

Calendar No. 493111TH CONGRESS
2^D SESSION**S. 3663**

To promote clean energy jobs and oil company accountability, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2010

Mr. REID introduced the following bill; which was read the first time

JULY 29, 2010

Read the second time and placed on the calendar

A BILL

To promote clean energy jobs and oil company accountability,
and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Clean Energy Jobs
5 and Oil Company Accountability Act of 2010”.

1 **SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF**
 2 **CONTENTS.**

3 (a) DIVISIONS.—This Act is organized into 6 divi-
 4 sions as follows:

5 (1) Division A—Oil Spill Response and Account-
 6 ability.

7 (2) Division B—Reducing Oil Consumption and
 8 Improving Energy Security.

9 (3) Division C—Clean Energy Jobs and Con-
 10 sumer Savings.

11 (4) Division D—Protecting the Environment.

12 (5) Division E—Fiscal Responsibility.

13 (5) Division F—Miscellaneous.

14 (b) TABLE OF CONTENTS.—The table of contents of
 15 this Act is as follows:

Sec. 1. Short title.

Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—OIL SPILL RESPONSE AND ACCOUNTABILITY

TITLE I—REMOVAL OF LIMITS ON LIABILITY FOR OFFSHORE
 FACILITIES

Sec. 101. Short title.

Sec. 102. Removal of limits on liability for offshore facilities.

Sec. 103. Claims procedure.

Sec. 104. Oil and hazardous substance response planning.

Sec. 105. Reports.

Sec. 106. Trust Fund advance authority.

TITLE II—FEDERAL RESEARCH AND TECHNOLOGIES FOR OIL
 SPILL PREVENTION AND RESPONSE

Sec. 201. Short title.

Sec. 202. Purposes.

Sec. 203. Interagency Committee.

Sec. 204. Science and technology advice and guidance.

Sec. 205. Oil pollution research and development program.

TITLE III—OUTER CONTINENTAL SHELF REFORM

- Sec. 301. Short title.
- Sec. 302. Purposes.
- Sec. 303. Definitions.
- Sec. 304. National policy for the outer Continental Shelf.
- Sec. 305. Structural reform of outer Continental Shelf program management.
- Sec. 306. Safety, environmental, and financial reform of the Outer Continental Shelf Lands Act.
- Sec. 307. Study on the effect of the moratoria on new deepwater drilling in the Gulf of Mexico on employment and small businesses.
- Sec. 308. Reform of other law.
- Sec. 309. Safer oil and gas production.
- Sec. 310. National Commission on Outer Continental Shelf Oil Spill Prevention.
- Sec. 311. Savings provisions.

TITLE IV—ENVIRONMENTAL CRIMES ENFORCEMENT

- Sec. 401. Short title.
- Sec. 402. Environmental crimes.

TITLE V—FAIRNESS IN ADMIRALTY AND MARITIME LAW

- Sec. 501. Short title.
- Sec. 502. Repeal of limitation of Shipowners' Liability Act of 1851.
- Sec. 503. Assessment of punitive damages in maritime law.
- Sec. 504. Amendments to the Death on the High Seas Act.
- Sec. 505. Effective date.

TITLE VI—SECURING HEALTH FOR OCEAN RESOURCES AND ENVIRONMENT (SHORE)

- Sec. 601. Short title.

Subtitle A—National Oceanic and Atmospheric Administration Oil Spill Response, Containment, and Prevention

- Sec. 611. Improvements to National Oceanic and Atmospheric Administration oil spill response, containment, and prevention.
- Sec. 612. Use of Oil Spill Liability Trust Fund for preparedness, response, damage assessment, and restoration.
- Sec. 613. Investment of amounts in Damage Assessment and Restoration Revolving Fund in interest-bearing obligations.
- Sec. 614. Strengthening coastal State oil spill planning and response.
- Sec. 615. Gulf of Mexico long-term marine environmental monitoring and research program.
- Sec. 616. Arctic research and action to conduct oil spill prevention.

Subtitle B—Improving Coast Guard Response and Inspection Capacity

- Sec. 621. Secretary defined.
- Sec. 622. Arctic maritime readiness and oil spill prevention.
- Sec. 623. Advance planning and prompt decision making in closing and reopening fishing grounds.
- Sec. 624. Oil spill technology evaluation.
- Sec. 625. Coast Guard inspections.
- Sec. 626. Certificate of inspection requirements.

- Sec. 627. Navigational measures for protection of natural resources.
- Sec. 628. Notice to States of bulk oil transfers.
- Sec. 629. Gulf of Mexico Regional Citizens' Advisory Council.
- Sec. 630. Vessel liability.
- Sec. 631. Prompt intergovernmental notice of marine casualties.
- Sec. 632. Prompt publication of oil spill information.
- Sec. 633. Leave retention authority.

TITLE VII—CATASTROPHIC INCIDENT PLANNING

- Sec. 701. Catastrophic incident planning.
- Sec. 702. Alignment of response frameworks.

TITLE VIII—SUBPOENA POWER FOR NATIONAL COMMISSION ON THE BP DEEPWATER HORIZON OIL SPILL AND OFFSHORE DRILLING

- Sec. 801. Subpoena power for National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling.

TITLE IX—CORAL REEF CONSERVATION ACT AMENDMENTS

- Sec. 901. Short title.
- Sec. 902. Amendment of Coral Reef Conservation Act of 2000.
- Sec. 903. Agreements; redesignations.
- Sec. 904. Emergency assistance.
- Sec. 905. Emergency response, stabilization, and restoration.
- Sec. 906. Prohibited activities.
- Sec. 907. Destruction of coral reefs.
- Sec. 908. Enforcement.
- Sec. 909. Regulations.
- Sec. 910. Judicial review.

DIVISION B—REDUCING OIL CONSUMPTION AND IMPROVING ENERGY SECURITY

TITLE XX—NATURAL GAS VEHICLE AND INFRASTRUCTURE DEVELOPMENT

- Sec. 2001. Definitions.
- Sec. 2002. Program establishment.
- Sec. 2003. Rebates.
- Sec. 2004. Infrastructure and development grants.
- Sec. 2005. Loan program to enhance domestic manufacturing.

TITLE XXI—PROMOTING ELECTRIC VEHICLES

- Sec. 2101. Short title.
- Sec. 2102. Definitions.

Subtitle A—National Plug-in Electric Drive Vehicle Deployment Program.

- Sec. 2111. National Plug-In Electric Drive Vehicle Deployment Program.
- Sec. 2112. National assessment and plan.
- Sec. 2113. Technical assistance.
- Sec. 2114. Workforce training.
- Sec. 2115. Federal fleets.

- Sec. 2116. Targeted Plug-in Electric Drive Vehicle Deployment Communities Program.
- Sec. 2117. Funding.

Subtitle B—Research and Development

- Sec. 2121. Research and development program.
- Sec. 2122. Advanced batteries for tomorrow prize.
- Sec. 2123. Study on the supply of raw materials.
- Sec. 2124. Study on the collection and preservation of data collected from plug-in electric drive vehicles.

Subtitle C—Miscellaneous

- Sec. 2131. Utility planning for plug-in electric drive vehicles.
- Sec. 2132. Loan guarantees.
- Sec. 2133. Prohibition on disposing of advanced batteries in landfills.
- Sec. 2134. Plug-in Electric Drive Vehicle Technical Advisory Committee.
- Sec. 2135. Plug-in Electric Drive Vehicle Interagency Task Force.

DIVISION C—CLEAN ENERGY JOBS AND CONSUMER SAVINGS

TITLE XXX—HOME STAR RETROFIT REBATE PROGRAM

- Sec. 3001. Short title.
- Sec. 3002. Definitions.
- Sec. 3003. Home Star Retrofit Rebate Program.
- Sec. 3004. Contractors.
- Sec. 3005. Rebate aggregators.
- Sec. 3006. Quality assurance providers.
- Sec. 3007. Silver Star Home Retrofit Program.
- Sec. 3008. Gold Star Home Retrofit Program.
- Sec. 3009. Grants to States and Indian tribes.
- Sec. 3010. Quality assurance framework.
- Sec. 3011. Report.
- Sec. 3012. Administration.
- Sec. 3013. Treatment of rebates.
- Sec. 3014. Penalties.
- Sec. 3015. Home Star Efficiency Loan Program.
- Sec. 3016. Funding.

DIVISION D—PROTECTING THE ENVIRONMENT

TITLE XL—LAND AND WATER CONSERVATION AUTHORIZATION AND FUNDING

- Sec. 4001. Short title.
- Sec. 4002. Permanent authorization; full funding.

TITLE XLI—NATIONAL WILDLIFE REFUGE SYSTEM RESOURCE PROTECTION

- Sec. 4101. Short title.
- Sec. 4102. Definitions.
- Sec. 4103. Liability.
- Sec. 4104. Actions.
- Sec. 4105. Use of recovered amounts.
- Sec. 4106. Donations.

TITLE XLII—GULF COAST ECOSYSTEM RESTORATION

Sec. 4201. Gulf Coast Ecosystem restoration.

TITLE XLIII—HYDRAULIC FRACTURING CHEMICALS

Sec. 4301. Disclosure of hydraulic fracturing chemicals.

TITLE XLIV—WATERSHED RESTORATION

Sec. 4401. Watershed restoration.

DIVISION E—FISCAL RESPONSIBILITY

Sec. 5001. Modifications with respect to Oil Spill Liability Trust Fund.

DIVISION F—MISCELLANEOUS

Sec. 6001. Budgetary effects.

1 **DIVISION A—OIL SPILL RE-**
 2 **SPONSE AND ACCOUNT-**
 3 **ABILITY**

4 **TITLE I—REMOVAL OF LIMITS**
 5 **ON LIABILITY FOR OFFSHORE**
 6 **FACILITIES**

7 **SEC. 101. SHORT TITLE.**

8 This title may be cited as the “Big Oil Bailout Pre-
 9 vention Unlimited Liability Act of 2010”.

10 **SEC. 102. REMOVAL OF LIMITS ON LIABILITY FOR OFF-**
 11 **SHORE FACILITIES.**

12 (a) IN GENERAL.—Section 1004(a)(3) of the Oil Pol-
 13 lution Act of 1990 (33 U.S.C. 2704(a)(3)) is amended by
 14 striking “plus \$75,000,000” and inserting “and the liabil-
 15 ity of the responsible party under section 1002”.

16 (b) EFFECTIVE DATE.—The amendment made by
 17 this section shall apply to all claims or actions brought

1 within the limitations period applicable to the claims or
2 action, including any claims or actions pending on the date
3 of enactment of this Act and any claims arising from
4 events occurring prior to the date of enactment of this
5 Act.

6 **SEC. 103. CLAIMS PROCEDURE.**

7 (a) WAITING PERIOD.—Section 1013(c)(2) of the Oil
8 Pollution Act of 1990 (33 U.S.C. 2713(c)(2)) is amended
9 by striking “settled by any person by payment within 90
10 days” and inserting “settled in whole by any person by
11 payment within 30 days”.

12 (b) PROCESSING OF CLAIMS.—Section 1012(a)(4) of
13 the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(4)) is
14 amended by inserting before the semicolon at the end the
15 following: “and, in the event of a spill of national signifi-
16 cance, administrative and personnel costs to process
17 claims (including the costs of commercial claims proc-
18 essing, expert services, training, and technical services)”.

19 **SEC. 104. OIL AND HAZARDOUS SUBSTANCE RESPONSE**
20 **PLANNING.**

21 (a) AREA COMMITTEES.—Section 311(j)(4)(A) of the
22 Federal Water Pollution Control Act (33 U.S.C.
23 1321(j)(4)(A)) is amended—

24 (1) by striking “from qualified” and inserting
25 “from—

1 “(i) qualified”;

2 (2) by striking the period at the end and insert-
3 ing “; and”; and

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

5 “(ii) individuals representing industry, con-
6 servation, and the general public.”.

7 (b) NATIONAL RESPONSE SYSTEM.—Section
8 311(j)(5) of the Federal Water Pollution Control Act (33
9 U.S.C. 1321(j)(5)) is amended—

10 (1) in subparagraph (A), by adding at the end
11 the following:

12 “(iii) The President shall ensure that
13 the regulations promulgated pursuant to
14 this paragraph are designed to prevent, to
15 the maximum extent practicable, injury to
16 the economy, jobs, and the environment,
17 including to prevent—

18 “(I) loss of, destruction of, or in-
19 jury to, real or personal property;

20 “(II) loss of subsistence use of
21 natural resources;

22 “(III) loss of revenue;

23 “(IV) loss of profits or earning
24 capacity;

1 “(V) an increase in the cost of
2 providing public services to remove a
3 discharge; and

4 “(VI) loss of, destruction of, or
5 injury to, natural resources.

6 “(iv) The President shall promulgate
7 regulations that clarify the requirements of
8 a response plan in accordance with sub-
9 paragraph (D).”;

10 (2) by striking subparagraph (D) and inserting
11 the following:

12 “(D) A response plan required under this
13 paragraph shall—

14 “(i) be consistent with the require-
15 ments of the National Contingency Plan
16 and Area Contingency Plans;

17 “(ii) identify the qualified individual
18 having full authority to implement removal
19 actions, and require immediate commu-
20 nications between that individual and the
21 appropriate Federal official and the per-
22 sons providing personnel and equipment
23 pursuant to clause (iii);

24 “(iii) identify, and ensure by contract
25 or other means approved by the President

1 the availability of, private personnel and
2 equipment in the quantities necessary,
3 staged and available in the appropriate re-
4 gion to respond immediately to and sustain
5 the response effort for as long as nec-
6 essary—

7 “(I) to remove, to the maximum
8 extent practicable, a worst-case dis-
9 charge (including a discharge result-
10 ing from fire or an explosion);

11 “(II) to mitigate damage from a
12 discharge; and

13 “(III) to prevent or reduce a sub-
14 stantial threat of such a discharge;

15 “(iv) demonstrate, to the maximum
16 extent practicable, the financial capability
17 to pay for removal costs and damages;

18 “(v) describe the training, equipment
19 testing, periodic unannounced drills, and
20 response actions of persons on the vessel
21 or at the facility, to be carried out under
22 the plan to ensure the safety of the vessel
23 or facility and to meet the requirements of
24 this subparagraph;

1 “(vi) describe the environmental ef-
2 fects of the response plan methodologies
3 and equipment;

4 “(vii) describe the process for commu-
5 nication and coordination with Federal,
6 State, and local agencies before, during,
7 and after a response to a discharge;

8 “(viii) identify the effective daily re-
9 covery capacity for the quantity of oil or
10 hazardous substance that will be removed
11 under the response plan immediately fol-
12 lowing the discharge and at regular, identi-
13 fied periods;

14 “(ix) in the case of oil production,
15 drilling, and workover facilities, describe
16 the specific measures to be used in re-
17 sponse to a blowout or other event involv-
18 ing loss of well control;

19 “(x) identify provisions for the owner
20 or operator of a tank vessel, nontank ves-
21 sel, or facility to report the actual quantity
22 of oil or a hazardous substance removed at
23 regular, identified periods following the
24 discharge;

1 “(xi) identify potential economic and
2 ecological impacts of a worst-case dis-
3 charge and response activities to prevent
4 or mitigate, to the maximum extent prac-
5 ticable, those impacts in the event of a dis-
6 charge;

7 “(xii) be updated periodically; and

8 “(xiii) be resubmitted for approval of
9 each significant change.”;

10 (3) in subparagraph (E), by striking clauses (i)
11 through (v) and inserting the following:

12 “(i) require notice of a new proposed
13 response plan or significant modification to
14 an existing response plan for an offshore
15 facility to be published in the Federal Reg-
16 ister and provide for a public comment pe-
17 riod for the plan of at least 30 days, tak-
18 ing into appropriate consideration security
19 concerns and any proprietary issues other-
20 wise provided by law;

21 “(ii) promptly review the response
22 plan;

23 “(iii) require amendments to any plan
24 that does not meet the requirements of this
25 paragraph;

1 “(iv) approve any plan only after find-
2 ing, based on evidence in the record,
3 that—

4 “(I) the response plan meets the
5 requirements of subparagraph (D);

6 “(II) the methods and equipment
7 proposed to be used under the re-
8 sponse plan are demonstrated to be
9 technologically feasible in the area
10 and under the conditions in which the
11 tank vessel, nontank vessel, or facility
12 is proposed to operate;

13 “(III) the available scientific in-
14 formation about the area allows for
15 identification of potential impacts to
16 ecological areas and protection of
17 those areas in the event of a dis-
18 charge, including adequate surveys of
19 wildlife; and

20 “(IV) the response plan describes
21 the quantity of oil likely to be re-
22 moved in the event of a worst-case
23 discharge;

24 “(v) obtain the written concurrence of
25 such other agencies as the President deter-

1 mines have a significant responsibility to
2 remove, mitigate damage from, or prevent
3 or reduce a substantial threat of the worst-
4 case discharge of oil or a hazardous sub-
5 stance;

6 “(vi) review each plan periodically
7 thereafter and require each plan to be up-
8 dated not less often than once every 5
9 years, with each update considered a sig-
10 nificant change requiring approval by the
11 President;

12 “(vii) require an update of a plan pur-
13 suant to clause (vi) to include the best
14 available technology and methods to con-
15 tain and remove, to the maximum extent
16 practicable, a worst-case discharge (includ-
17 ing a discharge resulting from fire or ex-
18 plosion), and to mitigate or prevent a sub-
19 stantial threat of such a discharge; and

20 “(viii) in the case of a plan for a
21 nontank vessel, consider any applicable
22 State-mandated response plan in effect on
23 August 9, 2004, and ensure consistency to
24 the maximum extent practicable.”; and

25 (4) by adding at the end the following:

1 “(J) TECHNOLOGY STANDARDS.—The
2 President may establish requirements and guid-
3 ance for using the best available technology and
4 methods in response plans, which shall be based
5 on performance metrics and standards when-
6 ever practicable.

7 “(K) APPROVAL OF EXISTING PLANS.—

8 “(i) IN GENERAL.—The President
9 shall—

10 “(I) implement an expedited re-
11 view process of all response plans that
12 were valid and approved on the day
13 before the date of enactment of this
14 subparagraph to identify those re-
15 sponse plans that do not meet the re-
16 quirements of this section; and

17 “(II) require those response
18 plans to be amended to conform to
19 the requirements of this section as
20 soon as practicable after the date of
21 enactment of this subparagraph.

22 “(ii) EXISTING PLANS.—Notwith-
23 standing any other provision of this sec-
24 tion, a response plan that was valid and

1 approved on the day before the date of en-
2 actment of this subparagraph—

3 “(I) shall remain valid and ap-
4 proved until required to be updated
5 pursuant to clause (i); and

6 “(II) shall not be found not to be
7 valid and approved as a result of the
8 enactment of this subparagraph.

9 “(iii) PUBLIC NOTICE.—The President
10 shall provide public notice of the process
11 for updating response plans required by
12 clause (i).”.

13 (c) DEFINITIONS.—Section 311(a)(24)(B) of the
14 Federal Water Pollution Control Act (33 U.S.C.
15 1321(a)(24)(B)) is amended by inserting “, including
16 from an unanticipated and uncontrolled blowout or other
17 loss of well control,” after “foreseeable discharge”.

18 **SEC. 105. REPORTS.**

19 Not later than 180 days after the date of enactment
20 of this Act and every 90 days thereafter until all claims
21 resulting from the blowout and explosion of the mobile off-
22 shore drilling unit *Deepwater Horizon* that occurred April
23 20, 2010, and resulting hydrocarbon releases into the en-
24 vironment, have been paid, the administrator of the fund

1 described in paragraph (1) shall submit to Congress a re-
2 port that describes—

3 (1) the status of the compensation fund estab-
4 lished by British Petroleum Company to pay claims
5 resulting from the blowout and explosion; and

6 (2) each claim that has been paid from that
7 fund.

8 **SEC. 106. TRUST FUND ADVANCE AUTHORITY.**

9 Section 6002(b)(2) of the Oil Pollution Act of 1990
10 (33 U.S.C. 2752(b)(2)) is amended by striking “the dis-
11 charge of oil that began in 2010 in connection with the
12 explosion on, and sinking of, the mobile offshore drilling
13 unit Deepwater Horizon,” and inserting “a spill of na-
14 tional significance,”.

15 **TITLE II—FEDERAL RESEARCH**
16 **AND TECHNOLOGIES FOR OIL**
17 **SPILL PREVENTION AND RE-**
18 **SPONSE**

19 **SEC. 201. SHORT TITLE.**

20 This title may be cited as the “Federal Research and
21 Technologies for Oil Spill Prevention and Response Act
22 of 2010”.

23 **SEC. 202. PURPOSES.**

24 The purposes of this title are—

1 (1) to maintain and enhance the world-class re-
2 search and facilities of the Federal Government; and

3 (2) to ensure that there are adequate knowl-
4 edge, practices, and technologies to detect, respond
5 to, contain, and clean up oil spills, whether onshore
6 or on the outer Continental Shelf.

7 **SEC. 203. INTERAGENCY COMMITTEE.**

8 Section 7001(a) of the Oil Pollution Act of 1990 (33
9 U.S.C. 2761(b)) is amended by striking paragraph (4) and
10 inserting the following:

11 “(4) CHAIRMAN.—

12 “(A) IN GENERAL.—A representative of
13 the National Oceanic and Atmospheric Admin-
14 istration, the Environmental Protection Agency,
15 Coast Guard, or the Department of the Interior
16 shall serve as Chairman of the Interagency
17 Committee (referred to in this section as the
18 ‘Chairman’).

19 “(B) ROTATION.—The responsibility to
20 chair the Interagency Committee shall rotate
21 between representatives of each of the agencies
22 described in subparagraph (A) every 2 years.”.

1 **SEC. 204. SCIENCE AND TECHNOLOGY ADVICE AND GUID-**
2 **ANCE.**

3 Section 7001(b) of the Oil Pollution Act of 1990 (33
4 U.S.C. 2761(b)) is amended by striking paragraph (2) and
5 inserting the following:

6 “(2) SCIENCE AND TECHNOLOGY ADVISORY
7 BOARD.—

8 “(A) IN GENERAL.—The Chairman shall
9 enter into appropriate arrangements with the
10 National Academy of Sciences to establish an
11 independent committee, to be known as the
12 ‘Science and Technology Advisory Board’, to
13 provide scientific and technical advice to the
14 Interagency Committee relating to research car-
15 ried out pursuant to the program established
16 under subsection (c), including—

17 “(i) the identification of knowledge
18 gaps that the program should address;

19 “(ii) the establishment of scientific
20 and technical priorities;

21 “(iii) the provision of advice and guid-
22 ance in the preparation of—

23 “(I) the report required under
24 paragraph (3);

25 “(II) the update required under
26 paragraph (4); and

1 “(III) the plan required under
2 subsection (c)(14); and

3 “(iv) an annual review of the results
4 and effectiveness of the program, including
5 successful technology development.

6 “(B) REPORTS.—Reports and rec-
7 ommendations of the Board shall promptly be
8 made available to Congress and the public.

9 “(C) NATIONAL INSTITUTE OF STANDARDS
10 AND TECHNOLOGY.—The National Institute of
11 Standards and Technology shall provide the
12 Interagency Committee with advice and guid-
13 ance on issues relating to quality assurance and
14 standards measurements relating to activities of
15 the Interagency Committee under this section.

16 “(3) REPORTS ON CURRENT STATE OF OIL
17 SPILL PREVENTION AND RESPONSE CAPABILITIES.—

18 “(A) IN GENERAL.—Not later than 1 year
19 after the date of the enactment of this para-
20 graph, the Interagency Committee shall submit
21 to Congress a report on the current state of oil
22 spill prevention and response capabilities that—

23 “(i) identifies current research pro-
24 grams conducted by governments, institu-

1 tions of higher education, and corporate
2 entities;

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

6 “(iii) identifies regional oil pollution
7 research needs and priorities for a coordi-
8 nated program of research at the regional
9 level developed in consultation with State
10 and local governments and Indian tribes;

11 “(iv) assesses the current state of spill
12 response equipment, and determines areas
13 in need of improvement, including the
14 quantity, age, quality, and effectiveness of
15 the equipment and necessary technological
16 improvements;

17 “(v) assesses the current state of real-
18 time data available to mariners, including
19 water level, currents, weather information,
20 and predictions, and assesses whether lack
21 of timely information increases the risk of
22 discharges of oil;

23 “(vi) assesses the capacity of the Na-
24 tional Oceanic and Atmospheric Adminis-
25 tration to respond, restore, and rehabilitate

1 marine sanctuaries, monuments, sea tur-
2 tles, and other protected species;

3 “(vii) establishes goals for improved
4 oil discharge prevention and response on
5 which to target research for the following
6 5-year period before the next report is sub-
7 mitted under subparagraph (B); and

8 “(viii) includes such recommendations
9 as the Committee considers appropriate.

10 “(B) QUINQUENNIAL UPDATES.—The
11 Interagency Committee shall submit a report
12 every fifth year after the first report of the
13 Interagency Committee submitted under sub-
14 paragraph (A) that updates the information
15 contained in the previous report of the Inter-
16 agency Committee under this paragraph.

17 “(4) IMPLEMENTATION PLAN UPDATE.—Not
18 later than 1 year after the date of enactment of this
19 paragraph, the Interagency Committee shall update
20 the implementation plan required under paragraph
21 (1) to reflect the findings of the report required
22 under paragraph (3) and the requirements of this
23 title.

24 “(5) ADDITIONAL ADVICE AND GUIDANCE.—In
25 carrying out the duties of the Interagency Com-

1 “(J) research, development, and dem-
2 onstration of new or improved technologies and
3 systems to contain, respond to, and clean up a
4 discharge of oil in extreme or harsh conditions
5 on the outer Continental Shelf;

6 “(K) research to evaluate the relative ef-
7 fectiveness and environmental impacts (includ-
8 ing human and environmental toxicity) of
9 dispersants; and”;

10 (2) by striking paragraphs (8) and (9);

11 (3) by redesignating paragraphs (3) through
12 (7) and (10) and (11) as paragraphs (4) through (8)
13 and (11) and (12), respectively;

14 (4) by inserting after paragraph (2) the fol-
15 lowing:

16 “(3) AUTHORIZATION OF AGENCY OIL DIS-
17 CHARGE RESEARCH AND DEVELOPMENT PRO-
18 GRAMS.—

19 “(A) IN GENERAL.—The Secretary of the
20 Interior, in coordination with the program es-
21 tablished under this subsection, the Interagency
22 Committee, and such other agencies as the
23 President may designate, shall carry out a pro-
24 gram of research, development, technology dem-
25 onstration, and risk assessment to address

1 issues associated with the detection of, response
2 to, and mitigation and cleanup of discharges of
3 oil occurring on Federal land managed by the
4 Department of the Interior, whether onshore or
5 on the outer Continental Shelf.

6 “(B) SPECIFIC AREAS OF FOCUS.—The
7 program established under this paragraph shall
8 provide for research, development, demonstra-
9 tion, validation, personnel training, and other
10 activities relating to new and improved tech-
11 nologies that are effective at preventing or miti-
12 gating oil discharges and that protect the envi-
13 ronment, including technologies, materials,
14 methods, and practices—

15 “(i) to detect the release of hydro-
16 carbons from leaking exploration or pro-
17 duction equipment;

18 “(ii) to characterize the rates of flow
19 from leaking exploration and production
20 equipment in locations that are remote or
21 difficult to access;

22 “(iii) to protect the safety of workers
23 addressing hydrocarbon releases from ex-
24 ploration and production equipment;

1 “(iv) to control or contain the release
2 of hydrocarbons from a blowout or other
3 loss of well control; and

4 “(v) in coordination with the Adminis-
5 trator and the Secretary of Commerce, for
6 environmental assessment, restoration, and
7 long-term monitoring.”;

8 (5) in paragraph (5) (as redesignated by para-
9 graph (3))—

10 (A) by striking subparagraphs (B) and
11 (C);

12 (B) in the matter preceding clause (i), by
13 striking “(A) The Committee” and inserting
14 “The Department of Commerce, in coordination
15 with the Environmental Protection Agency and
16 the Department of the Interior,”;

17 (C) by redesignating clauses (i) through
18 (iv) as subparagraphs (A) through (D), respec-
19 tively;

20 (D) in subparagraph (A) (as redesignated
21 by subparagraphs (C)), by striking the period
22 at the end and inserting the following: “, in-
23 cluding—

24 “(i) fundamental scientific character-
25 ization of the behavior of oil and natural

1 gas in and on soil and water, including
2 miscibility, plume behavior, emulsification,
3 physical separation, and chemical and bio-
4 logical degradation;

5 “(ii) behavior and effects of
6 emulsified, dispersed, and submerged oil in
7 water; and

8 “(iii) modeling, simulation, and pre-
9 diction of oil flows from releases and the
10 trajectories of releases on the surface, the
11 subsurface, and in water.”; and

12 (E) by adding at the end the following:

13 “(E) The evaluation of direct and indirect
14 environmental effects of acute and chronic oil
15 discharges on natural resources, including im-
16 pacts on marine sanctuaries and monuments,
17 protected areas, and protected species.

18 “(F) The monitoring, modeling, and eval-
19 uation of the near- and long-term effects of
20 major spills and long-term cumulative effects of
21 smaller endemic spills.”;

22 (6) in paragraph (6) (as redesignated by para-
23 graph (3))—

1 (A) by redesignating subparagraphs (A)
2 through (D) as clauses (i) through (iv), respec-
3 tively;

4 (B) by striking “The United States Coast
5 Guard” and inserting the following:

6 “(A) IN GENERAL.—The Coast Guard”;

7 and

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

9 “(B) EXTREME ENVIRONMENTAL CONDI-
10 TION DEMONSTRATION PROJECTS.—

11 “(i) IN GENERAL.—The Secretary of
12 the Interior, in conjunction with the heads
13 of such other agencies as the President
14 may designate, shall conduct deepwater,
15 ultra deepwater, and other extreme envi-
16 ronment oil discharge response demonstra-
17 tion projects for the purpose of developing
18 and demonstrating new integrated deep-
19 water oil discharge mitigation and response
20 systems that use the information and im-
21 plement the improved practices and tech-
22 nologies developed through the program
23 under this subsection.

24 “(ii) REQUIREMENTS.—The mitiga-
25 tion and response systems developed under

1 clause (i) shall use technologies and man-
2 agement practices for improving the re-
3 sponse capabilities to deepwater oil dis-
4 charges, including—

5 “(I) improved oil flow monitoring
6 and calculation;

7 “(II) improved oil discharge re-
8 sponse capability;

9 “(III) improved subsurface miti-
10 gation technologies;

11 “(IV) improved capability to
12 track and predict the flow and effects
13 of oil discharges in both subsurface
14 and surface areas for the purposes of
15 making oil mitigation and response
16 decisions; and

17 “(V) any other activities nec-
18 essary to achieve the purposes of the
19 program.”;

20 (7) by inserting after paragraph (8) (as redesign-
21 nated by paragraph (3)) the following:

22 “(9) RESEARCH CENTERS OF EXCELLENCE.—

23 “(A) RESPONSE TECHNOLOGIES FOR
24 DEEPWATER, ULTRA DEEPWATER, AND OTHER
25 EXTREME ENVIRONMENT OIL DISCHARGES.—

1 “(i) ESTABLISHMENT.—The Secretary
2 of the Interior shall establish at 1 or more
3 institutions of higher education a research
4 center of excellence for the research, devel-
5 opment, and demonstration of technologies
6 necessary to respond to, contain, mitigate,
7 and clean up deepwater, ultra deepwater,
8 and other extreme-environment discharges
9 of oil.

10 “(ii) GRANTS.—The Secretary shall
11 provide grants to the research center of ex-
12 cellence established under clause (i) to con-
13 duct and oversee basic and applied re-
14 search in the technologies described in that
15 clause.

16 “(B) OIL DISCHARGE RESPONSE AND RES-
17 Toration.—

18 “(i) ESTABLISHMENT.—The Under-
19 secretary of Commerce for Oceans and At-
20 mosphere, in coordination with the Admin-
21 istrator and the Secretary of the Interior,
22 shall establish at 1 or more institutions of
23 higher education a research center of excel-
24 lence for research and innovation in the
25 fate of, behavior and effects of, and dam-

1 age assessment and restoration relating to
2 discharges of oil.

3 “(ii) GRANTS.—The Undersecretary
4 of Commerce for Oceans and Atmosphere
5 shall provide grants to the research center
6 of excellence established under clause (i) to
7 conduct and oversee basic and applied re-
8 search in the areas described in that
9 clause.

10 “(C) OTHER RESEARCH CENTERS OF EX-
11 CELLENCE.—Any agency that is a member of
12 the Interagency Committee may establish such
13 other research centers of excellence as the agen-
14 cy determines to be necessary for the research,
15 development, and demonstration of technologies
16 necessary to carry out the program established
17 under this subsection.

