

111TH CONGRESS  
2D SESSION

# S. 3603

To amend the Oil Pollution Act of 1990 to establish the Federal Oil Spill Research Committee and to amend the Federal Water Pollution Control Act to include in a response plan certain planned and demonstrated investments in research relating to discharges of oil and to modify the dates by which a response plan is required to be updated.

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IN THE SENATE OF THE UNITED STATES

JULY 15, 2010

Ms. CANTWELL introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend the Oil Pollution Act of 1990 to establish the Federal Oil Spill Research Committee and to amend the Federal Water Pollution Control Act to include in a response plan certain planned and demonstrated investments in research relating to discharges of oil and to modify the dates by which a response plan is required to be updated.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Oil Spill Technology  
5       and Research Act of 2010”.

1 **SEC. 2. FEDERAL OIL SPILL RESEARCH COMMITTEE.**

2 (a) IN GENERAL.—Section 7001 of the Oil Pollution  
3 Act of 1990 (33 U.S.C. 2761) is amended to read as fol-  
4 lows:

5 **“SEC. 7001. FEDERAL OIL SPILL RESEARCH COMMITTEE.**

6 “(a) ESTABLISHMENT.—There is established a com-  
7 mittee, to be known as the ‘Federal Oil Spill Research  
8 Committee’ (referred to in this section as the ‘Com-  
9 mittee’).

10 “(b) MEMBERSHIP.—

11 “(1) COMPOSITION.—The Committee shall be  
12 composed of—

13 “(A) at least 1 representative of the Na-  
14 tional Oceanic and Atmospheric Administration;

15 “(B) at least 1 representative of the Coast  
16 Guard;

17 “(C) at least 1 representative of the Envi-  
18 ronmental Protection Agency; and

19 “(D) at least 1 representative of each of  
20 such other Federal agencies as the President  
21 considers to be appropriate.

22 “(2) CHAIRPERSON.—The Under Secretary of  
23 Commerce for Oceans and Atmosphere (referred to  
24 in this section as the ‘Under Secretary’) shall des-  
25 ignate a Chairperson from among members of the

1 Committee who represent the National Oceanic and  
2 Atmospheric Administration.

3 “(3) MEETINGS.—At a minimum, the members  
4 of the Committee shall meet once each quarter.

5 “(c) DUTIES OF THE COMMITTEE.—

6 “(1) RESEARCH.—The Committee shall—

7 “(A) coordinate a comprehensive program  
8 of oil pollution research, technology develop-  
9 ment, and demonstration among the Federal  
10 agencies, in cooperation and coordination with  
11 industry, institutions of higher education, re-  
12 search institutions, State governments, tribal  
13 governments, and other countries, as the Com-  
14 mittee considers to be appropriate; and

15 “(B) foster cost-effective research mecha-  
16 nisms, including the joint funding of research.

17 “(2) REPORTS ON CURRENT STATE OF OIL DIS-  
18 CHARGE PREVENTION AND RESPONSE CAPABILI-  
19 TIES.—

20 “(A) IN GENERAL.—Not later than 180  
21 days after the date of enactment of the Oil Spill  
22 Technology and Research Act of 2010, the  
23 Committee shall submit to Congress a report on  
24 the state of oil discharge prevention and re-  
25 sponse capabilities that—

1 “(i) identifies current research pro-  
2 grams conducted by governments, univer-  
3 sities, and corporate entities;

4 “(ii) assesses the current status of  
5 knowledge on oil pollution prevention, re-  
6 sponse, and mitigation technologies;

7 “(iii) establishes national research pri-  
8 orities and goals for oil pollution tech-  
9 nology development relating to prevention,  
10 response, mitigation, and environmental ef-  
11 fects;

12 “(iv) identifies regional oil pollution  
13 research needs and priorities for a coordi-  
14 nated program of research at the regional  
15 level developed in consultation with the  
16 State and local governments and Indian  
17 tribes;

18 “(v) assesses the current state of dis-  
19 charge response equipment, and deter-  
20 mines areas in need of improvement, in-  
21 cluding with respect to the quantity, age,  
22 quality, and effectiveness of equipment, or  
23 necessary technological improvements;

24 “(vi) assesses—

1 “(I) the current state of real-time  
2 data available to mariners, including  
3 data on water level, currents, and  
4 weather (including predictions); and

5 “(II) whether a lack of timely in-  
6 formation increases the risk of oil dis-  
7 charges; and

8 “(vii) includes such other information  
9 or recommendations as the Committee de-  
10 termines to be appropriate.

11 “(B) 5-YEAR UPDATES.—Not later than 5  
12 years after the date of enactment of the Oil  
13 Spill Technology and Research Act of 2010,  
14 and every 5 years thereafter, the Committee  
15 shall submit to Congress a report updating the  
16 information contained in the previous report  
17 submitted under subparagraph (A).

