens Fishery Conservation and*
 7 *Management Act (16 U.S.C. 1852(a)(1));*

8 (C) *such representatives from the Gulf coast*
 9 *States, including fishermen and the related sea-*
 10 *food industry, and affected countries as the Sec-*
 11 *retary considers appropriate;*

12 (D) *academic institutions and other re-*
 13 *search organizations;*

14 (E) *regional information coordination enti-*
 15 *ties (as defined in section 12303(6) of the Inte-*
 16 *grated Coastal and Ocean Observation System*
 17 *Act of 2009 (33 U.S.C. 3602(6); and*

18 (F) *such other experts with expertise in*
 19 *long-term environmental monitoring and re-*
 20 *search of the marine environment as the Sec-*
 21 *retary considers appropriate.*

22 (d) *AVAILABILITY OF DATA.*—*Upon review by and ap-*
 23 *proval of the Attorney General regarding impacts on legal*
 24 *claims or litigation involving the United States, data and*
 25 *information generated through the program established*

1 *under subsection (a) shall be managed and archived accord-*
 2 *ing to the standards developed under section 12304 of the*
 3 *Integrated Coastal and Ocean Observation System Act of*
 4 *2009 (33 U.S.C. 3603) to ensure that it is accessible and*
 5 *available to governmental and nongovernmental personnel*
 6 *and to the general public for their use and information.*

7 *(e) REPORT.—Not later than 1 year after the date of*
 8 *the commencement of the program under subsection (a) and*
 9 *biennially thereafter, the Secretary shall submit to Congress*
 10 *a comprehensive report—*

11 *(1) summarizing the activities and findings of*
 12 *the program; and*

13 *(2) detailing areas and issues requiring future*
 14 *monitoring and research.*

15 *(f) DEFINITIONS.—In this section:*

16 *(1) GULF COAST STATE.—The term “Gulf coast*
 17 *State” means each of the States of Texas, Louisiana,*
 18 *Mississippi, Alabama, and Florida.*

19 *(2) SECRETARY.—The term “Secretary” means*
 20 *the Secretary of Commerce.*

21 *(3) TRUST RESOURCES.—The term “trust re-*
 22 *sources” means the living and non-living natural re-*
 23 *sources belonging to, managed by, held in trust by,*
 24 *appertaining to, or otherwise controlled by the United*

1 *States, any State, an Indian tribe, or a local govern-*
 2 *ment.*

3 **SEC. 106. ARCTIC RESEARCH AND ACTION TO CONDUCT OIL**
 4 **SPILL PREVENTION.**

5 (a) *IN GENERAL.*—*The Secretary of Commerce shall,*
 6 *acting through the Under Secretary for Oceans and Atmos-*
 7 *phere and in collaboration with the heads of other agencies*
 8 *or departments of the United States with appropriate Arc-*
 9 *tic science expertise, and by building on existing regional*
 10 *ocean observing systems, direct research to improve the abil-*
 11 *ity of the United States to conduct oil spill prevention, re-*
 12 *sponse, observing, and recovery in Arctic waters.*

13 (b) *INCLUSIONS.*—*Research, observation, and action*
 14 *under this section shall include the prioritization of re-*
 15 *sources—*

16 (1) *to address—*

17 (A) *ecological baselines and environmental*
 18 *sensitivity indexes, including stock assessments*
 19 *of marine mammals and other protected species*
 20 *in the Arctic;*

21 (B) *identification of ecological important*
 22 *areas, sensitive habitats, and migratory behav-*
 23 *iors;*

24 (C) *the development of oil spill trajectory*
 25 *models in Arctic marine conditions;*

1 *(D) the collection of observational data es-*
 2 *sential for response strategies in the event of an*
 3 *oil spill during both open water and ice-covered*
 4 *seasons, including data relating to oil spill tra-*
 5 *jectory models that include data on—*

6 *(i) currents;*

7 *(ii) winds;*

8 *(iii) weather;*

9 *(iv) waves; and*

10 *(v) ice forecasting;*

11 *(E) the development of a robust operational*
 12 *monitoring program during the open water and*
 13 *ice-covered seasons;*

14 *(F) improvements in technologies and un-*
 15 *derstanding of cold water oil recovery planning*
 16 *and restoration implementation; and*

17 *(G) the integration of local and traditional*
 18 *knowledge into oil recovery research studies; and*

19 *(2) to establish a robust geospatial framework for*
 20 *safe navigation and oil spill response through in-*
 21 *creased—*

22 *(A) hydrographic and bathymetric sur-*
 23 *veying, mapping, and navigational charting;*

24 *(B) geodetic positioning; and*

1 (C) monitoring of tides, sea levels, and cur-
2 rents in the Arctic.

3 **SEC. 107. NATIONAL OCEANIC AND ATMOSPHERIC ADMINIS-**
4 **TRATION SUBSEA HYDROCARBON MONI-**
5 **TORING AND ASSESSMENT.**

6 (a) *SUBSEA HYDROCARBON REVIEW.*—Not later than
7 45 days after the date of the enactment of this Act, the
8 Under Secretary for Oceans and Atmosphere shall conduct
9 a comprehensive review of the current state of the National
10 Oceanic and Atmospheric Administration and the capacity
11 of the Administration to monitor, map, and track subsea
12 hydrocarbons.

13 (b) *ELEMENTS.*—The review conducted under sub-
14 section (a) shall include the following:

15 (1) *A review of protocol for application of*
16 *dispersants that contemplates the variables of tem-*
17 *perature, pressure, and depth of the site of release of*
18 *hydrocarbons.*

19 (2) *A review of technological capabilities to de-*
20 *tect the presence of subsea hydrocarbons at various*
21 *concentrations and at various depths within a water*
22 *column resulting from releases of oil and natural gas*
23 *after a spill.*

1 (3) *A review of technological capabilities for ex-*
 2 *peditionously identifying the source (known as*
 3 *“fingerprinting”) of subsea hydrocarbons.*

4 (4) *A review of coastal and ocean current mod-*
 5 *eling as it relates to predicting the trajectory of oil*
 6 *and natural gas.*

7 (5) *A review of the effect of subsea hydrocarbons*
 8 *(all concentrations including down to hydrocarbon*
 9 *chains in solution) on all levels of the food web, in-*
 10 *cluding evaluations of seafood safety, toxicity to indi-*
 11 *viduals, negative impacts to reproduction, bioaccumu-*
 12 *lation, growth, and such other matters as the Under*
 13 *Secretary considers appropriate.*

14 (6) *Development of recommendations on prior-*
 15 *ities for improving forecasting of movement of subsea*
 16 *hydrocarbons.*

17 (7) *Development of recommendations for long-*
 18 *term remote monitoring of subsea hydrocarbons after*
 19 *a spill, including dissolved oxygen impacts.*

20 (8) *Development of recommendations for imple-*
 21 *mentation of a Subsea Hydrocarbon Monitoring and*
 22 *Assessment program within the Office of Response*
 23 *and Restoration.*

24 (c) *PROGRAM REQUIRED.*—*Not later than 1 year after*
 25 *the date of the enactment of this Act, the Under Secretary*

1 *shall establish a hydrocarbon monitoring and assessment*
 2 *program. Such program shall be based on the recommenda-*
 3 *tions developed under the comprehensive review required by*
 4 *subsection (a).*

5 *(d) FUNDING.—Not later than 30 days after the date*
 6 *of the enactment of this Act, out of any funds in the Oil*
 7 *Spill Liability Trust Fund established by section 9509 of*
 8 *the Internal Revenue Code of 1986 not otherwise appro-*
 9 *priated, the Secretary of the Treasury shall transfer to the*
 10 *Secretary of Commerce to carry out the provisions of this*
 11 *section \$15,000,000 to remain available until expended.*

12 **TITLE II—IMPROVING COAST**
 13 **GUARD RESPONSE AND IN-**
 14 **SPECTION CAPACITY**

15 **SEC. 201. SECRETARY DEFINED.**

16 *In this title, except as otherwise specifically provided,*
 17 *the term “Secretary” means the Secretary of the Depart-*
 18 *ment in which the Coast Guard is operating.*

19 **SEC. 202. ARCTIC MARITIME READINESS AND OIL SPILL**
 20 **PREVENTION.**

21 *(a) IN GENERAL.—The Commandant of the Coast*
 22 *Guard shall assess and take action to reduce the risk and*
 23 *improve the capability of the United States to respond to*
 24 *a maritime disaster in the United States Beaufort and*
 25 *Chukchi Seas.*

1 (b) *MATTERS TO BE ADDRESSED.*—*The assessment*
2 *and actions referred to in subsection (a) shall include the*
3 *prioritization of resources to address the following:*

4 (1) *Oil spill prevention and response capabilities*
5 *and infrastructure.*

6 (2) *The coordination of contingency plans and*
7 *agreements with other agencies and departments of*
8 *the United States, industry, and foreign governments*
9 *to respond to an Arctic oil spill.*

10 (3) *The expansion of search and rescue capabili-*
11 *ties, infrastructure, and logistics, including improve-*
12 *ments of the Search and Rescue Optimal Planning*
13 *System.*

14 (4) *The provisional designation of places of ref-*
15 *uge.*

16 (5) *The evaluation and enhancement of naviga-*
17 *tional infrastructure.*

18 (6) *The evaluation and enhancement of vessel*
19 *monitoring, tracking, and automated identification*
20 *systems and navigational aids and communications*
21 *infrastructure for safe navigation and marine acci-*
22 *dent prevention in the Arctic.*

23 (7) *Shipping traffic risk assessments for the Ber-*
24 *ing Strait and the Chukchi and Beaufort Seas.*

1 (8) *The integration of local and traditional*
 2 *knowledge and concerns into prevention and response*
 3 *strategies.*

4 **SEC. 203. COAST GUARD RESPONSE PLAN REQUIREMENTS.**

5 (a) *RESPONSE PLAN UPDATES.—*

6 (1) *IN GENERAL.—The Secretary shall require*
 7 *all response plans approved by the Coast Guard*
 8 *under section 311(j) of the Federal Water Pollution*
 9 *Control Act (33 U.S.C. 1321(j)) to be updated not less*
 10 *often than once every five years.*

11 (2) *BEST AVAILABLE TECHNOLOGY.—Each re-*
 12 *sponse plan update required by paragraph (1) shall*
 13 *utilize the best commercially available technology and*
 14 *methods to contain and remove to the maximum ex-*
 15 *tent practicable a worst case discharge (including a*
 16 *discharge resulting from fire or explosion), and to*
 17 *mitigate or prevent a substantial threat of such a dis-*
 18 *charge.*

19 (3) *TECHNOLOGY STANDARDS.—The Coast*
 20 *Guard may establish requirements and guidance for*
 21 *utilizing the best commercially available technology*
 22 *and methods, which shall be based on performance*
 23 *metrics and standards whenever practicable.*

24 (4) *RESUBMISSION.—Each update required by*
 25 *paragraph (1) shall be considered a significant*

1 *change requiring it to be resubmitted for approval by*
 2 *the Coast Guard.*

3 *(b) VESSEL RESPONSE PLANS.—The Secretary shall*
 4 *require that all vessel response plans prepared pursuant to*
 5 *section 311(j) of the Federal Water Pollution Control Act*
 6 *(33 U.S.C. 1321(j)) for vessels described in section 3301(16)*
 7 *of title 46, United States Code, as amended by section 207*
 8 *of this Act, include plans for responding to a worst case*
 9 *discharge (as described in subparagraphs (A) and (B) of*
 10 *section 311(a)(24) of the Federal Water Pollution Control*
 11 *Act (33 U.S.C. 1321(a)(24))), and to a threat of such a dis-*
 12 *charge.*

13 **SEC. 204. ADVANCE PLANNING AND PROMPT DECISION-**
 14 **MAKING IN CLOSING AND REOPENING FISH-**
 15 **ING GROUNDS.**

16 *(a) REQUIREMENT THAT AREA CONTINGENCY PLANS*
 17 *CONTAIN AREA-SPECIFIC PROTOCOLS AND STANDARDS.—*

18 *(1) COOPERATION WITH STATE AND LOCAL OFFI-*
 19 *CIALS.—Section 311(j)(4)(B)(ii) of the Federal Water*
 20 *Pollution Control Act (33 U.S.C. 1321(j)(4)(B)(ii)) is*
 21 *amended by striking the semicolon after “wildlife”*
 22 *and inserting a comma and “including advance plan-*
 23 *ning with respect to the closing and reopening of fish-*
 24 *ing grounds following an oil spill;”.*

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

4 (A) by redesignating clauses (vii) and (viii)
 5 as clauses (viii) and (ix), respectively; and

6 (B) by inserting after clause (vi) the fol-
 7 lowing:

8 “(vii) develop a framework for advance
 9 planning and decisionmaking with respect
 10 to the closing and reopening of fishing
 11 grounds following an oil spill, including
 12 protocols and standards for the closing and
 13 reopening of fishing areas;”.

14 (b) *NATIONAL GUIDANCE*.—Section 311(j)(4)(D) of the
 15 *Federal Water Pollution Control Act* (33 U.S.C.
 16 1321(j)(4)(D)) is amended—

17 (1) in clause (i), by striking “and” at the end;

18 (2) in clause (ii), by striking the period and in-
 19 serting “; and”; and

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

21 “(iii) acting through the Commandant
 22 of the Coast Guard and in consultation
 23 with the Under Secretary for Oceans and
 24 Atmosphere and any other government enti-
 25 ties deemed appropriate, issue guidance for

1 *Area Committees to use in developing a*
2 *framework for advance planning and deci-*
3 *sionmaking with respect to the closing and*
4 *reopening of fishing grounds following an*
5 *oil spill, which guidance shall include model*
6 *protocols and standards for the closing and*
7 *reopening of fishing areas.”.*

8 **SEC. 205. OIL SPILL TECHNOLOGY EVALUATION.**

9 *(a) IN GENERAL.—The Secretary shall establish a pro-*
10 *gram for the formal evaluation and validation of oil pollu-*
11 *tion containment and removal methods and technologies.*

12 *(b) APPROVAL.—The program required by subsection*
13 *(a) shall establish a process for new methods and tech-*
14 *nologies to be submitted and evaluated and to gain valida-*
15 *tion for use in spill responses and inclusion in response*
16 *plans. Following each validation, the Secretary shall con-*
17 *sider whether the method or technology meets a performance*
18 *capability warranting designation of a new standard for*
19 *best available technology or methods.*

20 *(c) TECHNOLOGY CLEARINGHOUSE.—All technologies*
21 *and methods validated under this section shall be included*
22 *in the comprehensive list of spill removal resources main-*
23 *tained by the Coast Guard through the National Response*
24 *Unit.*

1 (d) *CONSULTATION.*—*The Secretary shall consult with*
2 *the Secretary of the Interior, the Under Secretary for*
3 *Oceans and Atmosphere, the Administrator of the Environ-*
4 *mental Protection Agency, the Secretary of Transportation,*
5 *and the Secretary of Energy in carrying out this section.*

6 **SEC. 206. COAST GUARD INSPECTIONS.**

7 (a) *IN GENERAL.*—*The Secretary shall increase the*
8 *frequency and comprehensiveness of safety inspections of all*
9 *United States and foreign-flag tank vessels that enter a*
10 *United States port or place, including increasing the fre-*
11 *quency and comprehensiveness of inspections of vessel age,*
12 *hull configuration, and past violations of any applicable*
13 *discharge and safety regulations under United States and*
14 *international law that may indicate that the class societies*
15 *inspecting such vessels may be substandard, and other fac-*
16 *tors relevant to the potential risk of an oil spill.*

17 (b) *ENHANCED VERIFICATION OF STRUCTURAL CONDI-*
18 *TION.*—*The Secretary shall adopt, as part of the Secretary's*
19 *inspection requirements for tank vessels, additional proce-*
20 *dures for enhancing the verification of the reported struc-*
21 *tural condition of such vessels, taking into account the Con-*
22 *dition Assessment Scheme adopted by the International*
23 *Maritime Organization by Resolution 94(46) on April 27,*
24 *2001.*

1 **SEC. 207. CERTIFICATE OF INSPECTION REQUIREMENTS.**

2 Chapter 33 of title 46, United States Code, is amend-
3 ed—

4 (1) in section 3301, by adding at the end the fol-
5 lowing:

6 “(16) vessels and other structures, fixed or float-
7 ing, including those which dynamically hold position
8 or are attached to the seabed or subsoil, which are ca-
9 pable of exploring for, drilling for, developing, or pro-
10 ducing oil or gas.”; and

11 (2) in section 3305(a)(1)—

12 (A) by amending subparagraph (E) to read
13 as follows:

14 “(E) is in a condition to be operated with
15 safety to life and property, including the oper-
16 ation of systems used for the capabilities de-
17 scribed in paragraph (16) of section 3301, in-
18 cluding—

19 “(i) drilling systems, including risers
20 and blow out preventers; and

21 “(ii) production systems, if so
22 equipped;”;

23 (B) in subparagraph (F), by striking the
24 period at the end and inserting “; and”; and

25 (C) by adding the following:

1 “(G) for vessels and other structures de-
2 scribed in paragraph (16) of section 3301 (in-
3 cluding the systems used for the capabilities de-
4 scribed in paragraph (16) of section 3301), com-
5 plies with the highest classification, certification,
6 rating, and inspection standards for vessels or
7 structures of the same age and type imposed
8 by—

9 “(i) the American Bureau of Shipping;
10 or

11 “(ii) another classification society ap-
12 proved by the Secretary as meeting accept-
13 able standards for such a society, except
14 that the classification of vessels or structures
15 under this section by a foreign classification
16 society may be accepted by the Secretary
17 only—

18 “(I) to the extent that the govern-
19 ment of the foreign country in which
20 the society is headquartered accepts
21 classification by the American Bureau
22 of Shipping of vessels and structures
23 used in the offshore exploration, devel-
24 opment, and production of oil and gas
25 in that country; and

1 “(II) if the foreign classification
 2 society has offices and maintains
 3 records in the United States.”.