18 “(10) PILOT PROGRAM.—

19 “(A) IN GENERAL.—The Secretary of the
20 Interior, the Commandant of the Coast Guard,
21 and the Administrator shall jointly conduct a
22 pilot program to conduct field tests, in the
23 waters of the United States, of new oil dis-
24 charge response, mitigation, and cleanup tech-

1 nologies developed under the program estab-
2 lished under this subsection.

3 “(B) RESULTS.—The results of the field
4 tests conducted under subparagraph (A) shall
5 be used—

6 “(i) to refine oil discharge technology
7 research and development; and

8 “(ii) to assist the Secretary of the In-
9 terior, the Commandant of the Coast
10 Guard, and the Administrator in the devel-
11 opment of safety and environmental regu-
12 lations under this Act and other applicable
13 laws.”;

14 (8) by striking paragraph (11) (as redesignated
15 by paragraph (3)) and inserting the following:

16 “(11) GRANTS.—

17 “(A) IN GENERAL.—In carrying out the
18 research and development program established
19 under this subsection, the Department of the
20 Interior, the Environmental Protection Agency,
21 the National Oceanic and Atmospheric Admin-
22 istration, and the Coast Guard shall each estab-
23 lish a program to enter into contracts and coop-
24 erative agreements and make competitive
25 grants to institutions of higher education, Na-

1 tional Laboratories, research institutions, other
2 persons, or groups of institutions of higher edu-
3 cation, research institutions, and other persons,
4 for the purposes of conducting the program es-
5 tablished under this subsection.

6 “(B) APPLICATIONS AND CONDITIONS.—In
7 carrying out this paragraph, each agency—

8 “(i) shall establish a notification and
9 application procedure;

10 “(ii) may establish such conditions
11 and require such assurances as may be ap-
12 propriate to ensure the efficiency and in-
13 tegrity of the grant program; and

14 “(iii) may make grants under the pro-
15 gram on a matching or nonmatching basis.

16 “(C) PRIORITIES.—Contracts, cooperative
17 agreements, and grants provided under this
18 subparagraph shall address research and tech-
19 nology priorities described in the research and
20 technology plan required under paragraph
21 (13).”; and

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

23 “(13) RESEARCH AND TECHNOLOGY PLAN.—

24 “(A) IN GENERAL.—Not later than 1 year
25 after the date of enactment of this paragraph,

1 and every 2 years thereafter, the Interagency
2 Committee shall develop and publish a research
3 and technology plan for the program established
4 under this subsection.

5 “(B) CONTENTS.—The plan under this
6 paragraph shall—

7 “(i) identify research needs and op-
8 portunities;

9 “(ii) propose areas of focus for the
10 program;

11 “(iii) establish program priorities, in-
12 cluding priorities for—

13 “(I) demonstration projects
14 under paragraph (7);

15 “(II) the research centers of ex-
16 cellence under paragraph (9); and

17 “(III) research funding provided
18 under paragraph (11); and

19 “(iv) estimate—

20 “(I) the extent of resources need-
21 ed to conduct the program; and

22 “(II) timetables for completing
23 research tasks under the program.

24 “(C) PUBLICATION.—The Interagency
25 Committee shall timely publish—

1 “(i) the plan under this paragraph;

2 and

3 “(ii) a review of the plan by the

4 Board.

5 “(14) PEER REVIEW OF PROPOSALS AND RE-
6 SEARCH.—

7 “(A) IN GENERAL.—Any provision of
8 funds under the program established under this
9 subsection shall be made only after the agency
10 providing the funding has carried out an impar-
11 tial peer review of the scientific and technical
12 merit of the proposals for the funding.

13 “(B) REQUIREMENTS.—The agency pro-
14 viding funding shall ensure that any research
15 conducted under the program shall be peer-re-
16 viewed, transparent, and made available to the
17 public.

18 “(15) FUNDING.—

19 “(A) IN GENERAL.—Subject to subpara-
20 graphs (B) through (E), of amounts in the Oil
21 Spill Liability Trust Fund, \$25,000,000 for
22 each of fiscal years 2010 through 2020 shall be
23 available, without further appropriation and
24 without fiscal year limitation, to carry out the
25 program under this section.

1 “(B) ANNUAL EXPENDITURE PLAN.—

2 “ (i) IN GENERAL.—The President
3 shall transmit, as part of the annual budget
4 proposal, a plan for the expenditure of
5 funds under this paragraph.

6 “(ii) RESEARCH AND TECHNOLOGY
7 PLAN.—The plan developed pursuant to
8 clause (i) shall be consistent with the re-
9 search and technology plan developed
10 under paragraph (13).

11 “(C) AVAILABILITY OF AMOUNTS.—On the
12 date that is 15 days after the date on which the
13 Congress adjourns sine die for each year,
14 amounts shall be made available from the Oil
15 Spill Liability Trust Fund, without further ap-
16 propriation, for the programs and projects in
17 the expenditure plan of the President, unless
18 prior to that date, a law is enacted establishing
19 a different expenditure plan.

20 “(D) ALTERNATE EXPENDITURE PLAN.—
21 If Congress enacts a law establishing an alter-
22 nate expenditure plan and the expenditure plan
23 provides for less than the annual funding
24 amount under subparagraph (A), the difference
25 between the annual funding amount and the al-

1 ternate expenditure plan shall be available for
2 expenditure, without further appropriation, in
3 accordance with the expenditure plan submitted
4 by the President.

5 “(E) ROLE OF INTERAGENCY COM-
6 MITTEE.—In developing the annual expenditure
7 plan under subparagraph (B), the President
8 shall consider the recommendations of the
9 Interagency Committee.”.

10 (b) FUNDING.—Section 7001 of the Oil Pollution Act
11 of 1990 (33 U.S.C. 2761) is amended by striking sub-
12 section (f) and inserting the following:

13 “(f) FUNDING.—

14 “(1) IN GENERAL.—In addition to amounts
15 made available subsection (c)(15), not to exceed
16 \$20,000,000 of the amounts in the Fund shall be
17 available each fiscal year to each of the Secretary of
18 Commerce, the Administrator of the Environmental
19 Protection Agency, and the Secretary of the Interior
20 to carry out this section.

21 “(2) APPROPRIATIONS.—Funding authorized
22 under paragraph (1) shall be subject to appropria-
23 tions.”.

1 (c) USES OF OIL SPILL LIABILITY TRUST FUND.—
2 Section 1012(a)(5)(A) of the Oil Pollution Act of 1990
3 (33 U.S.C. 2712(a)(5)(A)) is amended—

4 (1) by striking “\$25,000,000” and inserting
5 “\$50,000,000”; and

6 (2) by inserting before the semicolon at the end
7 the following: “, of which not less than 40 percent
8 shall be used each fiscal year to conduct research,
9 development, and evaluation of oil spill response and
10 removal technologies and methods consistent with
11 the research and technology plan developed under
12 section 7001(c)(13)”.

13 **TITLE III—OUTER CONTINENTAL** 14 **SHELF REFORM**

15 **SEC. 301. SHORT TITLE.**

16 This title may be cited as the “Outer Continental
17 Shelf Reform Act of 2010”.

18 **SEC. 302. PURPOSES.**

19 The purposes of this title are—

20 (1) to rationalize and reform the responsibilities
21 of the Secretary of the Interior with respect to the
22 management of the outer Continental Shelf in order
23 to improve the management, oversight, account-
24 ability, safety, and environmental protection of all
25 the resources on the outer Continental Shelf;

1 (2) to provide independent development and en-
2 forcement of safety and environmental laws (includ-
3 ing regulations) governing—

4 (A) energy development and mineral ex-
5 traction activities on the outer Continental
6 Shelf; and

7 (B) related offshore activities; and

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

12 **SEC. 303. DEFINITIONS.**

13 In this title:

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

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

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

22 **SEC. 304. NATIONAL POLICY FOR THE OUTER CONTI-**
23 **NENTAL SHELF.**

24 Section 3 of the Outer Continental Shelf Lands Act
25 (43 U.S.C. 1332) is amended—

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

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

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

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

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

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

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

24 (4) by redesignating paragraph (6) as para-
25 graph (7);

1 (5) by inserting after paragraph (5) the fol-
 2 lowing:

3 “(6) exploration, development, and production
 4 of energy and minerals on the outer Continental
 5 Shelf should be allowed only when those activities
 6 can be accomplished in a manner that provides rea-
 7 sonable assurance of adequate protection against
 8 harm to life, health, the environment, property, or
 9 other users of the waters, seabed, or subsoil; and”;
 10 and

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

12 (A) by striking “should be” and inserting
 13 “shall be”; and

14 (B) by adding “best available” after
 15 “using”.

16 **SEC. 305. STRUCTURAL REFORM OF OUTER CONTINENTAL**
 17 **SHELF PROGRAM MANAGEMENT.**

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

21 **“SEC. 32. STRUCTURAL REFORM OF OUTER CONTINENTAL**
 22 **SHELF PROGRAM MANAGEMENT.**

23 “(a) LEASING, PERMITTING, AND REGULATION BU-
 24 REAUS.—

25 “(1) ESTABLISHMENT OF BUREAUS.—

1 “(A) IN GENERAL.—Subject to the discre-
2 tion granted by Reorganization Plan Number 3
3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note),
4 the Secretary shall establish in the Department
5 of the Interior not more than 2 bureaus to
6 carry out the leasing, permitting, and safety
7 and environmental regulatory functions vested
8 in the Secretary by this Act and the Federal Oil
9 and Gas Royalty Management Act of 1982 (30
10 U.S.C. 1701 et seq.) related to the outer Conti-
11 nental Shelf.

12 “(B) CONFLICTS OF INTEREST.—In estab-
13 lishing the bureaus under subparagraph (A),
14 the Secretary shall ensure, to the maximum ex-
15 tent practicable, that any potential organiza-
16 tional conflicts of interest related to leasing,
17 revenue creation, environmental protection, and
18 safety are eliminated.

19 “(2) DIRECTOR.—Each bureau shall be headed
20 by a Director, who shall be appointed by the Presi-
21 dent, by and with the advice and consent of the Sen-
22 ate.

23 “(3) COMPENSATION.—Each Director shall be
24 compensated at the rate provided for level V of the

1 Executive Schedule under section 5316 of title 5,
2 United States Code.

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

7 “(b) ROYALTY AND REVENUE OFFICE.—

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

17 “(2) DIRECTOR.—The office established under
18 paragraph (1) shall be headed by a Director, who
19 shall be appointed by the President, by and with the
20 advice and consent of the Senate.

21 “(3) COMPENSATION.—The Director shall be
22 compensated at the rate provided for level V of the
23 Executive Schedule under section 5316 of title 5,
24 United States Code.

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

5 “(c) OCS SAFETY AND ENVIRONMENTAL ADVISORY
6 BOARD.—

7 “(1) ESTABLISHMENT.—The Secretary shall es-
8 tablish, under the Federal Advisory Committee Act
9 (5 U.S.C. App.), an Outer Continental Shelf Safety
10 and Environmental Advisory Board (referred to in
11 this subsection as the ‘Board’), to provide the Sec-
12 retary and the Directors of the bureaus established
13 under this section with independent peer-reviewed
14 scientific and technical advice on safe and environ-
15 mentally compliant energy and mineral resource ex-
16 ploration, development, and production activities.

17 “(2) MEMBERSHIP.—

18 “(A) SIZE.—

19 “(i) IN GENERAL.—The Board shall
20 consist of not more than 12 members, cho-
21 sen to reflect a range of expertise in sci-
22 entific, engineering, management, and
23 other disciplines related to safe and envi-
24 ronmentally compliant energy and mineral

1 resource exploration, development, and
2 production activities.

3 “(ii) CONSULTATION.—The Secretary
4 shall consult with the National Academy of
5 Sciences and the National Academy of En-
6 gineering to identify potential candidates
7 for membership on the Board.

8 “(B) TERM.—The Secretary shall appoint
9 Board members to staggered terms of not more
10 than 4 years, and shall not appoint a member
11 for more than 2 consecutive terms.

12 “(C) CHAIR.—The Secretary shall appoint
13 the Chair for the Board.

14 “(3) MEETINGS.—The Board shall—

15 “(A) meet not less than 3 times per year;
16 and

17 “(B) at least once per year, shall host a
18 public forum to review and assess the overall
19 safety and environmental performance of outer
20 Continental Shelf energy and mineral resource
21 activities.

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

23 “(A) be submitted to Congress; and

24 “(B) made available to the public in an
25 electronically accessible form.

1 “(5) TRAVEL EXPENSES.—Members of the
2 Board, other than full-time employees of the Federal
3 Government, while attending a meeting of the Board
4 or while otherwise serving at the request of the Sec-
5 retary or the Director while serving away from their
6 homes or regular places of business, may be allowed
7 travel expenses, including per diem in lieu of subsist-
8 ence, as authorized by section 5703 of title 5,
9 United States Code, for individuals in the Federal
10 Government serving without pay.

11 “(d) SPECIAL PERSONNEL AUTHORITIES.—

12 “(1) DIRECT HIRING AUTHORITY FOR CRITICAL
13 PERSONNEL.—

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

1 “(B) REQUIREMENTS.—In exercising the
2 authority granted under subparagraph (A), the
3 Secretary shall ensure that any action taken by
4 the Secretary—

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

8 “(ii) complies with the public notice
9 requirements of section 3327 of title 5,
10 United States Code.

11 “(2) CRITICAL PAY AUTHORITY.—

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

24 “(i) the positions—

1 “(I) require expertise of an ex-
2 tremely high level in a scientific or
3 technical field; and

4 “(II) any of the organizational
5 units established in this section would
6 not successfully accomplish an impor-
7 tant mission without such an indi-
8 vidual; and

9 “(ii) exercise of the authority is nec-
10 essary to recruit an individual exceptionally
11 well qualified for the position.

12 “(B) LIMITATIONS.—The authority grant-
13 ed under subparagraph (A) shall be subject to
14 the following conditions:

15 “(i) The number of critical positions
16 authorized by subparagraph (A) may not
17 exceed 40 at any 1 time in either of the
18 bureaus established under this section.

19 “(ii) The term of an appointment
20 under subparagraph (A) may not exceed 4
21 years.

22 “(iii) An individual appointed under
23 subparagraph (A) may not have been an
24 employee of the Department of the Interior

1 during the 2-year period prior to the date
2 of appointment.

3 “(iv) Total annual compensation for
4 any individual appointed under subpara-
5 graph (A) may not exceed the highest total
6 annual compensation payable at the rate
7 determined under section 104 of title 3,
8 United States Code.

9 “(v) An individual appointed under
10 subparagraph (A) may not be considered
11 to be an employee for purposes of sub-
12 chapter II of chapter 75 of title 5, United
13 States Code.

14 “(C) NOTIFICATION.—Each year, the Sec-
15 retary shall submit to Congress a notification
16 that lists each individual appointed under this
17 paragraph.

18 “(3) REEMPLOYMENT OF CIVILIAN RETIR-
19 EES.—

20 “(A) IN GENERAL.—Notwithstanding part
21 553 of title 5, Code of Federal Regulations (re-
22 lating to reemployment of civilian retirees to
23 meet exceptional employment needs), or suc-
24 cessor regulations, the Secretary may approve
25 the reemployment of an individual to a par-

1 ticular position without reduction or termi-
2 nation of annuity if the hiring of the individual
3 is necessary to carry out a critical function of
4 any of the organizational units established
5 under this section for which suitably qualified
6 candidates do not exist.

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

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

14 “(ii) may not elect to have retirement
15 contributions withheld from the pay of the
16 annuitant;

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

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

23 “(C) LIMITATION ON TERM.—The term of
24 employment of any individual hired under sub-
25 paragraph (A) may not exceed an initial term

1 of 2 years, with an additional 2-year appoint-
2 ment under exceptional circumstances.

3 “(e) CONTINUITY OF AUTHORITY.—Subject to the
4 discretion granted by Reorganization Plan Number 3 of
5 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), any reference
6 in any law, rule, regulation, directive, or instruction, or
7 certificate or other official document, in force immediately
8 prior to the date of enactment of this section—

9 “(1) to the Minerals Management Service that
10 pertains to any of the duties and authorities de-
11 scribed in this section shall be deemed to refer and
12 apply to the appropriate bureaus and offices estab-
13 lished under this section;

14 “(2) to the Director of the Minerals Manage-
15 ment Service that pertains to any of the duties and
16 authorities described in this section shall be deemed
17 to refer and apply to the Director of the bureau or
18 office under this section to whom the Secretary has
19 assigned the respective duty or authority; and

20 “(3) to any other position in the Minerals Man-
21 agement Service that pertains to any of the duties
22 and authorities described in this section shall be
23 deemed to refer and apply to that same or equiva-
24 lent position in the appropriate bureau or office es-
25 tablished under this section.”.

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

5 ““Bureau Directors, Department of the Inte-
6 rior (2).

7 ““Director, Royalty and Revenue Office, De-
8 partment of the Interior.”.

9 **SEC. 306. SAFETY, ENVIRONMENTAL, AND FINANCIAL RE-**
10 **FORM OF THE OUTER CONTINENTAL SHELF**
11 **LANDS ACT.**

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

15 “(r) SAFETY CASE.—The term ‘safety case’ means
16 a complete set of safety documentation that provides a
17 basis for determining whether a system is adequately safe
18 for a given application in a given environment.”.

19 (b) ADMINISTRATION OF LEASING.—Section 5(a) of
20 the Outer Continental Shelf Lands Act (43 U.S.C.
21 1334(a)) is amended in the second sentence—

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

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

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

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

10 “(1) review the minimum financial responsi-
11 bility requirements for mineral leases under sub-
12 section (a)(11); and

13 “(2) adjust for inflation based on the Consumer
14 Price Index for all Urban Consumers published by
15 the Bureau of Labor Statistics of the Department of
16 Labor, and recommend to Congress any further
17 changes to existing financial responsibility require-
18 ments necessary to permit lessees to fulfill all obliga-
19 tions under this Act or the Oil Pollution Act of 1990
20 (33 U.S.C. 2701 et seq.).

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

22 “(1) ROYALTY RATES.—

23 “(A) IN GENERAL.—Not later than 1 year
24 after the date of enactment of this subsection
25 and every 4 years thereafter, the Secretary shall

1 carry out a review of, and prepare a report that
2 describes—

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

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

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

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

19 “(2) COMPARATIVE REVIEW OF FISCAL SYS-
20 TEM.—

21 “(A) IN GENERAL.—Not later than 1 year
22 after the date of enactment of this subsection
23 and every 4 years thereafter, the Secretary in
24 consultation with the Secretary of the Treasury,
25 shall carry out a comprehensive review of all

1 components of the Federal offshore oil and gas
2 fiscal system, including requirements for bonus
3 bids, rental rates, royalties, oil and gas taxes,
4 income taxes and other significant financial ele-
5 ments, and oil and gas fees.

6 “(B) INCLUSIONS.—The review shall in-
7 clude—

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

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

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

1 energy industry, and appropriate nongovern-
2 mental organizations.

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

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

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

12 “(E) COMBINED REPORT.—The Secretary
13 may combine the reports required by para-
14 graphs (1) and (2)(D) into 1 report.

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

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

21 “(B) the Committee on Finance of the
22 Senate;

23 “(C) the Committee on Natural Resources
24 of the House of Representatives; and

1 “(D) the Committee on Ways and Means
2 of the House of Representatives.”.

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

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

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

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

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

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

23 (1) in subsection (c)—

24 (A) in the fourth sentence of paragraph

25 (1), by striking “within thirty days of its sub-

1 mission” and inserting “by the deadline de-
2 scribed in paragraph (5)”;

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

5 “(3) MINIMUM REQUIREMENTS.—

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

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

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

16 “(I) a description of the drilling
17 unit;

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

21 “(III) a description of any new
22 technology to be used; and

23 “(IV) a statement demonstrating
24 that the equipment to be used meets

1 the best available technology require-
2 ments under section 21(b);

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

5 “(iv)(I) a scenario for the potential
6 blowout of the well involving the highest
7 expected volume of liquid hydrocarbons;
8 and

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

13 “(aa) the technology and timeline
14 for regaining control of the well; and

15 “(bb) the strategy, organization,
16 and resources to be used to avoid
17 harm to the environment and human
18 health from hydrocarbons; and

19 “(v) any other information determined
20 to be relevant by the Secretary.

21 “(B) DEEPWATER WELLS.—

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

1 a deepwater operations plan prepared by
2 the lessee in accordance with this subpara-
3 graph.

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

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

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

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

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

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

22 “(5) DEADLINE FOR APPROVAL.—

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

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

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

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

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

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

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

24 “(d) DRILLING PERMITS.—

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

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

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

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

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

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

20 “(3) MODIFICATION REVIEW REQUIRED.—The
21 Secretary may not approve any modification of a
22 permit without a determination, after an additional
23 engineering review, that the modification will not
24 compromise the safety of the well system previously
25 approved.

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

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

8 “(B) includes—

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

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

14 “(I) are employees of the oper-
15 ator;

16 “(II) would be present on the rig
17 at all times; and

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

22 “(C) not later than May 1, 2012, requires
23 that all employees on the rig meet the training
24 and experience requirements under section
25 21(b)(4).

1 “(e) DISAPPROVAL OF EXPLORATION PLAN.—

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

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

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

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

21 “(2) COMPENSATION.—If an exploration plan is
22 disapproved under this subsection, the provisions of
23 subparagraphs (B) and (C) of section 25(h)(2) shall
24 apply to the lease and the plan or any modified plan,
25 except that the reference in section 25(h)(2)(C) to a

1 development and production plan shall be considered
2 to be a reference to an exploration plan.”.

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

6 (1) in subsection (a)—

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

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

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

16 (2) in subsection (b)—

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

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

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

22 “(5) provide technical review and oversight of
23 the exploration plan and a systems review of the
24 safety of the well design and other operational deci-
25 sions;

1 “(6) conduct regular and thorough safety re-
2 views and inspections, and;

3 “(7) enforce all applicable laws (including regu-
4 lations).”;

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

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

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

20 “(i) RESEARCH AND DEVELOPMENT.—

21 “(1) IN GENERAL.—The Secretary shall carry
22 out a program of research and development to en-
23 sure the continued improvement of methodologies for
24 characterizing resources of the outer Continental
25 Shelf and conditions that may affect the ability to

1 develop and use those resources in a safe, sound,
2 and environmentally responsible manner.

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

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

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

17 (1) by redesignating subsections (a) through (f)
18 as subsections (b) through (g), respectively;

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

21 “(a) COMPREHENSIVE AND INDEPENDENT STUD-
22 IES.—

23 “(1) IN GENERAL.—The Secretary shall develop
24 and carry out programs for the collection, evalua-
25 tion, assembly, analysis, and dissemination of envi-

1 ronmental and other resource data that are relevant
2 to carrying out the purposes of this Act, including
3 assessments under subsection (g) .

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

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

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

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

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

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

24 “(B) contributes to a broader coordination
25 of energy and mineral resource development ac-

1 activities within the context of best available
2 science.

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

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

8 “(B) carry out the environmental studies
9 under this section;

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

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

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

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

1 (h) SAFETY RESEARCH AND REGULATIONS.—Section
2 21 of the Outer Continental Shelf Lands Act (43 U.S.C.
3 1347) is amended—

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

8 (2) by striking subsection (b) and inserting the
9 following:

10 “(b) BEST AVAILABLE TECHNOLOGIES AND PRAC-
11 TICES.—

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

21 “(2) IDENTIFICATION OF BEST AVAILABLE
22 TECHNOLOGIES.—Not later than May 1, 2011, and
23 not later than every 3 years thereafter, the Secretary
24 shall identify and publish an updated list of best
25 available technologies for key areas of well design

1 and operation, including blowout prevention and
2 blowout and oil spill response.

3 “(3) SAFETY CASE.—Not later than May 1,
4 2011, the Secretary shall promulgate regulations re-
5 quiring a safety case be submitted along with each
6 new application for a permit to drill on the outer
7 Continental Shelf.

8 “(4) EMPLOYEE TRAINING.—

9 “(A) IN GENERAL.—Not later than May 1,
10 2011, the Secretary shall promulgate regula-
11 tions setting standards for training for all
12 workers on offshore facilities (including mobile
13 offshore drilling units) conducting energy and
14 mineral resource exploration, development, and
15 production operations on the outer Continental
16 Shelf.

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

21 “(i) establish training programs ap-
22 proved by the Secretary; and

23 “(ii) demonstrate that employees in-
24 volved in the offshore operations meet

1 standards that demonstrate the aptitude of
2 the employees in critical technical skills.

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

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

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

18 “(g) TECHNOLOGY RESEARCH AND RISK ASSESS-
19 MENT PROGRAM.—

20 “(1) IN GENERAL.—The Secretary shall carry
21 out a program of research, development, and risk as-
22 sessment to address technology and development
23 issues associated with outer Continental Shelf en-
24 ergy and mineral resource activities, with the pri-
25 mary purpose of informing the role of research, de-

1 velopment, and risk assessment relating to safety,
2 environmental protection, and spill response.

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

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

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

12 “(C) analysis of incidents investigated
13 under section 22;

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

19 “(E) oil spill response and mitigation;

20 “(F) risks associated with human factors;

21 and

22 “(G) renewable energy operations.

23 “(3) INFORMATION SHARING ACTIVITIES.—

24 “(A) DOMESTIC ACTIVITIES.—The Sec-
25 retary shall carry out programs to facilitate the

1 exchange and dissemination of scientific and
2 technical information and best practices related
3 to the management of safety and environmental
4 issues associated with energy and mineral re-
5 source exploration, development, and produc-
6 tion.

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

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

19 “(A) developments in each of the areas
20 under paragraph (2); and

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

23 “(ii) appropriate responses to the acci-
24 dents.

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

4 “(A) be programmatically separate and
5 distinct from the leasing program;

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

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

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

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

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

21 (1) in subsection (d)—

22 (A) in paragraph (1)—

23 (i) in the first sentence, by inserting
24 “, each loss of well control, blowout, activa-
25 tion of the blowout preventer, and other

1 accident that presented a serious risk to
2 human or environmental safety,” after
3 “fire”; and

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

7 (B) in the last sentence of paragraph (2),
8 by inserting “as a condition of lease” before the
9 period at the end;
10 (2) in subsection (e)—

11 (A) by striking “(e) The” and inserting the
12 following:

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

14 “(1) IN GENERAL.—The”; and

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

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

20 (3) by adding at the end of the section the fol-
21 lowing:

22 “(g) INDEPENDENT INVESTIGATION.—

23 “(1) IN GENERAL.—At the request of the Sec-
24 retary, the National Transportation Safety Board
25 may conduct an independent investigation of any ac-

1 cident, occurring in the outer Continental Shelf and
2 involving activities under this Act, that does not oth-
3 erwise fall within the definition of an accident or
4 major marine casualty, as those terms are used in
5 chapter 11 of title 49, United States Code.

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

12 “(h) INFORMATION ON CAUSES AND CORRECTIVE
13 ACTIONS.—

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

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

23 “(i) INSPECTION FEE.—

24 “(1) IN GENERAL.—To the extent necessary to
25 fund the inspections described in this paragraph, the

1 Secretary shall collect a non-refundable inspection
2 fee, which shall be deposited in the Ocean Energy
3 Enforcement Fund established under paragraph (3),
4 from the designated operator for facilities subject to
5 inspection under subsection (c).

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

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

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

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

23 “(4) AVAILABILITY OF FEES.—Notwithstanding
24 section 3302 of title 31, United States Code, all

1 amounts collected by the Secretary under this sec-
2 tion—

3 “(A) shall be credited as offsetting collec-
4 tions;

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

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

13 “(D) shall remain available until expended.

14 “(5) ANNUAL REPORTS.—

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

23 “(B) CONTENTS.—Each report shall in-
24 clude, for the fiscal year covered by the report,
25 the following:

1 “(i) A statement of the amounts de-
2 posited into the Fund.

3 “(ii) A description of the expenditures
4 made from the Fund for the fiscal year, in-
5 cluding the purpose of the expenditures.

6 “(iii) Recommendations for additional
7 authorities to fulfill the purpose of the
8 Fund.

9 “(iv) A statement of the balance re-
10 maining in the Fund at the end of the fis-
11 cal year.”.

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

15 (1) by striking subsection (b) and inserting the
16 following:

17 “(b) CIVIL PENALTY.—

18 “(1) IN GENERAL.—Subject to paragraphs (2)
19 through (3), if any person fails to comply with this
20 Act, any term of a lease or permit issued under this
21 Act, or any regulation or order issued under this
22 Act, the person shall be liable for a civil administra-
23 tive penalty of not more than \$75,000 for each day
24 of continuance of each failure.

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

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

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

13 (2) in subsection (c)—

14 (A) in the first sentence, by striking
15 “\$100,000” and inserting “\$10,000,000”; and

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

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

22 and

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

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

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

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

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

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

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

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

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

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

4 “(ii) making, with the intent to influ-
5 ence, any oral or written communication
6 on behalf of any other person (except the
7 United States) to,
8 any department, agency, or court of the United
9 States, or any officer or employee thereof, in connec-
10 tion with any judicial or other proceeding, applica-
11 tion, request for a ruling or other determination,
12 regulation, order lease, permit, rulemaking, inspec-
13 tion, enforcement action, or other particular matter
14 involving a specific party or parties in which the
15 United States is a party or has a direct and sub-
16 stantial interest which was actually pending under
17 his official responsibility as an officer or employee
18 within a period of one year prior to the termination
19 of such responsibility or in which he participated
20 personally and substantially as an officer or em-
21 ployee;

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

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

1 (except the United States) in any formal or in-
2 formal appearance before;

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

7 “(C) knowingly aid , advise, or assist in —
8 “(i) representing any other person
9 (except the United States in any formal or
10 informal appearance before, or

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

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

22 “(3) accept employment or compensation, dur-
23 ing the 1-year period beginning on the date on which
24 employment with the Department has ceased, from

1 any person (other than the United States) that has
2 a direct and substantial interest—

3 “(A) that was pending under the official
4 responsibility of the employee as an officer or
5 employee of the Department during the 1-year
6 period preceding the termination of the respon-
7 sibility; or

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

11 “(b) PRIOR EMPLOYMENT RELATIONSHIPS.—No
12 full-time officer or employee of the Department of the In-
13 terior who directly or indirectly discharges duties or re-
14 sponsibilities under this Act shall participate personally
15 and substantially as a Federal officer or employee,
16 through decision, approval, disapproval, recommendation,
17 the rendering of advice, investigation, or otherwise, in a
18 proceeding, application, request for a ruling or other de-
19 termination, contract, claim, controversy, charge, accusa-
20 tion, inspection, enforcement action, or other particular
21 matter in which, to the knowledge of the officer or em-
22 ployee—

23 “(1) the officer or employee or the spouse,
24 minor child, or general partner of the officer or em-
25 ployee has a financial interest;

1 “(2) any organization in which the officer or
2 employee is serving as an officer, director, trustee,
3 general partner, or employee has a financial interest;

4 “(3) any person or organization with whom the
5 officer or employee is negotiating or has any ar-
6 rangement concerning prospective employment has a
7 financial interest; or

8 “(4) any person or organization in which the of-
9 ficer or employee has, within the preceding 1-year
10 period, served as an officer, director, trustee, general
11 partner, agent, attorney, consultant, contractor, or
12 employee has a financial interest.

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

19 “(d) EXEMPTIONS.—The Secretary may, by rule, ex-
20 empt from this section clerical and support personnel who
21 do not conduct inspections, perform audits, or otherwise
22 exercise regulatory or policy making authority under this
23 Act.

24 “(e) PENALTIES.—

1 “(1) CRIMINAL PENALTIES.—Any person who
2 violates paragraph (1) or (2) of subsection (a) or
3 subsection (b) shall be punished in accordance with
4 section 216 of title 18, United States Code.

5 “(2) CIVIL PENALTIES.—Any person who vio-
6 lates subsection (a)(3) or (c) shall be punished in ac-
7 cordance with subsection (b) of section 216 of title
8 18, United States Code.”.

9 **SEC. 307. STUDY ON THE EFFECT OF THE MORATORIA ON**
10 **NEW DEEPWATER DRILLING IN THE GULF OF**
11 **MEXICO ON EMPLOYMENT AND SMALL BUSI-**
12 **NESSES.**

13 (a) IN GENERAL.—The Department of Energy, act-
14 ing through the Energy Information Administration, shall
15 publish a monthly study evaluating the effect of the mora-
16 toria resulting from the blowout and explosion of the mo-
17 bile offshore drilling unit *Deepwater Horizon* that occurred
18 on April 20, 2010, and resulting hydrocarbon releases into
19 the environment, on employment and small businesses.