18 “(d) RESEARCH AND DEVELOPMENT PROGRAM.—

19 “(1) IN GENERAL.—In carrying out the duties  
20 of the Committee under subsection (c)(1), the Com-  
21 mittee shall establish a program to conduct oil pollu-  
22 tion research and development.

23 “(2) PROGRAM ELEMENTS.—The program es-  
24 tablished under paragraph (1) shall provide for re-  
25 search, development, and demonstration of new or

1 improved technologies and methods that are effective  
2 in preventing, detecting, or responding to, miti-  
3 gating, and restoring damage from oil discharges  
4 and that protect the environment, including each of  
5 the following:

6 “(A) High priority research areas de-  
7 scribed in the reports under subsection (c)(2).

8 “(B) Environmental effects of acute and  
9 chronic oil discharges on coastal and marine re-  
10 sources, including impacts on protected areas  
11 and protected species.

12 “(C) Long-term effects of major discharges  
13 and the long-term cumulative effects of smaller  
14 endemic discharges.

15 “(D) New technologies to detect accidental  
16 or intentional overboard discharges.

17 “(E) Response, containment, and removal  
18 capabilities, such as improved booms, oil skim-  
19 mers, and storage capacity.

20 “(F) Oil discharge risk assessment meth-  
21 ods, including the identification of areas of high  
22 risk and potential risk reductions for the pre-  
23 vention of discharges.

24 “(G) Capabilities for predicting the envi-  
25 ronmental fate, transport, and effects of oil dis-

1 charges, including prediction of the effective-  
2 ness of discharge response systems to contain  
3 and remove oil discharges.

4 “(H) Methods to restore and rehabilitate  
5 natural resources and ecosystem functions dam-  
6 aged by oil discharges.

7 “(I) Research and training, in consultation  
8 with the National Response Team, to improve  
9 the ability of industry and the Federal Govern-  
10 ment to remove an oil discharge quickly and ef-  
11 fectively.

12 “(J) Oil pollution technology evaluation.

13 “(K) Any other priorities identified by the  
14 Committee.

15 “(3) IMPLEMENTATION PLAN.—

16 “(A) IN GENERAL.—Not later than 180  
17 days after the date of submission of the report  
18 under subsection (c)(2)(A), the Committee shall  
19 submit to Congress a plan for the implementa-  
20 tion of the program required by paragraph (1).

21 “(B) ASSESSMENT BY NATIONAL ACADEMY  
22 OF SCIENCES.—The Chairperson of the Com-  
23 mittee, acting through the Administrator of the  
24 National Oceanic and Atmospheric Administra-  
25 tion, shall enter into an arrangement with the

1 National Academy of Sciences under which the  
2 National Academy of Sciences shall—

3 “(i) provide advice and guidance in  
4 the preparation and development of the  
5 plan required by subparagraph (A); and

6 “(ii) assess the adequacy of the plan  
7 as submitted, and submit a report to Con-  
8 gress on the conclusions of the assessment.

9 “(e) GRANT PROGRAM IN SUPPORT OF RESEARCH  
10 AND DEVELOPMENT PROGRAM.—

11 “(1) IN GENERAL.—The Under Secretary of  
12 Commerce shall manage a program of competitive  
13 grants to universities or other research institutions,  
14 or groups of universities or research institutions, for  
15 the purposes of conducting the program established  
16 under subsection (d).

17 “(2) APPLICATIONS AND CONDITIONS.—In con-  
18 ducting the program, the Under Secretary—

19 “(A) shall establish a notification and ap-  
20 plication procedure;

21 “(B) may establish such conditions and re-  
22 quire such assurances as are appropriate to en-  
23 sure the efficiency and integrity of the grant  
24 program; and



1                   “(C) may provide grants under the pro-  
2                   gram on a matching or nonmatching basis.

3                   “(f) ADVICE AND GUIDANCE.—

4                   “(1) IN GENERAL.—The Committee shall ac-  
5                   cept comments and input from State and local gov-  
6                   ernments, Indian tribes, industry representatives,  
7                   and other stakeholders in carrying out the duties of  
8                   the Committee under subsection (c).

9                   “(2) ADVISORY COUNCIL.—The Committee may  
10                  establish an Advisory Council consisting of non-  
11                  government experts and stakeholders for the purpose  
12                  of providing guidance to the Committee on matters  
13                  under this section.

14                  “(g) FACILITATION.—The Committee may develop  
15                  joint partnerships or enter into memoranda of agreement  
16                  or memoranda of understanding with institutions of high-  
17                  er education, States, and other entities to facilitate the  
18                  research program required by subsection (d).

19                  “(h) ANNUAL REPORTS.—Not later than 1 year after  
20                  the date of enactment of the Oil Spill Technology and Re-  
21                  search Act of 2010, and annually thereafter, the Chair-  
22                  person of the Committee shall submit to Congress a report  
23                  that describes—

24                         “(1) the activities carried out under this section  
25                         during the preceding fiscal year; and

1           “(2) the activities that are proposed to be car-  
 2           ried out under this section for the fiscal year during  
 3           which the report is submitted.