4 **SEC. 208. NAVIGATIONAL MEASURES FOR PROTECTION OF**
 5 **NATURAL RESOURCES.**

6 (a) *DESIGNATION OF AT-RISK AREAS.*—The Com-
 7 mandant of the Coast Guard, in consultation with the
 8 Under Secretary for Oceans and Atmosphere, shall identify
 9 areas in waters subject to the jurisdiction of the United
 10 States in which routing or other navigational measures are
 11 warranted to reduce the risk of oil spills and potential dam-
 12 age to natural resources. In identifying such areas, the
 13 Commandant shall give priority consideration to natural
 14 resources of particular ecological importance or economic
 15 importance, including—

16 (1) commercial fisheries;

17 (2) aquaculture facilities;

18 (3) marine sanctuaries designated by the Sec-
 19 retary of Commerce pursuant to the National Marine
 20 Sanctuaries Act (16 U.S.C. 1431 et seq.);

21 (4) estuaries of national significance designated
 22 under section 320 of the Federal Water Pollution Con-
 23 trol Act (33 U.S.C. 1330);

1 (5) *critical habitat, as defined in section 3(5) of*
 2 *the Endangered Species Act of 1973 (16 U.S.C.*
 3 *1532(5));*

4 (6) *estuarine research reserves within the Na-*
 5 *tional Estuarine Research Reserve System established*
 6 *by section 315 of the Coastal Zone Management Act*
 7 *of 1972 (16 U.S.C. 1461); and*

8 (7) *national parks and national seashores ad-*
 9 *ministered by the National Park Service under the*
 10 *National Park Service Organic Act (16 U.S.C. 1 et*
 11 *seq.).*

12 (b) *FACTORS CONSIDERED.—In determining whether*
 13 *navigational measures are warranted for an area under*
 14 *subsection (a), the Commandant and the Under Secretary*
 15 *for Oceans and Atmosphere shall consider, at a minimum—*

16 (1) *the frequency of transits of vessels which are*
 17 *required to prepare a response plan under section*
 18 *311(j) of the Federal Water Pollution Control Act (33*
 19 *U.S.C. 1321(j));*

20 (2) *the type and quantity of oil transported as*
 21 *cargo or fuel;*

22 (3) *the expected benefits of routing measures in*
 23 *reducing risks of spills;*

24 (4) *the costs of such measures;*

25 (5) *the safety implications of such measures; and*

1 (6) *the nature and value of the resources to be*
2 *protected by such measures.*

3 (c) *ESTABLISHMENT OF ROUTING AND OTHER NAVI-*
4 *GATIONAL MEASURES.—The Commandant shall establish*
5 *such routing or other navigational measures for areas iden-*
6 *tified under subsection (a).*

7 (d) *ESTABLISHMENT OF AREAS TO BE AVOIDED.—To*
8 *the extent that the Commandant and the Under Secretary*
9 *for Oceans and Atmosphere identify areas in which naviga-*
10 *tional measures are warranted for an area under subsection*
11 *(a), the Commandant and the Under Secretary shall seek*
12 *to establish such areas through the International Maritime*
13 *Organization or establish comparable areas pursuant to*
14 *regulations and in a manner that is consistent with inter-*
15 *national law.*

16 (e) *OIL SHIPMENT DATA AND REPORT.—*

17 (1) *DATA COLLECTION.—The Commandant of the*
18 *Coast Guard, in consultation with the Chief of Engi-*
19 *neers, shall analyze data on oil transported as cargo*
20 *on vessels in the navigable waters of the United*
21 *States, including information on—*

22 (A) *the quantity and type of oil being*
23 *transported;*

24 (B) *the vessels used for such transportation;*

1 (C) the frequency with which each type of
2 oil is being transported; and

3 (D) the point of origin, transit route, and
4 destination of each such shipment of oil.

5 (2) QUARTERLY REPORT.—

6 (A) REQUIREMENT FOR QUARTERLY RE-
7 PORT.—The Secretary shall, not less frequently
8 than once each calendar quarter, submit to the
9 Committee on Commerce, Science, and Transpor-
10 tation of the Senate and the Committee on En-
11 ergy and Commerce of the House of Representa-
12 tives a report on the data collected and analyzed
13 under paragraph (1).

14 (B) FORMAT.—Each report submitted under
15 subparagraph (A) shall be submitted in a format
16 that does not disclose information exempted from
17 disclosure.

18 **SEC. 209. NOTICE TO STATES OF BULK OIL TRANSFERS.**

19 (a) IN GENERAL.—A State may, by law, require a per-
20 son to provide notice of 24 hours or more to the State and
21 to the Coast Guard prior to transferring oil in bulk as cargo
22 in an amount equivalent to 250 barrels or more to, from,
23 or within a vessel in State waters.

24 (b) COAST GUARD ASSISTANCE.—The Commandant of
25 the Coast Guard may assist a State in developing appro-

1 *priate methodologies for joint Federal and State notifica-*
 2 *tion of an oil transfer described in subsection (a) to mini-*
 3 *mize any potential burden to vessels.*

4 **SEC. 210. GULF OF MEXICO REGIONAL CITIZENS' ADVISORY**
 5 **COUNCIL.**

6 *(a) IN GENERAL.—Subtitle A of title IV of the Oil Pol-*
 7 *lution Act of 1990 is amended by inserting after section*
 8 *4118 (33 U.S.C. 1203 note) the following:*

9 **“SEC. 4119. GULF OF MEXICO REGIONAL CITIZENS' ADVI-**
 10 **SORY COUNCIL.**

11 *“(a) ESTABLISHMENT.—There is established a Gulf of*
 12 *Mexico Regional Citizens' Advisory Council (referred to in*
 13 *this section as the ‘Council’).*

14 *“(b) MEMBERSHIP.—The Council shall be composed of*
 15 *voting members and nonvoting members, as follows:*

16 *“(1) VOTING MEMBERS.—Each of the States of*
 17 *Alabama, Florida, Louisiana, Mississippi, and Texas*
 18 *shall each have 6 voting members on the Council who*
 19 *shall be residents of the State and appointed from*
 20 *and by the following interests in the State, such that*
 21 *each interest in each State is represented by a voting*
 22 *member:*

23 *“(A) Commercial fin fish and shellfish in-*
 24 *dustry.*

25 *“(B) Charter fishing industry.*

1 “(C) *Restaurant, hotel, and tourism indus-*
2 tries.

3 “(D) *Indigenous peoples communities.*

4 “(E) *Marine and coastal conservation com-*
5 munity.

6 “(F) *Incorporated and unincorporated mu-*
7 nicipalities.

8 “(2) *NONVOTING MEMBERS.—One ex officio, non-*
9 voting representative shall be designated by, and rep-
10 resent, each of the following:

11 “(A) *The Coast Guard.*

12 “(B) *The Environmental Protection Agency.*

13 “(C) *The National Oceanic and Atmos-*
14 pheric Administration.

15 “(D) *The Bureau of Ocean Energy Manage-*
16 ment, Regulation and Enforcement.

17 “(E) *The lead maritime environmental and*
18 *natural resources management and enforcement*
19 *agency from each of the States of Alabama, Flor-*
20 *ida, Louisiana, Mississippi, and Texas.*

21 “(F) *The maritime or shipping industry in*
22 *the States of Alabama, Florida, Louisiana, Mis-*
23 *issippi, and Texas.*

1 “(G) *The offshore energy industry in the*
 2 *States of Alabama, Florida, Louisiana, Mis-*
 3 *issippi, and Texas.*

4 “(H) *Researchers in the physical sciences,*
 5 *the social sciences, and engineering at univer-*
 6 *sities in the States of Alabama, Florida, Lou-*
 7 *isiana, Mississippi, and Texas.*

8 “(3) *GEOGRAPHIC BALANCE.—Voting and non-*
 9 *voting members shall be drawn equally from the State*
 10 *represented on the Council.*

11 “(c) *TERMS.—*

12 “(1) *IN GENERAL.—The voting members of the*
 13 *Council shall be appointed for a term of 3 years.*

14 “(2) *INITIAL APPOINTMENTS.—For the terms of*
 15 *the group of first appointments of voting members to*
 16 *the Council, a drawing of lots among the appointees*
 17 *shall be conducted under which—*

18 “(A) *$\frac{1}{3}$ of that group shall serve for 3*
 19 *years;*

20 “(B) *$\frac{1}{3}$ of that group shall serve for 2*
 21 *years; and*

22 “(C) *the remainder of that group shall serve*
 23 *for 1 year.*

24 “(3) *DURATION OF COUNCIL.—The duration of*
 25 *the Council shall be throughout the lifetime of energy*

1 *development, transportation, and facility removal ac-*
 2 *tivities in the Gulf of Mexico.*

3 “(d) *ADMINISTRATION.*—

4 “(1) *IN GENERAL.*—*The Council shall—*

5 “(A) *elect a chairperson;*

6 “(B) *select staff; and*

7 “(C) *make policies with regard to internal*
 8 *operating procedures.*

9 “(2) *SELF-GOVERNANCE.*—*After the initial orga-*
 10 *nizational meeting hosted by the Secretary of the de-*
 11 *partment in which the Coast Guard is operating, the*
 12 *Council shall be self-governing. The Council shall hold*
 13 *its first meeting not later than 60 days after the date*
 14 *on which all members of the Council have been ap-*
 15 *pointed, and shall hold meetings thereafter no less fre-*
 16 *quently than once each year.*

17 “(3) *TRANSPARENCY.*—*The Council shall—*

18 “(A) *conduct the operations of the Council*
 19 *in public, to the maximum extent practicable;*

20 “(B) *make the work products the Council*
 21 *adopts available to the public;*

22 “(C) *hold at least 1 meeting each year that*
 23 *is open to the public, for which notice has been*
 24 *provided at least 30 days before the date of the*
 25 *meeting; and*

1 “(D) maintain a public website containing,
2 at a minimum—

3 “(i) recommendations made by the
4 Council, and information as to whether or
5 not the recommendations were adopted, and,
6 if not, an explanation of why they were not
7 adopted;

8 “(ii) a description of plans under re-
9 view, without disclosing any confidential or
10 privileged information;

11 “(iii) a statement of industry stand-
12 ards; and

13 “(iv) an interactive component that
14 permits the public to submit questions and
15 comments and to report problems.

16 “(4) CONFLICTS OF INTEREST.—An individual
17 selected as a voting member of the Council may not
18 engage in any activity that may conflict with the exe-
19 cution of the functions or duties of the individual as
20 a Council member.

21 “(e) DUTIES.—

22 “(1) IN GENERAL.—The Council shall, with re-
23 gard to facilities and tank vessels in, and on the coast
24 of, the Gulf of Mexico—

1 “(A) *with regard to facilities and tank ves-*
2 *sels in, and on the coast of, the Gulf of Mexico—*

3 “(i) *provide comprehensive oversight*
4 *and monitoring of policies, permits, oper-*
5 *ations, and regulations relating to the ac-*
6 *tivities, operation, and maintenance of the*
7 *facilities and tank vessels;*

8 “(ii) *monitor the environmental im-*
9 *pacts of the operation of the facilities and*
10 *tank vessels;*

11 “(iii) *monitor oil spill prevention and*
12 *response plans, including plans relating to*
13 *blowout prevention and response, for the fa-*
14 *cilities and tank vessels; and*

15 “(iv) *recommend standards and condi-*
16 *tions for regulations intended to ensure the*
17 *safe and environmentally sound operation*
18 *and maintenance of the facilities and tank*
19 *vessels;*

20 “(B) *provide recommendations for, and oth-*
21 *erwise assist, any oil spill recovery or spill re-*
22 *search institute established for the Gulf of Mex-*
23 *ico; and*

1 “(C) *conduct such other activities within*
 2 *the authority and scope of the Council as the*
 3 *Council considers appropriate.*

4 “(2) *GEOGRAPHIC SCOPE.—The Council shall*
 5 *carry out the duties described in paragraph (1) in a*
 6 *manner that, to the maximum extent practicable, cov-*
 7 *ers all activities of facilities and tank vessels occur-*
 8 *ring in the Gulf of Mexico.*

9 “(f) *STANDING COMMITTEES.—The Council may cre-*
 10 *ate standing committees as necessary to carry out the duties*
 11 *described in subsection (e), including—*

12 “(1) *a scientific and technical committee;*

13 “(2) *an environmental monitoring committee;*

14 “(3) *an oil spill prevention and response com-*
 15 *mittee;*

16 “(4) *an offshore committee for monitoring activi-*
 17 *ties in water that is more than 500 feet in depth;*

18 “(5) *a near-shore committee for monitoring ac-*
 19 *tivities in water that is 500 feet or less in depth;*

20 “(6) *an information and education committee;*
 21 *and*

22 “(7) *a committee on social impact assessments*
 23 *with respect to prevention, mitigation, and response.*

24 “(g) *TEMPORARY COMMITTEES.—*

1 “(1) *IN GENERAL.*—*In addition to the standing*
 2 *committees authorized to be created in subsection (f),*
 3 *the Council may create temporary committees as nec-*
 4 *essary to carry out the duties of the Council relating*
 5 *to—*

6 “(A) *the blowout and explosion of the mo-*
 7 *bile offshore drilling unit Deepwater Horizon*
 8 *that occurred on April 20, 2010; and*

9 “(B) *the resulting hydrocarbon releases into*
 10 *the environment, including temporary commit-*
 11 *tees relating to—*

12 “(i) *public and occupational health;*
 13 *and*

14 “(ii) *assessment and monitoring of en-*
 15 *vironmental, social, and economic impacts.*

16 “(2) *DISSOLUTION.*—*If a $\frac{5}{6}$ majority of the*
 17 *Council votes to discontinue activities relating to the*
 18 *incidents described in paragraph (1), any temporary*
 19 *committee established under paragraph (1) shall dis-*
 20 *solve within 60 days after the date of the vote.*

21 “(h) *ESTOPPEL.*—

22 “(1) *IN GENERAL.*—*The Council shall not be lia-*
 23 *ble under Federal or State law for costs or damages*
 24 *as a result of rendering recommendations under this*
 25 *section.*

1 “(2) *ADVICE.*—Any advice given by a voting
 2 member of the Council, or by a program representa-
 3 tive or agent, shall not be grounds for estopping those
 4 interests represented by the voting Council members
 5 from seeking damages or other appropriate relief.