20 (b) REPORT.—Not later than 60 days after the date
21 of enactment of this Act and at the beginning of each
22 month thereafter during the effective period of the mora-
23 toria described in subsection (a), the Secretary of Energy,
24 acting through the Energy Information Administration,
25 shall submit to the Committee on Energy and Natural Re-

1 sources of the Senate and the Committee on Energy and
2 Commerce of the House of Representatives a report re-
3 garding the results of the study conducted under sub-
4 section (a), including—

5 (1) a survey of the effect of the moratoria on
6 deepwater drilling on employment in the industries
7 directly involved in oil and natural gas exploration in
8 the outer Continental Shelf;

9 (2) a survey of the effect of the moratoria on
10 employment in the industries indirectly involved in
11 oil and natural gas exploration in the outer Conti-
12 nental Shelf, including suppliers of supplies or serv-
13 ices and customers of industries directly involved in
14 oil and natural gas exploration;

15 (3) an estimate of the effect of the moratoria
16 on the revenues of small business located near the
17 Gulf of Mexico and, to the maximum extent prac-
18 ticable, throughout the United States; and

19 (4) any recommendations to mitigate possible
20 negative effects on small business concerns resulting
21 from the moratoria.

22 **SEC. 308. REFORM OF OTHER LAW.**

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

1 “(4) FEDERAL AGENCIES.—Any head of a Fed-
2 eral department or agency shall, on request of the
3 Secretary, provide to the Secretary all data and in-
4 formation that the Secretary determines to be nec-
5 essary for the purpose of including the data and in-
6 formation in the mapping initiative, except that no
7 Federal department or agency shall be required to
8 provide any data or information that is privileged or
9 proprietary.”.

10 **SEC. 309. SAFER OIL AND GAS PRODUCTION.**

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

13 (1) in subsection (a)—

14 (A) by striking “ultra-deepwater” and in-
15 serting “deepwater”; and

16 (B) by inserting “well control and accident
17 prevention,” after “safe operations,”;

18 (2) in subsection (b)—

19 (A) by striking paragraph (1) and insert-
20 ing the following:

21 “(1) Deepwater architecture, well control and
22 accident prevention, and deepwater technology, in-
23 cluding drilling to deep formations in waters greater
24 than 500 feet.”; and

1 (B) by striking paragraph (4) and insert-
2 ing the following:

3 “(4) Safety technology research and develop-
4 ment for drilling activities aimed at well control and
5 accident prevention performed by the Office of Fos-
6 sil Energy of the Department.”; and

7 (3) in subsection (d)—

8 (A) in the subsection heading, by striking
9 “NATIONAL ENERGY TECHNOLOGY LABORA-
10 TORY” and inserting “OFFICE OF FOSSIL EN-
11 ERGY OF THE DEPARTMENT”; and

12 (B) by striking “National Energy Tech-
13 nology Laboratory” and inserting “Office of
14 Fossil Energy of the Department”.

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

19 (1) in the section heading, by striking “**ULTRA-**
20 **DEEPWATER AND UNCONVENTIONAL ONSHORE**
21 **NATURAL GAS AND OTHER PETROLEUM**” and
22 inserting “**SAFE OIL AND GAS PRODUCTION AND**
23 **ACCIDENT PREVENTION**”;

24 (2) in subsection (a), by striking “, by increas-
25 ing” and all that follows through the period at the

1 end and inserting “and the safe and environmentally
2 responsible exploration, development, and production
3 of hydrocarbon resources.”;

4 (3) in subsection (c)(1)—

5 (A) by redesignating subparagraphs (D)
6 and (E) as subparagraphs (E) and (F), respec-
7 tively; and

8 (B) by inserting after subparagraph (C)
9 the following:

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

12 (4) in subsection (d)—

13 (A) in paragraph (6), by striking “ultra-
14 deepwater” and inserting “deepwater”;

15 (B) in paragraph (7)—

16 (i) in subparagraph (A)—

17 (I) in the subparagraph heading,
18 by striking “ULTRA-DEEPWATER” and
19 inserting “DEEPWATER”;

20 (II) by striking “development
21 and” and inserting “research, develop-
22 ment, and”; and

23 (III) by striking “as well as” and
24 all that follows through the period at
25 the end and inserting “aimed at im-

1 proving operational safety of drilling
2 activities, including well integrity sys-
3 tems, well control, blowout prevention,
4 the use of non-toxic materials, and in-
5 tegrated systems approach-based
6 management for exploration and pro-
7 duction in deepwater.”;

8 (ii) in subparagraph (B), by striking
9 “and environmental mitigation” and in-
10 serting “use of non-toxic materials, drilling
11 safety, and environmental mitigation and
12 accident prevention”;

13 (iii) in subparagraph (C), by inserting
14 “safety and accident prevention, well con-
15 trol and systems integrity,” after “includ-
16 ing”; and

17 (iv) by adding at the end the fol-
18 lowing:

19 “(D) SAFETY AND ACCIDENT PREVENTION
20 TECHNOLOGY RESEARCH AND DEVELOP-
21 MENT.—Awards from allocations under section
22 999H(d)(4) shall be expended on areas includ-
23 ing—

24 “(i) development of improved cement-
25 ing and casing technologies;

1 “(ii) best management practices for
2 cementing, casing, and other well control
3 activities and technologies;

4 “(iii) development of integrity and
5 stewardship guidelines for—

6 “(I) well-plugging and abandon-
7 ment;

8 “(II) development of wellbore
9 sealant technologies; and

10 “(III) improvement and stand-
11 ardization of blowout prevention de-
12 vices.”; and

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

14 “(8) STUDY; REPORT.—

15 “(A) STUDY.—As soon as practicable after
16 the date of enactment of this paragraph, the
17 Secretary shall enter into an arrangement with
18 the National Academy of Sciences under which
19 the Academy shall conduct a study to deter-
20 mine—

21 “(i) whether the benefits provided
22 through each award under this subsection
23 during calendar year 2011 have been maxi-
24 mized; and

1 “(ii) the new areas of research that
2 could be carried out to meet the overall ob-
3 jectives of the program.

4 “(B) REPORT.—Not later than January 1,
5 2012, the Secretary shall submit to the appro-
6 priate committees of Congress a report that
7 contains a description of the results of the
8 study conducted under subparagraph (A).

9 “(C) OPTIONAL UPDATES.—The Secretary
10 may update the report described in subpara-
11 graph (B) for the 5-year period beginning on
12 the date described in that subparagraph and
13 each 5-year period thereafter.”;

14 (5) in subsection (e)—

15 (A) in paragraph (2)—

16 (i) in the second sentence of subpara-
17 graph (A), by inserting “to the Secretary
18 for review” after “submit”; and

19 (ii) in the first sentence of subpara-
20 graph (B), by striking “Ultra-Deepwater”
21 and all that follows through “and such Ad-
22 visory Committees” and inserting “Pro-
23 gram Advisory Committee established
24 under section 999D(a), and the Advisory
25 Committee”; and

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

2 “(6) RESEARCH FINDINGS AND RECOMMENDA-
3 TIONS FOR IMPLEMENTATION.—The Secretary, in
4 consultation with the Secretary of the Interior and
5 the Administrator of the Environmental Protection
6 Agency, shall publish in the Federal Register an an-
7 nual report on the research findings of the program
8 carried out under this section and any recommenda-
9 tions for implementation that the Secretary, in con-
10 sultation with the Secretary of the Interior and the
11 Administrator of the Environmental Protection
12 Agency, determines to be necessary.”;

13 (6) in subsection (i)—

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

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

20 (7) in the first sentence of subsection (j), by
21 striking “National Energy Technology Laboratory”
22 and inserting “Office of Fossil Energy of the De-
23 partment”.

24 (c) ADDITIONAL REQUIREMENTS FOR AWARDS.—

25 Section 999C(b) of the Energy Policy Act of 2005 (42

1 U.S.C. 16373(b)) is amended by striking “an ultra-deep-
2 water technology or an ultra-deepwater architecture” and
3 inserting “a deepwater technology”.

4 (d) PROGRAM ADVISORY COMMITTEE.—Section
5 999D of the Energy Policy Act of 2005 (42 U.S.C. 16374)
6 is amended to read as follows:

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

8 “(a) ESTABLISHMENT.—Not later than 270 days
9 after the date of enactment of the Outer Continental Shelf
10 Reform Act of 2010, the Secretary shall establish an advi-
11 sory committee to be known as the ‘Program Advisory
12 Committee’ (referred to in this section as the ‘Advisory
13 Committee’).

14 “(b) MEMBERSHIP.—

15 “(1) IN GENERAL.—The Advisory Committee
16 shall be composed of members appointed by the Sec-
17 retary, including—

18 “(A) individuals with extensive research
19 experience or operational knowledge of hydro-
20 carbon exploration and production;

21 “(B) individuals broadly representative of
22 the affected interests in hydrocarbon produc-
23 tion, including interests in environmental pro-
24 tection and safety operations;

1 “(C) representatives of Federal agencies,
2 including the Environmental Protection Agency
3 and the Department of the Interior;

4 “(D) State regulatory agency representa-
5 tives; and

6 “(E) other individuals, as determined by
7 the Secretary.

8 “(2) LIMITATIONS.—

9 “(A) IN GENERAL.—The Advisory Com-
10 mittee shall not include individuals who are
11 board members, officers, or employees of the
12 program consortium.

13 “(B) CATEGORICAL REPRESENTATION.—In
14 appointing members of the Advisory Committee,
15 the Secretary shall ensure that no class of indi-
16 viduals described in any of subparagraphs (A),
17 (B), (D), or (E) of paragraph (1) comprises
18 more than $\frac{1}{3}$ of the membership of the Advi-
19 sory Committee.

20 “(c) SUBCOMMITTEES.—The Advisory Committee
21 may establish subcommittees for separate research pro-
22 grams carried out under this subtitle.

23 “(d) DUTIES.—The Advisory Committee shall—

1 “(1) advise the Secretary on the development
2 and implementation of programs under this subtitle;
3 and

4 “(2) carry out section 999B(e)(2)(B).

5 “(e) COMPENSATION.—A member of the Advisory
6 Committee shall serve without compensation but shall be
7 entitled to receive travel expenses in accordance with sub-
8 chapter I of chapter 57 of title 5, United States Code.

9 “(f) PROHIBITION.—The Advisory Committee shall
10 not make recommendations on funding awards to par-
11 ticular consortia or other entities, or for specific
12 projects.”.

13 (e) DEFINITIONS.—Section 999G of the Energy Pol-
14 icy Act of 2005 (42 U.S.C. 16377) is amended—

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

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

18 (3) by redesignating paragraphs (2) through
19 (7) and (11) as paragraphs (4) through (9) and
20 (10), respectively;

21 (4) by inserting after paragraph (1) the fol-
22 lowing:

23 “(2) DEEPWATER ARCHITECTURE.—The term
24 ‘deepwater architecture’ means the integration of
25 technologies for the exploration for, or production of,

1 natural gas or other petroleum resources located at
2 deepwater depths.

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

9 (5) in paragraph (10) (as redesignated by para-
10 graph (3)), by striking “in an economically inaccess-
11 ible geological formation, including resources of
12 small producers”.

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

15 (1) in the first sentence of subsection (a) by
16 striking “Ultra-Deepwater and Unconventional Nat-
17 ural Gas and Other Petroleum Research Fund” and
18 inserting “Safe and Responsible Energy Production
19 Research Fund”;

20 (2) in subsection (d)—

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

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

25 (C) in paragraph (4)—

1 (i) by striking “25 percent” and in-
2 serting “30 percent”;

3 (ii) by striking “complementary re-
4 search” and inserting “safety technology
5 research and development”; and

6 (iii) by striking “contract manage-
7 ment,” and all that follows through the pe-
8 riod at the end and inserting “and contract
9 management.”; and

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

11 “(5) 20 percent shall be used for research ac-
12 tivities required under sections 20 and 21 of the
13 Outer Continental Shelf Lands Act (43 U.S.C. 1346,
14 1347).”.

15 (3) in subsection (f), by striking “Ultra-Deep-
16 water and Unconventional Natural Gas and Other
17 Petroleum Research Fund” and inserting “Safer Oil
18 and Gas Production and Accident Prevention Re-
19 search Fund”.

20 (g) CONFORMING AMENDMENT.—Subtitle J of title
21 IX of the Energy Policy Act of 2005 (42 U.S.C. 16371
22 et seq.) is amended in the subtitle heading by striking
23 “**Ultra-Deepwater and Unconventional Nat-**
24 **ural Gas and Other Petroleum Resources**” and

1 inserting “**Safer Oil and Gas Production and Ac-**
2 **cident Prevention**”.

3 **SEC. 310. NATIONAL COMMISSION ON OUTER CONTI-**
4 **NENTAL SHELF OIL SPILL PREVENTION.**

5 (a) ESTABLISHMENT.—There is established in the
6 Legislative branch the National Commission on Outer
7 Continental Shelf Oil Spill Prevention (referred to in this
8 section as the “Commission”).

9 (b) PURPOSES.—The purposes of the Commission
10 are—

11 (1) to examine and report on the facts and
12 causes relating to the Deepwater Horizon explosion
13 and oil spill of 2010;

14 (2) to ascertain, evaluate, and report on the evi-
15 dence developed by all relevant governmental agen-
16 cies regarding the facts and circumstances sur-
17 rounding the incident;

18 (3) to build upon the investigations of other en-
19 tities, and avoid unnecessary duplication, by review-
20 ing the findings, conclusions, and recommendations
21 of—

22 (A) the Committees on Energy and Nat-
23 ural Resources and Commerce, Science, and
24 Transportation of the Senate;

1 (B) the Committee on Natural Resources
2 and the Subcommittee on Oversight and Inves-
3 tigation of the House of Representatives; and

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

9 (4) to make a full and complete accounting of
10 the circumstances surrounding the incident, and the
11 extent of the preparedness of the United States for,
12 and immediate response of the United States to, the
13 incident; and

14 (5) to investigate and report to the President
15 and Congress findings, conclusions, and rec-
16 ommendations for corrective measures that may be
17 taken to prevent similar incidents.

18 (c) COMPOSITION OF COMMISSION.—

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

21 (A) 1 member shall be appointed by the
22 President, who shall serve as Chairperson of the
23 Commission;

24 (B) 1 member shall be appointed by the
25 majority or minority (as the case may be) lead-

1 er of the Senate from the Republican Party and
2 the majority or minority (as the case may be)
3 leader of the House of Representatives from the
4 Republican Party, who shall serve as Vice
5 Chairperson of the Commission;

6 (C) 2 members shall be appointed by the
7 senior member of the leadership of the Senate
8 from the Democratic Party;

9 (D) 2 members shall be appointed by the
10 senior member of the leadership of the House
11 of Representatives from the Republican Party;

12 (E) 2 members shall be appointed by the
13 senior member of the leadership of the Senate
14 from the Republican Party; and

15 (F) 2 members shall be appointed by the
16 senior member of the leadership of the House
17 of Representatives from the Democratic Party.

18 (2) QUALIFICATIONS; INITIAL MEETING.—

19 (A) POLITICAL PARTY AFFILIATION.—Not
20 more than 5 members of the Commission shall
21 be from the same political party.

22 (B) NONGOVERNMENTAL APPOINTEES.—
23 An individual appointed to the Commission may
24 not be a current officer or employee of the Fed-

1 eral Government or any State or local govern-
2 ment.

3 (C) OTHER QUALIFICATIONS.—It is the
4 sense of Congress that individuals appointed to
5 the Commission should be prominent United
6 States citizens, with national recognition and
7 significant depth of experience and expertise in
8 such areas as—

- 9 (i) engineering;
10 (ii) environmental compliance;
11 (iii) health and safety law (particu-
12 larly oil spill legislation);
13 (iv) oil spill insurance policies;
14 (v) public administration;
15 (vi) oil and gas exploration and pro-
16 duction;
17 (vii) environmental cleanup; and
18 (viii) fisheries and wildlife manage-
19 ment.

20 (D) DEADLINE FOR APPOINTMENT.—All
21 members of the Commission shall be appointed
22 on or before September 15, 2010.

23 (E) INITIAL MEETING.—The Commission
24 shall meet and begin the operations of the Com-

1 mission as soon as practicable after the date of
2 enactment of this Act.

3 (3) QUORUM; VACANCIES.—

4 (A) IN GENERAL.—After the initial meet-
5 ing of the Commission, the Commission shall
6 meet upon the call of the Chairperson or a ma-
7 jority of the members of the Commission.

8 (B) QUORUM.—6 members of the Commis-
9 sion shall constitute a quorum.

10 (C) VACANCIES.—Any vacancy in the Com-
11 mission shall not affect the powers of the Com-
12 mission, but shall be filled in the same manner
13 in which the original appointment was made.

14 (d) FUNCTIONS OF COMMISSION.—

15 (1) IN GENERAL.—The functions of the Com-
16 mission are—

17 (A) to conduct an investigation that—

18 (i) investigates relevant facts and cir-
19 cumstances relating to the Deepwater Ho-
20 rizon incident of April 20, 2010, and the
21 associated oil spill thereafter, including any
22 relevant legislation, Executive order, regu-
23 lation, plan, policy, practice, or procedure;
24 and

- 1 (ii) may include relevant facts and cir-
2 cumstances relating to—
- 3 (I) permitting agencies;
- 4 (II) environmental and worker
5 safety law enforcement agencies;
- 6 (III) national energy require-
7 ments;
- 8 (IV) deepwater and
9 ultradeepwater oil and gas exploration
10 and development;
- 11 (V) regulatory specifications,
12 testing, and requirements for offshore
13 oil and gas well explosion prevention;
- 14 (VI) regulatory specifications,
15 testing, and requirements offshore oil
16 and gas well casing and cementing
17 regulation;
- 18 (VII) the role of congressional
19 oversight and resource allocation; and
- 20 (VIII) other areas of the public
21 and private sectors determined to be
22 relevant to the Deepwater Horizon in-
23 cident by the Commission;
- 24 (B) to identify, review, and evaluate the
25 lessons learned from the Deepwater Horizon in-

1 cident of April 20, 2010, regarding the struc-
2 ture, coordination, management policies, and
3 procedures of the Federal Government, and, if
4 appropriate, State and local governments and
5 nongovernmental entities, and the private sec-
6 tor, relative to detecting, preventing, and re-
7 sponding to those incidents; and

8 (C) to submit to the President and Con-
9 gress such reports as are required under this
10 section containing such findings, conclusions,
11 and recommendations as the Commission deter-
12 mines to be appropriate, including proposals for
13 organization, coordination, planning, manage-
14 ment arrangements, procedures, rules, and reg-
15 ulations.

16 (2) RELATIONSHIP TO INQUIRY BY CONGRES-
17 SIONAL COMMITTEES.—In investigating facts and
18 circumstances relating to energy policy, the Commis-
19 sion shall—

20 (A) first review the information compiled
21 by, and any findings, conclusions, and rec-
22 ommendations of, the committees identified in
23 subparagraphs (A) and (B) of subsection
24 (b)(3); and

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

4 (i) those committees have not inves-
5 tigated that area;

6 (ii) the investigation of that area by
7 those committees has not been completed;

8 or

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

12 (e) POWERS OF COMMISSION.—

13 (1) HEARINGS AND EVIDENCE.—The Commis-
14 sion or, on the authority of the Commission, any
15 subcommittee or member of the Commission, may,
16 for the purpose of carrying out this section—

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

21 (B) require, by subpoena or otherwise, the
22 attendance and testimony of such witnesses and
23 the production of such books, records, cor-
24 respondence, memoranda, papers, documents,
25 tapes, and materials;

1 as the Commission or such subcommittee or member con-
2 siders to be advisable.

3 (2) SUBPOENAS.—

4 (A) ISSUANCE.—

5 (i) IN GENERAL.—A subpoena may be
6 issued under this paragraph only—

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

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

12 (ii) SIGNATURE.—Subject to clause
13 (i), a subpoena issued under this para-
14 graph—

15 (I) shall bear the signature of the
16 Chairperson or any member des-
17 igned by a majority of the Commis-
18 sion;

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

24 (B) ENFORCEMENT.—

1 (i) IN GENERAL.—In the case of con-
2 tumacy or failure to obey a subpoena
3 issued under subparagraph (A), the United
4 States district court for the district in
5 which the subpoenaed person resides, is
6 served, or may be found, or where the sub-
7 poena is returnable, may issue an order re-
8 quiring the person to appear at any des-
9 ignated place to testify or to produce docu-
10 mentary or other evidence.

11 (ii) JUDICIAL ACTION FOR NON-
12 COMPLIANCE.—Any failure to obey the
13 order of the court may be punished by the
14 court as a contempt of that court.

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

1 had received a certification under sections
2 102 through 104 of the Revised Statutes
3 (2 U.S.C. 192 through 194).

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

9 (4) INFORMATION FROM FEDERAL AGENCIES.—

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

17 (B) COOPERATION.—Each Federal depart-
18 ment, bureau, agency, board, commission, of-
19 fice, independent establishment, or instrumen-
20 tality shall, to the extent authorized by law, fur-
21 nish information, suggestions, estimates, and
22 statistics directly to the Commission, upon re-
23 quest made by the Chairperson, the Chair-
24 person of any subcommittee created by a major-

1 ity of the Commission, or any member des-
2 ignated by a majority of the Commission.

3 (C) RECEIPT, HANDLING, STORAGE, AND
4 DISSEMINATION.—Information shall be received,
5 handled, stored, and disseminated only by mem-
6 bers of the Commission and the staff of the
7 Commission in accordance with all applicable
8 laws (including regulations and Executive or-
9 ders).

10 (5) ASSISTANCE FROM FEDERAL AGENCIES.—

11 (A) GENERAL SERVICES ADMINISTRA-
12 TION.—The Administrator of General Services
13 shall provide to the Commission on a reimburs-
14 able basis administrative support and other
15 services for the performance of the functions of
16 the Commission.

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

24 (6) GIFTS.—The Commission may accept, use,
25 and dispose of gifts or donations of services or prop-

1 erty, including travel, for the direct advancement of
2 the functions of the Commission.

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

7 (f) PUBLIC MEETINGS AND HEARINGS.—

8 (1) PUBLIC MEETINGS AND RELEASE OF PUB-
9 LIC VERSIONS OF REPORTS.—The Commission
10 shall—

11 (A) hold public hearings and meetings, to
12 the extent appropriate; and

13 (B) release public versions of the reports
14 required under paragraphs (1) and (2) of sub-
15 section (j).

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

22 (g) STAFF OF COMMISSION.—

23 (1) IN GENERAL.—

24 (A) APPOINTMENT AND COMPENSATION.—

1 (i) IN GENERAL.—The Chairperson,
2 in consultation with the Vice Chairperson
3 and in accordance with rules agreed upon
4 by the Commission, may, without regard to
5 the civil service laws (including regula-
6 tions), appoint and fix the compensation of
7 a staff director and such other personnel
8 as are necessary to enable the Commission
9 to carry out the functions of the Commis-
10 sion.

11 (ii) MAXIMUM RATE OF PAY.—No rate
12 of pay fixed under this subparagraph may
13 exceed the equivalent of that payable for a
14 position at level V of the Executive Sched-
15 ule under section 5316 of title 5, United
16 States Code.

17 (B) PERSONNEL AS FEDERAL EMPLOY-
18 EES.—

19 (i) IN GENERAL.—The staff director
20 and any personnel of the Commission who
21 are employees shall be considered to be
22 employees under section 2105 of title 5,
23 United States Code, for purposes of chap-
24 ters 63, 81, 83, 84, 85, 87, 89, and 90 of
25 that title.

1 (ii) MEMBERS OF COMMISSION.—
2 Clause (i) shall not apply to members of
3 the Commission.

4 (2) DETAILEES.—

5 (A) IN GENERAL.—An employee of the
6 Federal Government may be detailed to the
7 Commission without reimbursement.

8 (B) CIVIL SERVICE STATUS.—The detail of
9 the employee shall be without interruption or
10 loss of civil service status or privilege.

11 (3) PROCUREMENT OF TEMPORARY AND INTER-
12 MITTENT SERVICES.—The Chairperson of the Com-
13 mission may procure temporary and intermittent
14 services in accordance with section 3109(b) of title
15 5, United States Code, at rates for individuals that
16 do not exceed the daily equivalent of the annual rate
17 of basic pay prescribed for level V of the Executive
18 Schedule under section 5316 of that title.

19 (h) COMPENSATION AND TRAVEL EXPENSES.—

20 (1) COMPENSATION OF MEMBERS.—

21 (A) NON-FEDERAL EMPLOYEES.—A mem-
22 ber of the Commission who is not an officer or
23 employee of the Federal Government shall be
24 compensated at a rate equal to the daily equiva-
25 lent of the annual rate of basic pay prescribed

1 for level IV of the Executive Schedule under
2 section 5315 of title 5, United States Code, for
3 each day (including travel time) during which
4 the member is engaged in the performance of
5 the duties of the Commission.

6 (B) FEDERAL EMPLOYEES.—A member of
7 the Commission who is an officer or employee
8 of the Federal Government shall serve without
9 compensation in addition to the compensation
10 received for the services of the member as an
11 officer or employee of the Federal Government.

12 (2) TRAVEL EXPENSES.—A member of the
13 Commission shall be allowed travel expenses, includ-
14 ing per diem in lieu of subsistence, at rates author-
15 ized for an employee of an agency under subchapter
16 I of chapter 57 of title 5, United States Code, while
17 away from the home or regular place of business of
18 the member in the performance of the duties of the
19 Commission.

20 (i) SECURITY CLEARANCES FOR COMMISSION MEM-
21 BERS AND STAFF.—

22 (1) IN GENERAL.—Subject to paragraph (2),
23 the appropriate Federal agencies or departments
24 shall cooperate with the Commission in expeditiously
25 providing to the members and staff of the Commis-

1 sion appropriate security clearances, to the max-
2 imum extent practicable, pursuant to existing proce-
3 dures and requirements.

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

8 (j) REPORTS OF COMMISSION; ADJOURNMENT.—

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

15 (2) FINAL REPORT.—Not later than 180 days
16 after the date of the enactment of this Act, the
17 Commission shall submit to the President and Con-
18 gress a final report containing such findings, conclu-
19 sions, and recommendations for corrective measures
20 as have been agreed to by a majority of members of
21 the Commission.

22 (3) TEMPORARY ADJOURNMENT.—

23 (A) IN GENERAL.—The Commission, and
24 all the authority provided under this section,
25 shall adjourn and be suspended, respectively, on

1 the date that is 60 days after the date on which
2 the final report is submitted under paragraph
3 (2).

4 (B) ADMINISTRATIVE ACTIVITIES BEFORE
5 TERMINATION.—The Commission may use the
6 60-day period referred to in subparagraph (A)
7 for the purpose of concluding activities of the
8 Commission, including—

9 (i) providing testimony to committees
10 of Congress concerning reports of the
11 Commission; and

12 (ii) disseminating the final report sub-
13 mitted under paragraph (2).

14 (C) RECONVENING OF COMMISSION.—The
15 Commission shall stand adjourned until such
16 time as the President or the Secretary of
17 Homeland Security declares an oil spill of na-
18 tional significance to have occurred, at which
19 time—

20 (i) the Commission shall reconvene in
21 accordance with subsection (c)(3); and

22 (ii) the authority of the Commission
23 under this section shall be of full force and
24 effect.

25 (k) FUNDING.—

1 (1) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated to carry out
3 this section—

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

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

8 (2) AVAILABILITY.—Amounts made available to
9 carry out this section shall be available—

10 (A) for transfer to the Commission for use
11 in carrying out the functions and activities of
12 the Commission under this section; and

13 (B) until the date on which the Commis-
14 sion adjourns for the fiscal year under sub-
15 section (j)(3).

16 (1) NONAPPLICABILITY OF FEDERAL ADVISORY COM-
17 MITTEE ACT.—The Federal Advisory Committee Act (5
18 U.S.C. App.) shall not apply to the Commission.

19 **SEC. 311. SAVINGS PROVISIONS.**

20 (a) EXISTING LAW.—All regulations, rules, stand-
21 ards, determinations, contracts and agreements, memo-
22 randa of understanding, certifications, authorizations, ap-
23 pointments, delegations, results and findings of investiga-
24 tions, or any other actions issued, made, or taken by, or
25 pursuant to or under, the authority of any law (including

1 regulations) that resulted in the assignment of functions
2 or activities to the Secretary, the Director of the Minerals
3 Management Service (including by delegation from the
4 Secretary), or the Department (as related to the imple-
5 mentation of the purposes referenced in this title) that
6 were in effect on the date of enactment of this Act shall
7 continue in full force and effect after the date of enact-
8 ment of this Act unless previously scheduled to expire or
9 until otherwise modified or rescinded by this title or any
10 other Act.

11 (b) EFFECT ON OTHER AUTHORITIES.—This title
12 does not amend or alter the provisions of other applicable
13 laws, unless otherwise noted.

14 **TITLE IV—ENVIRONMENTAL**
15 **CRIMES ENFORCEMENT**

16 **SEC. 401. SHORT TITLE.**

17 This title may be cited as the “Environmental Crimes
18 Enforcement Act of 2010”.

19 **SEC. 402. ENVIRONMENTAL CRIMES.**

20 (a) SENTENCING GUIDELINES.—

21 (1) DIRECTIVE.—Pursuant to its authority
22 under section 994 of title 28, United States Code,
23 and in accordance with this subsection, the United
24 States Sentencing Commission shall review and
25 amend the Federal Sentencing Guidelines and policy

1 statements applicable to persons convicted of of-
2 fenses under the Federal Water Pollution Control
3 Act (33 U.S.C. 1251 et seq.), in order to reflect the
4 intent of Congress that penalties for the offenses be
5 increased in comparison to those provided on the
6 date of enactment of this Act under the guidelines
7 and policy statements, and appropriately account for
8 the actual harm to the public and the environment
9 from the offenses.

10 (2) REQUIREMENTS.—In amending the Federal
11 Sentencing Guidelines and policy statements under
12 paragraph (1), the United States Sentencing Com-
13 mission shall—

14 (A) ensure that the guidelines and policy
15 statements, including section 2Q1.2 of the Fed-
16 eral Sentencing Guidelines (and any successor
17 thereto), reflect—

18 (i) the serious nature of the offenses
19 described in paragraph (1);

20 (ii) the need for an effective deterrent
21 and appropriate punishment to prevent the
22 offenses; and

23 (iii) the effectiveness of incarceration
24 in furthering the objectives described in
25 clauses (i) and (ii);

1 (B) consider the extent to which the guide-
2 lines appropriately account for the actual harm
3 to public and the environment resulting from
4 the offenses;

5 (C) ensure reasonable consistency with
6 other relevant directives and guidelines and
7 Federal statutes;

8 (D) make any necessary conforming
9 changes to guidelines; and

10 (E) ensure that the guidelines relating to
11 offenses under the Federal Water Pollution
12 Control Act (33 U.S.C. 1251 et seq.) ade-
13 quately meet the purposes of sentencing, as set
14 forth in section 3553(a)(2) of title 18, United
15 States Code.

16 (b) RESTITUTION.—Section 3663A(c)(1) of title 18,
17 United States Code, is amended—

18 (1) in clause (ii), by striking “or” at the end;

19 (2) in clause (iii), by striking “and” at the end
20 and inserting “or”; and

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

22 “(iv) an offense under section 309(c) of
23 the Federal Water Pollution Control Act (33
24 U.S.C. 1319(c)); and”.

1 **TITLE V—FAIRNESS IN**
2 **ADMIRALTY AND MARITIME LAW**

3 **SEC. 501. SHORT TITLE.**

4 This title may be cited as the “Fairness in Admiralty
5 and Maritime Law Act”.

6 **SEC. 502. REPEAL OF LIMITATION OF SHIOWNERS’ LIABIL-**
7 **ITY ACT OF 1851.**

8 (a) **IN GENERAL.**—Chapter 305 of title 46, United
9 States Code, is amended as follows:

10 (1) Subsection (a) of section 30505 is amended
11 to read as follows:

12 “(a) **IN GENERAL.**—Except as provided in section
13 30506 of this title, the liability of the owner of a vessel
14 for any claim, debt, or liability described in subsection (b)
15 shall not exceed three times the value of the vessel and
16 pending freight. If the vessel has more than one owner,
17 the proportionate share of the liability of any one owner
18 shall not exceed that owner’s proportionate interest in the
19 vessel and pending freight.”.

20 (2) Subsection (c) of section 30505 is amended
21 to read as follows:

22 “(c) **CLAIMS NOT SUBJECT TO LIMITATION.**—Sub-
23 section (a) does not apply—

24 “(1) to a claim for wages; or

1 “(2) to a claim resulting from a discharge of oil
2 from a vessel or offshore facility, as those terms are
3 defined in section 1001 of the Oil Pollution Act of
4 1990 (33 U.S.C. 2701).”.

5 (3) Subsection (c) of section 30511 is amended
6 to read as follows:

7 “(c) CESSATION OF OTHER ACTIONS.—At the time
8 that an action is brought under this section and the owner
9 has complied with subsection (b), all claims and pro-
10 ceedings against the owner related to the matter in ques-
11 tion which are subject to limitation under section 30505
12 shall cease.”.