4           “(i) AUTHORIZATION OF APPROPRIATIONS.—There  
 5           are authorized to be appropriated to the Secretary of Com-  
 6           merce to carry out this section—

7           “(1) \$200,000 for fiscal year 2010, to remain  
 8           available until expended, for use in entering into ar-  
 9           rangements with the National Academy of Sciences  
 10          and for paying other expenses incurred in developing  
 11          the reports and research program under this section;  
 12          and

13          “(2) \$2,000,000 for each of fiscal years 2010  
 14          through 2012, to remain available until expended.”.

15          (b) TERMINATION OF AUTHORITY OF INTERAGENCY  
 16          COMMITTEE.—

17               (1) IN GENERAL.—The Interagency Coordi-  
 18          nating Committee on Oil Pollution Research estab-  
 19          lished under section 7001 of the Oil Pollution Act of  
 20          1990 (33 U.S.C. 2761) (as in effect on the day be-  
 21          fore the date of enactment of this Act), and all au-  
 22          thority of that Committee, terminate on the date of  
 23          enactment of this Act.

24               (2) FUNDING.—Any funds made available for  
 25          the Interagency Coordinating Committee on Oil Pol-

1 lution Research described in paragraph (1) and re-  
2 maining available as of the date of enactment of this  
3 Act shall be transferred to and available for use by  
4 the Federal Oil Spill Research Committee (as estab-  
5 lished by the amendment made by subsection (a)),  
6 without further appropriation or fiscal year limita-  
7 tion.

8 **SEC. 3. RESPONSE PLAN UPDATE REQUIREMENT.**

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

11 (1) in subparagraph (D)—

12 (A) by striking clause (v) and inserting the  
13 following:

14 “(v)(I) be updated at least every 5  
15 years;

16 “(II) require the use of the best avail-  
17 able technology and methods to contain  
18 and remove, to the maximum extent prac-  
19 ticable, a worst-case discharge (including a  
20 discharge resulting from fire or explosion),  
21 and to mitigate or prevent a substantial  
22 threat of such a discharge; and

23 “(III) be resubmitted for approval  
24 upon each update (which shall be consid-

1           ered to be a significant change to the re-  
2           sponse plan) under this clause;”;

3           (B) in clause (vi), by striking the period at  
4           the end and inserting “; and”; and

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

6           “(vii) include planned and dem-  
7           onstrated investments in research relating  
8           to oil discharges, risk assessment, and de-  
9           velopment of technologies for oil discharge  
10          response and prevention.”; and

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

12          “(J) TECHNOLOGY STANDARDS.—The  
13          Coast Guard may establish requirements and  
14          issue guidance for the use of best available  
15          technology and methods under subparagraph  
16          (D)(v), which technology and methods shall be  
17          based on performance metrics and standards, to  
18          the maximum extent practicable.”.

19 **SEC. 4. OIL DISCHARGE TECHNOLOGY INVESTMENT.**

20          (a) IN GENERAL.—The Secretary of the Department  
21          in which the Coast Guard is operating (referred to in this  
22          section as the “Secretary”) shall establish a program for  
23          the formal evaluation and validation of oil pollution con-  
24          tainment and removal methods and technologies.

25          (b) APPROVAL.—

1           (1) IN GENERAL.—The program shall establish  
2       a process for new methods and technologies to be  
3       submitted, evaluated, and gain validation for use in  
4       responses to discharges of oil and inclusion in re-  
5       sponse plans.

6           (2) CONSIDERATION OF CAPABILITY.—Fol-  
7       lowing each validation of a method or technology de-  
8       scribed in paragraph (1), the Secretary shall con-  
9       sider whether the method or technology meets a per-  
10      formance capability warranting designation of a new  
11      standard for best available technology or methods.

12          (3) LACK OF VALIDATION.—The lack of valida-  
13      tion of a method or technology under this section  
14      shall not preclude—

15           (A) the use of the method or technology in  
16      response to a discharge of oil; or

17           (B) the inclusion of the method or tech-  
18      nology in a response plan.

19          (c) TECHNOLOGY CLEARINGHOUSE.—Each tech-  
20      nology and method validated under this section shall be  
21      included in the comprehensive list of discharge removal re-  
22      sources maintained through the National Response Unit  
23      of the Coast Guard.

24          (d) CONSULTATION.—In carrying out this section,  
25      the Secretary shall consult with—

- 1           (1) the Secretary of the Interior;
- 2           (2) the Administrator of the National Oceanic
- 3           and Atmospheric Administration;
- 4           (3) the Administrator of the Environmental
- 5           Protection Agency; and
- 6           (4) the Secretary of Transportation.