6 “(i) *INFORMATION FROM FEDERAL AGENCIES AND IN-*
 7 *DUSTRY.*—

8 “(1) *IN GENERAL.*—The Council may request di-
 9 rectly from any Federal agency (as defined in section
 10 1004 of the Solid Waste Disposal Act (42 U.S.C.
 11 6903)) (referred to in this section as a ‘Federal agen-
 12 cy’) information, suggestions, estimates, and statistics
 13 for the purposes of this section.

14 “(2) *AGENCY COOPERATION.*—

15 “(A) *IN GENERAL.*—Effective beginning 180
 16 days after the date of the enactment of this sec-
 17 tion, each Federal agency shall, with respect to
 18 all permits, site-specific regulations, and other
 19 matters governing the activities and actions
 20 within the purview of the Council, consult with
 21 the Council prior to taking substantive action
 22 with respect to the permit, site-specific regula-
 23 tion, or other matter.

1 “(B) *REVIEW.*—*The consultation shall be*
 2 *carried out in a manner that enables the Coun-*
 3 *cil—*

4 “(i) *to review the permit, site-specific*
 5 *regulation, or other matters; and*

6 “(ii) *to make appropriate rec-*
 7 *ommendations regarding operations, policy,*
 8 *or agency actions.*

9 “(C) *EMERGENCIES.*—*Prior consultation*
 10 *shall not be required under this paragraph if an*
 11 *authorized Federal agency representative reason-*
 12 *ably believes that an emergency exists requiring*
 13 *action without delay.*

14 “(D) *INFORMATION.*—*Each Federal agency*
 15 *shall, on the request of the Council and to the ex-*
 16 *tent authorized by law—*

17 “(i) *except as provided in clause (ii),*
 18 *furnish information, suggestions, estimates,*
 19 *and statistics directly to the Council; and*

20 “(ii) *in the case of sensitive security*
 21 *information, furnish such information to*
 22 *members of the Council authorized to receive*
 23 *such information.*

24 “(3) *ACCESS.*—*The Council shall have access*
 25 *to—*

1 “(A) facilities and nonproprietary records
 2 of the oil and gas industry that are relevant to
 3 the proper execution of the duties of the Council
 4 under this section; and

5 “(B) records containing proprietary infor-
 6 mation if—

7 “(i) the records are relevant to the
 8 proper execution of the duties of the Council
 9 under this section; and

10 “(ii) the proprietary information is re-
 11 dacted to the extent necessary and appro-
 12 priate.

13 “(j) COUNCIL RESEARCH.—In carrying out this sec-
 14 tion, the Council—

15 “(1) may conduct applicable scientific research;
 16 and

17 “(2) shall review applicable scientific work un-
 18 dertaken by or on behalf of—

19 “(A) the energy industry;

20 “(B) the conservation community; or

21 “(C) government agencies.

22 “(k) COUNCIL RECOMMENDATIONS.—

23 “(1) IN GENERAL.—All recommendations of the
 24 Council shall be advisory only.

1 “(2) *RECOMMENDATIONS.*—If a government
 2 agency, responsible party, or other owner or operator,
 3 lessee, or permittee (referred to in this paragraph as
 4 the ‘covered individual or entity’) decides not to ac-
 5 cept, or decides to substantially modify before adop-
 6 tion, a recommendation of the Council, the covered in-
 7 dividual or entity shall provide to the Council, not
 8 later than 10 days after the date of the decision of the
 9 covered individual or entity, a written notice of the
 10 decision and a summary of reasons for the rejection
 11 or substantial modification of the recommendation by
 12 the covered individual or entity.

13 “(1) *LOCATION AND COMPENSATION.*—

14 “(1) *OFFICE LOCATIONS.*—The Council shall es-
 15 tablish offices in 1 or more Gulf States, as the Coun-
 16 cil determines to be necessary and appropriate to the
 17 operations of the Council.

18 “(2) *PER DIEM AUTHORIZATION.*—A member of
 19 the Council may not be compensated for service on the
 20 Council, but shall be allowed travel expenses, includ-
 21 ing per diem, at a rate established by the Council, not
 22 to exceed the rates authorized for employees of agen-
 23 cies under sections 5702 and 5703 of title 5, United
 24 States Code (except by express authorization of the
 25 Council in any case in which the rates are inadequate

1 to reimburse a member not eligible for travel rates of
2 the Federal Government).

3 “(m) *REPORTS*.—

4 “(1) *GAO REPORTS*.—Not later than 3 years
5 after the date of establishment of the Council and
6 every 3 years thereafter, the Comptroller General of
7 the United States shall submit to the President and
8 Congress a report covering the operations and expend-
9 itures of the Council in carrying out this section, in-
10 cluding any recommendations.

11 “(2) *BIENNIAL REPORTS TO CONGRESS*.—Every
12 2 years, the Council shall submit a report to Congress
13 on—

14 “(A) the achievement of safe operations in
15 the Gulf of oil and gas activities;

16 “(B) unresolved problems and concerns with
17 operations, activities, and plans; and

18 “(C) the operations and expenditures, needs,
19 issues, and recommendations of the Council.

20 “(3) *ANNUAL AUDITS*.—

21 “(A) *IN GENERAL*.—The Council shall—

22 “(i) commission an annual inde-
23 pendent financial statement audit by an
24 independent accounting firm; and

1 “(ii) *publish the results of the audits*
 2 *in a publicly available annual report.*

3 “(B) *BIENNIAL REPORTS.—The audits shall*
 4 *be incorporated into the reports to Congress re-*
 5 *quired by paragraph (2).*

6 “(n) *SUITS BARRED.—No program, association, coun-*
 7 *cil, committee, or other organization created by this section*
 8 *may sue any public or private person or entity concerning*
 9 *any matter arising under this section other than the per-*
 10 *formance of a contract.*

11 “(o) *OPERATIONAL AND ADMINISTRATIVE FUNDING.—*
 12 *Owners or operators of tank vessels, onshore facilities, or*
 13 *offshore facilities, lessees, and permittees in the Gulf of Mex-*
 14 *ico shall provide, on an annual basis, an aggregate amount*
 15 *of not more than \$10,000,000, as determined by the Sec-*
 16 *retary of the department in which the Coast Guard is oper-*
 17 *ating, that shall—*

18 “(1) *provide for the establishment and operation*
 19 *of the Council (including standing committees and*
 20 *any temporary committees); and*

21 “(2) *be adjusted annually to reflect changes in*
 22 *the Consumer Price Index in the Gulf of Mexico re-*
 23 *gion.”.*

24 “(b) *TABLE OF CONTENTS.—The table of contents in*
 25 *section 2 of the Oil Pollution Act of 1990 (33 U.S.C. prec.*

1 2701) is amended by adding at the end of the items relating
 2 to subtitle A of title IV the following:

“Sec. 4119. Gulf of Mexico Regional Citizens’ Advisory Council.”.

3 **SEC. 211. ARCTIC REGIONAL CITIZENS’ ADVISORY COUNCIL.**

4 (a) *IN GENERAL.*—Subtitle A of title IV of the Oil Pol-
 5 lution Act of 1990 (Public Law 101–380), as amended by
 6 section 210 of this Act, is further amended by adding at
 7 the end the following:

8 **“SEC. 4120. ARCTIC REGIONAL CITIZENS’ ADVISORY COUN-
 9 CIL.**

10 “(a) *ESTABLISHMENT.*—There is established an Arctic
 11 Regional Citizens’ Advisory Council.

12 “(b) *MISSION.*—The mission of the Council is—

13 “(1) to advise the Administrator of the Environ-
 14 mental Protection Agency, the Commandant of the
 15 Coast Guard, the Secretary of Commerce, and the
 16 Secretary of the Interior; and

17 “(2) to represent the citizens that live in the
 18 coastal areas of the Beaufort and Chukchi seas in pro-
 19 moting environmentally safe exploration, develop-
 20 ment, and production of oil and gas and to mitigate
 21 impacts to subsistence activities and resources.

22 “(c) *MEMBERSHIP.*—The Council shall be composed of
 23 voting members and nonvoting members, as follows:

24 “(1) *VOTING MEMBERS.*—There shall be 7 voting
 25 members of the Council as follows:

1 “(A) *The mayor of the North Slope Bor-*
2 *ough.*

3 “(B) *The president of Arctic Slope Regional*
4 *Corporation.*

5 “(C) *The mayor of the Northwest Arctic*
6 *Borough.*

7 “(D) *The president of NANA Regional Cor-*
8 *poration.*

9 “(E) *The chairman of the Alaska Eskimo*
10 *Whaling Commission.*

11 “(F) *The chairman of the Nanuuq Commis-*
12 *sion.*

13 “(G) *The chairman of the Beluga Commis-*
14 *sion.*

15 “(2) *NONVOTING MEMBERS.—One ex-officio, non-*
16 *voting representative shall be designated by, and rep-*
17 *resent, each of the following:*

18 “(A) *The United States Coast Guard.*

19 “(B) *The Environmental Protection Agency.*

20 “(C) *The National Oceanic and Atmos-*
21 *pheric Administration.*

22 “(D) *The United States Fish and Wildlife*
23 *Service.*

24 “(E) *The Bureau of Ocean Energy Manage-*
25 *ment, Regulation and Enforcement.*

1 “(F) *The Alaska Department of Natural Re-*
2 *sources.*

3 “(G) *The Alaska Department of Environ-*
4 *mental Conservation.*

5 “(H) *The Alaska Department of Fish and*
6 *Game.*

7 “(3) *ALTERNATES.—The vice-chairman, vice*
8 *president, or acting mayor, as applicable, of each or-*
9 *ganization listed in paragraph (1) may act as a vot-*
10 *ing member of the Council at any meeting if the*
11 *chairman, president, or mayor, as applicable, from*
12 *such organization is unable to attend.*

13 “(d) *DURATION OF COUNCIL.—The Council’s duration*
14 *shall be throughout the lifetime of energy exploration, devel-*
15 *opment, production and transportation and decommis-*
16 *sioning in the waters adjacent to Alaska’s North Slope.*

17 “(e) *ADMINISTRATION.—*

18 “(1) *IN GENERAL.—The Council shall—*

19 “(A) *elect a chairperson;*

20 “(B) *select staff; and*

21 “(C) *make policies with regard to its inter-*
22 *nal operating procedures.*

23 “(2) *SELF-GOVERNANCE.—After the initial orga-*
24 *nizational meeting hosted by the Secretary of the de-*

1 *partment in which the Coast Guard is operating, the*
 2 *Council shall be self-governing.*

3 *“(3) TRANSPARENCY.—The Council shall—*

4 *“(A) conduct its operations in public, to the*
 5 *extent practicable; and*

6 *“(B) shall make the work products it adopts*
 7 *available to the public.*

8 *“(f) DUTIES.—*

9 *“(1) IN GENERAL.—The Council shall, with re-*
 10 *gard to facilities, including vessels and pipelines, and*
 11 *other infrastructure related to oil and gas exploration,*
 12 *development, and production in the Chukchi and*
 13 *Beaufort Seas—*

14 *“(A) provide comprehensive oversight and*
 15 *monitoring of policies, permits, and regulations*
 16 *relating to oil and gas exploration, development,*
 17 *and production—*

18 *“(i) to monitor the environmental im-*
 19 *pacts of the operation of such activities;*

20 *“(ii) to monitor oil spill prevention*
 21 *and response plans, including plans relat-*
 22 *ing to blowout prevention and response; and*

23 *“(iii) to recommend standards and*
 24 *conditions for regulations intended to en-*
 25 *sure the safe and environmentally sound op-*

1 *eration and maintenance of such activities;*
 2 *and*

3 *“(B) advise Federal agencies on the impact*
 4 *of exploration, development, and production on*
 5 *subsistence activities and species, including—*

6 *“(i) the appropriate location and tim-*
 7 *ing of development activities in relation to*
 8 *the various species’ migrations;*

9 *“(ii) modifications to specific develop-*
 10 *ment proposals to enable compliance with*
 11 *the subsistence standards in the Marine*
 12 *Mammal Protection Act of 1972 (16 U.S.C.*
 13 *1361 et seq.); and*

14 *“(iii) marine mammal research needs*
 15 *in relation to development and marine im-*
 16 *pacts; and*

17 *“(C) conduct such other activities within*
 18 *the Council’s authority and scope as it deems ap-*
 19 *propriate.*

20 *“(2) GEOGRAPHIC SCOPE.—The Council shall*
 21 *carry out the duties described in paragraph (1) in a*
 22 *manner that, to the maximum extent practicable, cov-*
 23 *ers all potential impacts from oil and gas activities*
 24 *in the Beaufort and Chukchi Seas, including impacts*
 25 *from pipelines and shore-based facilities, except to the*

1 *extent that such activities are already subject to the*
 2 *permitting authority of the North Slope Borough or*
 3 *Northwest Arctic Borough.*

4 “(3) *MEETINGS.*—

5 “(A) *PARTICIPATION BY OWNERS AND OPER-*
 6 *ATORS.*—*At the request of the Council, an owner*
 7 *or operator of an energy development facility,*
 8 *operation, or activity in the Arctic shall partici-*
 9 *pate in good faith in a meeting of the Council.*

10 “(B) *OPEN MEETINGS.*—*All meetings of the*
 11 *Council shall be open to the public.*

12 “(C) *NOTICE.*—*Timely public notice of each*
 13 *regular meeting of the Council (including the*
 14 *time, place, and agenda of the meeting) shall*
 15 *be—*

16 “(i) *published in—*

17 “(I) *local newspapers in the re-*
 18 *gion; and*

19 “(II) *the Federal Register; and*

20 “(ii) *provided by such other means as*
 21 *would sufficiently publicize the meeting, as*
 22 *determined by the Council.*

23 “(g) *COMMITTEES AND SCIENTIFIC ADVISORY*
 24 *PANEL.*—*The Council may create standing or temporary*

1 *committees, or appoint a scientific advisory panel, as nec-*
 2 *essary to carry out the duties described in subsection (f).*

3 “(h) *ESTOPPEL.*—

4 “(1) *IN GENERAL.*—*The Council is not liable*
 5 *under State or Federal law for costs or damages as*
 6 *a result of rendering recommendations under this sec-*
 7 *tion.*

8 “(2) *ADVICE.*—*Any advice given by a voting*
 9 *member of the Council, or by a program representa-*
 10 *tive or agent, be grounds for estopping those interests*
 11 *represented by the voting Council members from seek-*
 12 *ing damages or other appropriate relief.*

13 “(i) *INFORMATION FROM FEDERAL AGENCIES AND IN-*
 14 *DUSTRY.*—

15 “(1) *IN GENERAL.*—*The Council may request di-*
 16 *rectly from any Federal agency (as defined in section*
 17 *1004 of the Solid Waste Disposal Act (42 U.S.C.*
 18 *6903)) (referred to in this section as a ‘Federal agen-*
 19 *cy’) information, suggestions, estimates, and statistics*
 20 *for the purposes of this section.*