13 **SEC. 503. ASSESSMENT OF PUNITIVE DAMAGES IN MARI-**
14 **TIME LAW.**

15 (a) IN GENERAL.—Chapter 301 of title 46, United
16 States Code, is amended by adding at the end the fol-
17 lowing:

18 **“§ 30107. Punitive damages**

19 “In a civil action for damages arising out of a mari-
20 time tort, punitive damages may be assessed without re-
21 gard to the amount of compensatory damages assessed in
22 the action.”.

23 (b) CLERICAL AMENDMENT.—The table of contents
24 for chapter 301 of title 46, United States Code, is amend-
25 ed by adding at the end the following:

“30107. Punitive damages.”.

1 **SEC. 504. AMENDMENTS TO THE DEATH ON THE HIGH SEAS**
2 **ACT.**

3 (a) IN GENERAL.—Chapter 303 of title 46, United
4 States Code, is amended—

5 (1) by inserting “or law” after “admiralty” in
6 section 30302;

7 (2) by inserting “and nonpecuniary loss” after
8 “pecuniary loss” in section 30303;

9 (3) by striking “sustained by” and all that fol-
10 lows in section 30303 and inserting “sustained, plus
11 a fair compensation for the decedent’s pain and suf-
12 fering. In this section, the term ‘nonpecuniary loss’
13 means the loss of care, comfort, and companion-
14 ship.”;

15 (4) by inserting “or law” after “admiralty” in
16 section 30305; and

17 (5) by inserting “or law” after “admiralty” in
18 section 30306.

19 (b) AVIATION ACCIDENTS.—

20 (1) IN GENERAL.—Section 30307 of title 46,
21 United States Code, is amended—

22 (A) by striking subsection (a) and insert-
23 ing the following:

24 “(a) DEFINITIONS.—

25 “(1) COMMERCIAL AVIATION; GENERAL AVIA-
26 TION.—The terms ‘commercial aviation’ and ‘general

1 aviation' have the same meaning as those terms, re-
 2 spectively, as used in subtitle VII of title 49, United
 3 States Code.

4 “(2) NONPECUNIARY DAMAGES.—The term
 5 ‘nonpecuniary damages’ means damages for loss of
 6 care, comfort, and companionship.”;

7 (B) by inserting “or general aviation”
 8 after “commercial aviation” in subsections (b)
 9 and (c); and

10 (C) by adding at the end thereof the fol-
 11 lowing:

12 “(d) PROCEDURE.—Notwithstanding sections 30302,
 13 30305, and 30306, an action to which this section applies
 14 may be brought in admiralty and may not be brought in
 15 law.”.

16 (2) CONFORMING AMENDMENTS.—

17 (A) SECTION HEADING.—Section 30307 of
 18 title 46, United States Code, is amended by
 19 striking the section heading and inserting
 20 “**Aviation accidents**”.

21 (B) CLERICAL AMENDMENT.—The table of
 22 contents for chapter 303 of title 46, United
 23 States Code, is amended by striking the item
 24 relating to section 30307 and inserting the fol-
 25 lowing:

“30307. Aviation accidents.”.

1 (c) APPLICATION TO FISHING VESSELS.—

2 (1) IN GENERAL.—None of the amendments
3 made by this section shall apply with respect to a
4 fishing vessel.

5 (2) FISHING VESSEL DEFINED.—In this sub-
6 section, the term “fishing vessel” means—

7 (A) a vessel, boat, ship, or other watercraft
8 that is used for, equipped to be used for, or of
9 a type normally used for—

10 (i) charter fishing (as defined in sec-
11 tion 3(3) of the Magnuson-Stevens Fishery
12 Conservation and Management Act (16
13 U.S.C. 1802(3)));

14 (ii) commercial fishing (as defined in
15 section 3(4) of such Act (16 U.S.C.
16 1802(4))); or

17 (iii) aiding or assisting one or more
18 vessels at sea in the performance of any
19 activity relating to commercial fishing (as
20 so defined), including preparation, supply,
21 storage, refrigeration, transportation, or
22 processing; but

23 (B) does not include a passenger vessel (as
24 defined in section 2101(22) of title 46, United
25 States Code).

1 **SEC. 505. EFFECTIVE DATE.**

2 This title and the amendments made by this title
3 shall apply to—

4 (1) causes of action and claims arising after
5 April 19, 2010; and

6 (2) actions commenced before the date of enact-
7 ment of this Act that have not been finally adju-
8 dicated, including appellate review, as of that date.

9 **TITLE VI—SECURING HEALTH**
10 **FOR OCEAN RESOURCES AND**
11 **ENVIRONMENT (SHORE)**

12 **SEC. 601. SHORT TITLE.**

13 This title may be cited as the “Securing Health for
14 Ocean Resources and Environment Act” or the “SHORE
15 Act”.

16 **Subtitle A—National Oceanic and**
17 **Atmospheric Administration Oil**
18 **Spill Response, Containment,**
19 **and Prevention**

20 **SEC. 611. IMPROVEMENTS TO NATIONAL OCEANIC AND AT-**
21 **MOSPHERIC ADMINISTRATION OIL SPILL RE-**
22 **SPONSE, CONTAINMENT, AND PREVENTION.**

23 (a) REVIEW OF ABILITY OF NATIONAL OCEANIC AND
24 ATMOSPHERIC ADMINISTRATION TO RESPOND TO OIL
25 SPILLS.—

1 (1) COMPREHENSIVE REVIEW REQUIRED.—Not
2 later than 1 year after the date of the enactment of
3 this Act, the Under Secretary for Oceans and At-
4 mosphere shall conduct a comprehensive review of
5 the current capacity of the National Oceanic and At-
6 mospheric Administration to respond to oil spills.

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

9 (A) A comparison of oil spill modeling re-
10 quirements with the state-of-the-art oil spill
11 modeling with respect to near shore and off-
12 shore areas.

13 (B) Development of recommendations on
14 priorities for improving forecasting of oil spill,
15 trajectories, and impacts.

16 (C) An inventory of the products and tools
17 of the National Oceanic and Atmospheric Ad-
18 ministration that can aid in assessment of the
19 potential risk and impacts of oil spills. Such
20 products and tools may include environmental
21 sensitivity index maps, the United States Inte-
22 grated Ocean Observing System, and regional
23 information coordinating entities established as
24 part of such System, and oil spill trajectory
25 models.

1 (D) An identification of the baseline ocean-
2 ographic and climate data required to support
3 state of the art modeling.

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

7 (i) marine sanctuaries, monuments,
8 and other protected areas;

9 (ii) marine mammals, sea turtles, and
10 other protected species, and efforts to re-
11 habilitate such species.

12 (3) REPORT.—Upon completion of the review
13 required by paragraph (1), the Under Secretary
14 shall submit to Congress a report on such review, in-
15 cluding the findings of the Under Secretary with re-
16 spect to such review.

17 (b) OIL SPILL TRAJECTORY MODELING.—

18 (1) IN GENERAL.—The Under Secretary for
19 Oceans and Atmosphere and the Secretary of the In-
20 terior shall be responsible for developing and main-
21 taining oil spill trajectory modeling capabilities to
22 aid oil spill response and natural resource damage
23 assessment, including taking such actions as may be
24 required by subsections (c) through (g).

1 (2) REAL-TIME TRAJECTORY MODELING.—The
2 Under Secretary shall have primary responsibility
3 for real-time trajectory modeling.

4 (3) LONG-TERM TRAJECTORY MODELING.—The
5 Secretary of the Interior shall have primary respon-
6 sibility for long-term trajectory modeling.

7 (4) COORDINATION WITH NATIONAL LABORA-
8 TORIES.—In carrying out this subsection, the Under
9 Secretary and the Secretary of the Interior shall co-
10 ordinate with National Laboratories with established
11 oil spill modeling expertise.

12 (c) ENVIRONMENTAL SENSITIVITY INDEX.—

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

23 (2) EXPANDED COVERAGE.—Not later than 270
24 days after the date of the enactment of this Act, the
25 Under Secretary shall, to the maximum extent prac-

1 ticable, create an environmental sensitivity index
2 product for each area described in paragraph (1) for
3 which the National Oceanic and Atmospheric Ad-
4 ministration did not have an environmental sensi-
5 tivity index product on the day before the date of
6 the enactment of this Act.

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

16 (4) RELATIONSHIP TO OTHER LAWS.—Nothing
17 in this subsection shall be construed to alter or limit
18 the authority or responsibility of the Secretary of the
19 Interior provided by this or any other Act.

20 (d) SUBSEA HYDROCARBON REVIEW AND PRO-
21 GRAM.—

22 (1) REVIEW REQUIRED.—Not later than 180
23 days after the date of the enactment of this Act, the
24 Under Secretary shall, in consultation with the Ad-
25 ministrator of the Environmental Protection Agency

1 and the Secretary of the Interior, conduct a com-
2 prehensive review of the current state of the Na-
3 tional Oceanic and Atmospheric Administration to
4 observe, monitor, map, and track subsea hydro-
5 carbons, including a review of the effect of subsea
6 hydrocarbons and dispersants at varying concentra-
7 tions on living marine resources.

8 (2) ELEMENTS OF REVIEW.—The review con-
9 ducted under paragraph (1) shall include the fol-
10 lowing:

11 (A) A review of protocol for the application
12 of dispersants that contemplates the variables
13 of temperature, pressure, and depth of the site
14 of release of hydrocarbons.

15 (B) A review of technological capabilities
16 to detect the presence of subsea hydrocarbons
17 at various concentrations and at various depths
18 within a water column resulting from releases
19 of oil and natural gas after a spill.

20 (C) A review of technological capabilities
21 for expeditiously identifying the source
22 (“fingerprinting”) of subsea hydrocarbons.

23 (D) A review of coastal and ocean current
24 modeling as it relates to predicting the trajec-
25 tory of oil and natural gas.

1 (E) A review of the effect of varying con-
2 centrations of hydrocarbons on all levels of the
3 food web, including evaluations of seafood safe-
4 ty, toxicity to individuals, negative impacts to
5 reproduction, bioaccumulation, growth, and
6 such other matters as the Under Secretary and
7 the Administrator think appropriate.

8 (F) Development of recommendations on
9 priorities for improving forecasting of move-
10 ment of subsea hydrocarbon.

11 (G) Development of recommendations for
12 implementation of a Subsea Hydrocarbon Moni-
13 toring and Assessment program within the Of-
14 fice of Response and Restoration.

15 (3) PROGRAM REQUIRED.—Not later than 1
16 year after the date of the enactment of this Act, the
17 Under Secretary shall, in consultation with the Ad-
18 ministrator of the Environmental Protection Agency
19 and the Secretary of Interior, establish a hydro-
20 carbon monitoring and assessment program that is
21 based on the recommendations developed under the
22 comprehensive review required by paragraph (1).

23 (e) NATIONAL INFORMATION CENTER ON OIL
24 SPILLS.—The Under Secretary shall, in cooperation with
25 the Interagency Coordinating Committee on Oil Pollution

1 Research, establish a national information center on oil
2 spills that—

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

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

7 (3) provides outreach and utilizes communica-
8 tion mechanisms to inform partners, the public, and
9 local communities about the availability of oil spill
10 preparedness, prevention, response, and restoration
11 information and services and otherwise improves
12 public understanding and minimizes impacts of oil
13 spills; and

14 (4) applies the data interoperability standards
15 developed by the Integrated Coastal Ocean Observa-
16 tion System [to all for free and open access to all
17 relevant Federal and non-Federal data using, to the
18 extent practicable, the existing infrastructure of the
19 regional information coordinating entities developed
20 as part of the Integrated Coastal Ocean Observing
21 System as a portal for accessing non-federal data].

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

1 (1) to determine the significance, response, fre-
2 quency, size, potential fate, and potential effects, in-
3 cluding those on sensitive habitats, of oil spills re-
4 sulting from aging and abandoned oil infrastructure;
5 and

6 (2) to formulate recommendations on how best
7 to address such spills.

8 (g) INVENTORY OF OFFSHORE ABANDONED OR
9 SUNKEN VESSELS.—Not later than 270 days after the
10 date of the enactment of this Act, the Under Secretary
11 shall, in consultation with the Secretary of the Interior,
12 develop an inventory of offshore abandoned or sunken ves-
13 sels in the exclusive economic zone of the United States
14 and identify priorities (based on amount of oil, feasibility
15 of oil recovery, fate and effects of oil if released, and cost-
16 benefit of preemptive action) for potential preemptive re-
17 moval of oil or other actions that may be effective to miti-
18 gate the risk of oil spills from offshore abandoned or sunk-
19 en vessels.

20 (h) QUINQUENNIAL REPORT ON ECOLOGICAL BASE-
21 LINES, IMPORTANT ECOLOGICAL AREAS, AND ECONOMIC
22 RISKS.—

23 (1) IN GENERAL.—Not later than 270 days
24 after the date of enactment of this Act, and not less
25 frequently than once every 5 years thereafter, the

1 Under Secretary shall submit to Congress a report
2 that, with respect to regions that are leased or are
3 under consideration for leasing for offshore energy
4 production—

5 (A) characterizes ecological baselines;

6 (B) identifies important ecological areas,
7 critical habitats, and migratory behaviors; and

8 (C) identifies potential risks posed by hy-
9 drocarbon development to these resources.

10 (2) IMPORTANT ECOLOGICAL AREA DEFINED.—

11 In this subsection, the term “important ecological
12 area” means an area that contributes significantly
13 to marine ecosystem health.

14 (3) RELATIONSHIP TO OTHER LAWS.—Nothing
15 in this subsection shall be construed to alter or limit
16 the authority and responsibility of the Secretary of
17 the Interior provided by this or any other Act.

18 **SEC. 612. USE OF OIL SPILL LIABILITY TRUST FUND FOR**
19 **PREPAREDNESS, RESPONSE, DAMAGE AS-**
20 **SESSMENT, AND RESTORATION.**

21 Section 1012(a)(5) of the Oil Pollution Act of 1990
22 (33 U.S.C. 2712(a)(5)) is amended—

23 (1) by redesignating subparagraphs (B) and
24 (C) as subparagraphs (C) and (D), respectively; and

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

3 “(B)(i) not more than \$5,000,000 in each
4 fiscal year shall be available to the Under Sec-
5 retary for Oceans and Atmosphere and the As-
6 sistant Secretary of the Interior for Fish and
7 Wildlife and Parks without further appropria-
8 tion for expenses incurred by, and activities re-
9 lated to, preparedness, response, restoration,
10 and damage assessment capabilities of the Na-
11 tional Oceanic and Atmospheric Administration,
12 the United States Fish and Wildlife Service,
13 and other relevant agencies; and

14 “(ii) in a fiscal year in which an oil spill
15 of national significance occurs, not more than
16 \$25 million shall be available to Federal trust-
17 ees designated by the President pursuant to
18 section 1006 (b)(2);”.

19 **SEC. 613. INVESTMENT OF AMOUNTS IN DAMAGE ASSESS-**
20 **MENT AND RESTORATION REVOLVING FUND**
21 **IN INTEREST-BEARING OBLIGATIONS.**

22 The Secretary of the Treasury shall invest such a
23 portion of the amounts in the Damage Assessment and
24 Restoration Revolving Fund described in title I of the De-
25 partments of Commerce, Justice, and State, the Judiciary,

1 and Related Agencies Appropriations Act of 1991 (33
2 U.S.C. 2706 note) as is not required to meet current with-
3 draws, as determined by the Secretary, in interest-bear-
4 ing obligations of the United States in accordance with
5 section 9602 of the Internal Revenue Code of 1986.

6 **SEC. 614. STRENGTHENING COASTAL STATE OIL SPILL**
7 **PLANNING AND RESPONSE.**

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

11 **“SEC. 320. STRENGTHENING COASTAL STATE OIL SPILL RE-**
12 **SPONSE AND PLANNING.**

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

15 “(1) to revise management programs approved
16 under section 306 and National Estuarine Research
17 Reserves approved under section 315 to identify and
18 implement new enforceable policies and procedures
19 to ensure sufficient response capabilities at the State
20 level to address the environmental, economic and so-
21 cial impacts of oil spills or other accidents resulting
22 from Outer Continental Shelf energy activities with
23 the potential to affect and land or water use or nat-
24 ural resource of the coastal zone;

1 “(2) to undertake regionally based coastal and
2 marine spatial planning that would assist in data
3 collection, oil spill preparedness activities, and en-
4 ergy facility siting; and

5 “(3) to review and revise where necessary appli-
6 cable enforceable policies within approved coastal
7 State management programs affecting coastal en-
8 ergy activities and energy to ensure that these poli-
9 cies are consistent with—

10 “(A) other emergency response plans and
11 policies developed under Federal or State law;
12 and

13 “(B) new policies and procedures developed
14 under paragraph (1).

15 “(b) ELEMENTS.—New enforceable policies and pro-
16 cedures developed by coastal states with grants awarded
17 under this section shall be coordinated with Area Contin-
18 gency Plans developed pursuant to section 311(j)(4) of the
19 Federal Water Pollution Control Act (33 U.S.C.
20 1321(j)(4)) and shall consider, but not be limited to—

21 “(1) other existing emergency response plans,
22 procedures and enforceable policies developed under
23 other Federal or State law that affect the coastal
24 zone;

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

4 “(3) identification of coordination, logistics and
5 communication networks between Federal and State
6 government agencies, and between State agencies
7 and affected local communities, to ensure the effi-
8 cient and timely dissemination of data and other in-
9 formation;

10 “(4) inventories of shore locations and infra-
11 structure and equipment necessary to respond to oil
12 spills or other accidents resulting from Outer Conti-
13 nental Shelf energy activities;

14 “(5) identification and characterization of sig-
15 nificant or sensitive marine ecosystems or other
16 areas possessing important conservation, rec-
17 reational, ecological, historic, or aesthetic values;

18 “(6) inventories and surveys of shore locations
19 and infrastructure capable of supporting alternative
20 energy development;

21 “(7) observing capabilities necessary to assess
22 ocean conditions before, during, and after an oil
23 spill; and

24 “(8) other information or actions as may be
25 necessary.

1 “(c) GUIDELINES.—The Secretary shall, within 180
2 days after the date of enactment of this section and after
3 consultation with the Administrator of the Environmental
4 Protection Agency, the Commandant of the Coast Guard,
5 and the coastal states, publish guidelines for the applica-
6 tion for and use of grants under this section.

7 “(d) PARTICIPATION.—Coastal states shall provide
8 opportunity for public participation in developing new en-
9 forceable policies and procedures under this section pursu-
10 ant to subsections (d)(1) of (e) of section 306, especially
11 by relevant Federal agencies, relevant Area Committees
12 established pursuant to section 311(j)(4) of the Federal
13 Water Pollution Control Act (33 U.S.C. 1321(j)(4)), other
14 coastal state agencies, local governments, regional organi-
15 zations, port authorities, and other interested parties and
16 stakeholders, public and private, that are related to, or
17 affected by Outer Continental Shelf energy activities.

18 “(e) ANNUAL GRANTS.—

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

24 “(2) GRANT AMOUNTS AND LIMIT ON
25 AWARDS.—The amount of any grant to any one

1 coastal state under this section shall not exceed
2 \$750,000 for any fiscal year.

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

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

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

1 ernment. Nothing in this section repeals or supersedes any
2 existing coastal state authority.

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

11 **SEC. 615. GULF OF MEXICO LONG-TERM MARINE ENVIRON-**
12 **MENTAL MONITORING AND RESEARCH PRO-**
13 **GRAM.**

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

16 (1) IN GENERAL.—As soon as practicable after
17 the date of the enactment of this Act and subject to
18 the availability of appropriations or other sources of
19 funding, the Secretaries and the Administrator shall
20 jointly establish and carry out a long-term marine
21 environmental monitoring and research program for
22 the marine and coastal environment of the Gulf of
23 Mexico to ensure that the Federal Government has
24 independent, peer-reviewed scientific data and infor-
25 mation to assess long-term direct and indirect im-

1 pacts on trust resources located in the Gulf of Mex-
2 ico and Southeast region resulting from the oil spill
3 caused by the mobile offshore drilling unit *Deep-*
4 *water Horizon*.

5 (2) PERIOD OF PROGRAM.—The Secretaries and
6 the Administrator shall carry out the program re-
7 quired by paragraph (1) during the 10-year period
8 beginning on the date of the commencement of the
9 program. The Secretaries and the Administrator
10 may extend such period upon a determination by the
11 Secretaries and the Administrator that additional
12 monitoring and research is 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 fected 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 fected area, including commercial and recreational
10 fisheries, tourism, and other wildlife-dependent
11 recreation.

12 (6) The development of criteria for the protec-
13 tion of marine aquatic life.

14 (7) Other elements considered necessary by the
15 Secretaries and the Administrator to ensure a com-
16 prehensive marine research and monitoring program
17 to comprehend and understand the implications to
18 trust resources caused by the oil spill from the mo-
19 bile offshore drilling unit *Deepwater Horizon*.

20 (c) COOPERATION AND CONSULTATION.—In devel-
21 oping the research and monitoring program established
22 under subsection (a), the Secretaries and the Adminis-
23 trator shall consult with—

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

4 (2) such representatives from the Gulf coast
5 States and affected countries as the Secretary con-
6 siders appropriate;

7 (3) academic institutions and other research or-
8 ganizations;

9 (4) regional information coordination entities;
10 and

11 (5) such other experts with expertise in long-
12 term environmental monitoring and research of the
13 marine environment as the Secretary considers ap-
14 propriate.

15 (d) AVAILABILITY OF DATA.—Upon review by and
16 approval of the Attorney General regarding impacts on
17 legal claims or litigation involving the United States, data
18 and information generated through the program estab-
19 lished under subsection (a) shall be managed and archived
20 according to the standards developed under section 12304
21 of the Integrated Coastal and Ocean Observation System
22 Act of 2009 (33 U.S.C. 3603) to ensure that it is acces-
23 sible and available to governmental and non-governmental
24 personnel and to the general public for their use and infor-
25 mation.

1 (e) REPORT.—Not later than 1 year after the date
2 of the commencement of the program under subsection (a)
3 and biennially thereafter, the Secretaries and the Adminis-
4 trator shall jointly submit to Congress a comprehensive
5 report—

6 (1) summarizing the activities and findings of
7 the program; and

8 (2) detailing areas and issues requiring future
9 monitoring and research.

10 (f) DEFINITIONS.—In this section:

11 (1) ADMINISTRATOR.—The term “Adminis-
12 trator” means the Administrator of the Environ-
13 mental Protection Agency.

14 (2) GULF COAST STATE.—The term “Gulf coast
15 State” means each of the States of Texas, Lou-
16 isiana, Mississippi, Alabama, and Florida.

17 (3) SECRETARIES.—The term “Secretaries”
18 means the Secretary of Commerce, acting through
19 the Under Secretary for Oceans and Atmosphere,
20 and the Secretary of the Interior.

21 (4) 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

1 United States, any State, an Indian Tribe, or a local
2 government.

3 **SEC. 616. 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 At-
7 mosphere and in collaboration with the heads of other
8 agencies or departments of the United States with appro-
9 priate Arctic science expertise, direct research and take
10 action to improve the ability of the United States to con-
11 duct oil spill prevention, response, and recovery in Arctic
12 waters.

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

15 (1) to address—

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

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

23 (C) the development of oil spill trajectory
24 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 oper-
12 ational monitoring program during the open
13 water and 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;
19 and

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

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

25 (B) geodetic positioning; and

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

3 **Subtitle B—Improving Coast Guard**
4 **Response and Inspection Capacity**

5 **SEC. 621. SECRETARY DEFINED.**

6 In this subtitle, except as otherwise specifically pro-
7 vided, the term “Secretary” means the Secretary of the
8 Secretary of the Department in which the Coast Guard
9 is operating.

10 **SEC. 622. ARCTIC MARITIME READINESS AND OIL SPILL**
11 **PREVENTION.**

12 (a) IN GENERAL.—The Commandant of the Coast
13 Guard shall assess and take action to reduce the risk and
14 improve the capability of the United States to respond to
15 a maritime disaster in the United States Beaufort and
16 Chukchi Seas.

17 (b) MATTERS TO BE ADDRESSED.—The assessment
18 and actions referred to in subsection (a) shall include the
19 prioritization of resources to address the following:

20 (1) Oil spill prevention and response capabilities
21 and infrastructure.

22 (2) The coordination of contingency plans and
23 agreements with other agencies and departments of
24 the United States, industry, and foreign govern-
25 ments to respond to an Arctic oil spill.

1 (3) The expansion of search and rescue capa-
2 bilities, infrastructure, and logistics, including im-
3 provements of the Search and Rescue Optimal Plan-
4 ning System.

5 (4) The provisional designation of places of ref-
6 uge.

7 (5) The evaluation and enhancement of naviga-
8 tional infrastructure.

9 (6) The evaluation and enhancement of vessel
10 monitoring, tracking, and automated identification
11 systems and navigational aids and communications
12 infrastructure for safe navigation and marine acci-
13 dent prevention in the Arctic.

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

16 (8) The integration of local and traditional
17 knowledge and concerns into prevention and re-
18 sponse strategies.

19 **SEC. 623. ADVANCE PLANNING AND PROMPT DECISION**
20 **MAKING IN CLOSING AND REOPENING FISH-**
21 **ING GROUNDS.**

22 (a) REQUIREMENT THAT AREA CONTINGENCY
23 PLANS CONTAIN AREA-SPECIFIC PROTOCOLS AND STAND-
24 ARDS.—

1 (1) COOPERATION WITH STATE AND LOCAL OF-
2 FICIALS.—Section 311(j)(4)(B)(ii) of the Federal
3 Water Pollution Control Act (33 U.S.C.
4 1321(j)(4)(B)(ii)) is amended by striking the semi-
5 colon after “wildlife” and inserting a comma and
6 “including advance planning with respect to the clos-
7 ing and reopening of fishing grounds following an oil
8 spill;”.

9 (2) FRAMEWORK.—Section 311(j)(4)(C) of the
10 Federal Water Pollution Control Act (33 U.S.C.
11 1321(j)(4)(C)) is amended—

12 (A) by redesignating clauses (vii) and (viii)
13 as clauses (viii) and (ix), respectively; and

14 (B) by inserting after clause (vi) the fol-
15 lowing:

16 “(vii) develop a framework for ad-
17 vance planning and decision making with
18 respect to the closing and reopening of
19 fishing grounds following an oil spill, in-
20 cluding protocols and standards for the
21 closing and reopening of fishing areas;”.

22 (b) NATIONAL GUIDANCE.—Section 311(j)(4)(D) of
23 the Federal Water Pollution Control Act (33 U.S.C.
24 1321(j)(4)(D)) is amended—

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

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

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

4 “(iii) acting through the Commandant
5 of the Coast Guard and in consultation
6 with the Under Secretary for Oceans and
7 Atmosphere and any other government en-
8 tities deemed appropriate, issue guidance
9 for Area Committees to use in developing
10 a framework for advance planning and de-
11 cision making with respect to the closing
12 and reopening of fishing grounds following
13 an oil spill, which guidance shall include
14 model protocols and standards for the clos-
15 ing and reopening of fishing areas.”.

16 (c) RELATIONSHIP TO OTHER LAWS.—Nothing in
17 this section shall be construed as changing or affecting
18 in any way the authorities or responsibilities of the Under
19 Secretary for Oceans and Atmosphere under the Magnu-
20 son-Stevens Fishery Conservation and Management Act
21 (16 U.S.C. 1801 et seq.).

22 **SEC. 624. OIL SPILL TECHNOLOGY EVALUATION.**

23 (a) IN GENERAL.—The Secretary and the Secretary
24 of the Interior (in this section referred to as the “Secre-
25 taries”) and the Administrator of the Environmental Pro-

1 tection Agency (in this section referred to as the “Admin-
2 istrator”) shall establish a program for the formal evalua-
3 tion and validation of oil pollution containment and re-
4 moval methods and technologies.

5 (b) APPROVAL.—The program required by subsection
6 (a) shall establish a process for new methods and tech-
7 nologies to be submitted, evaluated, and gain validation
8 for use in spill responses and inclusion in response plans.
9 Following each validation, the Secretaries and the Admin-
10 istrator shall consider whether the method or technology
11 meets a performance capability warranting designation of
12 a new standard for best available technology or methods.
13 Any such new standard shall be incorporated into each
14 update of a response plan submitted pursuant to section
15 311(j)(5)(E)(vii) of the Federal Water Pollution Control
16 Act (33 U.S.C. 1321(j)(5)), as amended by section
17 104(b)(3) of this Act.

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

23 (d) CONSULTATION.—The Secretaries and the Ad-
24 ministrator shall consult with the Under Secretary for

1 Oceans and Atmosphere and the Secretary of Transpor-
2 tation in carrying out this section

3 **SEC. 625. COAST GUARD INSPECTIONS.**

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

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

22 **SEC. 626. CERTIFICATE OF INSPECTION REQUIREMENTS.**

23 (a) IN GENERAL.—Chapter 33 of title 46, United
24 States Code, is amended—

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

3 “(16) vessels and other structures, fixed or
4 floating, including those which dynamically hold po-
5 sition or are attached to the seabed or subsoil, which
6 are capable of exploring for, drilling for, developing,
7 or producing oil or gas.”; and

8 (2) in section 3305(a)(1)—

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

11 “(E) is in a condition to be operated with safety
12 to life and property, including, for the entities de-
13 scribed in paragraph (16) of section 3301, those sys-
14 tems specified in regulations required by paragraph
15 (3);”;

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

18 (C) by adding the following:

19 “(G) for vessels and other structures described
20 in paragraph (16) of section 3301, complies with the
21 highest relevant classification, certification, rating,
22 and inspection standards for vessels or structures of
23 the same age and type imposed by—

24 “(i) the American Bureau of Shipping; or

1 “(ii) another classification society approved
2 by the Secretary and the Secretary of the Inte-
3 rior as meeting acceptable standards for such a
4 society, except that the classification of vessels
5 or structures under this section by a foreign
6 classification society may be accepted by the
7 Secretary and the Secretary of the Interior
8 only—

9 “(I) to the extent that the government
10 of the foreign country in which the society
11 is headquartered accepts classification by
12 the American Bureau of Shipping of ves-
13 sels and structures used in the offshore ex-
14 ploration, development, and production of
15 oil and gas in that country; and

16 “(II) if the foreign classification soci-
17 ety has offices and maintains records in
18 the United States.”.

19 (b) REGULATIONS.—

20 (1) REQUIREMENT FOR REGULATIONS.—Not-
21 withstanding section 3306 of title 46, United States
22 Code, in implementing section 3305 of such title, as
23 amended by subsection (a), the Secretary and the
24 Secretary of the Interior shall jointly issue regula-
25 tions specifying which systems of the vessels or

1 structures described in paragraph (16) of section
2 3301 of such title, as added by subsection (a)(1),
3 shall be subject to such requirements. At a min-
4 imum, such systems shall include—

5 (A) mobile offshore drilling units;

6 (B) fixed and floating drilling facilities;

7 and

8 (C) risers and blowout preventers.

9 (2) EXCEPTIONS.—The Secretary and the Sec-
10 retary of the Interior may waive the standards es-
11 tablished by the regulations required by paragraph
12 (1) for a system of an existing vessel or structure
13 if—

14 (A) such system is of an age or type for
15 which meeting such requirements is impractical;

16 and

17 (B) such system poses an acceptably low
18 level of risk to the environment and to human
19 safety.

20 (3) RELATIONSHIP TO OTHER LAWS.—Nothing
21 in this section shall be construed to alter or limit the
22 authority and responsibility of the Secretary or the
23 Secretary of the Interior provided by this or any
24 other Act. The regulations required by paragraph
25 (1) shall be supplemental to any other regulation

1 issued by the Secretary or the Secretary of the Inte-
2 rior under any other provisions of law.

3 **SEC. 627. NAVIGATIONAL MEASURES FOR PROTECTION OF**
4 **NATURAL RESOURCES.**

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

15 (1) commercial fisheries;

16 (2) aquaculture facilities;

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

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

23 (5) critical habitat, as defined in section 3(5) of
24 the Endangered Species Act of 1973 (16 U.S.C.
25 1532(5));

1 (6) estuarine research reserves within the Na-
2 tional Estuarine Research Reserve System estab-
3 lished by section 315 of the Coastal Zone Manage-
4 ment Act of 1972 (16 U.S.C. 1461); and

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

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

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

18 (2) the type and quantity of oil transported as
19 cargo or fuel;

20 (3) the expected benefits of routing measures in
21 reducing risks of spills;

22 (4) the costs of such measures;

23 (5) the safety implications of such measures;

24 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
6 identified under subsection (a).

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

16 (e) OIL SHIPMENT DATA AND REPORT.—

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

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

24 (B) the vessels used for such transpor-
25 tation;

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 Trans-
10 portation of the Senate and the Committee on
11 Energy and Commerce of the House of Rep-
12 resentatives a report on the data collected and
13 analyzed under paragraph (1).

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

18 **SEC. 628. NOTICE TO STATES OF BULK OIL TRANSFERS.**

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

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

1 appropriate methodologies for joint Federal and State notifi-
2 cation of an oil transfer described in subsection (a) to min-
3 imize any potential burden to vessels.

4 **SEC. 629. GULF OF MEXICO REGIONAL CITIZENS' ADVISORY**
5 **COUNCIL.**

6 (a) ESTABLISHMENT.—Not later than 270 days after
7 the date of enactment of this Act, the President shall es-
8 tablish a Gulf of Mexico Regional Citizens' Advisory Coun-
9 cil (hereinafter in this section referred to as the “Coun-
10 cil”).

11 (b) GOAL.—The goal of the Council shall be to foster
12 more effective engagement by interested stakeholders and
13 local communities in providing relevant Federal agencies
14 and the energy industry with advice on energy, safety,
15 health, maritime, national defense, and environmental as-
16 pects of offshore energy and minerals production in the
17 Gulf of Mexico.

18 (c) PARTICIPATION.—In establishing the Council, the
19 President shall provide for the appropriate participation
20 by relevant stakeholders located in the coastal areas of the
21 Gulf of Mexico, including—

22 (1) the commercial fin, shellfish, and charter
23 fishing industries;

24 (2) the tourism, hotel, and restaurant indus-
25 tries;

- 1 (3) socially vulnerable communities, including
2 both indigenous and non-indigenous communities;
3 (4) marine and coastal conservation entities;
4 (5) incorporated and unincorporated municipali-
5 ties; and
6 (6) other appropriate entities.

7 (d) CONSIDERATION.—In establishing the Council,
8 the President shall take into account the experience of
9 Federal government and industry in working with the
10 Prince William Sound Regional Citizens' Advisory Council
11 to promote the environmentally safe operation of the
12 Alyeska Pipeline marine terminal in Valdez, Alaska, and
13 the oil tankers that use it.

14 (e) REPORT TO CONGRESS PRIOR TO ESTABLISH-
15 MENT.—Not later than 180 days after the date of enact-
16 ment of this Act, the President shall submit to Congress
17 a plan for the appointment and operation of the Council.
18 The report shall include a description of—

- 19 (1) the legal form proposed for the Council;
20 (2) the duties proposed for the Council;
21 (3) the manner in which the work of the Coun-
22 cil would relate to—
23 (A) the execution by relevant Federal
24 agencies of their respective statutory authori-
25 ties; and

1 (B) the activities of the energy industry;

2 (4) the manner in which the appointments
3 would be made to the Council to ensure balanced
4 representation of all relevant stakeholders with re-
5 spect to the goal of the Council;

6 (5) the manner in which advice and rec-
7 ommendations from the Council would be treated by
8 the relevant Federal agencies and the energy indus-
9 try;

10 (6) provisions relating to conflict of interest and
11 protection of sensitive or confidential information
12 that may be shared with the Council; and

13 (7) the manner in which the activities of the
14 Council would be financially supported.

15 (f) ANNUAL REPORTS.—The President shall require
16 that an annual report be submitted to Congress on the
17 activities of the Council.

18 **SEC. 630. VESSEL LIABILITY.**

19 (a) IN GENERAL.—Section 1004(a) of the Oil Pollu-
20 tion Act of 1990 (33 U.S.C. 2704(a)) is amended by strik-
21 ing paragraph (1) and inserting the following:

22 “(1) for a vessel that is—

23 “(A) a tank ship that is a single-hull ves-
24 sel, including a single hull vessel fitted with
25 double sides only or a double bottom only,

1 \$3,300 per gross ton or \$93,600,000, whichever
2 is greater;

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

6 “(C) a tank barge 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 \$7,000 per gross ton or \$29,100,000, whichever
10 is greater; or

11 “(D) a tank barge that is a double-hull
12 vessel, \$7,000 per gross ton or \$10,000,000,
13 whichever is greater;”.

14 (b) DEFINITIONS.—Section 1001(34) of the Oil Pol-
15 lution Act of 1990 (33 U.S.C. 2701(34)) is amended—

16 (1) by redesignating subparagraphs (A),(B),
17 and (C) as clauses (i), (ii), and (iii), respectively;

18 (2) by striking “‘tank vessel’ means” and in-
19 serting “(A) ‘tank vessel’ means”; and

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

21 “(B) ‘tank barge’ means a non-self-propelled
22 tank vessel; and

23 “(C) ‘tank ship’ means a self-propelled tank
24 vessel;”.

1 **SEC. 631. PROMPT INTERGOVERNMENTAL NOTICE OF MA-**
2 **RINE CASUALTIES.**

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

5 “(j) NOTICE TO STATES AND TRIBAL GOVERN-
6 MENTS.—

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

17 “(2) APPROPRIATE STATE AGENCY.—Each
18 State shall identify for the Secretary the appropriate
19 State agency to receive a report under paragraph
20 (1). Such agency shall be responsible for forwarding
21 appropriate information related to such report to
22 local and tribal governments within the State.”.

23 **SEC. 632. PROMPT PUBLICATION OF OIL SPILL INFORMA-**
24 **TION.**

25 (a) IN GENERAL.—In any response to an oil spill in
26 which the Commandant of the Coast Guard serves as the

1 Federal On-Scene Coordinator leading a Unified Com-
2 mand, the Commandant, on a publicly accessible website,
3 shall publish all written Incident Action Plans prepared
4 and approved as a part of the response to such oil spill.

5 (b) **TIMELINESS AND DURATION.**—The Commandant
6 shall—

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

12 (2) ensure that such plan remains remain pub-
13 licly accessible by website for the duration of the re-
14 sponse to oil spill.

15 (c) **REDACTION OF PERSONAL INFORMATION.**—The
16 Commandant may redact information from an Incident
17 Action Plans published pursuant to subsection (a) to the
18 extent necessary to comply with applicable privacy laws
19 and other requirements regarding personal information.

20 **SEC. 633. LEAVE RETENTION AUTHORITY.**

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

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

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

10 “(b) DEFINITIONS.—In this section:

11 “(1) DISCHARGE.—The term ‘discharge’ has
12 the meaning given that term in section 1001(7) of
13 the Oil Pollution Act of 1990 (33 U.S.C. 2701(7)).

14 “(2) SPILL OF NATIONAL SIGNIFICANCE.—The
15 term ‘spill of national significance’ means a dis-
16 charge of oil or a hazardous substance that is de-
17 clared by the Commandant to be a spill of national
18 significance.”.

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

“426. Emergency leave retention authority.”.

1 **TITLE VII—CATASTROPHIC**
2 **INCIDENT PLANNING**

3 **SEC. 701. CATASTROPHIC INCIDENT PLANNING.**

4 (a) CATASTROPHIC INCIDENT PLANNING INITIA-
5 TIVE.—Chapter 1 of subtitle C of the Post-Katrina Emer-
6 gency Management Reform Act of 2006 (6 U.S.C. 741
7 et seq.) is amended by adding at the end the following:

8 **“SEC. 655. CATASTROPHIC INCIDENT PLANNING.**

9 “(a) DEFINITIONS.—In this section—

10 “(1) the term ‘catastrophic incident plan’
11 means a plan to prevent, prepare for, protect
12 against, respond to, and recover from catastrophic
13 incidents;

14 “(2) the term ‘critical infrastructure’ has the
15 meaning given that term in section 1016(e) of the
16 USA PATRIOT Act (42 U.S.C. 5195c(e)); and

17 “(3) the term ‘National Response Framework’
18 means the successor document to the National Re-
19 sponse Plan issued in January 2008, or any other
20 successor plan prepared under section 504(a)(6) of
21 the Homeland Security Act of 2002 (6 U.S.C.
22 314(a)(6)).

23 “(b) COORDINATED PLANNING.—

1 “(1) IN GENERAL.—The President shall ensure
2 that there is a coordinated system of catastrophic inci-
3 dent plans throughout the Federal Government.

4 “(2) IMPLEMENTATION.—In carrying out para-
5 graph (1), the President shall—

6 “(A) identify risks of catastrophic inci-
7 dents, including across all critical infrastructure
8 sectors;

9 “(B) prioritize risks of catastrophic inci-
10 dents to determine for which risks the develop-
11 ment of catastrophic incident plans is most nec-
12 essary or likely to be most beneficial;

13 “(C) ensure that Federal agencies coordi-
14 nate to develop comprehensive and effective cat-
15 astrophic incident plans to address prioritized
16 catastrophic risks; and

17 “(D) review catastrophic incident plans de-
18 veloped by Federal agencies to ensure the effec-
19 tiveness of the plans, including assessing wheth-
20 er—

21 “(i) the assumptions underlying the
22 catastrophic incident plans are realistic;

23 “(ii) the resources identified to imple-
24 ment the catastrophic incident plans are
25 adequate, including that the catastrophic

1 incident plans address the need for surge
2 capacity;

3 “(iii) exercises designed to evaluate
4 the catastrophic incident plans are ade-
5 quate;

6 “(iv) the catastrophic incident plans
7 incorporate lessons learned from other cat-
8 astrophic incidents, include those in other
9 countries, where appropriate;

10 “(v) the catastrophic incident plans
11 appropriately account for new events and
12 situations;

13 “(vi) the catastrophic incident plans
14 adequately address the need for situational
15 awareness and information sharing;

16 “(vii) the number, skills, and training
17 of the available workforce is sufficient to
18 implement the catastrophic incident plans;

19 “(viii) the catastrophic incident plans
20 reflect coordination with governmental and
21 nongovernmental entities that would play a
22 significant role in the response to the cata-
23 strophic incident; and

24 “(ix) the catastrophic incident plans
25 set forth a clear command structure and

1 allocation of responsibilities consistent with
2 the National Response Framework and the
3 National Incident Management System.

4 “(c) REPORT.—Not later than 1 year after the date
5 of enactment of the Clean Energy Jobs and Oil Company
6 Accountability Act of 2010, and annually thereafter until
7 December 31, 2020, the President shall submit a report
8 to the appropriate committees of Congress that includes—

9 “(1) a discussion of the status of catastrophic
10 incident planning efforts required under this section,
11 including a list of all catastrophic incident plans in
12 progress or completed; and

13 “(2) a report on planning efforts by Federal
14 agencies required under section 653, including any
15 certification under subsection 653(d).”.

16 (b) OFFICE OF CATASTROPHIC PLANNING.—Title V
17 of the Homeland Security Act of 2002 (6 U.S.C. 101 et
18 seq.) is amended by adding at the end the following:

19 **“SEC. 525. CATASTROPHIC INCIDENT PLANNING.**

20 “(a) DEFINITION.—In this section, the term ‘cata-
21 strophic incident plan’ means a plan to prevent, prepare
22 for, protect against, respond to, and recover from a cata-
23 strophic incident.

24 “(b) ESTABLISHMENT.—The Secretary shall estab-
25 lish an Office of Catastrophic Planning in the Agency,

1 which shall be headed by a Director of Catastrophic Plan-
2 ning.

3 “(c) MISSION.—The mission of the Office of Cata-
4 strophic Planning shall be to lead efforts within the De-
5 partment, and to support, promote, and coordinate efforts
6 throughout the Federal Government, by State, local and
7 tribal governments, and by the private sector, to plan ef-
8 fectively to prevent, prepare for, protect against, respond
9 to, and recover from catastrophic incidents, whether nat-
10 ural disasters, acts of terrorism, or other man-made disas-
11 ters.

12 “(d) RESPONSIBILITIES.—The responsibilities of the
13 Director of Catastrophic Planning shall include—

14 “(1) assisting the President and Federal agen-
15 cies in identifying risks of catastrophic incidents for
16 which planning is likely to be most needed or bene-
17 ficial, including risks across all critical infrastructure
18 sectors;

19 “(2) leading the efforts of the Department to
20 prepare catastrophic incident plans to address risks
21 in the areas of responsibility of the Department;

22 “(3) providing support to other Federal agen-
23 cies by—

24 “(A) providing guidelines, standards, train-
25 ing, and technical assistance to assist the agen-

1 cies in developing effective catastrophic incident
2 plans in the areas of responsibility of the agen-
3 cies;

4 “(B) assisting the agencies in the assess-
5 ment of the catastrophic incident plans of the
6 agencies, including through assistance with the
7 design and evaluation of exercises; and

8 “(C) assisting the agencies in developing
9 tools to meaningfully evaluate catastrophic inci-
10 dent plans submitted to the agency by private
11 sector entities;

12 “(4) ensuring coordination with State, local,
13 and tribal governments in the development of Fed-
14 eral catastrophic incident plans;

15 “(5) providing assistance to State, local, and
16 tribal governments in developing catastrophic inci-
17 dent plans, including supporting the development of
18 catastrophic incident annexes under section 613 of
19 the Robert T. Stafford Disaster Relief and Emer-
20 gency Assistance Act (42 U.S.C. 5196b);

21 “(6) promoting and supporting appropriate cat-
22 astrophic incident planning by private sector entities,
23 including private sector entities that own or manage
24 critical infrastructure;

1 “(7) promoting the training and education of
2 additional emergency planners

3 “(8) assisting the Administrator in the prepara-
4 tion of the catastrophic resource report required
5 under section 652(b) of the Post-Katrina Emergency
6 Management Reform Act of 2006 (6 U.S.C. 752(b));

7 “(9) assisting the President in ensuring consist-
8 ency and coordination across Federal catastrophic
9 incident plans; and

10 “(10) otherwise assisting the President in im-
11 plementing section 655 of the Post-Katrina Emer-
12 gency Management Reform Act of 2006.”.

13 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There is
14 authorized to be appropriated such sums as are necessary
15 to carry out this section, for each of fiscal years 2011
16 through 2020.

17 (d) **TECHNICAL AND CONFORMING AMENDMENT.**—
18 The table of contents in section 1(b) of the Homeland Se-
19 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
20 inserting after the item relating to section 524 the fol-
21 lowing:

“Sec. 525. Catastrophic incident planning.”.

22 **SEC. 702. ALIGNMENT OF RESPONSE FRAMEWORKS.**

23 (a) **DEFINITIONS.**—In this section—

24 (1) the term “National Response Framework”
25 means the successor document to the National Re-

1 sponse Plan issued in January 2008, or any other
2 successor plan prepared under section 504(a)(6) of
3 the Homeland Security Act of 2002 (6 U.S.C.
4 314(a)(6));

5 (2) the term “National Contingency Plan”
6 means the National Contingency Plan prepared
7 under section 311(d) of the Federal Water Pollution
8 Control Act (33 U.S.C. 1321(d)) or revised under
9 section 105 of the Comprehensive Environmental
10 Response, Compensation and Liability Act (42
11 U.S.C. 9605); and

12 (3) the term “plans” means the National Re-
13 sponse Framework, the National Contingency Plan,
14 and any other plan the Secretary of Homeland Secu-
15 rity and the Administrator of the Environmental
16 Protection Agency jointly determine plays a signifi-
17 cant role in guiding the response by the Federal
18 Government to the discharge of oil or other haz-
19 ardous substances.

20 (b) ALIGNMENT OF PLANS.—Not later than 1 year
21 after the date of enactment of this Act, the Secretary of
22 Homeland Security (in coordination with the Adminis-
23 trator of the Federal Emergency Management Agency and
24 the Commandant of the Coast Guard) and the Adminis-
25 trator of the Environmental Protection Agency, in con-

1 junction with the head of any other Federal agency deter-
2 mined appropriate by the President, shall review the plans
3 and submit to Congress a report regarding—

4 (1) the coordination and consistency between
5 the plans, including with respect to—

6 (A) unified command and reporting struc-
7 tures;

8 (B) relationships with State, local, and
9 tribal governments;

10 (C) assignment of support responsibilities
11 among Federal agencies;

12 (2) lessons learned from an initial post-incident
13 analysis of the implementation of the plans during
14 the response by the Federal Government to the dis-
15 charge of oil arising from the explosion on and sink-
16 ing of the mobile offshore drilling unit *Deepwater*
17 *Horizon*;

18 (3) recommendations for modifications to the
19 plans to ensure coordination and, where appropriate,
20 consistency between the plans and to maximize the
21 purpose of each plan, consistent with statutory au-
22 thorities;

23 (4) planned actions to address any modifica-
24 tions recommended under paragraph (3); and

1 (5) how the plans will be integrated in the event
2 of a disaster occurring after the date of the report
3 involving a discharge of oil or other hazardous mate-
4 rial.

5 (c) SAVINGS CLAUSE.—Nothing in this section re-
6 quires a modification to the National Contingency Plan
7 or the National Response Framework or affects the au-
8 thority of the Administrator of the Environmental Protec-
9 tion Agency or the Secretary of Homeland Security to
10 modify or carry out the National Contingency Plan or the
11 National Response Framework.

12 **TITLE VIII—SUBPOENA POWER**
13 **FOR NATIONAL COMMISSION**
14 **ON THE BP DEEPWATER HO-**
15 **RIZON OIL SPILL AND OFF-**
16 **SHORE DRILLING**

17 **SEC. 801. SUBPOENA POWER FOR NATIONAL COMMISSION**
18 **ON THE BP DEEPWATER HORIZON OIL SPILL**
19 **AND OFFSHORE DRILLING.**

20 (a) SUBPOENA POWER.—The National Commission
21 on the BP Deepwater Horizon Oil Spill and Offshore
22 Drilling established by Executive Order No. 13543 of May
23 21, 2010 (referred to in this section as the “Commis-
24 sion”), may issue subpoenas to compel the attendance and
25 testimony of witnesses and the production of books,

1 records, correspondence, memoranda, and other docu-
2 ments.

3 (b) ISSUANCE.—

4 (1) AUTHORIZATION.—A subpoena may be
5 issued under this section only by—

6 (A) agreement of the Co-Chairs of the
7 Commission; or

8 (B) the affirmative vote of a majority of
9 the members of the Commission.

10 (2) JUSTICE DEPARTMENT COORDINATION.—

11 (A) NOTIFICATION.—

12 (i) IN GENERAL.—The Commission
13 shall notify the Attorney General or des-
14 ignee of the intent of the Commission to
15 issue a subpoena under this section, the
16 identity of the witness, and the nature of
17 the testimony sought before issuing such a
18 subpoena.

19 (ii) FORM AND CONTENT.—The form
20 and content of the notice shall be set forth
21 in the guidelines to be issued under sub-
22 paragraph (D).

23 (B) CONDITIONS FOR OBJECTION TO
24 ISSUANCE.—The Commission may not issue a
25 subpoena under authority of this section if the

1 Attorney General objects to the issuance of the
2 subpoena on the basis that the taking of the
3 testimony is likely to interfere with any—

4 (i) Federal or State criminal inves-
5 tigation or prosecution; or

6 (ii) pending investigation under sec-
7 tions 3729 through 3732 of title 31,
8 United States Code (commonly known as
9 the “Civil False Claims Act”) or other
10 Federal law providing for civil remedies, or
11 any civil litigation to which the United
12 States or any Federal agencies is or is like-
13 ly to be a party.

14 (C) NOTIFICATION OF OBJECTION.—The
15 Attorney General or relevant United States At-
16 torney shall notify the Commission of an objec-
17 tion raised under this paragraph without unnee-
18 cessary delay and as set forth in the guidelines
19 to be issued under subparagraph (D).

20 (D) GUIDELINES.—As soon as practicable,
21 but no later than 30 days after the date of the
22 enactment of this Act, the Attorney General,
23 after consultation with the Commission, shall
24 issue guidelines to carry out this subsection.

1 (3) SIGNATURE AND SERVICE.—A subpoena
2 issued under this section may be—

3 (A) issued under the signature of either
4 Co-Chair or any member designated by a ma-
5 jority of the Commission; and

6 (B) served by any person designated by the
7 Co-Chairs or a member designated by a major-
8 ity of the Commission.

9 (c) ENFORCEMENT.—

10 (1) REQUIRED PROCEDURES.—

11 (A) IN GENERAL.—In the case of contu-
12 macy of any person issued a subpoena under
13 this section or refusal by the person to comply
14 with the subpoena, the Commission shall re-
15 quest the Attorney General to seek enforcement
16 of the subpoena.

17 (B) ENFORCEMENT.—On such request, the
18 Attorney General shall seek enforcement of the
19 subpoena in a court described in paragraph (2).

20 (C) ORDER.—The court in which the At-
21 torney General seeks enforcement of the sub-
22 poena—

23 (i) shall issue an order requiring the
24 subpoenaed person to appear at any des-

1 ignated place to testify or to produce docu-
2 mentary or other evidence; and

3 (ii) may punish any failure to obey
4 the order as a contempt of that court.

5 (2) JURISDICTION FOR ENFORCEMENT.—Any
6 United States district court for a judicial district in
7 which a person issued a subpoena under this section
8 resides, is served, or may be found, or in which the
9 subpoena is returnable, shall have jurisdiction to en-
10 force the subpoena as provided in paragraph (1).

11 **TITLE IX—CORAL REEF CON-**
12 **SERVATION ACT AMEND-**
13 **MENTS**

14 **SEC. 901. SHORT TITLE.**

15 This title may be cited as the “Coral Reef Conserva-
16 tion Amendments Act of 2010”.

17 **SEC. 902. AMENDMENT OF CORAL REEF CONSERVATION**
18 **ACT OF 2000.**

19 Except as otherwise expressly provided, whenever in
20 this title an amendment or repeal is expressed in terms
21 of an amendment to or repeal of a section or other provi-
22 sion, the reference shall be considered to be made to a
23 section or other provision of the Coral Reef Conservation
24 Act of 2000 (16 U.S.C. 6401 et seq.).

1 **SEC. 903. AGREEMENTS; REDESIGNATIONS.**

2 The Act (16 U.S.C. 6401 et seq.) is amended—

3 (1) by redesignating section 208 (16 U.S.C.
4 6407) as section 213;

5 (2) by redesignating section 209 (16 U.S.C.
6 6408) as section 214; and

7 (3) by redesignating section 210 (16 U.S.C.
8 6409) as section 215.

9 **SEC. 904. EMERGENCY ASSISTANCE.**

10 Section 206 (16 U.S.C. 6405) is amended to read as
11 follows:

12 **“SEC. 206. EMERGENCY ASSISTANCE.**

13 “The Secretary, in cooperation with the Adminis-
14 trator of the Federal Emergency Management Agency, as
15 appropriate, may provide assistance to any State, local,
16 or territorial government agency with jurisdiction over
17 coral reef ecosystems to address any unforeseen or dis-
18 aster-related circumstance pertaining to coral reef eco-
19 systems.”.

20 **SEC. 905. EMERGENCY RESPONSE, STABILIZATION, AND**
21 **RESTORATION.**

22 Section 207 (16 U.S.C. 6406) is amended to read as
23 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
5 Response, Stabilization, and Restoration Account’) in the
6 Damage Assessment Restoration Revolving Fund estab-
7 lished by the Department of Commerce Appropriations
8 Act, 1991 (Public Law 101–515; 33 U.S.C. 2706 note),
9 for implementation of this title for emergency actions.

10 “(b) DEPOSITS.—

11 “(1) DEPOSITS.—There shall be deposited in
12 the Emergency Response, Stabilization, and Restora-
13 tion Account amounts as follows:

14 “(A) Amounts appropriated for the Ac-
15 count.

16 “(B) Amounts received by the United
17 States pursuant to this title.

18 “(C) Amounts otherwise authorized for de-
19 posit in the Account by this title.

20 “(2) AVAILABILITY OF DEPOSITS.—Amounts
21 deposited in the Account shall be available for use
22 by the Secretary for emergency response, stabiliza-
23 tion, and restoration activities under this title.”.

24 **SEC. 906. PROHIBITED ACTIVITIES.**

25 (a) IN GENERAL.—The Act (16 U.S.C. 6401 et seq.)
26 is amended by inserting after section 207 the following:

1 **“SEC. 208. PROHIBITED ACTIVITIES AND SCOPE OF PROHI-**
2 **BITIONS.**

3 “(a) PROVISIONS AS COMPLEMENTARY.—The provi-
4 sions of this section are in addition to, and shall not affect
5 the operation of, other Federal, State, or local laws or reg-
6 ulations providing protection to coral reef ecosystems.

7 “(b) DESTRUCTION, LOSS, TAKING, OR INJURY.—

8 “(1) IN GENERAL.—Except as provided in para-
9 graph (2), it is unlawful for any person to destroy,
10 take, cause the loss of, or injure any coral reef or
11 any component thereof.

12 “(2) EXCEPTIONS.—The destruction, loss, tak-
13 ing, or injury of a coral reef or any component
14 thereof is not unlawful if it—

15 “(A) was caused by the use of fishing gear
16 used in a manner permitted under the Magnu-
17 son-Stevens Fishery Conservation and Manage-
18 ment Act (16 U.S.C. 1801 et seq.) or other
19 Federal or State law;

20 “(B) was caused by an activity that is au-
21 thorized or allowed by Federal or State law (in-
22 cluding lawful discharges from vessels, such as
23 graywater, cooling water, engine exhaust, bal-
24 last water, or sewage from marine sanitation
25 devices), unless the destruction, loss, or injury
26 resulted from actions such as vessel groundings,

1 vessel scrapings, anchor damage, excavation not
2 authorized by Federal or State permit, or other
3 similar activities;

4 “(C) was the necessary result of bona fide
5 marine scientific research (including marine sci-
6 entific research activities approved by Federal,
7 State, or local permits), other than excessive
8 sampling or collecting, or actions such as vessel
9 groundings, vessel scrapings, anchor damage,
10 excavation, or other similar activities;

11 “(D)(i) was caused by a Federal Govern-
12 ment agency during—

13 “(I) an emergency that posed an un-
14 acceptable threat to human health or safe-
15 ty or to the marine environment;

16 “(II) an emergency that posed a
17 threat to national security; or

18 “(III) an activity necessary for law
19 enforcement or search and rescue; and

20 “(ii) could not reasonably be avoided; or

21 “(E) was caused by an action taken by the
22 master of the vessel in an emergency situation
23 to ensure the safety of the vessel or to save a
24 life at sea.

1 “(c) INTERFERENCE WITH ENFORCEMENT.—It is
2 unlawful for any person to interfere with the enforcement
3 of this title by—

4 “(1) refusing to permit any officer authorized
5 to enforce this title to board a vessel (other than a
6 vessel operated by the Department of Defense or
7 United States Coast Guard) subject to such person’s
8 control for the purposes of conducting any search or
9 inspection in connection with the enforcement of this
10 title;

11 “(2) resisting, opposing, impeding, intimidating,
12 harassing, bribing, interfering with, or forcibly as-
13 saulting any person authorized by the Secretary to
14 implement this title or any such authorized officer in
15 the conduct of any search or inspection performed
16 under this title; or

17 “(3) submitting false information to the Sec-
18 retary or any officer authorized to enforce this title
19 in connection with any search or inspection con-
20 ducted under this title.

21 “(d) VIOLATIONS OF TITLE, PERMIT, OR REGULA-
22 TION.—It is unlawful for any person to violate any provi-
23 sion of this title, any permit issued pursuant to this title,
24 or any regulation promulgated pursuant to this title.

1 “(e) POSSESSION AND DISTRIBUTION.—It is unlaw-
2 ful for any person to possess, sell, deliver, carry, transport,
3 or ship by any means any coral taken in violation of this
4 title.”.

5 (b) EMERGENCY ACTION REGULATIONS.—The Sec-
6 retary of Commerce shall initiate a rulemaking proceeding
7 to prescribe the circumstances and conditions under which
8 the exception in section 208(b)(2)(E) of the Coral Reef
9 Conservation Act of 2000, as added by subsection (a), ap-
10 plies and shall issue a final rule pursuant to that rule-
11 making as soon as practicable but not later than 1 year
12 after the date of the enactment of this Act. Nothing in
13 this subsection shall be construed to require the issuance
14 of such regulations before the exception provided by that
15 section is in effect.

16 **SEC. 907. DESTRUCTION OF CORAL REEFS.**

17 The Act (16 U.S.C. 6401 et seq.) is amended by in-
18 serting after section 208, as added by section 906 of this
19 title, the following:

20 **“SEC. 209. DESTRUCTION, LOSS, OR TAKING OF, OR INJURY**
21 **TO, CORAL REEFS.**

22 “(a) LIABILITY.—

23 “(1) LIABILITY TO THE UNITED STATES.—Ex-
24 cept as provided in subsection (f), all persons who
25 engage in an activity that is prohibited under sub-

1 sections (b) or (d) of section 208, or create an immi-
2 nent risk thereof, are liable, jointly and severally, to
3 the United States for an amount equal to the sum
4 of—

5 “(A) response costs and damages resulting
6 from the destruction, loss, taking, or injury, or
7 imminent risk thereof, including damages re-
8 sulting from the response actions;

9 “(B) costs of seizure, forfeiture, storage,
10 and disposal arising from liability under this
11 section; and

12 “(C) interest on that amount calculated in
13 the manner described in section 1005 of the Oil
14 Pollution Act of 1990 (33 U.S.C. 2705).

15 “(2) LIABILITY IN REM.—

16 “(A) IN GENERAL.—Any vessel used in an
17 activity that is prohibited under subsection (b)
18 or (d) of section 208, or creates an imminent
19 risk thereof, shall be liable in rem to the United
20 States for an amount equal to the sum of—

21 “(i) response costs and damages re-
22 sulting from such destruction, loss, or in-
23 jury, or imminent risk thereof, including
24 damages resulting from the response ac-
25 tions;

1 “(ii) costs of seizure, forfeiture, stor-
2 age, and disposal arising from liability
3 under this section; and

4 “(iii) interest on that amount cal-
5 culated in the manner described in section
6 1005 of the Oil Pollution Act of 1990 (33
7 U.S.C. 2705).

8 “(B) MARITIME LIENS.—The amount of li-
9 ability shall constitute a maritime lien on the
10 vessel and may be recovered in an action in rem
11 in any district court of the United States that
12 has jurisdiction over the vessel.

13 “(3) DEFENSES.—A person or vessel is not lia-
14 ble under this subsection if that person or vessel es-
15 tablishes that the destruction, loss, taking, or injury
16 was caused solely by an act of God, an act of war,
17 or an act or omission of a third party (other than
18 an employee or agent of the defendant or one whose
19 act or omission occurs in connection with a contrac-
20 tual relationship, existing directly or indirectly with
21 the defendant), and the person or master of the ves-
22 sel acted with due care.

23 “(4) NO LIMIT TO LIABILITY.—Nothing in
24 chapter 305 or section 30706 of title 46, United

1 States Code, shall limit liability to any person under
2 this title.

3 “(b) RESPONSE ACTIONS AND DAMAGE ASSESS-
4 MENT.—

5 “(1) RESPONSE ACTIONS.—The Secretary may
6 undertake or authorize all necessary actions to pre-
7 vent or minimize the destruction, loss, or taking of,
8 or injury to, coral reefs, or components thereof, or
9 to minimize the risk or imminent risk of such de-
10 struction, loss, or injury.

11 “(2) DAMAGE ASSESSMENT.—

12 “(A) IN GENERAL.—The Secretary shall
13 assess damages to coral reefs and shall consult
14 with State officials regarding response and
15 damage assessment actions undertaken for
16 coral reefs within State waters.

17 “(B) PROHIBITION ON DOUBLE RECOV-
18 ERY.—There shall be no double recovery under
19 this title for coral reef damages, including the
20 cost of damage assessment, for the same inci-
21 dent.

22 “(c) COMMENCEMENT OF CIVIL ACTION FOR RE-
23 SPONSE COSTS AND DAMAGES.—

24 “(1) COMMENCEMENT.—The Attorney General,
25 upon the request of the Secretary, may commence a

1 civil action against any person or vessel that may be
2 liable under subsection (a) of this section for re-
3 sponse costs, seizure, forfeiture, storage, or disposal
4 costs, and damages, and interest on that amount
5 calculated in the manner described in section 1005
6 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).
7 The Secretary, acting as trustee for coral reefs for
8 the United States, shall submit a request for such
9 an action to the Attorney General whenever a person
10 or vessel may be liable for such costs or damages.

11 “(2) VENUE IN CIVIL ACTIONS.—A civil action
12 under this title may be brought in the United States
13 district court for any district in which—

14 “(A) the defendant is located, resides, or is
15 doing business, in the case of an action against
16 a person;

17 “(B) the vessel is located, in the case of an
18 action against a vessel;

19 “(C) the destruction, loss, or taking of, or
20 injury to a coral reef, or component thereof, oc-
21 curred or in which there is an imminent risk of
22 such destruction, loss, or injury; or

23 “(D) where some or all of the coral reef or
24 component thereof that is the subject of the ac-
25 tion is not within the territory covered by any

1 United States district court, such action may be
2 brought either in the United States district
3 court for the district closest to the location
4 where the destruction, loss, injury, or risk of in-
5 jury occurred, or in the United States District
6 Court for the District of Columbia.