21 “(2) *AGENCY COOPERATION.*—

22 “(A) *IN GENERAL.*—*Except as provided in*
 23 *subparagraph (C), effective beginning 180 days*
 24 *after the date of the enactment of the SHORE*
 25 *Act, each Federal agency shall, with respect to*

1 *all permits, site-specific regulations, and other*
2 *matters governing the activities and actions fall-*
3 *ing within the purview of the Council, consult*
4 *with the Council prior to taking substantive ac-*
5 *tion with respect to the permit, site-specific regu-*
6 *lation, or other matter.*

7 “(B) *REVIEW.*—*Such consultation shall be*
8 *carried out with a view to enabling the Coun-*
9 *cil—*

10 “(i) *to review the permit, site-specific*
11 *regulation, or other matters; and*

12 “(ii) *to make appropriate rec-*
13 *ommendations regarding operations, policy*
14 *or agency actions.*

15 “(C) *EMERGENCIES.*—*No prior consultation*
16 *shall be required under this paragraph if an au-*
17 *thorized Federal agency representative reason-*
18 *ably believes that an emergency exists requiring*
19 *action without delay.*

20 “(D) *INFORMATION.*—*Each Federal agency*
21 *shall, upon the request of the Council, to the ex-*
22 *tent authorized by law, furnish information, sug-*
23 *gestions, estimates, and statistics directly to the*
24 *Council.*

1 “(3) *ACCESS.*—*The Council and any staff of the*
2 *Council shall have access to oil and gas industry fa-*
3 *cilities and records that are necessary to the proper*
4 *execution of the Council’s duties under this section.*
5 *The Council’s right of access to industry records and*
6 *facilities shall be the same as that enjoyed by the non-*
7 *voting members of the Council or other agencies hav-*
8 *ing regulatory authority over the activities or facili-*
9 *ties at issue. Any confidential or proprietary infor-*
10 *mation provided to the Council under this paragraph*
11 *shall be held in the strictest confidence and subject to*
12 *a reasonable written confidentiality agreement fur-*
13 *nished by the party providing the information.*

14 “(j) *COUNCIL RESEARCH.*—*In carrying out this sec-*
15 *tion, the Council or a scientific advisory panel appointed*
16 *by the Council, at the Council’s request—*

17 “(1) *may conduct applicable scientific research;*
18 *and*

19 “(2) *shall review applicable scientific work un-*
20 *dertaken by or on behalf of—*

21 “(A) *the energy industry;*

22 “(B) *the conservation community; or*

23 “(C) *government agencies.*

24 “(k) *COUNCIL RECOMMENDATIONS.*—

1 “(1) *IN GENERAL.*—*All recommendations of the*
2 *Council shall be advisory only.*

3 “(2) *RECOMMENDATIONS.*—*If a government*
4 *agency, responsible party, or other owner or operator,*
5 *lessee, or permittee (referred to in this paragraph as*
6 *a ‘covered individual or entity’) decides not to accept,*
7 *or decides to substantially modify prior to adoption,*
8 *a recommendation of the Council, the covered indi-*
9 *vidual or entity shall provide to the Council, not later*
10 *than 30 days after the date of the decision of the cov-*
11 *ered individual or entity, written notice of the deci-*
12 *sion and a summary of reasons for the rejection or*
13 *substantial modification of the recommendation by*
14 *the covered individual or entity.*

15 “(l) *LOCATION AND COMPENSATION.*—

16 “(1) *OFFICE LOCATIONS.*—*The Council shall es-*
17 *tablish offices within a coastal community located on*
18 *the North Slope of Alaska.*

19 “(2) *PER DIEM AUTHORIZATION.*—*A member of*
20 *the Council may not be compensated for service on the*
21 *Council, but shall be allowed travel expenses, includ-*
22 *ing per diem, at a rate established by the Council, not*
23 *to exceed the rates authorized for employees of agen-*
24 *cies under sections 5702 and 5703 of title 5, United*
25 *States Code (except by express authorization of the*

1 *Council in any case in which such rates are inad-*
 2 *equately to reimburse a member not eligible for travel*
 3 *rates of the Federal Government).*

4 “(m) *REPORTS.*—

5 “(1) *GAO REPORTS.*—Not later than 3 years
 6 *after the date of the establishment of the Council and*
 7 *every 3 years thereafter, the Comptroller General of*
 8 *the United States shall submit to the President and*
 9 *Congress a report covering the operations and expend-*
 10 *itures of the Council in carrying out this section, in-*
 11 *cluding any recommendations of the Comptroller Gen-*
 12 *eral.*

13 “(2) *BIENNIAL REPORTS TO CONGRESS.*—Not
 14 *later than 2 years after the date of the establishment*
 15 *of the Council and every 2 years thereafter, the Coun-*
 16 *cil shall submit to Congress a report on—*

17 “(A) *the achievement of safe operations of*
 18 *oil and gas activities in the Arctic Ocean; and*

19 “(B) *the operations, expenditures, needs,*
 20 *problems, issues, and recommendations of the*
 21 *Council.*

22 “(3) *ANNUAL AUDITS.*—The Council shall—

23 “(A) *commission an annual independent fi-*
 24 *nancial statement audit by an independent ac-*
 25 *counting firm;*

1 “(B) publish the results of such audits in a
2 publicly available annual report; and

3 “(C) include each such audit in the reports
4 to Congress required by paragraph (2).

5 “(n) *SUITS BARRED*.—No program, association, coun-
6 cil, committee, or other organization created by this section
7 may sue any person or entity, public or private, concerning
8 any matter arising under this section, except for the per-
9 formance of contracts.

10 “(o) *OPERATIONAL AND ADMINISTRATIVE FUNDING*.—

11 “(1) *IN GENERAL*.—Owners or operators of off-
12 shore facilities, lessees, and permittees in the Beaufort
13 and Chukchi Seas shall provide, on an annual basis,
14 an aggregate amount of not less than \$5,000,000, as
15 determined by the Secretary of the department in
16 which the Coast Guard is operating, which shall—

17 “(A) provide for the establishment and oper-
18 ation of the Council, its standing committees,
19 and any temporary committees it may establish;

20 “(B) be adjusted annually by the Consumer
21 Price Index in Alaska; and

22 “(C) be reduced, by not more than a total
23 of \$2,000,000 annually, for such owners or oper-
24 ators that partner with organizations established

1 *pursuant to the Alaska Native Claims Settlement*
 2 *Act (43 U.S.C. 1601 et seq.).*

3 “(2) *SUPPLEMENTAL RESOURCES.*—*The provi-*
 4 *sion of funding under paragraph 1 shall not preclude*
 5 *the Council from obtaining funding from other*
 6 *sources and using such funds for any purpose not ex-*
 7 *pressly prohibited by the bylaws of the Council or this*
 8 *section.”.*

9 *(b) TABLE OF CONTENTS.*—*The table of contents in*
 10 *section 2 of the Oil Pollution Act of 1990 is amended by*
 11 *adding at the end of the items relating to subtitle A of title*
 12 *IV the following:*

“Sec. 4120. Arctic Regional Citizens’ Advisory Council.”.

13 **SEC. 212. VESSEL LIABILITY.**

14 *(a) IN GENERAL.*—*Section 1004(a) of the Oil Pollu-*
 15 *tion Act of 1990 (33 U.S.C. 2704(a)) is amended by striking*
 16 *paragraph (1) and inserting the following:*

17 “(1) *for a vessel that is—*

18 “(A) *a tank ship that is a single-hull vessel,*
 19 *including a single-hull vessel fitted with double*
 20 *sides only or a double bottom only, \$3,300 per*
 21 *gross ton or \$93,600,000, whichever is greater;*

22 “(B) *a tank ship that is a double-hull ves-*
 23 *sel, \$1,900 per gross ton or \$16,000,000, which-*
 24 *ever is greater;*

1 “(C) a tank barge that is a single-hull ves-
 2 sel, including a single-hull vessel fitted with dou-
 3 ble sides only or a double bottom only, \$7,000
 4 per gross ton or \$29,100,000, whichever is great-
 5 er; or

6 “(D) a tank barge that is a double-hull ves-
 7 sel, \$7,000 per gross ton or \$10,000,000, which-
 8 ever is greater;”.

9 (b) *DEFINITIONS.*—Section 1001(34) of the Oil Pollu-
 10 tion Act of 1990 (33 U.S.C. 2701(34)) is amended—

11 (1) by redesignating subparagraphs (A), (B),
 12 and (C) as clauses (i), (ii), and (iii), respectively;

13 (2) by striking “‘tank vessel’ means” and insert-
 14 ing “(A) ‘tank vessel’ means”; and

15 (3) by inserting at the end the following:

16 “(B) ‘tank barge’ means a non-self-propelled
 17 tank vessel; and

18 “(C) ‘tank ship’ means a self-propelled tank ves-
 19 sel;”.

20 **SEC. 213. COAST GUARD RESEARCH AND DEVELOPMENT.**

21 Section 1012(a)(5)(A) of the Oil Pollution Act of 1990
 22 (33 U.S.C. 2712(a)(5)(A)) is amended—

23 (1) by striking “\$25,000,000” and inserting
 24 “\$50,000,000”; and

1 (2) *by striking the semicolon at the end and in-*
 2 *serting “, of which amount not less than 40 percent*
 3 *shall be used to conduct research, development, and*
 4 *evaluation of oil spill response and removal tech-*
 5 *nologies and methods;”.*

6 **SEC. 214. PROMPT INTERGOVERNMENTAL NOTICE OF MA-**
 7 **RINE CASUALTIES.**

8 *Section 6101 of title 46, United States Code, is amend-*
 9 *ed by adding at the end the following:*

10 “(j) *NOTICE TO STATES AND TRIBAL GOVERN-*
 11 *MENTS.—*

12 “(1) *REQUIREMENT TO NOTIFY.—Not later than*
 13 *1 hour after receiving a report of a marine casualty*
 14 *under this section, the Secretary shall forward the re-*
 15 *port to each appropriate State agency and tribal gov-*
 16 *ernment of an Indian tribe (as defined in section 4*
 17 *of the Indian Self-Determination and Education As-*
 18 *sistance Act (25 U.S.C. 450b)) that has jurisdiction*
 19 *concurrent with the United States or adjacent to wa-*
 20 *ters in which the marine casualty occurred.*

21 “(2) *APPROPRIATE STATE AGENCY.—Each State*
 22 *shall identify for the Secretary the appropriate State*
 23 *agency to receive a report under paragraph (1). Such*
 24 *agency shall be responsible for forwarding appro-*

TITLE III—OTHER MATTERS
RELATING TO OIL SPILLS

SEC. 301. COORDINATION OF FEDERAL AND STATE ACTIVITIES WITH RESPECT TO OIL SPILL SURVEYS.

(a) DEVELOPMENT OF NATIONAL PROTOCOLS FOR OIL SPILL SURVEYS.—Not later than 270 days after the date of the enactment of this Act, the Under Secretary for Oceans and Atmosphere shall, in coordination with the Secretary of Homeland Security, the Administrator of the Environmental Protection Agency, and the heads of such departments and agencies of State governments as the Under Secretary considers appropriate, develop standard national protocols for oil spill response and clean up assessments to promote consistent procedures for collecting shoreline characterization data and to ensure that the format and resolution of such data are consistent with the needs of coastal states. Such protocols shall, to the extent practicable, encourage the use of electronic methods of data collection.

(b) GUIDANCE AND TOOLS FOR APPLICATION OF NATIONAL PROTOCOLS FOR OIL SPILL SURVEYS.—The Under Secretary shall develop guidance and tools for oil spill responders and offer instructional courses to ensure that the protocols developed under subsection (a) are used during oil spill responses in the waters of the United States.

1 **SEC. 302. COORDINATION BETWEEN NATIONAL OCEANIC**
 2 **AND ATMOSPHERIC ADMINISTRATION, COAST**
 3 **GUARD, AND DEPARTMENT OF INTERIOR ON**
 4 **OIL SPILL MATTERS.**

5 (a) 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 (c)(1), by inserting “the Sec-
 9 retary of Commerce, the Secretary of the department
 10 in which the Coast Guard is operating, and” before
 11 “the Attorney General,”; and

12 (2) in subsection (d)—

13 (A) in paragraph (1), by striking “pro-
 14 gram,” in the first sentence and all that follows
 15 through the end of the paragraph and inserting
 16 “program—

17 “(A) the Attorney General may, after con-
 18 sultation with the Federal Trade Commission,
 19 submit comments on the anticipated effects of the
 20 proposed program on competition;

21 “(B) the Secretary of Commerce may sub-
 22 mit comments on the anticipated effects of the
 23 proposed program on the human, marine, and
 24 coastal environments, including the likelihood of
 25 occurrence and potential severity of spills and
 26 chronic pollution;

1 “(C) the Secretary of the department in
 2 which the Coast Guard is operating may submit
 3 comments on the adequacy of the response capa-
 4 bilities of the Federal Government for spills and
 5 chronic pollution that may occur as a result of
 6 the proposed program; and

7 “(D) any State, local government, or other
 8 person may submit comments and recommenda-
 9 tions as to any aspect of the proposed program.”;
 10 and

11 (B) in the second sentence in paragraph
 12 (2), by striking “Attorney General” and insert-
 13 ing “Attorney General, the Secretary of Com-
 14 merce, the Secretary of the department in which
 15 the Coast Guard is operating,”.

16 (b) ENVIRONMENTAL STUDIES.—Section 20(f) of the
 17 Outer Continental Shelf Lands Act (43 U.S.C. 1346(f)) is
 18 amended to read as follows:

19 “(f) UTILIZATION OF CAPABILITIES OF DEPARTMENT
 20 OF COMMERCE.—

21 “(1) IN GENERAL.—In executing the Secretary’s
 22 responsibilities under this section, the Secretary shall,
 23 to the maximum extent practicable, enter into appro-
 24 priate arrangements to utilize on a reimbursable
 25 basis the capabilities of the Department of Commerce.

1 *In carrying out such arrangements, the Secretary of*
 2 *Commerce is authorized to enter into contracts or*
 3 *grants with any person, organization, or entity with*
 4 *funds appropriated to the Secretary of the Interior*
 5 *pursuant to this Act.*

6 “(2) NATIONAL OCEANIC AND ATMOSPHERIC AD-
 7 MINISTRATION.—

8 “(A) IN GENERAL.—*In addition to any*
 9 *other requirement under law, the Secretary shall,*
 10 *prior to the approval of any program, lease, ex-*
 11 *ploration plan, or development and production*
 12 *plan, consult with the Administrator of the Na-*
 13 *tional Oceanic and Atmospheric Administration*
 14 *(referred to in this paragraph as the ‘Adminis-*
 15 *trator’)* *on the reasonably foreseeable adverse ef-*
 16 *fects of the proposed action to ocean and coastal*
 17 *resources, including oil spills.*

18 “(B) INITIATION OF CONSULTATION.—

19 “(i) IN GENERAL.—*The Secretary shall*
 20 *initiate consultation under subparagraph*
 21 *(A) at the earliest practicable time, but in*
 22 *no case later than 90 days before the date*
 23 *of approval of the proposed action.*

24 “(ii) PROVISION OF INFORMATION.—
 25 *On the initiation of consultation, the Sec-*

1 *retary shall provide the Administrator with*
 2 *information describing the nature, location,*
 3 *and duration of the proposed action, and a*
 4 *description of all reasonably foreseeable ad-*
 5 *verse effects to ocean and coastal resources.*

6 *“(C) ALTERNATIVES.—*

7 *“(i) IN GENERAL.—At any time prior*
 8 *to the date that is 45 days before the ap-*
 9 *proval of the proposed action, the Adminis-*
 10 *trator may recommend alternatives to any*
 11 *proposed action, including measures that*
 12 *will prevent or minimize reasonably foresee-*
 13 *able adverse effects to ocean and coastal re-*
 14 *sources.*

15 *“(ii) SECRETARIAL ACTION.—The Sec-*
 16 *retary shall incorporate into the approval*
 17 *for the proposed action the alternatives or*
 18 *mitigation measures recommended under*
 19 *clause (i), unless the Secretary—*

20 *“(I) determines that the alter-*
 21 *natives or mitigation measures are not*
 22 *necessary to prevent or minimize rea-*
 23 *sonably foreseeable adverse effects to*
 24 *marine and coastal resources; and*

1 “(II) notifies the Administrator
2 in writing of the reasons for that deci-
3 sion.”.