7 “(d) USE OF RECOVERED AMOUNTS.—

8 “(1) IN GENERAL.—Any costs, including re-
9 sponse costs and damages recovered by the Sec-
10 retary under this section shall—

11 “(A) be deposited into an account or ac-
12 counts in the Damage Assessment Restoration
13 Revolving Fund established by the Department
14 of Commerce Appropriations Act, 1991 (33
15 U.S.C. 2706 note), or the Natural Resource
16 Damage Assessment and Restoration Fund es-
17 tablished by the Department of the Interior and
18 Related Agencies Appropriations Act, 1992 (43
19 U.S.C. 1474b), as appropriate given the loca-
20 tion of the violation;

21 “(B) be available for use by the Secretary
22 without further appropriation and remain avail-
23 able until expended; and

24 “(C) be for use, as the Secretary considers
25 appropriate—

1 “(i) to reimburse the Secretary or any
2 other Federal or State agency that con-
3 ducted activities under subsection (a) or
4 (b) of this section for costs incurred in
5 conducting the activity;

6 “(ii) to be transferred to the Emer-
7 gency Response, Stabilization, and Res-
8 toration Account established under section
9 208(d) to reimburse that account for
10 amounts used for authorized emergency ac-
11 tions; and

12 “(iii) after reimbursement of such
13 costs, to restore, replace, or acquire the
14 equivalent of any coral reefs, or compo-
15 nents thereof, including the reasonable
16 costs of monitoring, or to minimize or pre-
17 vent threats of equivalent injury to, or de-
18 struction of coral reefs, or components
19 thereof.

20 “(2) RESTORATION CONSIDERATIONS.—In de-
21 velopment of restoration alternatives under para-
22 graph (1)(C), the Secretary shall consider State and
23 territorial preferences and, if appropriate, shall
24 prioritize restoration projects with geographic and
25 ecological linkages to the injured resources.

1 “(e) STATUTE OF LIMITATIONS.—An action for re-
2 sponse costs or damages under subsection (c) shall be
3 barred unless the complaint is filed not later than 3 years
4 after the date on which the Secretary completes a damage
5 assessment and restoration plan for the coral reefs, or
6 components thereof, to which the action relates.

7 “(f) FEDERAL GOVERNMENT ACTIVITIES.—In the
8 event of threatened or actual destruction of, loss of, or
9 injury to a coral reef or component thereof resulting from
10 an incident caused by a component of any Department or
11 agency of the United States Government, the cognizant
12 Department or agency shall satisfy its obligations under
13 this section by promptly, in coordination with the Sec-
14 retary, taking appropriate actions to respond to and miti-
15 gate the harm and restoring or replacing the coral reef
16 or components thereof and reimbursing the Secretary for
17 all assessment costs.”.

18 **SEC. 908. ENFORCEMENT.**

19 The Act (16 U.S.C. 6401 et seq.) is amended by in-
20 serting after section 209, as added by section 907 of this
21 title, the following:

22 **“SEC. 210. ENFORCEMENT.**

23 “(a) IN GENERAL.—The Secretary shall conduct en-
24 forcement activities to carry out this title.

25 “(b) POWERS OF AUTHORIZED OFFICERS.—

1 “(1) IN GENERAL.—Any person who is author-
2 ized to enforce this title may—

3 “(A) board, search, inspect, and seize any
4 vessel or other conveyance suspected of being
5 used to violate this title, any regulation promul-
6 gated under this title, or any permit issued
7 under this title, and any equipment, stores, and
8 cargo of such vessel, except that such authority
9 shall not exist with respect to vessels owned or
10 time chartered by a uniformed service (as de-
11 fined in section 101 of title 10, United States
12 Code) as warships or naval auxiliaries;

13 “(B) seize wherever found any component
14 of coral reef taken or retained in violation of
15 this title, any regulation promulgated under
16 this title, or any permit issued under this title;

17 “(C) seize any evidence of a violation of
18 this title, any regulation promulgated under
19 this title, or any permit issued under this title;

20 “(D) execute any warrant or other process
21 issued by any court of competent jurisdiction;

22 “(E) exercise any other lawful authority;

23 and

1 “(F) arrest any person, if there is reason-
2 able cause to believe that such person has com-
3 mitted an act prohibited by section 208.

4 “(2) NAVAL AUXILIARY DEFINED.—In this sub-
5 section, the term ‘naval auxiliary’ means a vessel,
6 other than a warship, that is owned by or under the
7 exclusive control of a uniformed service and used at
8 the time of the destruction, take, loss, or injury for
9 government, non-commercial service, including com-
10 bat logistics force vessels, pre-positioned vessels, spe-
11 cial mission vessels, or vessels exclusively used to
12 transport military supplies and materials.

13 “(c) CIVIL ENFORCEMENT AND PERMIT SANC-
14 TIONS.—

15 “(1) CIVIL ADMINISTRATIVE PENALTY.—

16 “(A) IN GENERAL.—Any person subject to
17 the jurisdiction of the United States who vio-
18 lates this title or any regulation promulgated or
19 permit issued hereunder, shall be liable to the
20 United States for a civil administrative penalty
21 of not more than \$200,000 for each such viola-
22 tion, to be assessed by the Secretary.

23 “(B) CONTINUING VIOLATIONS.—Each day
24 of a continuing violation shall constitute a sepa-
25 rate violation.

1 “(C) DETERMINATION OF AMOUNT.—In
2 determining the amount of civil administrative
3 penalty, the Secretary shall take into account
4 the nature, circumstances, extent, and gravity
5 of the prohibited acts committed and, with re-
6 spect to the violator, the degree of culpability,
7 and any history of prior violations, and such
8 other matters as justice may require.

9 “(D) CONSIDERATION OF ABILITY TO
10 PAY.—In assessing such penalty, the Secretary
11 may also consider information related to the
12 ability of the violator to 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
21 civil penalty or criminal fine or liability assessed
22 pursuant to any natural resource law administered
23 by the Secretary, the Secretary may deny, suspend,
24 amend or revoke in whole or in part any permit
25 issued or applied for under this title.

1 “(3) IMPOSITION OF CIVIL JUDICIAL PEN-
2 ALTIES.—

3 “(A) IN GENERAL.—Any person who vio-
4 lates any provision of this title, any regulation
5 promulgated or permit issued thereunder, shall
6 be subject to a civil judicial penalty not to ex-
7 ceed \$250,000 for each such violation.

8 “(B) CONTINUING VIOLATIONS.—Each day
9 of a continuing violation shall constitute a sepa-
10 rate violation.

11 “(C) CIVIL ACTIONS.—The Attorney Gen-
12 eral, upon the request of the Secretary, may
13 commence a civil action in an appropriate dis-
14 trict court of the United States, and such court
15 shall have jurisdiction to award civil penalties
16 and such other relief as justice may require.

17 “(D) AMOUNTS OF CIVIL PENALTIES.—In
18 determining the amount of a civil penalty, the
19 court shall take into account the nature, cir-
20 cumstances, extent, and gravity of the prohib-
21 ited acts committed and, with respect to the vi-
22 olator, the degree of culpability, any history of
23 prior violations, and such other matters as jus-
24 tice may require.

1 “(E) CONSIDERATION OF ABILITY TO
2 PAY.—In imposing such penalty, the district
3 court may also consider information related to
4 the ability of the violator to pay.

5 “(4) NOTICE.—No penalty or permit sanction
6 shall be assessed under this subsection until after
7 the person charged has been given notice and an op-
8 portunity for a hearing.

9 “(5) IN REM JURISDICTION.—A vessel used in
10 violating this title, any regulation promulgated under
11 this title, or any permit issued under this title, shall
12 be liable in rem for any civil penalty assessed for
13 such violation. Such penalty shall constitute a mari-
14 time lien on the vessel and may be recovered in an
15 action in rem in the district court of the United
16 States having jurisdiction over the vessel.

17 “(6) COLLECTION OF PENALTIES.—

18 “(A) IN GENERAL.—If any person fails to
19 pay an assessment of a civil penalty under this
20 section after it has become a final and
21 unappealable order, or after the appropriate
22 court has entered final judgment in favor of the
23 Secretary, the Secretary shall refer the matter
24 to the Attorney General, who shall recover the
25 amount assessed in any appropriate district

1 court of the United States (plus interest at cur-
2 rent prevailing rates from the date of the final
3 order).

4 “(B) NOT SUBJECT TO REVIEW.—In such
5 action, the validity and appropriateness of the
6 final order imposing the civil penalty shall not
7 be subject to review.

8 “(C) ATTORNEY’S FEES, COSTS, AND NON-
9 PAYMENT PENALTY.—

10 “(i) IN GENERAL.—Any person who
11 fails to pay, on a timely basis, the amount
12 of an assessment of a civil penalty shall be
13 required to pay, in addition to such
14 amount and interest, attorney’s fees and
15 costs for collection proceedings and a quar-
16 terly nonpayment penalty for each quarter
17 during which such failure to pay persists.

18 “(ii) AMOUNT OF NONPAYMENT PEN-
19 ALTY.—Such nonpayment penalty shall be
20 in an amount equal to 20 percent of the
21 aggregate amount of such person’s pen-
22 alties and nonpayment penalties that are
23 unpaid as of the beginning of such quarter.

24 “(7) COMPROMISE OR OTHER ACTION BY SEC-
25 RETARY.—The Secretary may compromise, modify,

1 or remit, with or without conditions, any civil admin-
2 istrative penalty or permit sanction which is or may
3 be imposed under this section and that has not been
4 referred to the Attorney General for further enforce-
5 ment action.

6 “(8) JURISDICTION.—

7 “(A) IN GENERAL.—The several district
8 courts of the United States shall have jurisdic-
9 tion over any actions brought by the United
10 States arising under this section.

11 “(B) AMERICAN SAMOA.—For the purpose
12 of this section, American Samoa shall be in-
13 cluded within the judicial district of the District
14 Court of the United States for the District of
15 Hawaii.

16 “(C) TREATMENT OF VIOLATIONS.—Each
17 violation shall be a separate offense and the of-
18 fense shall be deemed to have been committed
19 not only in the district where the violation first
20 occurred, but also in any other district as au-
21 thorized by law.

22 “(d) FORFEITURE.—

23 “(1) CRIMINAL FORFEITURE.—

1 “(A) IN GENERAL.—A person who is con-
2 victed of an offense in violation of this title
3 shall forfeit to the United States—

4 “(i) any property, real or personal,
5 constituting or traceable to the gross pro-
6 ceeds taken, obtained, or retained, in con-
7 nection with or as a result of the offense,
8 including, without limitation, any coral reef
9 or coral reef component (or the fair market
10 value thereof); and

11 “(ii) any property, real or personal,
12 used or intended to be used, in any man-
13 ner, to commit or facilitate the commission
14 of the offense, including, without limita-
15 tion, any vessel (including the vessel’s
16 equipment, stores, catch and cargo), vehi-
17 cle, aircraft, or other means of transpor-
18 tation.

19 “(B) APPLICATION OF CERTAIN PROVI-
20 SIONS OF CONTROLLED SUBSTANCES ACT.—

21 Pursuant to section 2461(c) of title 28, United
22 States Code, the provisions of section 413 of
23 the Controlled Substances Act (21 U.S.C. 853)
24 other than subsection (d) thereof shall apply to
25 criminal forfeitures under this section.

1 “(2) CIVIL FORFEITURE.—The property set
2 forth below shall be subject to forfeiture to the
3 United States in accordance with the provisions of
4 chapter 46 of title 18, United States Code, and no
5 property right shall exist in it:

6 “(A) Any property, real or personal, con-
7 stituting or traceable to the gross proceeds
8 taken, obtained, or retained, in connection with
9 or as a result of a violation of this title, includ-
10 ing, without limitation, any coral reef or coral
11 reef component (or the fair market value there-
12 of).

13 “(B) Any property, real or personal, used
14 or intended to be used, in any manner, to com-
15 mit or facilitate the commission of a violation of
16 this title, including, without limitation, any ves-
17 sel (including the vessel’s equipment, stores,
18 catch and cargo), vehicle, aircraft, or other
19 means of transportation.

20 “(3) APPLICATION OF CUSTOMS LAWS.—

21 “(A) IN GENERAL.—All provisions of law
22 relating to seizure, summary judgment, and ju-
23 dicial forfeiture and condemnation for violation
24 of the customs laws, the disposition of the prop-
25 erty forfeited or condemned or the proceeds

1 from the sale thereof, the remission or mitiga-
2 tion of such forfeitures, and the compromise of
3 claims shall apply to seizures and forfeitures in-
4 curred, or alleged to have been incurred, under
5 the provisions of this title, insofar as applicable
6 and not inconsistent with the provisions hereof.

7 “(B) AUTHORITY FOR ACTIONS BY SEC-
8 RETARY.—For seizures and forfeitures of prop-
9 erty under this section by the Secretary, such
10 duties as are imposed upon the customs officer
11 or any other person with respect to the seizure
12 and forfeiture of property under the customs
13 law may be performed by such officers as are
14 designated by the Secretary or, upon request of
15 the Secretary, by any other agency that has au-
16 thority to manage and dispose of seized prop-
17 erty.

18 “(4) PRESUMPTION.—For the purposes of this
19 section there is a rebuttable presumption that all
20 coral reefs, or components thereof, found on board
21 a vessel that is used or seized in connection with a
22 violation of this title or of any regulation promul-
23 gated under this title were taken, obtained, or re-
24 tained in violation of this title or of a regulation pro-
25 mulgated under this title.

1 “(e) PAYMENT OF STORAGE, CARE, AND OTHER
2 COSTS.—Any person assessed a civil penalty for a viola-
3 tion of this title or of any regulation promulgated under
4 this title and any claimant in a forfeiture action brought
5 for such a violation, shall be liable for the reasonable costs
6 incurred by the Secretary in storage, care, and mainte-
7 nance of any property seized in connection with the viola-
8 tion.

9 “(f) EXPENDITURES.—

10 “(1) DEPOSIT AND AVAILABILITY.—Notwith-
11 standing section 3302 of title 31, United States
12 Code, or section 311 of the Magnuson-Stevens Fish-
13 ery Conservation and Management Act (16 U.S.C.
14 1861), amounts received by the United States as
15 civil penalties under subsection (c) of this section,
16 forfeitures of property under subsection (d) of this
17 section, and costs imposed under subsection (e) of
18 this section, shall—

19 “(A) be placed into an account;

20 “(B) be available for use by the Secretary
21 without further appropriation; and

22 “(C) remain available until expended.

23 “(2) USE OF FORFEITURES AND COSTS.—

24 Amounts received under this section for forfeitures
25 under subsection (d) and costs imposed under sub-

1 section (e) shall be used to pay the reasonable and
2 necessary costs incurred by the Secretary to provide
3 temporary storage, care, maintenance, and disposal
4 of any property seized in connection with a violation
5 of this title or any regulation promulgated under
6 this title.

7 “(3) USE OF CIVIL PENALTIES.—Amounts re-
8 ceived under this section as civil penalties under sub-
9 section (c) of this section and any amounts remain-
10 ing after the operation of paragraph (2) of this sub-
11 section shall—

12 “(A) be used to stabilize, restore, or other-
13 wise manage the coral reef with respect to
14 which the violation occurred that resulted in the
15 penalty or forfeiture;

16 “(B) be transferred to the Emergency Re-
17 sponse, Stabilization, and Restoration Account
18 established under section 207(a) or an account
19 described in section 209(d)(1), to reimburse
20 such account for amounts used for authorized
21 emergency actions;

22 “(C) be used to conduct monitoring and
23 enforcement activities;

24 “(D) be used to conduct research on tech-
25 niques to stabilize and restore coral reefs;

1 “(E) be used to conduct activities that pre-
2 vent or reduce the likelihood of future damage
3 to coral reefs;

4 “(F) be used to stabilize, restore or other-
5 wise manage any other coral reef; or

6 “(G) be used to pay a reward to any per-
7 son who furnishes information leading to an as-
8 sessment of a civil penalty, or to a forfeiture of
9 property, for a violation of this title or any reg-
10 ulation promulgated under this title.

11 “(g) CRIMINAL ENFORCEMENT.—

12 “(1) INTERFERENCE WITH ENFORCEMENT.—

13 Any person (other than a foreign government or any
14 entity of such government) who knowingly commits
15 any act prohibited by section 208(c) of this title
16 shall be imprisoned for not more than 5 years and
17 shall be fined not more than \$500,000 for individ-
18 uals or \$1,000,000 for an organization; except that
19 if in the commission of any such offense the indi-
20 vidual uses a dangerous weapon, engages in conduct
21 that causes bodily injury to any officer authorized to
22 enforce the provisions of this title, or places any
23 such officer in fear of imminent bodily injury, the
24 maximum term of imprisonment is not more than 10
25 years.

1 “(2) OTHER KNOWING VIOLATIONS.—Any per-
2 son (other than a foreign government or any entity
3 of such government) who knowingly violates sub-
4 section (b), (d), or (e) of section 208 shall be fined
5 under title 18, United States Code, or imprisoned
6 not more than 5 years or both.

7 “(3) OTHER UNKNOWING VIOLATIONS.—Any
8 person (other than a foreign government or any enti-
9 ty of such government) who violates subsection (b),
10 (d), or (e) of section 208, and who, in the exercise
11 of due care should know that such person’s conduct
12 violates subsection (b), (d), or (e) of section 208,
13 shall be fined under title 18, United States Code, or
14 imprisoned not more than 1 year, or both.

15 “(4) JURISDICTION.—

16 “(A) IN GENERAL.—The several district
17 courts of the United States shall have jurisdic-
18 tion over any actions brought by the United
19 States arising under this subsection.

20 “(B) AMERICAN SAMOA.—For the purpose
21 of this subsection, American Samoa shall be in-
22 cluded within the judicial district of the District
23 Court of the United States for the District of
24 Hawaii.

1 “(C) TREATMENT OF VIOLATIONS.—Each
2 violation shall be a separate offense and the of-
3 fense shall be deemed to have been committed
4 not only in the district where the violation first
5 occurred, but also in any other district as au-
6 thorized by law. Any offenses not committed in
7 any district are subject to the venue provisions
8 of section 3238 of title 18, United States Code.

9 “(h) SUBPOENAS.—In the case of any investigation
10 or hearing under this section or any other natural resource
11 statute administered by the Under Secretary for Oceans
12 and Atmosphere which is determined on the record in ac-
13 cordance with the procedures provided for under section
14 554 of title 5, United States Code, the Secretary may
15 issue subpoenas for the attendance and testimony of wit-
16 nesses and the production of relevant papers, books, elec-
17 tronic files, and documents, and may administer oaths.

18 “(i) COAST GUARD AUTHORITY NOT LIMITED.—
19 Nothing in this section shall be considered to limit the au-
20 thority of the Coast Guard to enforce this or any other
21 Federal law under section 89 of title 14, United States
22 Code.

23 “(j) INJUNCTIVE RELIEF.—

24 “(1) INJUNCTIVE RELIEF BY SECRETARY.—

1 “(A) IN GENERAL.—If the Secretary deter-
2 mines that there is an imminent risk of destruc-
3 tion or loss of or injury to a coral reef, or that
4 there has been actual destruction or loss of, or
5 injury to, a coral reef which may give rise to li-
6 ability under section 209 of this title, the Attor-
7 ney General, upon request of the Secretary,
8 shall seek to obtain such relief as may be nec-
9 essary to abate such risk or actual destruction,
10 loss, or injury, or to restore or replace the coral
11 reef, or both.

12 “(B) JURISDICTION.—The district courts
13 of the United States shall have jurisdiction in
14 such a case to order such relief as the public in-
15 terest and the equities of the case may require.

16 “(2) INJUNCTIVE RELIEF BY ATTORNEY GEN-
17 ERAL.—Upon the request of the Secretary, the At-
18 torney General may seek to enjoin any person who
19 is alleged to be in violation of any provision of this
20 title, or any regulation or permit issued under this
21 title, and the district courts shall have jurisdiction to
22 grant such relief.

23 “(k) AREA OF APPLICATION AND ENFORCE-
24 ABILITY.—The area of application and enforceability of
25 this title includes the internal waters of the United States,

1 the territorial sea of the United States, as described in
2 Presidential Proclamation 5928 of December 27, 1988,
3 the Exclusive Economic Zone of the United States as de-
4 scribed in Presidential Proclamation 5030 of March 10,
5 1983, and the continental shelf, consistent with inter-
6 national law.

7 “(1) NATIONWIDE SERVICE OF PROCESS.—In any ac-
8 tion by the United States under this title, process may
9 be served in any district where the defendant is found,
10 resides, transacts business, or has appointed an agent for
11 the service of process, and for civil cases may also be
12 served in a place not within the United States in accord-
13 ance with rule 4 of the Federal Rules of Civil Procedure.

14 “(m) VENUE IN CIVIL ACTIONS.—A civil action
15 under this title may be brought in the United States dis-
16 trict court for any district in which—

17 “(1) the defendant is located, resides, or is
18 doing business, in the case of an action against a
19 person;

20 “(2) the vessel is located, in the case of an ac-
21 tion against a vessel;

22 “(3) the destruction of, loss of, or injury to a
23 coral reef, or component thereof, occurred or in
24 which there is an imminent risk of such destruction,
25 loss, or injury; or

1 “(4) where some or all of the coral reef or com-
2 ponent thereof that is the subject of the action is not
3 within the territory covered by any United States
4 district court, such action may be brought either in
5 the United States district court for the district clos-
6 est to the location where the destruction, loss, in-
7 jury, or risk of injury occurred, or in the United
8 States District Court for the District of Columbia.

9 “(n) UNIFORMED SERVICE OFFICERS AND EMPLOY-
10 EES.—No officer or employee of a uniformed service (as
11 defined in section 101 of title 10, United States Code)
12 shall be held liable under this section, either in such offi-
13 cer’s or employee’s personal or official capacity, for any
14 violation of section 208 occurring during the performance
15 of the officer’s or employee’s official governmental duties.

16 “(o) CONTRACT EMPLOYEES.—No contract employee
17 of a uniformed service (as so defined), serving as vessel
18 master or crew member, shall be liable under this section
19 for any violation of section 208 if that contract em-
20 ployee—

21 “(1) is acting as a contract employee of a uni-
22 formed service under the terms of an operating con-
23 tract for a vessel owned by a uniformed service, or
24 a time charter for pre-positioned vessels, special mis-

1 sion vessels, or vessels exclusively transporting mili-
2 tary supplies and materials; and

3 “(2) is engaged in an action or actions over
4 which such employee has been given no discretion
5 (e.g., anchoring or mooring at one or more des-
6 ignated anchorages or buoys, or executing specific
7 operational elements of a special mission activity), as
8 determined by the uniformed service controlling the
9 contract.”.

10 **SEC. 909. REGULATIONS.**

11 The Act (16 U.S.C. 6401 et seq.) is amended by in-
12 serting after section 210, as added by section 908 of this
13 title, the following:

14 **“SEC. 211. REGULATIONS.**

15 “(a) IN GENERAL.—The Secretary may issue such
16 regulations as are necessary and appropriate to carry out
17 the purposes of this title.

18 “(b) APPLICATION IN ACCORDANCE WITH INTER-
19 NATIONAL LAW.—This title and any regulations promul-
20 gated under this title shall be applied in accordance with
21 international law.

22 “(c) LIMITATIONS WITH RESPECT TO CITIZENSHIP
23 STATUS.—No restrictions shall apply to or be enforced
24 against a person who is not a citizen, national, or resident

1 alien of the United States (including foreign flag vessels)
2 unless in accordance with international law.”.

3 **SEC. 910. JUDICIAL REVIEW.**

4 The Act (16 U.S.C. 6401 et seq.) is amended by in-
5 serting after section 211, as added by section 909 of this
6 title, the following:

7 **“SEC. 212. JUDICIAL REVIEW.**

8 “(a) IN GENERAL.—Chapter 7 of title 5, United
9 States Code, is not applicable to any action taken by the
10 Secretary 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 other provisions of this
20 title may be had by the filing of a petition for review
21 by an interested person in the Circuit Court of Ap-
22 peals of the United States for the federal judicial
23 district in which such person resides or transact
24 business which is directly affected by the action

1 taken; such petition shall be filed within 120 days
2 from the date such final agency action is taken.

3 “(b) NO REVIEW IN ENFORCEMENT PRO-
4 CEEDINGS.—Final agency action with respect to which re-
5 view could have been obtained under subsection (a)(2)
6 shall not be subject to judicial review in any civil or crimi-
7 nal proceeding for enforcement.

8 “(c) COST OF LITIGATION.—In any judicial pro-
9 ceeding under subsection (a), the court may award costs
10 of litigation (including reasonable attorney and expert wit-
11 ness fees) to any prevailing party whenever it determines
12 that such award is appropriate.”.

13 **DIVISION B—REDUCING OIL**
14 **CONSUMPTION AND IMPROV-**
15 **ING ENERGY SECURITY**
16 **TITLE XX—NATURAL GAS VEHI-**
17 **CLE AND INFRASTRUCTURE**
18 **DEVELOPMENT**

19 **SEC. 2001. DEFINITIONS.**

20 In this title:

21 (1) DEPARTMENT.—The term “Department”
22 means the Department of Energy.

23 (2) INCREMENTAL COST.—The term “incre-
24 mental cost” means the difference between—

1 (A) the suggested retail price of a manu-
2 facturer for a qualified alternative fuel vehicle;
3 and

4 (B) the suggested retail price of a manu-
5 facturer for a vehicle that is—

6 (i) powered solely by a gasoline or die-
7 sel internal combustion engine; and

8 (ii) comparable in weight, size, and
9 use to the vehicle.

10 (3) MIXED-FUEL VEHICLE.—The term “mixed-
11 fuel vehicle” means a mixed-fuel vehicle (as defined
12 in section 30B(e)(5)(B) of the Internal Revenue
13 Code of 1986) (including vehicles with a gross vehi-
14 cle weight rating of 14,000 pounds or less) that uses
15 a fuel mix that is comprised of at least 75 percent
16 compressed natural gas or liquefied natural gas.

17 (4) NATURAL GAS REFUELING PROPERTY.—
18 The term “natural gas refueling property” means
19 units that dispense at least 85 percent by volume of
20 natural gas, compressed natural gas, or liquefied
21 natural gas as a transportation fuel.

22 (5) QUALIFIED ALTERNATIVE FUEL VEHI-
23 CLE.—The term “qualified alternative fuel vehicle”
24 means a vehicle manufactured for use in the United
25 States that is—

1 (A) a new compressed natural gas- or liq-
2 uefied natural gas-fueled vehicle that is only ca-
3 pable of operating on natural gas;

4 (B) a vehicle that is capable of operating
5 for more than 175 miles on 1 fueling of com-
6 pressed or liquefied natural gas and is capable
7 of operating on gasoline or diesel fuel, including
8 vehicles with a gross vehicle weight rating of
9 14,000 pounds or less.

10 (6) QUALIFIED MANUFACTURER.—The term
11 “qualified manufacturer” means a manufacturer of
12 qualified alternative fuel vehicles or any component
13 designed specifically for use in a qualified alternative
14 fuel vehicle.

15 (7) QUALIFIED OWNER.—The term “qualified
16 owner” means an individual that purchases a quali-
17 fied alternative fuel vehicle for use or lease in the
18 United States but not for resale.

19 (8) QUALIFIED REFUELER.—The term “quali-
20 fied refueler” means the owner or operator of nat-
21 ural gas refueling property.

22 (9) SECRETARY.—The term “Secretary” means
23 the Secretary of Energy.

1 **SEC. 2002. PROGRAM ESTABLISHMENT.**

2 (a) IN GENERAL.—There is established within the
3 Department a Natural Gas Vehicle and Infrastructure De-
4 velopment Program for the purpose of facilitating the use
5 of natural gas in the United States as an alternative
6 transportation fuel, in order to achieve the maximum fea-
7 sible reduction in domestic oil use.

8 (b) CONVERSION OR REPOWERING OF VEHICLES.—
9 The Secretary shall establish a rebate program under this
10 title for qualified owners who convert or repower a conven-
11 tionally fueled vehicle to operate on compressed natural
12 gas or liquefied natural gas, or to a mixed-fuel vehicle or
13 a bi-fuel vehicle.

14 **SEC. 2003. REBATES.**

15 (a) INTERIM FINAL RULE.—

16 (1) IN GENERAL.—Not later than 60 days after
17 the date of enactment of this Act, the Secretary
18 shall promulgate an interim final rule establishing
19 regulations that the Secretary considers necessary to
20 administer the rebates required under this section.

21 (2) ADMINISTRATION.—The interim final rule
22 shall establish a program that provides—

23 (A) rebates to qualified owners for the pur-
24 chase of qualified alternative fuel vehicles; and

25 (B) priority to those vehicles that the Sec-
26 retary determines are most likely to achieve the

1 shortest payback time on investment and the
2 greatest market penetration for natural gas ve-
3 hicles.

4 (3) ALLOCATION.—Of the amount allocated for
5 rebates under this section, not more than 25 percent
6 shall be used to provide rebates to qualified owners
7 for the purchase of qualified alternative fuel vehicles
8 that have a gross vehicle rating of not more than
9 8,500 pounds.

10 (b) REBATES.—

11 (1) IN GENERAL.—Subject to paragraph (2),
12 the Secretary shall provide rebates for 90 percent of
13 the incremental cost of a qualified alternative fuel
14 vehicle to a qualified owner for the purchase of a
15 qualified alternative fuel vehicles.

16 (2) MAXIMUM VALUES.—

17 (A) NATURAL GAS VEHICLES.—The max-
18 imum value of a rebate under this section pro-
19 vided to a qualified owner who places a quali-
20 fied alternative fuel vehicle into service by 2013
21 shall be—

22 (i) \$8,000 for each qualified alter-
23 native fuel vehicle with a gross vehicle
24 weight rating of not more than 8,500
25 pounds;

1 (ii) \$16,000 for each qualified alter-
2 native fuel vehicle with a gross vehicle
3 weight rating of more than 8,500 but not
4 more than 14,000 pounds;

5 (iii) \$40,000 for each qualified alter-
6 native fuel vehicle with a gross vehicle
7 weight rating of more than 14,000 but not
8 more than 26,000 pounds; and

9 (iv) \$64,000 for each qualified alter-
10 native fuel vehicle with a gross vehicle
11 weight rating of more than 26,000 pounds.

12 (B) MIXED-FUEL VEHICLES.—The max-
13 imum value of a rebate under this section pro-
14 vided to a qualified owner who places a quali-
15 fied alternative fuel vehicle that is a mixed-fuel
16 vehicle into service by 2015 shall be 75 percent
17 of the amount provided for rebates under this
18 section for vehicles that are only capable of op-
19 erating on natural gas.

20 (C) BI-FUEL VEHICLES.—The maximum
21 value of a rebate under this section provided to
22 a qualified owner of a vehicle described in sec-
23 tion 2001(5)(B) shall be 50 percent of the
24 amount provided for rebates under this section

1 for vehicles that are only capable of operating
2 on natural gas.

3 (c) TREATMENT OF REBATES.—For purposes of the
4 Internal Revenue Code of 1986, rebates received for quali-
5 fied alternative fuel vehicles under this section—

6 (1) shall not be considered taxable income to a
7 qualified owner;

8 (2) shall prohibit the qualified owner from ap-
9 plying for any tax credit allowed under that Code for
10 the same qualified alternative fuel vehicle; and

11 (3) shall be considered a credit described in
12 paragraph (2) for purposes of any limitation on the
13 amount of the credit.

14 (d) FUNDING.—

15 (1) IN GENERAL.—On October 1, 2010, out of
16 any funds in the Treasury not otherwise appro-
17 priated, the Secretary of the Treasury shall transfer
18 to the Secretary to carry out this section
19 \$3,800,000,000, to remain available until expended.

20 (2) RECEIPT AND ACCEPTANCE.—The Sec-
21 retary shall be entitled to receive, shall accept, and
22 shall use to carry out this section the funds trans-
23 ferred under paragraph (1), without further appro-
24 priation.

1 **SEC. 2004. INFRASTRUCTURE AND DEVELOPMENT GRANTS.**

2 (a) INTERIM FINAL RULE.—Not later than 60 days
3 after the date of enactment of this Act, the Secretary shall
4 promulgate an interim final rule establishing an infra-
5 structure deployment program and a manufacturing devel-
6 opment program, and any implementing regulations that
7 the Secretary considers necessary, to achieve the max-
8 imum practicable cost-effective program to provide grants
9 under this section.

10 (b) GRANTS.—The Secretary shall provide—

11 (1) grants of up to \$50,000 per unit to quali-
12 fied refuelers for the installation of natural gas re-
13 fueling property placed in service between 2011 and
14 2015; and

15 (2) grants in amounts determined to be appro-
16 priate by the Secretary to qualified manufacturers
17 for research, development, and demonstration
18 projects on engines with reduced emissions, im-
19 proved performance, and lower cost.

20 (c) COST SHARING.—Grants under this section shall
21 be subject to the cost-sharing requirements of section 988
22 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

23 (d) MONITORING.—The Secretary shall—

24 (1) require regular reporting of such informa-
25 tion as the Secretary considers necessary to effec-

1 tively administer the program from grant recipients
2 under this section; and

3 (2) conduct on-site and off-site monitoring to
4 ensure compliance with grant terms.

5 (e) FUNDING.—

6 (1) IN GENERAL.—On October 1, 2010, out of
7 any funds in the Treasury not otherwise appro-
8 priated, the Secretary of the Treasury shall transfer
9 to the Secretary to carry out this section
10 \$500,000,000, to remain available until expended.

11 (2) RECEIPT AND ACCEPTANCE.—The Sec-
12 retary shall be entitled to receive, shall accept, and
13 shall use to carry out this section the funds trans-
14 ferred under paragraph (1), without further appro-
15 priation.

16 **SEC. 2005. LOAN PROGRAM TO ENHANCE DOMESTIC MANU-**
17 **FACTURING.**

18 (a) INTERIM FINAL RULE.—Not later than 60 days
19 after the date of enactment of this Act, the Secretary shall
20 promulgate an interim final rule establishing a direct loan
21 program to provide loans to qualified manufacturers to
22 pay not more than 80 percent of the cost of reequipping,
23 expanding, or establishing a facility in the United States
24 that will be used for the purpose of producing any new

1 qualified alternative fuel motor vehicle or any eligible com-
2 ponent.

3 (b) OVERALL COMMITMENT LIMIT.—Commitments
4 for direct loans under this section shall not exceed
5 \$2,000,000,000 in total loan principal.

6 (c) COST OF DIRECT LOANS.—The cost of direct
7 loans under this section (including the cost of modifying
8 the loans) shall be determined in accordance with section
9 502 of the Federal Credit Reform Act of 1990 (2 U.S.C.
10 661a).

11 (d) ADDITIONAL FINANCIAL AND TECHNICAL PER-
12 SONNEL.—Section 621(d) of the Department of Energy
13 Organization Act (42 U.S.C. 7231(d)) is amended by
14 striking “two hundred” and inserting “250”.

15 (e) FUNDING.—

16 (1) IN GENERAL.—Notwithstanding any other
17 provision of law, on October 1, 2010, out of any
18 funds in the Treasury not otherwise appropriated,
19 the Secretary of the Treasury shall transfer to the
20 Secretary for the cost of loans to carry out this sec-
21 tion \$200,000,000, to remain available until ex-
22 pended.

23 (2) RECEIPT AND ACCEPTANCE.—The Sec-
24 retary shall be entitled to receive, shall accept, and
25 shall use to carry out this section the funds trans-

1 ferred under paragraph (1), without further appro-
2 priation.

3 **TITLE XXI—PROMOTING**
4 **ELECTRIC VEHICLES**

5 **SEC. 2101. SHORT TITLE.**

6 This title may be cited as the “Promoting Electric
7 Vehicles Act of 2010”.

8 **SEC. 2102. DEFINITIONS.**

9 In this title:

10 (1) **AGENCY.**—The term “agency” has the
11 meaning given the term “Executive agency” in sec-
12 tion 105 of title 5, United States Code.

13 (2) **CHARGING INFRASTRUCTURE.**—The term
14 “charging infrastructure” means any property (not
15 including a building) if the property is used for the
16 recharging of plug-in electric drive vehicles, includ-
17 ing electrical panel upgrades, wiring, conduit,
18 trenching, pedestals, and related equipment.

19 (3) **COMMITTEE.**—The term “Committee”
20 means the Plug-in Electric Drive Vehicle Technical
21 Advisory Committee established by section 2134.

22 (4) **DEPLOYMENT COMMUNITY.**—The term “de-
23 ployment community” means a community selected
24 by the Secretary to be part of the targeted plug-in

1 electric drive vehicles deployment communities pro-
2 gram under section 2116.

3 (5) ELECTRIC UTILITY.—The term “electric
4 utility” has the meaning given the term in section
5 3 of the Public Utility Regulatory Policies Act of
6 1978 (16 U.S.C. 2602).

7 (6) FEDERAL-AID SYSTEM OF HIGHWAYS.—The
8 term “Federal-aid system of highways” means a
9 highway system described in section 103 of title 23,
10 United States Code.

11 (7) PLUG-IN ELECTRIC DRIVE VEHICLE.—

12 (A) IN GENERAL.—The term “plug-in elec-
13 tric drive vehicle” has the meaning given the
14 term in section 131(a)(5) of the Energy Inde-
15 pendence and Security Act of 2007 (42 U.S.C.
16 17011(a)(5)).

17 (B) INCLUSIONS.—The term “plug-in elec-
18 tric drive vehicle” includes—

19 (i) low speed plug-in electric drive ve-
20 hicles that meet the Federal Motor Vehicle
21 Safety Standards described in section
22 571.500 of title 49, Code of Federal Regu-
23 lations (or successor regulations); and

24 (ii) any other electric drive motor ve-
25 hicle that can be recharged from an exter-

1 nal source of motive power and that is au-
2 thorized to travel on the Federal-aid sys-
3 tem of highways.

4 (8) PRIZE.—The term “Prize” means the Ad-
5 vanced Batteries for Tomorrow Prize established by
6 section 2122.

7 (9) SECRETARY.—The term “Secretary” means
8 the Secretary of Energy.

9 (10) TASK FORCE.—The term “Task Force”
10 means the Plug-in Electric Drive Vehicle Inter-
11 agency Task Force established by section 2135.

12 **Subtitle A—National Plug-in Elec-**
13 **tric Drive Vehicle Deployment**
14 **Program.**

15 **SEC. 2111. NATIONAL PLUG-IN ELECTRIC DRIVE VEHICLE**
16 **DEPLOYMENT PROGRAM.**

17 (a) IN GENERAL.—There is established within the
18 Department of Energy a national plug-in electric drive ve-
19 hicle deployment program for the purpose of assisting in
20 the deployment of plug-in electric drive vehicles.

21 (b) GOALS.—The goals of the national program de-
22 scribed in subsection (a) include—

23 (1) the reduction and displacement of petro-
24 leum use by accelerating the deployment of plug-in
25 electric drive vehicles in the United States;

1 (2) the reduction of greenhouse gas emissions
2 by accelerating the deployment of plug-in electric
3 drive vehicles in the United States;

4 (3) the facilitation of the rapid deployment of
5 plug-in electric drive vehicles;

6 (4) the achievement of significant market pene-
7 trations by plug-in electric drive vehicles nationally;

8 (5) the establishment of models for the rapid
9 deployment of plug-in electric drive vehicles nation-
10 ally, including models for the deployment of residen-
11 tial, private, and publicly available charging infra-
12 structure;

13 (6) the increase of consumer knowledge and ac-
14 ceptance of plug-in electric drive vehicles;

15 (7) the encouragement of the innovation and in-
16 vestment necessary to achieve mass market deploy-
17 ment of plug-in electric drive vehicles;

18 (8) the facilitation of the integration of plug-in
19 electric drive vehicles into electricity distribution sys-
20 tems and the larger electric grid while maintaining
21 grid system performance and reliability;

22 (9) the provision of technical assistance to com-
23 munities across the United States to prepare for
24 plug-in electric drive vehicles; and

1 (10) the support of workforce training across
2 the United States relating to plug-in electric drive
3 vehicles.

4 (c) DUTIES.—In carrying out this subtitle, the Sec-
5 retary shall—

6 (1) provide technical assistance to State, local,
7 and tribal governments that want to create deploy-
8 ment programs for plug-in electric drive vehicles in
9 the communities over which the governments have
10 jurisdiction;

11 (2) perform national assessments of the poten-
12 tial deployment of plug-in electric drive vehicles
13 under section 2112;

14 (3) synthesize and disseminate data from the
15 deployment of plug-in electric drive vehicles;

16 (4) develop best practices for the successful de-
17 ployment of plug-in electric drive vehicles;

18 (5) carry out workforce training under section
19 2114;

20 (6) establish the targeted plug-in electric drive
21 vehicle deployment communities program under sec-
22 tion 2116; and

23 (7) in conjunction with the Task Force, make
24 recommendations to Congress and the President on

1 methods to reduce the barriers to plug-in electric
2 drive vehicle deployment.

3 (d) REPORT.—Not later than 18 months after the
4 date of enactment of this Act and biennially thereafter,
5 the Secretary shall submit to the appropriate committees
6 of Congress a report on the progress made in imple-
7 menting the national program described in subsection (a)
8 that includes—

9 (1) a description of the progress made by—

10 (A) the technical assistance program under
11 section 2113; and

12 (B) the workforce training program under
13 section 2114; and

14 (2) any updated recommendations of the Sec-
15 retary for changes in Federal programs to promote
16 the purposes of this subtitle.

17 (e) NATIONAL INFORMATION CLEARINGHOUSE.—
18 The Secretary shall make available to the public, in a
19 timely manner, information regarding—

20 (1) the cost, performance, usage data, and tech-
21 nical data regarding plug-in electric drive vehicles
22 and associated infrastructure, including information
23 from the deployment communities established under
24 section 2116; and

1 (2) any other educational information that the
2 Secretary determines to be appropriate.

3 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated to carry out sections 2111
5 through 2113 \$100,000,000 for the period of fiscal years
6 2011 through 2016.

7 **SEC. 2112. NATIONAL ASSESSMENT AND PLAN.**

8 (a) IN GENERAL.—Not later than 2 years after the
9 date of enactment of this Act, the Secretary shall carry
10 out a national assessment and develop a national plan for
11 plug-in electric drive vehicle deployment that includes—

12 (1) an assessment of the maximum feasible de-
13 ployment of plug-in electric drive vehicles by 2020
14 and 2030;

15 (2) the establishment of national goals for mar-
16 ket penetration of plug-in electric drive vehicles by
17 2020 and 2030;

18 (3) a plan for integrating the successes and
19 barriers to deployment identified by the deployment
20 communities program established under section
21 2116 to prepare communities across the Nation for
22 the rapid deployment of plug-in electric drive vehi-
23 cles;

1 (4) a plan for providing technical assistance to
2 communities across the United States to prepare for
3 plug-in electric drive vehicle deployment;

4 (5) a plan for quantifying the reduction in pe-
5 troleum consumption and the net impact on green-
6 house gas emissions due to the deployment of plug-
7 in electric drive vehicles; and

8 (6) in consultation with the Task Force, any
9 recommendations to the President and to Congress
10 for changes in Federal programs (including laws,
11 regulations, and guidelines)—

12 (A) to better promote the deployment of
13 plug-in electric drive vehicles; and

14 (B) to reduce barriers to the deployment of
15 plug-in electric drive vehicles.

16 (b) UPDATES.—Not later than 2 years after the date
17 of development of the plan described in subsection (a), and
18 not less frequently than once every 2 years thereafter, the
19 Secretary shall use market data and information from the
20 targeted plug-in electric drive vehicle deployment commu-
21 nities program established under section 2116 and other
22 relevant data to update the plan to reflect real world mar-
23 ket conditions.

1 **SEC. 2113. TECHNICAL ASSISTANCE.**

2 (a) TECHNICAL ASSISTANCE TO STATE, LOCAL, AND
3 TRIBAL GOVERNMENTS.—

4 (1) IN GENERAL.—In carrying out this subtitle,
5 the Secretary shall provide, at the request of the
6 Governor, Mayor, county executive, or the designee
7 of such an official, technical assistance to State,
8 local, and tribal governments to assist with the de-
9 ployment of plug-in electric drive vehicles.

10 (2) REQUIREMENTS.—The technical assistance
11 described in paragraph (1) shall include—

12 (A) training on codes and standards for
13 building and safety inspectors;

14 (B) training on best practices for expe-
15 diting permits and inspections;

16 (C) education and outreach on frequently
17 asked questions relating to the various types of
18 plug-in electric drive vehicles and associated in-
19 frastructure, battery technology, and disposal;
20 and

21 (D) the dissemination of information re-
22 garding best practices for the deployment of
23 plug-in electric drive vehicles.

24 (3) PRIORITY.—In providing technical assist-
25 ance under this subsection, the Secretary shall give
26 priority to—

1 (A) communities that have established
2 public and private partnerships, including part-
3 nerships comprised of—

4 (i) elected and appointed officials
5 from each of the participating State, local,
6 and tribal governments;

7 (ii) relevant generators and distribu-
8 tors of electricity;

9 (iii) public utility commissions;

10 (iv) departments of public works and
11 transportation;

12 (v) owners and operators of property
13 that will be essential to the deployment of
14 a sufficient level of publicly available
15 charging infrastructure (including privately
16 owned parking lots or structures and com-
17 mercial entities with public access loca-
18 tions);

19 (vi) plug-in electric drive vehicle man-
20 ufacturers or retailers;

21 (vii) third-party providers of charging
22 infrastructure or services;

23 (viii) owners of any major fleet that
24 will participate in the program;

1 (ix) as appropriate, owners and opera-
2 tors of regional electric power distribution
3 and transmission facilities; and

4 (x) other existing community coali-
5 tions recognized by the Department of En-
6 ergy;

7 (B) communities that, as determined by
8 the Secretary, have best demonstrated that the
9 public is likely to embrace plug-in electric drive
10 vehicles, giving particular consideration to com-
11 munities that—

12 (i) have documented waiting lists to
13 purchase plug-in electric drive vehicles;

14 (ii) have developed projections of the
15 quantity of plug-in electric drive vehicles
16 supplied to dealers; and

17 (iii) have assessed the quantity of
18 charging infrastructure installed or for
19 which permits have been issued;

20 (C) communities that have shown a com-
21 mitment to serving diverse consumer charging
22 infrastructure needs, including the charging in-
23 frastructure needs for single- and multi-family
24 housing and public and privately owned com-
25 mercial infrastructure; and

1 (D) communities that have established reg-
2 ulatory and educational efforts to facilitate con-
3 sumer acceptance of plug-in electric drive vehi-
4 cles, including by—

5 (i) adopting (or being in the process
6 of adopting) streamlined permitting and
7 inspections processes for residential charg-
8 ing infrastructure; and

9 (ii) providing customer informational
10 resources, including providing plug-in elec-
11 tric drive information on community or
12 other websites.

13 (4) BEST PRACTICES.—The Secretary shall col-
14 lect and disseminate information to State, local, and
15 tribal governments creating plans to deploy plug-in
16 electric drive vehicles on best practices (including
17 codes and standards) that uses data from—

18 (A) the program established by section
19 2116;

20 (B) the activities carried out by the Task
21 Force; and

22 (C) existing academic and industry studies
23 of the factors that contribute to the successful
24 deployment of new technologies, particularly
25 studies relating to alternative fueled vehicles.

1 (5) GRANTS.—

2 (A) IN GENERAL.—The Secretary shall es-
3 tablish a program to provide grants to State,
4 local, and tribal governments or to partnerships
5 of government and private entities to assist the
6 governments and partnerships—

7 (i) in preparing a community deploy-
8 ment plan under section 2116; and

9 (ii) in preparing and implementing
10 programs that support the deployment of
11 plug-in electric drive vehicles.

12 (B) APPLICATION.—A State, local, or trib-
13 al government that seeks to receive a grant
14 under this paragraph shall submit to the Sec-
15 retary an application for the grant at such
16 time, in such form, and containing such infor-
17 mation as the Secretary may prescribe.

18 (C) USE OF FUNDS.—A State, local, or
19 tribal government receiving a grant under this
20 paragraph shall use the funds—

21 (i) to develop a community deploy-
22 ment plan that shall be submitted to the
23 next available competition under section
24 2116; and

1 (ii) to carry out activities that encour-
2 age the deployment of plug-in electric drive
3 vehicles including—

4 (I) planning for and installing
5 charging infrastructure, particularly
6 to develop and demonstrate diverse
7 and cost-effective planning, installa-
8 tion, and operations options for de-
9 ployment of single family and multi-
10 family residential, workplace, and
11 publicly available charging infrastruc-
12 ture;

13 (II) updating building, zoning, or
14 parking codes and permitting or in-
15 spection processes;

16 (III) workforce training, includ-
17 ing the training of permitting offi-
18 cials;

19 (IV) public education described
20 in the proposed marketing plan;

21 (V) shifting State, local, or tribal
22 government fleets to plug-in electric
23 drive vehicles, at a rate in excess of
24 the existing alternative fueled fleet ve-
25 hicles acquisition requirements for

1 Federal fleets under section
2 303(b)(1)(D) of the Energy Policy
3 Act of 1992 (42 U.S.C.
4 13212(b)(1)(D)); and

5 (VI) any other activities, as de-
6 termined to be necessary by the Sec-
7 retary.

8 (D) CRITERIA.—The Secretary shall de-
9 velop and publish criteria for the selection of
10 technical assistance grants, including require-
11 ments for the submission of applications under
12 this paragraph.

13 (E) AUTHORIZATION OF APPROPRIA-
14 TIONS.—There are authorized to be appro-
15 priated such sums as are necessary to carry out
16 this paragraph.

17 (b) UPDATING MODEL BUILDING CODES, PERMIT-
18 TING AND INSPECTION PROCESSES, AND ZONING OR
19 PARKING RULES.—

20 (1) IN GENERAL.—Not later than 1 year after
21 the date of enactment of this Act, the Secretary, in
22 consultation with the American Society of Heating,
23 Refrigerating and Air-Conditioning Engineers, the
24 International Code Council, and any other organiza-

1 tions that the Secretary determines to be appro-
2 priate, shall develop and publish guidance for—

3 (A) model building codes for the inclusion
4 of separate circuits for charging infrastructure,
5 as appropriate, in new construction and major
6 renovations of private residences, buildings, or
7 other structures that could provide publicly
8 available charging infrastructure;

9 (B) model construction permitting or in-
10 spection processes that allow for the expedited
11 installation of charging infrastructure for pur-
12 chasers of plug-in electric drive vehicles (includ-
13 ing a permitting process that allows a vehicle
14 purchaser to have charging infrastructure in-
15 stalled not later than 1 week after a request);
16 and

17 (C) model zoning, parking rules, or other
18 local ordinances that—

19 (i) facilitate the installation of pub-
20 licly available charging infrastructure, in-
21 cluding commercial entities that provide
22 public access to infrastructure; and

23 (ii) allow for access to publicly avail-
24 able charging infrastructure.

1 (2) OPTIONAL ADOPTION.—An applicant for se-
2 lection for technical assistance under this section or
3 as a deployment community under section 2116
4 shall not be required to use the model building
5 codes, permitting and inspection processes, or zon-
6 ing, parking rules, or other ordinances included in
7 the report under paragraph (1).

8 (3) SMART GRID INTEGRATION.—In developing
9 the model codes or ordinances described in para-
10 graph (1), the Secretary shall consider smart grid
11 integration.

12 **SEC. 2114. WORKFORCE TRAINING.**

13 (a) MAINTENANCE AND SUPPORT.—

14 (1) IN GENERAL.—The Secretary, in consulta-
15 tion with the Committee and the Task Force, shall
16 award grants to institutions of higher education and
17 other qualified training and education institutions
18 for the establishment of programs to provide train-
19 ing and education for vocational workforce develop-
20 ment through centers of excellence.

21 (2) PURPOSE.—Training funded under this
22 subsection shall be intended to ensure that the work-
23 force has the necessary skills needed to work on and
24 maintain plug-in electric drive vehicles and the infra-

1 structure required to support plug-in electric drive
2 vehicles.

3 (3) SCOPE.—Training funded under this sub-
4 section shall include training for—

5 (A) first responders;

6 (B) electricians and contractors who will
7 be installing infrastructure;

8 (C) engineers;

9 (D) code inspection officials; and

10 (E) dealers and mechanics.

11 (b) DESIGN.—The Secretary shall award grants to
12 institutions of higher education and other qualified train-
13 ing and education institutions for the establishment of
14 programs to provide training and education in designing
15 plug-in electric drive vehicles and associated components
16 and infrastructure to ensure that the United States can
17 lead the world in this field.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to carry out this section
20 \$150,000,000.

21 **SEC. 2115. FEDERAL FLEETS.**

22 (a) IN GENERAL.—Electricity consumed by Federal
23 agencies to fuel plug-in electric drive vehicles—

1 (1) is an alternative fuel (as defined in section
2 301 of the Energy Policy Act of 1992 (42 U.S.C.
3 13218)); and

4 (2) shall be accounted for under Federal fleet
5 management reporting requirements, not under Fed-
6 eral building management reporting requirements.

7 (b) ASSESSMENT AND REPORT.—Not later than 180
8 days after the date of enactment of this Act and every
9 3 years thereafter, the Federal Energy Management Pro-
10 gram and the General Services Administration, in con-
11 sultation with the Task Force, shall complete an assess-
12 ment of Federal Government fleets, including the Postal
13 Service and the Department of Defense, and submit a re-
14 port to Congress that describes—

15 (1) for each Federal agency, which types of ve-
16 hicles the agency uses that would or would not be
17 suitable for near-term and medium-term conversion
18 to plug-in electric drive vehicles, taking into account
19 the types of vehicles for which plug-in electric drive
20 vehicles could provide comparable functionality and
21 lifecycle costs;

22 (2) how many plug-in electric drive vehicles
23 could be deployed by the Federal Government in 5
24 years and in 10 years, assuming that plug-in electric
25 drive vehicles are available and are purchased when

1 new vehicles are needed or existing vehicles are re-
2 placed;

3 (3) the estimated cost to the Federal Govern-
4 ment for vehicle purchases under paragraph (2); and

5 (4) a description of any updates to the assess-
6 ment based on new market data.

7 (c) INVENTORY AND DATA COLLECTION.—

8 (1) IN GENERAL.—In carrying out the assess-
9 ment and report under subsection (b), the Federal
10 Energy Management Program, in consultation with
11 the General Services Administration, shall—

12 (A) develop an information request for
13 each agency that operates a fleet of at least 20
14 motor vehicles; and

15 (B) establish guidelines for each agency to
16 use in developing a plan to deploy plug-in elec-
17 tric drive vehicles.

18 (2) AGENCY RESPONSES.—Each agency that
19 operates a fleet of at least 20 motor vehicles shall—

20 (A) collect information on the vehicle fleet
21 of the agency in response to the information re-
22 quest described in paragraph (1); and

23 (B) develop a plan to deploy plug-in elec-
24 tric drive vehicles.

1 (3) ANALYSIS OF RESPONSES.—The Federal
2 Energy Management Program shall—

3 (A) analyze the information submitted by
4 each agency under paragraph (2);

5 (B) approve or suggest amendments to the
6 plan of each agency to ensure that the plan is
7 consistent with the goals and requirements of
8 this title; and

9 (C) submit a plan to Congress and the
10 General Services Administration to be used in
11 developing the pilot program described in sub-
12 section (e).

13 (d) BUDGET REQUEST.—Each agency of the Federal
14 Government shall include plug-in electric drive vehicle pur-
15 chases identified in the report under subsection (b) in the
16 budget of the agency to be included in the budget of the
17 United States Government submitted by the President
18 under section 1105 of title 31, United States Code.

19 (e) PILOT PROGRAM TO DEPLOY PLUG-IN ELECTRIC
20 DRIVE VEHICLES IN THE FEDERAL FLEET.—

21 (1) PROGRAM.—

22 (A) IN GENERAL.—The Administrator of
23 General Services shall acquire plug-in electric
24 drive vehicles and the requisite charging infra-
25 structure to be deployed in a range of locations

1 in Federal Government fleets, which may in-
2 clude the United States Postal Service and the
3 Department of Defense, during the 5-year pe-
4 riod beginning on the date of enactment of this
5 Act.

6 (B) EXPENDITURES.—To the maximum
7 extent practicable, expenditures under this
8 paragraph should make a contribution to the
9 advancement of manufacturing of electric drive
10 components and vehicles in the United States.

11 (2) DATA COLLECTION.—The Administrator of
12 General Services shall collect data regarding—

13 (A) the cost, performance, and use of plug-
14 in electric drive vehicles in the Federal fleet;

15 (B) the deployment and integration of
16 plug-in electric drive vehicles in the Federal
17 fleet; and

18 (C) the contribution of plug-in electric
19 drive vehicles in the Federal fleet toward reduc-
20 ing the use of fossil fuels and greenhouse gas
21 emissions.

22 (3) REPORT.—Not later than 6 years after the
23 date of enactment of this Act, the Administrator of
24 General Services shall submit to the appropriate
25 committees of Congress a report that—

1 (A) describes the status of plug-in electric
2 drive vehicles in the Federal fleet; and

3 (B) includes an analysis of the data col-
4 lected under this subsection.

5 (4) PUBLIC WEB SITE.—The Federal Energy
6 Management Program shall maintain and regularly
7 update a publicly available Web site that provides in-
8 formation on the status of plug-in electric drive vehi-
9 cles in the Federal fleet.

10 (f) ACQUISITION PRIORITY.—Section 507(g) of the
11 Energy Policy Act of 1992 (42 U.S.C. 13257(g)) is
12 amended by adding at the end the following:

13 “(5) PRIORITY.—The Secretary shall, to the
14 maximum extent practicable, prioritize the acquisi-
15 tion of plug-in electric drive vehicles (as defined in
16 section 131(a) of the Energy Independence and Se-
17 curity Act of 2007 (42 U.S.C. 17011(a)) over non-
18 electric alternative fueled vehicles.”.

19 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated for use by the Federal Gov-
21 ernment in paying incremental costs to purchase or lease
22 plug-in electric drive vehicles and the requisite charging
23 infrastructure for Federal fleets \$25,000,000.

1 **SEC. 2116. TARGETED PLUG-IN ELECTRIC DRIVE VEHICLE**
2 **DEPLOYMENT COMMUNITIES PROGRAM.**

3 (a) ESTABLISHMENT.—

4 (1) IN GENERAL.—There is established within
5 the national plug-in electric drive deployment pro-
6 gram established under section 2111 a targeted
7 plug-in electric drive vehicle deployment communities
8 program (referred to in this section as the “Pro-
9 gram”).

10 (2) EXISTING ACTIVITIES.—In carrying out the
11 Program, the Secretary shall coordinate and supple-
12 ment, not supplant, any ongoing plug-in electric
13 drive deployment activities under section 131 of the
14 Energy Independence and Security Act of 2007 (42
15 U.S.C. 17011).

16 (3) PHASE 1.—

17 (A) IN GENERAL.—The Secretary shall es-
18 tablish a competitive process to select phase 1
19 deployment communities for the Program.

20 (B) ELIGIBLE ENTITIES.—In selecting
21 participants for the Program under paragraph
22 (1), the Secretary shall only consider applica-
23 tions submitted by State, tribal, or local govern-
24 ment entities (or groups of State, tribal, or
25 local government entities).

1 (C) SELECTION.—Not later than 1 year
2 after the date of enactment of this Act and not
3 later than 1 year after the date on which any
4 subsequent amounts are appropriated for the
5 Program, the Secretary shall select the phase 1
6 deployment communities under this paragraph.

7 (D) TERMINATION.—Phase 1 of the Pro-
8 gram shall be carried out for a 3-year period
9 beginning on the date funding under this title
10 is first provided to the deployment community.

11 (4) PHASE 2.—Not later than 3 years after the
12 date of enactment of this Act, the Secretary shall
13 submit to Congress a report that analyzes the les-
14 sons learned in phase I and, if, based on the phase
15 I analysis, the Secretary determines that a phase II
16 program is warranted, makes recommendations and
17 describes a plan for phase II, including—

18 (A) recommendations regarding—

19 (i) options for the number of addi-
20 tional deployment communities that should
21 be selected;

22 (ii) the manner in which criteria for
23 selection should be updated;

1 (iii) the manner in which incentive
2 structures for phase 2 deployment should
3 be changed; and

4 (iv) whether other forms of onboard
5 energy storage for electric drive vehicles,
6 such as fuel cells, should be included in
7 phase 2; and

8 (B) a request for appropriations to imple-
9 ment phase 2 of the Program.

10 (b) GOALS.—The goals of the Program are—

11 (1) to facilitate the rapid deployment of plug-
12 in electric drive vehicles, including—

13 (A) the deployment of 400,000 plug-in
14 electric drive vehicles in phase 1 in the deploy-
15 ment communities selected under paragraph
16 (2);

17 (B) the near-term achievement of signifi-
18 cant market penetration in deployment commu-
19 nities; and

20 (C) supporting the achievement of signifi-
21 cant market penetration nationally;

22 (2) to establish models for the rapid deployment
23 of plug-in electric drive vehicles nationally, including
24 for the deployment of single-family and multifamily

1 residential, workplace, and publicly available charg-
2 ing infrastructure;

3 (3) to increase consumer knowledge and accept-
4 ance of, and exposure to, plug-in electric drive vehi-
5 cles;

6 (4) to encourage the innovation and investment
7 necessary to achieve mass market deployment of
8 plug-in electric drive vehicles;

9 (5) to demonstrate the integration of plug-in
10 electric drive vehicles into electricity distribution sys-
11 tems and the larger electric grid while maintaining
12 or improving grid system performance and reli-
13 ability;

14 (6) to demonstrate protocols and communica-
15 tion standards that facilitate vehicle integration into
16 the grid and provide seamless charging for con-
17 sumers traveling through multiple utility distribution
18 systems;

19 (7) to investigate differences among deployment
20 communities and to develop best practices for imple-
21 menting vehicle electrification in various commu-
22 nities, including best practices for planning for and
23 facilitating the construction of residential, work-
24 place, and publicly available infrastructure to sup-
25 port plug-in electric drive vehicles;

1 (8) to collect comprehensive data on the pur-
2 chase and use of plug-in electric drive vehicles, in-
3 cluding charging profile data at unit and aggregate
4 levels, to inform best practices for rapidly deploying
5 plug-in electric drive vehicles in other locations, in-
6 cluding for the installation of charging infrastruc-
7 ture;

8 (9) to reduce and displace petroleum use and
9 reduce greenhouse gas emissions by accelerating the
10 deployment of plug-in electric drive vehicles in the
11 United States; and

12 (10) to increase domestic manufacturing capac-
13 ity and commercialization in a manner that will es-
14 tablish the United States as a world leader in plug-
15 in electric drive vehicle technologies.

16 (c) PHASE 1 DEPLOYMENT COMMUNITY SELECTION
17 CRITERIA.—

18 (1) IN GENERAL.—The Secretary shall ensure,
19 to the maximum extent practicable, that selected de-
20 ployment communities in phase 1 serve as models of
21 deployment for various communities across the
22 United States.

23 (2) SELECTION.—In selecting communities
24 under this section, the Secretary—

1 (A) shall ensure, to the maximum extent
2 practicable, that—

3 (i) the combination of selected com-
4 munities is diverse in population density,
5 demographics, urban and suburban com-
6 position, typical commuting patterns, cli-
7 mate, and type of utility (including inves-
8 tor-owned, publicly-owned, cooperatively-
9 owned, distribution-only, and vertically in-
10 tegrated utilities);

11 (ii) the combination of selected com-
12 munities is diverse in geographic distribu-
13 tion, and at least 1 deployment community
14 is located in each Petroleum Administra-
15 tion for Defense District;

16 (iii) at least 1 community selected has
17 a population of less than 125,000;

18 (iv) grants are of a sufficient amount
19 such that each deployment community will
20 achieve significant market penetration; and

21 (v) the deployment communities are
22 representative of other communities across
23 the United States;

24 (B) is encouraged to select a combination
25 of deployment communities that includes mul-

1 multiple models or approaches for deploying plug-
2 in electric drive vehicles that the Secretary be-
3 lieves are reasonably likely to be effective, in-
4 cluding multiple approaches to the deployment
5 of charging infrastructure;

6 (C) in addition to the criteria described in
7 subparagraph (A), may give preference to appli-
8 cants proposing a greater non-Federal cost
9 share; and

10 (D) when considering deployment commu-
11 nity plans, shall take into account previous De-
12 partment of Energy and other Federal invest-
13 ments to ensure that the maximum domestic
14 benefit from Federal investments is realized.

15 (3) CRITERIA.—

16 (A) IN GENERAL.—Not later than 120
17 days after the date of enactment of this Act,
18 and not later than 90 days after the date on
19 which any subsequent amounts are appro-
20 priated for the Program, the Secretary shall
21 publish criteria for the selection of deployment
22 communities that include requirements that ap-
23 plications be submitted by a State, tribal, or
24 local government entity (or groups of State,
25 tribal, or local government entities).