4 **SEC. 303. FEDERAL OIL SPILL RESEARCH COMMITTEE.**

5 (a) *ESTABLISHMENT.*—There is established a com-
6 mittee to be known as the Federal Oil Spill Research Com-
7 mittee.

8 (b) *MEMBERSHIP.*—

9 (1) *COMPOSITION.*—The Committee shall be com-
10 posed of members selected by the Under Secretary for
11 Oceans and Atmosphere to represent—

12 (A) the National Oceanic and Atmospheric
13 Administration;

14 (B) the Coast Guard;

15 (C) the Environmental Protection Agency;

16 (D) the national laboratories; and

17 (E) such other Federal agencies as the
18 Under Secretary considers appropriate.

19 (2) *CHAIRPERSON.*—The Under Secretary shall
20 designate a Chairperson from among members of the
21 Committee who represent the National Oceanic and
22 Atmospheric Administration.

23 (c) *DUTIES OF THE COMMITTEE.*—

24 (1) *RESEARCH.*—The Committee shall—

1 (A) coordinate a comprehensive program of
 2 oil pollution research, technology development,
 3 and demonstration among the Federal agencies,
 4 in cooperation and coordination with industry,
 5 universities, research institutions, national lab-
 6 oratories, State and local governments, tribal
 7 governments, and other nations, as the Com-
 8 mittee considers appropriate; and

9 (B) foster cost-effective research mecha-
 10 nisms, including the joint funding of research.

11 (2) *REPORTS ON CURRENT STATE OF OIL SPILL*
 12 *PREVENTION AND RESPONSE CAPABILITIES.—*

13 (A) *IN GENERAL.—*Not later than 180 days
 14 after the date of the enactment of this Act, the
 15 Committee shall submit to Congress a report on
 16 the current state of oil spill prevention and re-
 17 sponse capabilities that—

18 (i) identifies current research programs
 19 and ocean observation activities and ocean
 20 observation activities conducted by govern-
 21 ments, regional information coordination
 22 entities and other non-Federal assets, re-
 23 gional information coordination entities
 24 and other non-Federal assets, universities,
 25 and corporate entities;

1 (ii) assesses the current status of
2 knowledge on oil pollution prevention, re-
3 sponse, and mitigation technologies;

4 (iii) establishes national research pri-
5 orities and goals for oil pollution technology
6 development related to prevention, response,
7 mitigation, and environmental effects;

8 (iv) identifies regional oil pollution re-
9 search and observing needs and priorities
10 for a coordinated program of research at the
11 regional level developed in consultation with
12 State and local governments and tribes;

13 (v) assesses the current state of spill re-
14 sponse equipment, and determines areas in
15 need of improvement including amount,
16 age, quality, effectiveness, or necessary tech-
17 nological improvements;

18 (vi) assesses the current state of real
19 time data available to mariners, including
20 water level, currents and weather informa-
21 tion and predictions, and assesses whether
22 lack of timely information increases the risk
23 of oil spills;

24 (vii) assesses the capacity of the Na-
25 tional Oceanic and Atmospheric Adminis-

1 *tration to respond to, and restore, and reha-*
 2 *bilitate marine sanctuaries, monuments, sea*
 3 *turtles, and other protected species;*

4 *(viii) establishes goals for improved oil*
 5 *spill prevention and response upon which to*
 6 *target research for the following 5-year pe-*
 7 *riod before the next report is submitted*
 8 *under subparagraph (B); and*

9 *(ix) includes such recommendations as*
 10 *the Committee considers appropriate.*

11 *(B) QUINQUENNIAL UPDATES.—The Com-*
 12 *mittee shall submit a report every fifth year after*
 13 *its first report under subparagraph (A) updating*
 14 *the information contained in its previous report*
 15 *under this paragraph.*

16 *(d) RESEARCH AND DEVELOPMENT PROGRAM.—*

17 *(1) IN GENERAL.—In carrying out its duties*
 18 *under subsection (c)(1), the Committee shall establish*
 19 *a program for conducting oil pollution research and*
 20 *development.*

21 *(2) PROGRAM ELEMENTS.—The program estab-*
 22 *lished under paragraph (1) shall provide for research,*
 23 *development, and demonstration of new or improved*
 24 *technologies which are effective in preventing, detect-*

1 *ing, or mitigating oil discharges and which protect*
2 *the environment, and include the following:*

3 *(A) High priority research areas described*
4 *in the report.*

5 *(B) Direct and indirect environmental ef-*
6 *fects of acute and chronic oil spills on marine re-*
7 *sources, including impacts on marine sanc-*
8 *tuaries, monuments, other protected areas, ma-*
9 *rine mammals, sea turtles, and other protected*
10 *species.*

11 *(C) Monitoring, modeling, and under-*
12 *standing the near and long-term effects of major*
13 *spills and long-term cumulative effects of smaller*
14 *endemic spills.*

15 *(D) New technologies to detect accidental or*
16 *intentional overboard discharges.*

17 *(E) Mechanical response capabilities, such*
18 *as improved booms, oil skimmers, and storage*
19 *capacity.*

20 *(F) Methods to respond to, restore, and re-*
21 *habilitate natural resources and ecosystem health*
22 *and services damaged by oil discharges, includ-*
23 *ing impacts on marine sanctuaries, monuments,*
24 *other protected areas, marine mammals, sea tur-*
25 *tles, and other protected species.*

1 (G) *Research and training, in consultation*
 2 *with the National Response Team, to improve*
 3 *industry's and Government's ability to remove*
 4 *an oil discharge quickly and effectively.*

5 (3) *IMPLEMENTATION PLAN.—*

6 (A) *IN GENERAL.—Not later than 180 days*
 7 *after submitting the report to Congress under*
 8 *subsection (c)(2)(A), the Committee shall submit*
 9 *to Congress a plan for the implementation of the*
 10 *program required by paragraph (1).*

11 (B) *ASSESSMENT BY NATIONAL ACADEMY OF*
 12 *SCIENCES.—The Chairperson shall, acting*
 13 *through the National Oceanic and Atmospheric*
 14 *Administration, contract with the National*
 15 *Academy of Sciences to—*

16 (i) *provide advice and guidance in the*
 17 *preparation and development of the plan re-*
 18 *quired by subparagraph (A); and*

19 (ii) *assess the adequacy of the plan as*
 20 *submitted, and submit a report to Congress*
 21 *on the conclusions of such assessment.*

22 (e) *GRANT PROGRAM IN SUPPORT OF RESEARCH AND*
 23 *DEVELOPMENT PROGRAM.—*

24 (1) *IN GENERAL.—The Under Secretary shall, in*
 25 *consultation with the National Science Foundation,*

1 *manage a program of competitive grants to univer-*
 2 *sities or other research institutions, or groups of uni-*
 3 *versities or research institutions (including national*
 4 *laboratories), for the purposes of conducting the pro-*
 5 *gram established under subsection (d).*

6 (2) *APPLICATIONS AND CONDITIONS.—In con-*
 7 *ducting the program, the Under Secretary—*

8 (A) *shall establish a notification and appli-*
 9 *cation procedure;*

10 (B) *may establish such conditions and re-*
 11 *quire such assurances as may be appropriate to*
 12 *ensure the efficiency and integrity of the grant*
 13 *program; and*

14 (C) *may make grants under the program on*
 15 *a matching or nonmatching basis.*

16 (f) *ADVICE AND GUIDANCE.—The Committee shall ac-*
 17 *cept comments and input from State and local governments,*
 18 *Indian tribes, industry representatives, and other stake-*
 19 *holders in carrying out its duties under subsection (c).*

20 (g) *FACILITATION.—The Committee may develop*
 21 *memoranda of agreement or memoranda of understanding*
 22 *with universities, national laboratories, State and local*
 23 *governments, or other entities to facilitate the research pro-*
 24 *gram required by subsection (d).*

1 (h) *ANNUAL REPORTS.*—*The Chairperson of the Com-*
 2 *mittee shall submit an annual report to Congress on the*
 3 *activities carried out under this section in the preceding*
 4 *fiscal year, and on activities proposed to be carried out*
 5 *under this section in the current fiscal year.*

6 (i) *COMMITTEE REPLACES EXISTING AUTHORITY.*—
 7 *The authority provided by this section supersedes the au-*
 8 *thority provided by section 7001 of the Oil Pollution Act*
 9 *of 1990 (33 U.S.C. 2761) for the establishment of the Inter-*
 10 *agency Committee on Oil Pollution Research under sub-*
 11 *section (a) of that section, and that Committee shall cease*
 12 *operations and terminate on the date of the enactment of*
 13 *this Act.*

14 **SEC. 304. AUTHORITY OF SECRETARY OF TRANSPOR-**
 15 **TATION.**

16 *Section 311 of the Federal Water Pollution Control Act*
 17 *(33 U.S.C. 1321) is amended—*

18 (1) *by striking “operating” in subsection*
 19 *(b)(6)(A) and inserting “operating, the Secretary of*
 20 *Transportation,”; and*

21 (2) *in subsection (m)(2)—*

22 (A) *by striking “Administrator” in sub-*
 23 *paragraph (A) and inserting “Administrator,*
 24 *the Secretary of Transportation,”; and*

1 (B) by striking “Administrator” in sub-
 2 paragraph (A) and inserting “Administrator,
 3 the Secretary of Transportation,”.

4 **SEC. 305. INCREASED FUNDING FOR ENVIRONMENTAL**
 5 **OVERSIGHT AND MONITORING BY THE COOK**
 6 **INLET AND PRINCE WILLIAM SOUND RE-**
 7 **GIONAL CITIZENS’ ADVISORY COUNCILS.**

8 Section 5002(k) of the Oil Pollution Act of 1990 (33
 9 U.S.C. 2732(k)) is amended—

10 (1) in paragraph (2), by striking “\$2,000,000”
 11 and inserting “\$3,500,000”; and

12 (2) in paragraph (3), by striking “not more than
 13 \$1,000,000” and inserting “not less than \$2,000,000”.

14 **TITLE IV—CORAL REEF CON-**
 15 **SERVATION ACT AMEND-**
 16 **MENTS**

17 **SEC. 401. SHORT TITLE; TABLE OF CONTENTS.**

18 (a) *SHORT TITLE.*—This title may be cited as the
 19 “Coral Reef Conservation Amendments Act of 2010”.

20 **SEC. 402. AMENDMENT OF CORAL REEF CONSERVATION**
 21 **ACT OF 2000.**

22 Except as otherwise expressly provided, whenever in
 23 this title an amendment or repeal is expressed in terms of
 24 an amendment to or repeal of a section or other provision,
 25 the reference shall be considered to be made to a section or

1 *other provision of the Coral Reef Conservation Act of 2000*
2 *(16 U.S.C. 6401 et seq.).*

3 **SEC. 403. AGREEMENTS; REDESIGNATIONS.**

4 *The Act (16 U.S.C. 6401 et seq.) is amended—*

5 *(1) by redesignating section 208 (16 U.S.C.*
6 *6407) as section 214;*

7 *(2) by redesignating section 209 (16 U.S.C.*
8 *6408) as section 215; and*

9 *(3) by redesignating section 210 (16 U.S.C.*
10 *6409) as section 216.*

11 **SEC. 404. EMERGENCY ASSISTANCE.**

12 *Section 206 (16 U.S.C. 6405) is amended to read as*
13 *follows:*

14 **“SEC. 206. EMERGENCY ASSISTANCE.**

15 *“The Secretary, in cooperation with the Federal Emer-*
16 *gency Management Agency, as appropriate, may provide*
17 *assistance to any State, local, or territorial government*
18 *agency with jurisdiction over coral reef ecosystems to ad-*
19 *dress any unforeseen or disaster-related circumstance per-*
20 *taining to coral reef ecosystems.”.*

21 **SEC. 405. EMERGENCY RESPONSE, STABILIZATION, AND**
22 **RESTORATION.**

23 *Section 207 (16 U.S.C. 6406) is amended to read as*
24 *follows:*

1 **“SEC. 207. EMERGENCY RESPONSE, STABILIZATION, AND**
2 **RESTORATION.**

3 “(a) *ESTABLISHMENT OF ACCOUNT.*—*The Secretary*
4 *shall establish an account (to be called the Emergency Re-*
5 *sponse, Stabilization, and Restoration Account) in the*
6 *Damage Assessment Restoration Revolving Fund estab-*
7 *lished by the Department of Commerce Appropriations Act,*
8 *1991 (33 U.S.C. 2706 note), for implementation of this sub-*
9 *section for emergency actions. Amounts appropriated for*
10 *the Account under section 219, and funds authorized by sec-*
11 *tions 213(d)(1)(C)(ii) and 214(f)(3)(B), shall be deposited*
12 *into the Account and made available for use by the Sec-*
13 *retary as specified in sections 213 and 214.*

14 “(b) *DEPOSIT AND INVESTMENT OF CERTAIN*
15 *FUNDS.*—*Any amounts received by the United States pur-*
16 *suant to sections 213(d)(1)(C)(ii) and 212(f)(3)(B) shall be*
17 *deposited into the Emergency Response, Stabilization and*
18 *Restoration Account established under subsection (a). The*
19 *Secretary of Commerce may request the Secretary of the*
20 *Treasury to invest such portion of the Damage Assessment*
21 *Restoration Revolving Fund as is not, in the judgment of*
22 *the Secretary of Commerce, required to meet the current*
23 *needs of the fund. Such investments shall be made by the*
24 *Secretary of the Treasury in public debt securities, with*
25 *maturities suitable to the needs of the fund, as determined*
26 *by the Secretary of Commerce and bearing interest at rates*

1 *determined by the Secretary of the Treasury, taking into*
 2 *consideration current market yields on outstanding market-*
 3 *able obligations of the United States of comparable matu-*
 4 *rity. Interest earned by such investments shall be available*
 5 *for use by the Secretary without further appropriation and*
 6 *remain available until expended.”.*

7 **SEC. 406. PROHIBITED ACTIVITIES.**

8 (a) *IN GENERAL.*—*The Act (16 U.S.C. 6401 et seq.)*
 9 *is amended by inserting after section 207 the following:*

10 **“SEC. 208. PROHIBITED ACTIVITIES AND SCOPE OF PROHI-**
 11 **BITIONS.**

12 “(a) *PROVISIONS AS COMPLEMENTARY.*—*The provi-*
 13 *sions of this section are in addition to, and shall not affect*
 14 *the operation of, other Federal, State, or local laws or regu-*
 15 *lations providing protection to coral reef ecosystems.*

16 “(b) *DESTRUCTION, LOSS, TAKING, OR INJURY.*—

17 “(1) *IN GENERAL.*—*Except as provided in para-*
 18 *graph (2), it is unlawful for any person to destroy,*
 19 *take, cause the loss of, or injure any coral reef or any*
 20 *component thereof.*

21 “(2) *EXCEPTIONS.*—*The destruction, loss, taking,*
 22 *or injury of a coral reef or any component thereof is*
 23 *not unlawful if it—*

24 “(A) *was caused by the use of fishing gear*
 25 *used in a manner permitted under the Magnu-*

1 *son-Stevens Fishery Conservation and Manage-*
2 *ment Act (16 U.S.C. 1801 et seq.) or other Fed-*
3 *eral or State law;*

4 *“(B) was caused by an activity that is au-*
5 *thorized or allowed by Federal or State law (in-*
6 *cluding lawful discharges from vessels, such as*
7 *graywater, cooling water, engine exhaust, ballast*
8 *water, or sewage from marine sanitation de-*
9 *vices), unless the destruction, loss, or injury re-*
10 *sulted from actions such as vessel groundings,*
11 *vessel scrapings, anchor damage, excavation not*
12 *authorized by Federal or State permit, or other*
13 *similar activities;*

14 *“(C) was the necessary result of bona fide*
15 *marine scientific research (including marine sci-*
16 *entific research activities approved by Federal,*
17 *State, or local permits), other than excessive*
18 *sampling or collecting, or actions such as vessel*
19 *groundings, vessel scrapings, anchor damage, ex-*
20 *cavation, or other similar activities;*

21 *“(D) was caused by a Federal Government*
22 *agency—*

23 *“(i) during—*

1 “(I) an emergency that posed an
2 unacceptable threat to human health or
3 safety or to the marine environment;

4 “(II) an emergency that posed a
5 threat to national security; or

6 “(III) an activity necessary for
7 law enforcement or search and rescue;
8 and

9 could not reasonably be avoided; or

10 “(E) was caused by an action taken by the
11 master of the vessel in an emergency situation to
12 ensure the safety of the vessel or to save a life at
13 sea.

14 “(c) *INTERFERENCE WITH ENFORCEMENT.*—It is un-
15 lawful for any person to interfere with the enforcement of
16 this title by—

17 “(1) refusing to permit any officer authorized to
18 enforce this title to board a vessel (other than a vessel
19 operated by the Department of Defense or United
20 States Coast Guard) subject to such person’s control
21 for the purposes of conducting any search or inspec-
22 tion in connection with the enforcement of this title;

23 “(2) resisting, opposing, impeding, intimidating,
24 harassing, bribing, interfering with, or forcibly as-
25 saulting any person authorized by the Secretary to

1 *implement this title or any such authorized officer in*
 2 *the conduct of any search or inspection performed*
 3 *under this title; or*

4 “(3) *submitting false information to the Sec-*
 5 *retary or any officer authorized to enforce this title in*
 6 *connection with any search or inspection conducted*
 7 *under this title.*

8 “(d) *VIOLATIONS OF TITLE, PERMIT, OR REGULA-*
 9 *TION.—It is unlawful for any person to violate any provi-*
 10 *sion of this title, any permit issued pursuant to this title,*
 11 *or any regulation promulgated pursuant to this title.*

12 “(e) *POSSESSION AND DISTRIBUTION.—It is unlawful*
 13 *for any person to possess, sell, deliver, carry, transport, or*
 14 *ship by any means any coral taken in violation of this*
 15 *title.”.*

16 “(b) *EMERGENCY ACTION REGULATIONS.—The Sec-*
 17 *retary of Commerce shall initiate a rulemaking proceeding*
 18 *to prescribe the circumstances and conditions under which*
 19 *the exception in section 208(b)(2)(E) of the Coral Reef Con-*
 20 *servation Act of 2000, as amended by subsection (a), applies*
 21 *and shall issue a final rule pursuant to that rulemaking*
 22 *as soon as practicable but not later than 1 year after the*
 23 *date of enactment of this Act. Nothing in this subsection*
 24 *shall be construed to require the issuance of such regulations*
 25 *before the exception provided by that section is in effect.*

1 **SEC. 407. DESTRUCTION OF CORAL REEFS.**

2 *The Act (16 U.S.C. 6401 et seq.) is amended by insert-*
 3 *ing after section 208, as added by section 406 of this title,*
 4 *the following:*

5 **“SEC. 209. DESTRUCTION, LOSS, OR TAKING OF, OR INJURY**
 6 **TO, CORAL REEFS.**

7 “(a) *LIABILITY.—*

8 “(1) *LIABILITY TO THE UNITED STATES.—Ex-*
 9 *cept as provided in subsection (f), all persons who en-*
 10 *gage in an activity that is prohibited under sub-*
 11 *sections (b) or (d) of section 208, or create an immi-*
 12 *nent risk thereof, are liable, jointly and severally, to*
 13 *the United States for an amount equal to the sum*
 14 *of—*

15 “(A) *response costs and damages resulting*
 16 *from the destruction, loss, taking, or injury, or*
 17 *imminent risk thereof, including damages result-*
 18 *ing from the response actions;*

19 “(B) *costs of seizure, forfeiture, storage, and*
 20 *disposal arising from liability under this section;*
 21 *and*

22 “(C) *interest on that amount calculated in*
 23 *the manner described in section 1005 of the Oil*
 24 *Pollution Act of 1990 (33 U.S.C. 2705).*

25 “(2) *LIABILITY IN REM.—*

1 “(A) *Any vessel used in an activity that is*
2 *prohibited under subsection (b) or (d) of section*
3 *208, or creates an imminent risk thereof, shall be*
4 *liable in rem to the United States for an amount*
5 *equal to the sum of—*

6 “(i) *response costs and damages result-*
7 *ing from such destruction, loss, or injury, or*
8 *imminent risk thereof, including damages*
9 *resulting from the response actions;*

10 “(ii) *costs of seizure, forfeiture, storage,*
11 *and disposal arising from liability under*
12 *this section; and*

13 “(iii) *interest on that amount cal-*
14 *culated in the manner described in section*
15 *1005 of the Oil Pollution Act of 1990 (33*
16 *U.S.C. 2705).*

17 “(B) *The amount of liability shall con-*
18 *stitute a maritime lien on the vessel and may be*
19 *recovered in an action in rem in any district*
20 *court of the United States that has jurisdiction*
21 *over the vessel.*

22 “(3) *DEFENSES.—A person or vessel is not liable*
23 *under this subsection if that person or vessel estab-*
24 *lishes that the destruction, loss, taking, or injury was*
25 *caused solely by an act of God, an act of war, or an*

1 *act or omission of a third party (other than an em-*
 2 *ployee or agent of the defendant or one whose act or*
 3 *omission occurs in connection with a contractual re-*
 4 *lationship, existing directly or indirectly with the de-*
 5 *fendant), and the person or master of the vessel acted*
 6 *with due care.*

7 “(4) *NO LIMIT TO LIABILITY.*—*Nothing in sec-*
 8 *tions 30501 through 30512 or section 30706 of title*
 9 *46, United States Code, shall limit liability to any*
 10 *person under this title.*

11 “(b) *RESPONSE ACTIONS AND DAMAGE ASSESS-*
 12 *MENT.*—

13 “(1) *RESPONSE ACTIONS.*—*The Secretary may*
 14 *undertake or authorize all necessary actions to pre-*
 15 *vent or minimize the destruction, loss, or taking of,*
 16 *or injury to, coral reefs, or components thereof, or to*
 17 *minimize the risk or imminent risk of such destruc-*
 18 *tion, loss, or injury.*

19 “(2) *DAMAGE ASSESSMENT.*—

20 “(A) *The Secretary shall assess damages (as*
 21 *defined in section 216(8)) to coral reefs and shall*
 22 *consult with State officials regarding response*
 23 *and damage assessment actions undertaken for*
 24 *coral reefs within State waters.*

1 “(B) *There shall be no double recovery*
 2 *under this chapter for coral reef damages, in-*
 3 *cluding the cost of damage assessment, for the*
 4 *same incident.*

5 “(c) *COMMENCEMENT OF CIVIL ACTION FOR RE-*
 6 *SPONSE COSTS AND DAMAGES.—*

7 “(1) *COMMENCEMENT.—The Attorney General,*
 8 *upon the request of the Secretary, may commence a*
 9 *civil action against any person or vessel that may be*
 10 *liable under subsection (a) of this section for response*
 11 *costs, seizure, forfeiture, storage, or disposal costs, and*
 12 *damages, and interest on that amount calculated in*
 13 *the manner described in section 1005 of the Oil Pollu-*
 14 *tion Act of 1990 (33 U.S.C. 2705). The Secretary,*
 15 *acting as trustee for coral reefs for the United States,*
 16 *shall submit a request for such an action to the Attor-*
 17 *ney General whenever a person or vessel may be liable*
 18 *for such costs or damages.*

19 “(2) *VENUE IN CIVIL ACTIONS.—A civil action*
 20 *under this title may be brought in the United States*
 21 *district court for any district in which—*

22 “(A) *the defendant is located, resides, or is*
 23 *doing business, in the case of an action against*
 24 *a person;*

1 “(B) the vessel is located, in the case of an
2 action against a vessel;

3 “(C) the destruction, loss, or taking of, or
4 injury to a coral reef, or component thereof, oc-
5 curred or in which there is an imminent risk of
6 such destruction, loss, or injury; or

7 “(D) where some or all of the coral reef or
8 component thereof that is the subject of the ac-
9 tion is not within the territory covered by any
10 United States district court, such action may be
11 brought either in the United States district court
12 for the district closest to the location where the
13 destruction, loss, injury, or risk of injury oc-
14 curred, or in the United States District Court for
15 the District of Columbia.

16 “(d) *USE OF RECOVERED AMOUNTS.*—

17 “(1) *IN GENERAL.*—Any costs, including re-
18 sponse costs and damages recovered by the Secretary
19 under this section shall—

20 “(A) be deposited into an account or ac-
21 counts in the Damage Assessment Restoration
22 Revolving Fund established by the Department of
23 Commerce Appropriations Act, 1991 (33 U.S.C.
24 2706 note), or the Natural Resource Damage As-
25 sessment and Restoration Fund established by

1 *the Department of the Interior and Related*
 2 *Agencies Appropriations Act, 1992 (43 U.S.C.*
 3 *1474b), as appropriate given the location of the*
 4 *violation;*

5 *“(B) be available for use by the Secretary*
 6 *without further appropriation and remain avail-*
 7 *able until expended; and*

8 *“(C) be for use, as the Secretary considers*
 9 *appropriate—*

10 *“(i) to reimburse the Secretary or any*
 11 *other Federal or State agency that con-*
 12 *ducted activities under subsection (a) or (b)*
 13 *of this section for costs incurred in con-*
 14 *ducting the activity;*

15 *“(ii) to be transferred to the Emer-*
 16 *gency Response, Stabilization and Restora-*
 17 *tion Account established under section*
 18 *208(d) to reimburse that account for*
 19 *amounts used for authorized emergency ac-*
 20 *tions; and*

21 *“(iii) after reimbursement of such*
 22 *costs, to restore, replace, or acquire the*
 23 *equivalent of any coral reefs, or components*
 24 *thereof, including the reasonable costs of*
 25 *monitoring, or to minimize or prevent*

1 *threats of equivalent injury to, or destruc-*
 2 *tion of coral reefs, or components thereof.*

3 “(2) *RESTORATION CONSIDERATIONS.—In devel-*
 4 *opment of restoration alternatives under paragraph*
 5 *(1)(C), the Secretary shall consider State and terri-*
 6 *torial preferences and, if appropriate, shall prioritize*
 7 *restoration projects with geographic and ecological*
 8 *linkages to the injured resources.*

9 “(e) *STATUTE OF LIMITATIONS.—An action for re-*
 10 *sponse costs or damages under subsection (c) shall be barred*
 11 *unless the complaint is filed within 3 years after the date*
 12 *on which the Secretary completes a damage assessment and*
 13 *restoration plan for the coral reefs, or components thereof,*
 14 *to which the action relates.*

15 “(f) *FEDERAL GOVERNMENT ACTIVITIES.—In the*
 16 *event of threatened or actual destruction of, loss of, or in-*
 17 *jury to a coral reef or component thereof resulting from an*
 18 *incident caused by a component of any Department or*
 19 *agency of the United States Government, the cognizant De-*
 20 *partment or agency shall satisfy its obligations under this*
 21 *section by promptly, in coordination with the Secretary,*
 22 *taking appropriate actions to respond to and mitigate the*
 23 *harm and restoring or replacing the coral reef or compo-*
 24 *nents thereof and reimbursing the Secretary for all assess-*
 25 *ment costs.*

1 “(g) *UNIFORMED SERVICE OFFICERS AND EMPLOY-*
 2 *EES.*—No officer or employee of a uniformed service (as de-
 3 *fin*ed in section 101 of title 10, United States Code) shall
 4 *be held liable under this section, either in such officer’s or*
 5 *employee’s personal or official capacity, for any violation*
 6 *of section 208 occurring during the performance of the offi-*
 7 *cer’s or employee’s official governmental duties.*

8 “(h) *CONTRACT EMPLOYEES.*—No contract employee of
 9 *a uniformed service (as so defined), serving as vessel master*
 10 *or crew member, shall be liable under this section for any*
 11 *violation of section 208 if that contract employee—*

12 “(1) *is acting as a contract employee of a uni-*
 13 *formed service under the terms of an operating con-*
 14 *tract for a vessel owned by a uniformed service, or a*
 15 *time charter for pre-positioned vessels, special mission*
 16 *vessels, or vessels exclusively transporting military*
 17 *supplies and materials; and*

18 “(2) *is engaged in an action or actions over*
 19 *which such employee has been given no discretion*
 20 *(e.g., anchoring or mooring at one or more designated*
 21 *anchorage*s or buoys, or executing specific operational
 22 *elements of a special mission activity), as determined*
 23 *by the uniformed service controlling the contract.”.*

1 **SEC. 408. ENFORCEMENT.**

2 *The Act (16 U.S.C. 6401 et seq.) is amended by insert-*
 3 *ing after section 209, as added by section 407 of this title,*
 4 *the following:*

5 **“SEC. 210. ENFORCEMENT.**

6 “(a) *IN GENERAL.*—*The Secretary shall conduct en-*
 7 *forcement activities to carry out this title.*

8 “(b) *POWERS OF AUTHORIZED OFFICERS.*—

9 “(1) *IN GENERAL.*—*Any person who is author-*
 10 *ized to enforce this title may—*

11 “(A) *board, search, inspect, and seize any*
 12 *vessel or other conveyance suspected of being used*
 13 *to violate this title, any regulation promulgated*
 14 *under this title, or any permit issued under this*
 15 *title, and any equipment, stores, and cargo of*
 16 *such vessel, except that such authority shall not*
 17 *exist with respect to vessels owned or time char-*
 18 *tered by a uniformed service (as defined in sec-*
 19 *tion 101 of title 10, United States Code) as war-*
 20 *ships or naval auxiliaries;*

21 “(B) *seize wherever found any component of*
 22 *coral reef taken or retained in violation of this*
 23 *title, any regulation promulgated under this*
 24 *title, or any permit issued under this title;*

1 “(C) seize any evidence of a violation of this
2 title, any regulation promulgated under this
3 title, or any permit issued under this title;

4 “(D) execute any warrant or other process
5 issued by any court of competent jurisdiction;

6 “(E) exercise any other lawful authority;
7 and

8 “(F) arrest any person, if there is reason-
9 able cause to believe that such person has com-
10 mitted an act prohibited by section 208.

11 “(2) NAVAL AUXILIARY DEFINED.—In this sub-
12 section, the term ‘naval auxiliary’ means a vessel,
13 other than a warship, that is owned by or under the
14 exclusive control of a uniformed service and used at
15 the time of the destruction, take, loss or injury for
16 government, non-commercial service, including com-
17 bat logistics force vessels, pre-positioned vessels, spe-
18 cial mission vessels, or vessels exclusively used to
19 transport military supplies and materials.

20 “(c) CIVIL ENFORCEMENT AND PERMIT SANCTIONS.—

21 “(1) CIVIL ADMINISTRATIVE PENALTY.—Any per-
22 son subject to the jurisdiction of the United States
23 who violates this title or any regulation promulgated
24 or permit issued hereunder, shall be liable to the
25 United States for a civil administrative penalty of

1 not more than \$200,000 for each such violation, to be
2 assessed by the Secretary. Each day of a continuing
3 violation shall constitute a separate violation. In de-
4 termining the amount of civil administrative penalty,
5 the Secretary shall take into account the nature, cir-
6 cumstances, extent, and gravity of the prohibited acts
7 committed and, with respect to the violator, the degree
8 of culpability, and any history of prior violations,
9 and such other matters as justice may require. In as-
10 sessing such penalty, the Secretary may also consider
11 information related to the ability of the violator to
12 pay.

13 “(2) *PERMIT SANCTIONS.*—For any person sub-
14 ject to the jurisdiction of the United States who has
15 been issued or has applied for a permit under this
16 title, and who violates this title or any regulation or
17 permit issued under this title, the Secretary may
18 deny, suspend, amend, or revoke in whole or in part
19 any such permit. For any person who has failed to
20 pay or defaulted on a payment agreement of any civil
21 penalty or criminal fine or liability assessed pursu-
22 ant to any natural resource law administered by the
23 Secretary, the Secretary may deny, suspend, amend
24 or revoke in whole or in part any permit issued or
25 applied for under this title.

1 “(3) *IMPOSITION OF CIVIL JUDICIAL PEN-*
2 *ALTIES.*—Any person who violates any provision of
3 this title, any regulation promulgated or permit
4 issued thereunder, shall be subject to a civil judicial
5 penalty not to exceed \$250,000 for each such viola-
6 tion. Each day of a continuing violation shall con-
7 stitute a separate violation. The Attorney General,
8 upon the request of the Secretary, may commence a
9 civil action in an appropriate district court of the
10 United States, and such court shall have jurisdiction
11 to award civil penalties and such other relief as jus-
12 tice may require. In determining the amount of a
13 civil penalty, the court shall take into account the na-
14 ture, circumstances, extent, and gravity of the prohib-
15 ited acts committed and, with respect to the violator,
16 the degree of culpability, any history of prior viola-
17 tions, and such other matters as justice may require.
18 In imposing such penalty, the district court may also
19 consider information related to the ability of the vio-
20 lator to pay.

21 “(4) *NOTICE.*—No penalty or permit sanction
22 shall be assessed under this subsection until after the
23 person charged has been given notice and an oppor-
24 tunity for a hearing.

1 “(5) *IN REM JURISDICTION*.—A vessel used in
2 violating this title, any regulation promulgated under
3 this title, or any permit issued under this title, shall
4 be liable in rem for any civil penalty assessed for
5 such violation. Such penalty shall constitute a mari-
6 time lien on the vessel and may be recovered in an
7 action in rem in the district court of the United
8 States having jurisdiction over the vessel.

9 “(6) *COLLECTION OF PENALTIES*.—If any person
10 fails to pay an assessment of a civil penalty under
11 this section after it has become a final and
12 unappealable order, or after the appropriate court has
13 entered final judgment in favor of the Secretary, the
14 Secretary shall refer the matter to the Attorney Gen-
15 eral, who shall recover the amount assessed in any
16 appropriate district court of the United States (plus
17 interest at current prevailing rates from the date of
18 the final order). In such action, the validity and ap-
19 propriateness of the final order imposing the civil
20 penalty shall not be subject to review. Any person who
21 fails to pay, on a timely basis, the amount of an as-
22 sessment of a civil penalty shall be required to pay,
23 in addition to such amount and interest, attorney’s
24 fees and costs for collection proceedings and a quar-
25 terly nonpayment penalty for each quarter during

1 *which such failure to pay persists. Such nonpayment*
 2 *penalty shall be in an amount equal to 20 percent of*
 3 *the aggregate amount of such person's penalties and*
 4 *nonpayment penalties that are unpaid as of the be-*
 5 *ginning of such quarter.*

6 “(7) *COMPROMISE OR OTHER ACTION BY SEC-*
 7 *RETARY.—The Secretary may compromise, modify, or*
 8 *remit, with or without conditions, any civil adminis-*
 9 *trative penalty or permit sanction which is or may*
 10 *be imposed under this section and that has not been*
 11 *referred to the Attorney General for further enforce-*
 12 *ment action.*

13 “(8) *JURISDICTION.—The several district courts*
 14 *of the United States shall have jurisdiction over any*
 15 *actions brought by the United States arising under*
 16 *this section. For the purpose of this section, American*
 17 *Samoa shall be included within the judicial district*
 18 *of the District Court of the United States for the Dis-*
 19 *trict of Hawaii. Each violation shall be a separate of-*
 20 *fense and the offense shall be deemed to have been*
 21 *committed not only in the district where the violation*
 22 *first occurred, but also in any other district as au-*
 23 *thorized by law.*

24 “(d) *FORFEITURE.—*

1 “(1) *CRIMINAL FORFEITURE.*—A person who is
2 *convicted of an offense in violation of this title shall*
3 *forfeit to the United States—*

4 “(A) *any property, real or personal, consti-*
5 *tuting or traceable to the gross proceeds taken,*
6 *obtained, or retained, in connection with or as*
7 *a result of the offense, including, without limita-*
8 *tion, any coral reef or coral reef component (or*
9 *the fair market value thereof); and*

10 “(B) *any property, real or personal, used or*
11 *intended to be used, in any manner, to commit*
12 *or facilitate the commission of the offense, in-*
13 *cluding, without limitation, any vessel (includ-*
14 *ing the vessel’s equipment, stores, catch and*
15 *cargo), vehicle, aircraft, or other means of trans-*
16 *portation.*

17 *Pursuant to section 2461(c) of title 28, United States*
18 *Code, the provisions of section 413 of the Controlled*
19 *Substances Act (21 U.S.C. 853) other than subsection*
20 *(d) thereof shall apply to criminal forfeitures under*
21 *this section.*

22 “(2) *CIVIL FORFEITURE.*—The property set forth
23 *below shall be subject to forfeiture to the United States*
24 *in accordance with the provisions of chapter 46 of*

1 *title 18, United States Code, and no property right*
2 *shall exist in it:*

3 “(A) *Any property, real or personal, consti-*
4 *tuting or traceable to the gross proceeds taken,*
5 *obtained, or retained, in connection with or as*
6 *a result of a violation of this title, including,*
7 *without limitation, any coral reef or coral reef*
8 *component (or the fair market value thereof).*

9 “(B) *Any property, real or personal, used*
10 *or intended to be used, in any manner, to com-*
11 *mit or facilitate the commission of a violation of*
12 *this title, including, without limitation, any ves-*
13 *sel (including the vessel’s equipment, stores, catch*
14 *and cargo), vehicle, aircraft, or other means of*
15 *transportation.*

16 “(3) *APPLICATION OF THE CUSTOMS LAWS.—All*
17 *provisions of law relating to seizure, summary judg-*
18 *ment, and judicial forfeiture and condemnation for*
19 *violation of the customs laws, the disposition of the*
20 *property forfeited or condemned or the proceeds from*
21 *the sale thereof, the remission or mitigation of such*
22 *forfeitures, and the compromise of claims shall apply*
23 *to seizures and forfeitures incurred, or alleged to have*
24 *been incurred, under the provisions of this title, inso-*
25 *far as applicable and not inconsistent with the provi-*

1 *sions hereof. For seizures and forfeitures of property*
2 *under this section by the Secretary, such duties as are*
3 *imposed upon the customs officer or any other person*
4 *with respect to the seizure and forfeiture of property*
5 *under the customs law may be performed by such offi-*
6 *cers as are designated by the Secretary or, upon re-*
7 *quest of the Secretary, by any other agency that has*
8 *authority to manage and dispose of seized property.*

9 *“(4) PRESUMPTION.—For the purposes of this*
10 *section there is a rebuttable presumption that all*
11 *coral reefs, or components thereof, found on board a*
12 *vessel that is used or seized in connection with a vio-*
13 *lation of this title or of any regulation promulgated*
14 *under this title were taken, obtained, or retained in*
15 *violation of this title or of a regulation promulgated*
16 *under this title.*

17 *“(e) PAYMENT OF STORAGE, CARE, AND OTHER*
18 *COSTS.—Any person assessed a civil penalty for a violation*
19 *of this title or of any regulation promulgated under this*
20 *title and any claimant in a forfeiture action brought for*
21 *such a violation, shall be liable for the reasonable costs in-*
22 *curred by the Secretary in storage, care, and maintenance*
23 *of any property seized in connection with the violation.*

24 *“(f) EXPENDITURES.—*

1 “(1) Notwithstanding section 3302 of title 31,
2 *United States Code*, or section 311 of the *Magnuson-*
3 *Stevens Fishery Conservation and Management Act*
4 (16 U.S.C. 1861), amounts received by the *United*
5 *States as civil penalties under subsection (c) of this*
6 *section, forfeitures of property under subsection (d) of*
7 *this section, and costs imposed under subsection (e) of*
8 *this section, shall—*

9 “(A) *be placed into an account;*

10 “(B) *be available for use by the Secretary*
11 *without further appropriation; and*

12 “(C) *remain available until expended.*

13 “(2) *Amounts received under this section for for-*
14 *feitures under subsection (d) and costs imposed under*
15 *subsection (e) shall be used to pay the reasonable and*
16 *necessary costs incurred by the Secretary to provide*
17 *temporary storage, care, maintenance, and disposal of*
18 *any property seized in connection with a violation of*
19 *this title or any regulation promulgated under this*
20 *title.*

21 “(3) *Amounts received under this section as civil*
22 *penalties under subsection (c) of this section and any*
23 *amounts remaining after the operation of paragraph*
24 *(2) of this subsection shall—*

1 “(A) be used to stabilize, restore, or other-
 2 wise manage the coral reef with respect to which
 3 the violation occurred that resulted in the pen-
 4 alty or forfeiture;

5 “(B) be transferred to the Emergency Re-
 6 sponse, Stabilization, and Restoration Account
 7 established under section 208(d) or an account
 8 described in section 209(d)(1) of this title, to re-
 9 imburse such account for amounts used for au-
 10 thorized emergency actions;

11 “(C) be used to conduct monitoring and en-
 12 forcement activities;

13 “(D) be used to conduct research on tech-
 14 niques to stabilize and restore coral reefs;

15 “(E) be used to conduct activities that pre-
 16 vent or reduce the likelihood of future damage to
 17 coral reefs;

18 “(F) be used to stabilize, restore or other-
 19 wise manage any other coral reef; or

20 “(G) be used to pay a reward to any person
 21 who furnishes information leading to an assess-
 22 ment of a civil penalty, or to a forfeiture of
 23 property, for a violation of this title or any regu-
 24 lation promulgated under this title.

25 “(g) CRIMINAL ENFORCEMENT.—

1 “(1) Any person (other than a foreign govern-
2 ment or any entity of such government) who know-
3 ingly commits any act prohibited by section 208(c) of
4 this title shall be imprisoned for not more than 5
5 years and shall be fined not more than \$500,000 for
6 individuals or \$1,000,000 for an organization; except
7 that if in the commission of any such offense the indi-
8 vidual uses a dangerous weapon, engages in conduct
9 that causes bodily injury to any officer authorized to
10 enforce the provisions of this title, or places any such
11 officer in fear of imminent bodily injury, the max-
12 imum term of imprisonment is not more than 10
13 years.

14 “(2) Any person (other than a foreign govern-
15 ment or any entity of such government) who know-
16 ingly violates subsection (b), (d), or (e) of section 208
17 shall be fined under title 18, United States Code, or
18 imprisoned not more than 5 years or both.

19 “(3) Any person (other than a foreign govern-
20 ment or any entity of such government) who violates
21 subsection (b), (d), or (e) of section 208, and who, in
22 the exercise of due care should know that such per-
23 son’s conduct violates subsection (b), (d), or (e) of sec-
24 tion 208, shall be fined under title 18, United States
25 Code, or imprisoned not more than 1 year, or both.

1 “(4) *The several district courts of the United*
 2 *States shall have jurisdiction over any actions*
 3 *brought by the United States arising under this sub-*
 4 *section. For the purpose of this subsection, American*
 5 *Samoa shall be included within the judicial district*
 6 *of the District Court of the United States for the Dis-*
 7 *trict of Hawaii. Each violation shall be a separate of-*
 8 *fense and the offense shall be deemed to have been*
 9 *committed not only in the district where the violation*
 10 *first occurred, but also in any other district as au-*
 11 *thorized by law. Any offenses not committed in any*
 12 *district are subject to the venue provisions of section*
 13 *3238 of title 18, United States Code.*

14 “(h) *SUBPOENAS.—In the case of any investigation or*
 15 *hearing under this section or any other natural resource*
 16 *statute administered by the National Oceanic and Atmos-*
 17 *pheric Administration which is determined on the record*
 18 *in accordance with the procedures provided for under sec-*
 19 *tion 554 of title 5, United States Code, the Secretary may*
 20 *issue subpoenas for the attendance and testimony of wit-*
 21 *nesses and the production of relevant papers, books, elec-*
 22 *tronic files, and documents, and may administer oaths.*

23 “(i) *COAST GUARD AUTHORITY NOT LIMITED.—Noth-*
 24 *ing in this section shall be considered to limit the authority*

1 *of the Coast Guard to enforce this or any other Federal law*
2 *under section 89 of title 14, United States Code.*

3 “(j) *INJUNCTIVE RELIEF.*—

4 “(1) *If the Secretary determines that there is an*
5 *imminent risk of destruction or loss of or injury to*
6 *a coral reef, or that there has been actual destruction*
7 *or loss of, or injury to, a coral reef which may give*
8 *rise to liability under section 209 of this title, the At-*
9 *torney General, upon request of the Secretary, shall*
10 *seek to obtain such relief as may be necessary to abate*
11 *such risk or actual destruction, loss, or injury, or to*
12 *restore or replace the coral reef, or both. The district*
13 *courts of the United States shall have jurisdiction in*
14 *such a case to order such relief as the public interest*
15 *and the equities of the case may require.*

16 “(2) *Upon the request of the Secretary, the Attor-*
17 *ney General may seek to enjoin any person who is al-*
18 *leged to be in violation of any provision of this title,*
19 *or any regulation or permit issued under this title,*
20 *and the district courts shall have jurisdiction to grant*
21 *such relief.*

22 “(k) *AREA OF APPLICATION AND ENFORCEABILITY.*—
23 *The area of application and enforceability of this title in-*
24 *cludes the internal waters of the United States, the terri-*
25 *torial sea of the United States, as described in Presidential*

1 *Proclamation 5928 of December 27, 1988, the Exclusive*
 2 *Economic Zone of the United States as described in Presi-*
 3 *dential Proclamation 5030 of March 10, 1983, and the con-*
 4 *tinental shelf, consistent with international law.*

5 “(l) *NATIONWIDE SERVICE OF PROCESS.*—*In any ac-*
 6 *tion by the United States under this title, process may be*
 7 *served in any district where the defendant is found, resides,*
 8 *transacts business, or has appointed an agent for the service*
 9 *of process, and for civil cases may also be served in a place*
 10 *not within the United States in accordance with rule 4 of*
 11 *the Federal Rules of Civil Procedure.*

12 “(m) *VENUE IN CIVIL ACTIONS.*—*A civil action under*
 13 *this title may be brought in the United States district court*
 14 *for any district in which—*

15 “(1) *the defendant is located, resides, or is doing*
 16 *business, in the case of an action against a person;*

17 “(2) *the vessel is located, in the case of an action*
 18 *against a vessel;*

19 “(3) *the destruction of, loss of, or injury to a*
 20 *coral reef, or component thereof, occurred or in which*
 21 *there is an imminent risk of such destruction, loss, or*
 22 *injury; or*

23 “(4) *where some or all of the coral reef or compo-*
 24 *nent thereof that is the subject of the action is not*
 25 *within the territory covered by any United States dis-*

1 *strict court, such action may be brought either in the*
 2 *United States district court for the district closest to*
 3 *the location where the destruction, loss, injury, or risk*
 4 *of injury occurred, or in the United States District*
 5 *Court for the District of Columbia.*

6 “(n) *UNIFORMED SERVICE OFFICERS AND EMPLOY-*
 7 *EES.—No officer or employee of a uniformed service (as de-*
 8 *fin ed in section 101 of title 10, United States Code) shall*
 9 *be held liable under this section, either in such officer’s or*
 10 *employee’s personal or official capacity, for any violation*
 11 *of section 208 occurring during the performance of the offi-*
 12 *cer’s or employee’s official governmental duties.*

13 “(o) *CONTRACT EMPLOYEES.—No contract employee of*
 14 *a uniformed service (as so defined), serving as vessel master*
 15 *or crew member, shall be liable under this section for any*
 16 *violation of section 208 if that contract employee—*

17 “(1) *is acting as a contract employee of a uni-*
 18 *formed service under the terms of an operating con-*
 19 *tract for a vessel owned by a uniformed service, or a*
 20 *time charter for pre-positioned vessels, special mission*
 21 *vessels, or vessels exclusively transporting military*
 22 *supplies and materials; and*

23 “(2) *is engaged in an action or actions over*
 24 *which such employee has been given no discretion*
 25 *(e.g., anchoring or mooring at one or more designated*

1 *anchorages or buoys, or executing specific operational*
 2 *elements of a special mission activity), as determined*
 3 *by the uniformed service controlling the contract.”.*

4 **SEC. 409. PERMITS.**

5 *The Act (16 U.S.C. 6401 et seq.) is amended by insert-*
 6 *ing after section 210, as added by section 408 of this title,*
 7 *the following:*

8 **“SEC. 211. PERMITS.**

9 *“(a) IN GENERAL.—The Secretary may allow for the*
 10 *conduct of—*

11 *“(1) bona fide research, and*

12 *“(2) activities that would otherwise be prohibited*
 13 *by this title or regulations issued thereunder,*
 14 *through issuance of coral reef conservation permits in ac-*
 15 *cordance with regulations issued under this title.*

16 *“(b) LIMITATION OF NON-RESEARCH ACTIVITIES.—*
 17 *The Secretary may not issue a permit for activities other*
 18 *than for bona fide research unless the Secretary finds—*

19 *“(1) the activity proposed to be conducted is*
 20 *compatible with one or more of the purposes in sec-*
 21 *tion 202(b) of this title;*

22 *“(2) the activity conforms to the provisions of all*
 23 *other laws and regulations applicable to the area for*
 24 *which such permit is to be issued; and*

1 “(3) *there is no practicable alternative to con-*
 2 *ducting the activity in a manner that destroys, causes*
 3 *the loss of, or injures any coral reef or any component*
 4 *thereof.*

5 “(c) *TERMS AND CONDITIONS.—The Secretary may*
 6 *place any terms and conditions on a permit issued under*
 7 *this section that the Secretary deems reasonable.*

8 “(d) *FEEES.—*

9 “(1) *ASSESSMENT AND COLLECTION.—Subject to*
 10 *regulations issued under this title, the Secretary may*
 11 *assess and collect fees as specified in this subsection.*

12 “(2) *AMOUNT.—Any fee assessed shall be equal to*
 13 *the sum of—*

14 “(A) *all costs incurred, or expected to be in-*
 15 *curred, by the Secretary in processing the permit*
 16 *application, including indirect costs; and*

17 “(B) *if the permit is approved, all costs in-*
 18 *curred, or expected to be incurred, by the Sec-*
 19 *retary as a direct result of the conduct of the ac-*
 20 *tivity for which the permit is issued, including*
 21 *costs of monitoring the conduct of the activity*
 22 *and educating the public about the activity and*
 23 *coral reef resources related to the activity.*

24 “(3) *USE OF FEEES.—Amounts collected by the*
 25 *Secretary in the form of fees under this section shall*

1 *be collected and available for use only to the extent*
 2 *provided in advance in appropriations Acts and may*
 3 *be used by the Secretary for issuing and admin-*
 4 *istering permits under this section.*

5 “(4) *WAIVER OR REDUCTION OF FEES.*—*For any*
 6 *fee assessed under paragraph (2) of this subsection,*
 7 *the Secretary may—*

8 “(A) *accept in-kind contributions in lieu of*
 9 *a fee; or*

10 “(B) *waive or reduce the fee.*

11 “(e) *FISHING.*—*Nothing in this section shall be consid-*
 12 *ered to require a person to obtain a permit under this sec-*
 13 *tion for the conduct of any fishing activities not prohibited*
 14 *by this title or regulations issued thereunder.”.*

15 **SEC. 410. REGULATIONS.**

16 *The Act (16 U.S.C. 6401 et seq.) is amended by insert-*
 17 *ing after section 211, as added by section 409 of this title,*
 18 *the following:*

19 **“SEC. 212. REGULATIONS.**

20 *“The Secretary may issue such regulations as are nec-*
 21 *essary and appropriate to carry out the purposes of this*
 22 *title. This title and any regulations promulgated under this*
 23 *title shall be applied in accordance with international law.*
 24 *No restrictions shall apply to or be enforced against a per-*
 25 *son who is not a citizen, national, or resident alien of the*

1 *United States (including foreign flag vessels) unless in ac-*
 2 *cordance with international law.”.*

3 **SEC. 411. JUDICIAL REVIEW.**

4 *The Act (16 U.S.C. 6401 et seq.) is amended by insert-*
 5 *ing after section 212, as added by section 410 of this title,*
 6 *the following:*

7 **“SEC. 213. JUDICIAL REVIEW.**

8 *“(a) IN GENERAL.—Chapter 7 of title 5, United States*
 9 *Code, is not applicable to any action taken by the Secretary*
 10 *under this title, except that—*

11 *“(1) review of any final agency action of the*
 12 *Secretary taken pursuant to sections 210(c)(1) and*
 13 *210(c)(2) may be had only by the filing of a com-*
 14 *plaint by an interested person in the United States*
 15 *District Court for the appropriate district; any such*
 16 *complaint must be filed within 30 days of the date*
 17 *such final agency action is taken; and*

18 *“(2) review of any final agency action of the*
 19 *Secretary taken pursuant to section 215 may be had*
 20 *by the filing of a petition for review by an interested*
 21 *person in the Circuit Court of Appeals of the United*
 22 *States for the federal judicial district in which such*
 23 *person resides or transact business which is directly*
 24 *affected by the action taken; such petition shall be*

1 *filed within 120 days from the date such final agency*
 2 *action is taken.*

3 “(b) *NO REVIEW IN ENFORCEMENT PROCEEDINGS.*—
 4 *Final agency action with respect to which review could have*
 5 *been obtained under subsection (a)(2) shall not be subject*
 6 *to judicial review in any civil or criminal proceeding for*
 7 *enforcement.*

8 “(c) *COST OF LITIGATION.*—*In any judicial pro-*
 9 *ceeding under subsection (a), the court may award costs of*
 10 *litigation (including reasonable attorney and expert witness*
 11 *fees) to any prevailing party whenever it determines that*
 12 *such award is appropriate.”.*

13 **SEC. 412. DEFINITIONS.**

14 *Section 216 (formerly 16 U.S.C. 6409), as redesignated*
 15 *by section 403 of this title, is amended to read as follows:*

16 **“SEC. 216. DEFINITIONS.**

17 *“In this title:*

18 “(1) *BIODIVERSITY.*—*The term ‘biodiversity’*
 19 *means the variability among living organisms from*
 20 *all sources including, inter alia, terrestrial, marine,*
 21 *and other aquatic ecosystems and the ecological com-*
 22 *plexes of which they are part, including diversity*
 23 *within species, between species, and of ecosystems.*

1 “(2) *BONA FIDE RESEARCH*.—The term ‘bona
2 *fide research*’ means scientific research on corals, the
3 *results of which are likely*—

4 “(A) *to be eligible for publication in a re-*
5 *ferred scientific journal;*

6 “(B) *to contribute to the basic knowledge of*
7 *coral biology or ecology; or*

8 “(C) *to identify, evaluate, or resolve con-*
9 *servation problems.*

10 “(3) *CORAL*.—The term ‘coral’ means species of
11 *the phylum Cnidaria, including*—

12 “(A) *all species of the orders Antipatharia*
13 *(black corals), Scleractinia (stony corals),*
14 *Gorgonacea (horny corals), Stolonifera*
15 *(organpipe corals and others), Alcyonacea (soft*
16 *corals), and Helioporacea (blue coral) of the class*
17 *Anthozoa; and*

18 “(B) *all species of the families Milleporidea*
19 *(fire corals) and Stylasteridae (stylasterid*
20 *hydrocorals) of the class Hydrozoa.*

21 “(4) *CORAL REEF*.—The term ‘coral reef’ means
22 *limestone structures composed in whole or in part of*
23 *living corals, as described in paragraph (3), their*
24 *skeletal remains, or both, and including other corals,*

1 *associated sessile invertebrates and plants, and associ-*
 2 *ated seagrasses.*

3 “(5) *CORAL REEF COMPONENT.*—*The term ‘coral*
 4 *reef component’ means any part of a coral reef, in-*
 5 *cluding individual living or dead corals, associated*
 6 *sessile invertebrates and plants, and any adjacent or*
 7 *associated seagrasses.*

8 “(6) *CORAL REEF ECOSYSTEM.*—*The term ‘coral*
 9 *reef ecosystem’ means the system of coral reefs and*
 10 *geographically associated species, habitats, and envi-*
 11 *ronment, including any adjacent or associated*
 12 *mangroves and seagrass habitats, and the processes*
 13 *that control its dynamics.*

14 “(7) *CORAL PRODUCTS.*—*The term ‘coral prod-*
 15 *ucts’ means any living or dead specimens, parts, or*
 16 *derivatives, or any product containing specimens,*
 17 *parts, or derivatives, of any species referred to in*
 18 *paragraph (3).*

19 “(8) *DAMAGES.*—*The term ‘damages’ includes—*

20 “(A) *compensation for—*

21 “(i) *the cost of replacing, restoring, or*
 22 *acquiring the equivalent of the coral reef, or*
 23 *component thereof; and*

24 “(ii) *the lost services of, or the value of*
 25 *the lost use of, the coral reef or component*

1 *thereof, or the cost of activities to minimize*
2 *or prevent threats of, equivalent injury to,*
3 *or destruction of coral reefs or components*
4 *thereof, pending restoration or replacement*
5 *or the acquisition of an equivalent coral reef*
6 *or component thereof;*

7 *“(B) the reasonable cost of damage assess-*
8 *ments under section 209;*

9 *“(C) the reasonable costs incurred by the*
10 *Secretary in implementing section 208(d);*

11 *“(D) the reasonable cost of monitoring ap-*
12 *propriate to the injured, restored, or replaced re-*
13 *sources;*

14 *“(E) the reasonable cost of curation, con-*
15 *servation and loss of contextual information of*
16 *any coral encrusted archaeological, historical,*
17 *and cultural resource;*

18 *“(F) the cost of legal actions under section*
19 *209, undertaken by the United States, associated*
20 *with the destruction or loss of, or injury to, a*
21 *coral reef or component thereof, including the*
22 *costs of attorney time and expert witness fees;*
23 *and*

1 “(G) *the indirect costs associated with the*
2 *costs listed in subparagraphs (A) through (F) of*
3 *this paragraph.*

4 “(9) *EMERGENCY ACTIONS.*—*The term ‘emer-*
5 *gency actions’ means all necessary actions to prevent*
6 *or minimize the additional destruction or loss of, or*
7 *injury to, coral reefs or components thereof, or to*
8 *minimize the risk of such additional destruction, loss,*
9 *or injury.*

10 “(10) *EXCLUSIVE ECONOMIC ZONE.*—*The term*
11 *‘Exclusive Economic Zone’ means the waters of the*
12 *Exclusive Economic Zone of the United States under*
13 *Presidential Proclamation 5030, dated March 10,*
14 *1983.*

15 “(11) *PERSON.*—*The term ‘person’ means any*
16 *individual, private or public corporation, partner-*
17 *ship, trust, institution, association, or any other pub-*
18 *lic or private entity, whether foreign or domestic, pri-*
19 *vate person or entity, or any officer, employee, agent,*
20 *Department, agency, or instrumentality of the Fed-*
21 *eral Government, of any State or local unit of govern-*
22 *ment, or of any foreign government.*

23 “(12) *RESPONSE COSTS.*—*The term ‘response*
24 *costs’ means the costs of actions taken or authorized*
25 *by the Secretary to minimize destruction or loss of,*

1 *or injury to, a coral reef, or component thereof, or to*
 2 *minimize the imminent risks of such destruction, loss,*
 3 *or injury, including costs related to seizure, forfeiture,*
 4 *storage, or disposal arising from liability under sec-*
 5 *tion 209.*

6 “(13) SECRETARY.—*The term ‘Secretary’*
 7 *means—*

8 “(A) *for purposes of sections 201 through*
 9 *211, and section 213 (except as otherwise pro-*
 10 *vided in subparagraph (B)), and the other para-*
 11 *graphs of this section, the Secretary of Com-*
 12 *merce, acting through the Administrator of the*
 13 *National Oceanic and Atmospheric Administra-*
 14 *tion; and*

15 “(B) *for purposes of sections 208 through*
 16 *213—*

17 “(i) *the Secretary of the Interior for*
 18 *any coral reef or component thereof located*
 19 *in (I) the National Wildlife Refuge System,*
 20 *(II) the National Park System, and (III)*
 21 *the waters surrounding Wake Island under*
 22 *the jurisdiction of the Secretary of the Inte-*
 23 *rior, as set forth in Executive Order 11048*
 24 *(27 Fed. Reg. 8851 (September 4, 1962)); or*

1 “(ii) the Secretary of Commerce for
2 any coral reef or component thereof located
3 in any area not described in clause (i).

4 “(14) SERVICE.—The term ‘service’ means func-
5 tions, ecological or otherwise, performed by a coral
6 reef or component thereof.

7 “(15) STATE.—The term ‘State’ means any
8 State of the United States that contains a coral reef
9 ecosystem within its seaward boundaries, American
10 Samoa, Guam, the Northern Mariana Islands, Puerto
11 Rico, and the Virgin Islands, and any other territory
12 or possession of the United States, or separate sov-
13 ereign in free association with the United States, that
14 contains a coral reef ecosystem within its seaward
15 boundaries.

16 “(16) TERRITORIAL SEA.—The term ‘Territorial
17 Sea’ means the waters of the Territorial Sea of the
18 United States under Presidential Proclamation 5928,
19 dated December 27, 1988.”.

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A BILL

To improve the ability of the National Oceanic and Atmospheric Administration, the Coast Guard, and coastal States to sustain healthy ocean and coastal ecosystems by maintaining and sustaining their capabilities relating to oil spill preparedness, prevention, response, restoration, and research, and for other purposes.

DECEMBER 17, 2010

Reported with an amendment