1 (B) APPLICATION REQUIREMENTS.—The
2 criteria published by the Secretary under sub-
3 paragraph (A) shall include application require-
4 ments that, at a minimum, include—

5 (i) goals for—

6 (I) the number of plug-in electric
7 drive vehicles to be deployed in the
8 community;

9 (II) the expected percentage of
10 light-duty vehicle sales that would be
11 sales of plug-in electric drive vehicles;
12 and

13 (III) the adoption of plug-in elec-
14 tric drive vehicles (including medium-
15 or heavy-duty vehicles) in private and
16 public fleets during the 3-year dura-
17 tion of the Program;

18 (ii) data that demonstrate that—

19 (I) the public is likely to embrace
20 plug-in electric drive vehicles, which
21 may include—

22 (aa) the quantity of plug-in
23 electric drive vehicles purchased;

- 1 (bb) the number of individ-
2 uals on a waiting list to purchase
3 a plug-in electric drive vehicle;
- 4 (cc) projections of the quan-
5 tity of plug-in electric drive vehi-
6 cles supplied to dealers; and
- 7 (dd) any assessment of the
8 quantity of charging infrastruc-
9 ture installed or for which per-
10 mits have been issued; and
- 11 (II) automobile manufacturers
12 and dealers will be able to provide and
13 service the targeted number of plug-in
14 electric drive vehicles in the commu-
15 nity for the duration of the program;
- 16 (iii) clearly defined geographic bound-
17 aries of the proposed deployment area;
- 18 (iv) a community deployment plan for
19 the deployment of plug-in electric drive ve-
20 hicles, charging infrastructure, and serv-
21 ices in the deployment community;
- 22 (v) assurances that a majority of the
23 vehicle deployments anticipated in the plan
24 will be personal vehicles authorized to trav-
25 el on the United States Federal-aid system

1 of highways, and secondarily, private or
2 public sector plug-in electric drive fleet ve-
3 hicles, but may also include—

4 (I) medium- and heavy-duty
5 plug-in hybrid vehicles;

6 (II) low speed plug-in electric
7 drive vehicles that meet Federal
8 Motor Vehicle Safety Standards de-
9 scribed in section 571.500 of title 49,
10 Code of Federal Regulations; and

11 (III) any other plug-in electric
12 drive vehicle authorized to travel on
13 the United States Federal-aid system
14 of highways; and

15 (vi) any other merit-based criteria, as
16 determined by the Secretary.

17 (4) COMMUNITY DEPLOYMENT PLANS.—Plans
18 for the deployment of plug-in electric drive vehicles
19 shall include—

20 (A) a proposed level of cost sharing in ac-
21 cordance with subsection (d)(2)(C);

22 (B) documentation demonstrating a sub-
23 stantial partnership with relevant stakeholders,
24 including—

1 (i) a list of stakeholders that in-
2 cludes—

3 (I) elected and appointed officials
4 from each of the participating State,
5 local, and tribal governments;

6 (II) all relevant generators and
7 distributors of electricity;

8 (III) State utility regulatory au-
9 thorities;

10 (IV) departments of public works
11 and transportation;

12 (V) owners and operators of
13 property that will be essential to the
14 deployment of a sufficient level of
15 publicly available charging infrastruc-
16 ture (including privately owned park-
17 ing lots or structures and commercial
18 entities with public access locations);

19 (VI) plug-in electric drive vehicle
20 manufacturers or retailers;

21 (VII) third-party providers of
22 residential, workplace, private, and
23 publicly available charging infrastruc-
24 ture or services;

- 1 (VIII) owners of any major fleet
2 that will participate in the program;
- 3 (IX) as appropriate, owners and
4 operators of regional electric power
5 distribution and transmission facili-
6 ties; and
- 7 (X) as appropriate, other existing
8 community coalitions recognized by
9 the Department of Energy;
- 10 (ii) evidence of the commitment of the
11 stakeholders to participate in the partner-
12 ship;
- 13 (iii) a clear description of the role and
14 responsibilities of each stakeholder; and
- 15 (iv) a plan for continuing the engage-
16 ment and participation of the stakeholders,
17 as appropriate, throughout the implemen-
18 tation of the deployment plan;
- 19 (C) a description of the number of plug-in
20 electric drive vehicles anticipated to be plug-in
21 electric drive personal vehicles and the number
22 of plug-in electric drive vehicles anticipated to
23 be privately owned fleet or public fleet vehicles;

1 (D) a plan for deploying residential, work-
2 place, private, and publicly available charging
3 infrastructure, including—

4 (i) an assessment of the number of
5 consumers who will have access to private
6 residential charging infrastructure in sin-
7 gle-family or multifamily residences;

8 (ii) options for accommodating plug-in
9 electric drive vehicle owners who are not
10 able to charge vehicles at their place of
11 residence;

12 (iii) an assessment of the number of
13 consumers who will have access to work-
14 place charging infrastructure;

15 (iv) a plan for ensuring that the
16 charging infrastructure or plug-in electric
17 drive vehicle be able to send and receive
18 the information needed to interact with the
19 grid and be compatible with smart grid
20 technologies to the extent feasible;

21 (v) an estimate of the number and
22 dispersion of publicly and privately owned
23 charging stations that will be publicly or
24 commercially available;

1 (vi) an estimate of the quantity of
2 charging infrastructure that will be pri-
3 vately funded or located on private prop-
4 erty; and

5 (vii) a description of equipment to be
6 deployed, including assurances that, to the
7 maximum extent practicable, equipment to
8 be deployed will meet open, nonproprietary
9 standards for connecting to plug-in electric
10 drive vehicles that are either—

11 (I) commonly accepted by indus-
12 try at the time the equipment is being
13 acquired; or

14 (II) meet the standards developed
15 by the Director of the National Insti-
16 tute of Standards and Technology
17 under section 1305 of the Energy
18 Independence and Security Act of
19 2007 (42 U.S.C. 17385);

20 (E) a plan for effective marketing of and
21 consumer education relating to plug-in electric
22 drive vehicles, charging services, and infrastruc-
23 ture;

24 (F) descriptions of updated building codes
25 (or a plan to update building codes before or

1 during the grant period) to include charging in-
2 frastructure or dedicated circuits for charging
3 infrastructure, as appropriate, in new construc-
4 tion and major renovations;

5 (G) descriptions of updated construction
6 permitting or inspection processes (or a plan to
7 update construction permitting or inspection
8 processes) to allow for expedited installation of
9 charging infrastructure for purchasers of plug-
10 in electric drive vehicles, including a permitting
11 process that allows a vehicle purchaser to have
12 charging infrastructure installed in a timely
13 manner;

14 (H) descriptions of updated zoning, park-
15 ing rules, or other local ordinances as are nec-
16 essary to facilitate the installation of publicly
17 available charging infrastructure and to allow
18 for access to publicly available charging infra-
19 structure, as appropriate;

20 (I) a plan to ensure that each resident in
21 a deployment community who purchases and
22 registers a new plug-in electric drive vehicle
23 throughout the duration of the deployment com-
24 munity receives, in addition to any Federal in-
25 centives, consumer benefits that may include—

- 1 (i) a rebate of part of the purchase
2 price of the vehicle;
- 3 (ii) reductions in sales taxes or reg-
4 istration fees;
- 5 (iii) rebates or reductions in the costs
6 of permitting, purchasing, or installing
7 home plug-in electric drive vehicle charging
8 infrastructure; and
- 9 (iv) rebates or reductions in State or
10 local toll road access charges;
- 11 (J) additional consumer benefits, such as
12 preferred parking spaces or single-rider access
13 to high-occupancy vehicle lanes for plug-in elec-
14 tric drive vehicles;
- 15 (K) a proposed plan for making necessary
16 utility and grid upgrades, including economi-
17 cally sound and cybersecure information tech-
18 nology upgrades and employee training, and a
19 plan for recovering the cost of the upgrades;
- 20 (L) a description of utility, grid operator,
21 or third-party charging service provider, policies
22 and plans for accommodating the deployment of
23 plug-in electric drive vehicles, including—

- 1 (i) rate structures or provisions and
2 billing protocols for the charging of plug-
3 in electric drive vehicles;
- 4 (ii) analysis of potential impacts to
5 the grid;
- 6 (iii) plans for using information tech-
7 nology or third-party aggregators—
- 8 (I) to minimize the effects of
9 charging on peak loads;
- 10 (II) to enhance reliability; and
11 (III) to provide other grid bene-
12 fits;
- 13 (iv) plans for working with smart grid
14 technologies or third-party aggregators for
15 the purposes of smart charging and for al-
16 lowing 2-way communication;
- 17 (M) a deployment timeline;
- 18 (N) a plan for monitoring and evaluating
19 the implementation of the plan, including
20 metrics for assessing the success of the deploy-
21 ment and an approach to updating the plan, as
22 appropriate; and
- 23 (O) a description of the manner in which
24 any grant funds applied for under subsection

1 (d) will be used and the proposed local cost
2 share for the funds.

3 (d) PHASE 1 APPLICATIONS AND GRANTS.—

4 (1) APPLICATIONS.—

5 (A) IN GENERAL.—Not later than 150
6 days after the date of publication by the Sec-
7 retary of selection criteria described in sub-
8 section (c)(3), any State, tribal, or local govern-
9 ment, or group of State, tribal, or local govern-
10 ments may apply to the Secretary to become a
11 deployment community.

12 (B) JOINT SPONSORSHIP.—

13 (i) IN GENERAL.—An application sub-
14 mitted under subparagraph (A) may be
15 jointly sponsored by electric utilities, auto-
16 mobile manufacturers, technology pro-
17 viders, carsharing companies or organiza-
18 tions, third-party plug-in electric drive ve-
19 hicle service providers, or other appro-
20 priated entities.

21 (ii) DISBURSEMENT OF GRANTS.—A
22 grant provided under this subsection shall
23 only be disbursed to a State, tribal, or
24 local government, or group of State, tribal,
25 or local governments, regardless of whether

1 the application is jointly sponsored under
2 clause (i).

3 (2) GRANTS.—

4 (A) IN GENERAL.—In each application, the
5 applicant may request up to \$100,000,000 in fi-
6 nancial assistance from the Secretary to fund
7 projects in the deployment community.

8 (B) USE OF FUNDS.—Funds provided
9 through a grant under this paragraph may be
10 used to help implement the plan for the deploy-
11 ment of plug-in electric drive vehicles included
12 in the application, including—

13 (i) planning for and installing charg-
14 ing infrastructure, including offering addi-
15 tional incentives as described in subsection
16 (c)(4)(I);

17 (ii) updating building codes, zoning or
18 parking rules, or permitting or inspection
19 processes as described in subparagraphs
20 (F), (G), and (H) of subsection (c)(4);

21 (iii) reducing the cost and increasing
22 the consumer adoption of plug-in electric
23 drive vehicles through incentives as de-
24 scribed in subsection (c)(4)(I);

1 (iv) workforce training, including
2 training of permitting officials;

3 (v) public education and marketing
4 described in the proposed marketing plan;

5 (vi) shifting State, tribal, or local gov-
6 ernment fleets to plug-in electric drive ve-
7 hicles, at a rate in excess of the existing al-
8 ternative fueled fleet vehicle acquisition re-
9 quirements for Federal fleets under section
10 303(b)(1)(D) of the Energy Policy Act of
11 1992 (42 U.S.C. 13212(b)(1)(D)); and

12 (vii) necessary utility and grid up-
13 grades as described in subsection
14 (c)(4)(K).

15 (C) COST-SHARING.—

16 (i) IN GENERAL.—A grant provided
17 under this paragraph shall be subject to a
18 minimum non-Federal cost-sharing re-
19 quirement of 20 percent.

20 (ii) NON-FEDERAL SOURCES.—The
21 Secretary shall—

22 (I) determine the appropriate
23 cost share for each selected applicant;
24 and

1 (II) require that the Federal con-
2 tribution to total expenditures on ac-
3 tivities described in clauses (ii), (iv),
4 (v), and (vi) of subparagraph (B) not
5 exceed 30 percent.

6 (iii) REDUCTION.—The Secretary may
7 reduce or eliminate the cost-sharing re-
8 quirement described in clause (i), as the
9 Secretary determines to be necessary.

10 (iv) CALCULATION OF AMOUNT.—In
11 calculating the amount of the non-Federal
12 share under this section, the Secretary—

13 (I) may include allowable costs in
14 accordance with the applicable cost
15 principles, including—

16 (aa) cash;

17 (bb) personnel costs;

18 (cc) the value of a service,
19 other resource, or third party in-
20 kind contribution determined in
21 accordance with the applicable
22 circular of the Office of Manage-
23 ment and Budget;

24 (dd) indirect costs or facili-
25 ties and administrative costs; or

1 (ee) any funds received
2 under the power program of the
3 Tennessee Valley Authority or
4 any Power Marketing Adminis-
5 tration (except to the extent that
6 such funds are made available
7 under an annual appropriation
8 Act);

9 (II) shall include contributions
10 made by State, tribal, or local govern-
11 ment entities and private entities; and

12 (III) shall not include—

13 (aa) revenues or royalties
14 from the prospective operation of
15 an activity beyond the time con-
16 sidered in the grant;

17 (bb) proceeds from the pro-
18 spective sale of an asset of an ac-
19 tivity; or

20 (cc) other appropriated Fed-
21 eral funds.

22 (v) REPAYMENT OF FEDERAL
23 SHARE.—The Secretary shall not require
24 repayment of the Federal share of a cost-

1 shared activity under this section as a con-
2 dition of providing a grant.

3 (vi) TITLE TO PROPERTY.—The Sec-
4 retary may vest title or other property in-
5 terests acquired under projects funded
6 under this title in any entity, including the
7 United States.

8 (3) SELECTION.—Not later than 120 days after
9 an application deadline has been established under
10 paragraph (1), the Secretary shall announce the
11 names of the deployment communities selected under
12 this subsection.

13 (e) REPORTING REQUIREMENTS.—

14 (1) IN GENERAL.—The Secretary, in consulta-
15 tion with the Committee, shall—

16 (A) determine what data will be required
17 to be collected by participants in deployment
18 communities and submitted to the Department
19 to allow for analysis of the deployment commu-
20 nities;

21 (B) provide for the protection of consumer
22 privacy, as appropriate; and

23 (C) develop metrics to evaluate the per-
24 formance of the deployment communities.

1 (2) PROVISION OF DATA.—As a condition of
2 participation in the Program, a deployment commu-
3 nity shall provide any data identified by the Sec-
4 retary under paragraph (1).

5 (3) REPORTS.—Not later than 3 years after the
6 date of enactment of this Act and again after the
7 completion of the Program, the Secretary shall sub-
8 mit to Congress a report that contains—

9 (A) a description of the status of—

10 (i) the deployment communities and
11 the implementation of the deployment plan
12 of each deployment community;

13 (ii) the rate of vehicle deployment and
14 market penetration of plug-in electric drive
15 vehicles; and

16 (iii) the deployment of residential and
17 publicly available infrastructure;

18 (B) a description of the challenges experi-
19 enced and lessons learned from the program to
20 date, including the activities described in sub-
21 paragraph (A); and

22 (C) an analysis of the data collected under
23 this subsection.

1 (f) PROPRIETARY INFORMATION.—The Secretary
2 shall, as appropriate, provide for the protection of propri-
3 etary information and intellectual property rights.

4 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
5 authorized to be appropriated to carry out this section
6 \$2,000,000,000.

7 (h) CONFORMING AMENDMENT.—Section 166(b)(5)
8 of title 23, United States Code, is amended—

9 (1) in subparagraph (A), by striking “Before
10 September 30, 2009, the State” and inserting “The
11 State”; and

12 (2) in subparagraph (B), by striking “Before
13 September 30, 2009, the State” and inserting “The
14 State”.

15 **SEC. 2117. FUNDING.**

16 (a) TARGETED PLUG-IN ELECTRIC DRIVE VEHICLE
17 DEPLOYMENT COMMUNITIES PROGRAM.—

18 (1) IN GENERAL.—On October 1, 2010, out of
19 any funds in the Treasury not otherwise appro-
20 priated, the Secretary of the Treasury shall transfer
21 to the Secretary to carry out section 2116
22 \$400,000,000, to remain available until expended.

23 (2) RECEIPT AND ACCEPTANCE.—The Sec-
24 retary shall be entitled to receive, shall accept, and
25 shall use to carry out section 2116 the funds trans-

1 ferred under paragraph (1), without further appro-
2 priation.

3 (b) OTHER PROVISIONS.—

4 (1) IN GENERAL.—On October 1, 2010, out of
5 any funds in the Treasury not otherwise appro-
6 priated, the Secretary of the Treasury shall transfer
7 to the Secretary to carry out this subtitle (other
8 than section 2116) \$100,000,000, to remain avail-
9 able until expended.

10 (2) RECEIPT AND ACCEPTANCE.—The Sec-
11 retary shall be entitled to receive, shall accept, and
12 shall use to carry out this subtitle (other than sec-
13 tion 2116) the funds transferred under paragraph
14 (1), without further appropriation.

15 **Subtitle B—Research and** 16 **Development**

17 **SEC. 2121. RESEARCH AND DEVELOPMENT PROGRAM.**

18 (a) RESEARCH AND DEVELOPMENT PROGRAM.—

19 (1) IN GENERAL.—The Secretary, in consulta-
20 tion with the Committee, shall establish a program
21 to fund research and development in advanced bat-
22 teries, plug-in electric drive vehicle components,
23 plug-in electric drive infrastructure, and other tech-
24 nologies supporting the development, manufacture,

1 and deployment of plug-in electric drive vehicles and
2 charging infrastructure.

3 (2) USE OF FUNDS.—The program may include
4 funding for—

5 (A) the development of low-cost, smart-
6 charging and vehicle-to-grid connectivity tech-
7 nology;

8 (B) the benchmarking and assessment of
9 open software systems using nationally estab-
10 lished evaluation criteria; and

11 (C) new technologies in electricity storage
12 or electric drive components for vehicles.

13 (3) REPORT.—Not later than 4 years after the
14 date of enactment of this Act, the Secretary shall
15 submit to Congress a report describing the status of
16 the program described in paragraph (1).

17 (b) SECONDARY USE APPLICATIONS PROGRAM.—

18 (1) IN GENERAL.—The Secretary, in consulta-
19 tion with the Committee, shall carry out a research,
20 development, and demonstration program that builds
21 upon any work carried out under section 915 of the
22 Energy Policy Act of 2005 (42 U.S.C. 16195) and—

23 (A) identifies possible uses of a vehicle bat-
24 tery after the useful life of the battery in a ve-
25 hicle has been exhausted;

1 (B) assesses the potential for markets for
2 uses described in subparagraph (A) to develop,
3 as well as any barriers to the development of
4 the markets;

5 (C) identifies the infrastructure, tech-
6 nology, and equipment needed to manage the
7 charging activity of the batteries used in sta-
8 tionary sources; and

9 (D) identifies the potential uses of a vehi-
10 cle battery—

11 (i) with the most promise for market
12 development; and

13 (ii) for which market development
14 would be aided by a demonstration project.

15 (2) REPORT.—Not later than 2 years after the
16 date of enactment of this Act, the Secretary shall
17 submit to the appropriate committees of Congress
18 an initial report on the findings of the program de-
19 scribed in paragraph (1), including recommendations
20 for stationary energy storage and other potential ap-
21 plications for batteries used in plug-in electric drive
22 vehicles.

23 (c) SECONDARY USE DEMONSTRATION PROJECTS.—

24 (1) IN GENERAL.—Based on the results of the
25 program described in subsection (b), the Secretary,

1 in consultation with the Committee, shall develop
2 guidelines for projects that demonstrate the sec-
3 ondary uses of vehicle batteries.

4 (2) PUBLICATION OF GUIDELINES.—Not later
5 than 30 months after the date of enactment of this
6 Act, the Secretary shall—

7 (A) publish the guidelines described in
8 paragraph (1); and

9 (B) solicit applications for funding for
10 demonstration projects.

11 (3) GRANT PROGRAM.—Not later than 38
12 months after the date of enactment of this Act, the
13 Secretary shall select proposals for grant funding
14 under this section, based on an assessment of which
15 proposals are mostly likely to contribute to the devel-
16 opment of a secondary market for batteries.

17 (d) MATERIALS RECYCLING STUDY.—

18 (1) IN GENERAL.—The Secretary, in consulta-
19 tion with the Committee, shall carry out a study on
20 the recycling of materials from plug-in electric drive
21 vehicles and the batteries used in plug-in electric
22 drive vehicles.

23 (2) REPORT.—Not later than 2 years after the
24 date of enactment of this Act, the Secretary shall
25 submit to the appropriate committees of Congress a

1 report on the findings of the study described in
2 paragraph (1).

3 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated to carry out this section
5 \$1,535,000,000, including—

6 (1) \$1,500,000,000 for use in conducting the
7 program described in subsection (a) for fiscal years
8 2011 through 2020;

9 (2) \$5,000,000 for use in conducting the pro-
10 gram described in subsection (b) for fiscal years
11 2011 through 2016;

12 (3) \$25,000,000 for use in providing grants de-
13 scribed in subsection (c) for fiscal years 2011
14 through 2020; and

15 (4) \$5,000,000 for use in conducting the study
16 described in subsection (d) for fiscal years 2011
17 through 2013.

18 **SEC. 2122. ADVANCED BATTERIES FOR TOMORROW PRIZE.**

19 (a) IN GENERAL.—Not later than 1 year after the
20 date of enactment of this Act, as part of the program de-
21 scribed in section 1008 of the Energy Policy Act of 2005
22 (42 U.S.C. 16396), the Secretary shall establish the Ad-
23 vanced Batteries for Tomorrow Prize to competitively
24 award cash prizes in accordance with this section to ad-

1 vance the research, development, demonstration, and com-
2 mercial application of a 500-mile vehicle battery.

3 (b) BATTERY SPECIFICATIONS.—

4 (1) IN GENERAL.—To be eligible for the Prize,
5 a battery submitted by an entrant shall be—

6 (A) able to power a plug-in electric drive
7 vehicle authorized to travel on the United
8 States Federal-aid system of highways for at
9 least 500 miles before recharging;

10 (B) of a size that would not be cost-prohib-
11 itive or create space constraints, if mass-pro-
12 duced; and

13 (C) cost-effective (measured in cost per kil-
14 owatt hour), if mass-produced.

15 (2) ADDITIONAL REQUIREMENTS.—The Sec-
16 retary, in consultation with the Committee, shall es-
17 tablish any additional battery specifications that the
18 Secretary and the Committee determine to be nec-
19 essary.

20 (c) PRIVATE FUNDS.—

21 (1) IN GENERAL.—Subject to paragraph (2)
22 and notwithstanding section 3302 of title 31, United
23 States Code, the Secretary may accept, retain, and
24 use funds contributed by any person, government

1 entity, or organization for purposes of carrying out
2 this subsection—

3 (A) without further appropriation; and

4 (B) without fiscal year limitation.

5 (2) RESTRICTION ON PARTICIPATION.—An enti-
6 ty providing private funds for the Prize may not
7 participate in the competition for the Prize.

8 (d) TECHNICAL REVIEW.—The Secretary, in con-
9 sultation with the Committee, shall establish a technical
10 review committee composed of non-Federal officers to re-
11 view data submitted by Prize entrants under this section
12 and determine whether the data meets the prize specifica-
13 tions described in subsection (b).

14 (e) THIRD PARTY ADMINISTRATION.—The Secretary
15 may select, on a competitive basis, a third party to admin-
16 ister awards provided under this section.

17 (f) ELIGIBILITY.—To be eligible for an award under
18 this section—

19 (1) in the case of a private entity, the entity
20 shall be incorporated in and maintain a primary
21 place of business in the United States; and

22 (2) in the case of an individual (whether par-
23 ticipating as a single individual or in a group), the
24 individual shall be a citizen or lawful permanent
25 resident of the United States.

1 (g) AWARD AMOUNTS.—

2 (1) IN GENERAL.—Subject to the availability of
3 funds to carry out this section, the amount of the
4 Prize shall be \$10,000,000.

5 (2) BREAKTHROUGH ACHIEVEMENT AWARDS.—

6 In addition to the award described in paragraph (1),
7 the Secretary, in consultation with the technical re-
8 view committee established under subsection (d),
9 may award cash prizes, in amounts determined by
10 the Secretary, in recognition of breakthrough
11 achievements in research, development, demonstra-
12 tion, and commercial application of—

13 (A) activities described in subsection (b);

14 or

15 (B) advances in battery durability, energy
16 density, and power density.

17 (h) 500-MILE BATTERY AWARD FUND.—

18 (1) ESTABLISHMENT.—There is established in
19 the Treasury of the United States a fund to be
20 known as the “500-mile Battery Fund” (referred to
21 in this section as the “Fund”), to be administered
22 by the Secretary, to be available without fiscal year
23 limitation and subject to appropriation, to award
24 amounts under this section.

1 (2) TRANSFERS TO FUND.—The Fund shall
2 consist of—

3 (A) such amounts as are appropriated to
4 the Fund under subsection (i); and

5 (B) such amounts as are described in sub-
6 section (c) and that are provided for the Fund.

7 (3) PROHIBITION.—Amounts in the Fund may
8 not be made available for any purpose other than a
9 purposes described in subsection (a).

10 (4) ANNUAL REPORTS.—

11 (A) IN GENERAL.—Not later than 60 days
12 after the end of each fiscal year beginning with
13 fiscal year 2012, the Secretary shall submit a
14 report on the operation of the Fund during the
15 fiscal year to—

16 (i) the Committees on Appropriations
17 of the House of Representatives and of the
18 Senate;

19 (ii) the Committee on Energy and
20 Natural Resources of the Senate; and

21 (iii) the Committee on Energy and
22 Commerce of the House of Representa-
23 tives.

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

4 (i) A statement of the amounts depos-
5 ited into the Fund.

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

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

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

15 (5) SEPARATE APPROPRIATIONS ACCOUNT.—
16 Section 1105(a) of title 31, United States Code, is
17 amended—

18 (A) by redesignating paragraphs (35) and
19 (36) as paragraphs (36) and (37), respectively;

20 (B) by redesignating the second paragraph
21 (33) (relating to obligational authority and out-
22 lays requested for homeland security) as para-
23 graph (35); and

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

1 “(38) a separate statement for the 500-mile
2 Battery Fund established under section 8(h) of the
3 ‘Promoting Electric Vehicles Act of 2010’, which
4 shall include the estimated amount of deposits into
5 the Fund, obligations, and outlays from the Fund.”.

6 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
7 authorized to be appropriated—

8 (1) \$10,000,000 to carry out subsection (g)(1);

9 and

10 (2) \$1,000,000 to carry out subsection (g)(2).

11 **SEC. 2123. STUDY ON THE SUPPLY OF RAW MATERIALS.**

12 (a) IN GENERAL.—The Secretary of the Interior, in
13 consultation with the Secretary and the Task Force, shall
14 conduct a study that—

15 (1) identifies the raw materials needed for the
16 manufacture of plug-in electric drive vehicles, bat-
17 teries, and other components for plug-in electric
18 drive vehicles, and for the infrastructure needed to
19 support plug-in electric drive vehicles;

20 (2) describes the primary or original sources
21 and known reserves and resources of those raw ma-
22 terials;

23 (3) assesses, in consultation with the National
24 Academy of Sciences, the degree of risk to the man-
25 ufacture, maintenance, deployment, and use of plug-

1 in electric drive vehicles associated with the supply
2 of those raw materials; and

3 (4) identifies pathways to securing reliable and
4 resilient supplies of those raw materials.

5 (b) REPORT.—Not later than 3 years after the date
6 of enactment of this Act, the Secretary of the Interior
7 shall submit to Congress a report that describes the re-
8 sults of the study.

9 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
10 authorized to be appropriated to carry out this subsection
11 \$1,500,000.

12 **SEC. 2124. STUDY ON THE COLLECTION AND PRESERVA-**
13 **TION OF DATA COLLECTED FROM PLUG-IN**
14 **ELECTRIC DRIVE VEHICLES.**

15 (a) IN GENERAL.—Not later than 180 days after the
16 date of enactment of this Act, the Secretary, in consulta-
17 tion with the Committee, shall enter into an agreement
18 with the National Academy of Sciences under which the
19 Academy shall conduct a study that—

20 (1) identifies—

21 (A) the data that may be collected from
22 plug-in electric drive vehicles, including data on
23 the location, charging patterns, and usage of
24 plug-in electric drive vehicles;

1 (B) the scientific, economic, commercial,
2 security, and historic potential of the data de-
3 scribed in subparagraph (A); and

4 (C) any laws or regulations that relate to
5 the data described in subparagraph (A); and

6 (2) analyzes and provides recommendations on
7 matters that include procedures, technologies, and
8 rules relating to the collection, storage, and preser-
9 vation of the data described in paragraph (1)(A).

10 (b) REPORT.—Not later than 15 months after the
11 date of an agreement between the Secretary and the Acad-
12 emy under subsection (a), the National Academy of
13 Sciences shall submit to the appropriate committees of
14 Congress a report that describes the results of the study
15 under subsection (a).

16 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
17 authorized to be appropriated to carry out this section
18 \$1,000,000.

19 **Subtitle C—Miscellaneous**

20 **SEC. 2131. UTILITY PLANNING FOR PLUG-IN ELECTRIC** 21 **DRIVE VEHICLES.**

22 (a) IN GENERAL.—The Public Utility Regulatory
23 Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amend-
24 ed—

1 (1) in section 111(d) (16 U.S.C. 2621(d)), by
2 adding at the end the following:

3 “(20) PLUG-IN ELECTRIC DRIVE VEHICLE
4 PLANNING.—

5 “(A) UTILITY PLAN FOR PLUG-IN ELEC-
6 TRIC DRIVE VEHICLES.—

7 “(i) IN GENERAL.—Not later than 2
8 years after the date of enactment of this
9 paragraph, each electric utility shall de-
10 velop a plan to support the use of plug-in
11 electric drive vehicles, including medium-
12 and heavy-duty hybrid electric vehicles in
13 the service area of the electric utility.

14 “(ii) REQUIREMENTS.—A plan under
15 clause (i) shall investigate—

16 “(I) various levels of potential
17 penetration of plug-in electric drive
18 vehicles in the utility service area;

19 “(II) the potential impacts that
20 the various levels of penetration and
21 charging scenarios (including charging
22 rates and daily hours of charging)
23 would have on generation, distribution
24 infrastructure, and the operation of
25 the transmission grid; and

1 “(III) the role of third parties in
2 providing reliable and economical
3 charging services.

4 “(iii) WAIVER.—

5 “(I) IN GENERAL.—An electric
6 utility that determines that the elec-
7 tric utility will not be impacted by
8 plug-in electric drive vehicles during
9 the 5-year period beginning on the
10 date of enactment of this paragraph
11 may petition the Secretary to waive
12 clause (i) for 5 years.

13 “(II) APPROVAL.—Approval of a
14 waiver under subclause (I) shall be in
15 the sole discretion of the Secretary.

16 “(iv) UPDATES.—

17 “(I) IN GENERAL.—Each electric
18 utility shall update the plan of the
19 electric utility every 5 years.

20 “(II) RESUBMISSION OF WAIV-
21 ER.—An electric utility that received a
22 waiver under clause (iii) and wants
23 the waiver to continue after the expi-
24 ration of the waiver shall be required
25 to resubmit the waiver.

1 “(v) EXEMPTION.—If the Secretary
2 determines that a plan required by a State
3 regulatory authority meets the require-
4 ments of this paragraph, the Secretary
5 may accept that plan and exempt the elec-
6 tric utility submitting the plan from the re-
7 quirements of clause (i).

8 “(B) SUPPORT REQUIREMENTS.—Each
9 State regulatory authority (in the case of each
10 electric utility for which the authority has rate-
11 making authority) and each municipal and co-
12 operative utility shall—

13 “(i) participate in any local plan for
14 the deployment of recharging infrastruc-
15 ture in communities located in the foot-
16 print of the authority or utility;

17 “(ii) require that charging infrastruc-
18 ture deployed is interoperable with prod-
19 ucts of all auto manufacturers to the max-
20 imum extent practicable; and

21 “(iii) consider adopting minimum re-
22 quirements for deployment of electrical
23 charging infrastructure and other appro-
24 priate requirements necessary to support
25 the use of plug-in electric drive vehicles.

1 “(C) COST RECOVERY.—Each State regu-
2 latory authority (in the case of each electric
3 utility for which the authority has ratemaking
4 authority) and each municipal and cooperative
5 utility may consider whether, and to what ex-
6 tent, to allow cost recovery for plans and imple-
7 mentation of plans.

8 “(D) DETERMINATION.—Not later than 3
9 years after the date of enactment of this para-
10 graph, each State regulatory authority (with re-
11 spect to each electric utility for which the au-
12 thority has ratemaking authority), and each
13 municipal and cooperative electric utility, shall
14 complete the consideration, and shall make the
15 determination, referred to in subsection (a) with
16 respect to the standard established by this
17 paragraph.”;

18 (2) in section 112(c) (16 U.S.C. 2622(c))—

19 (A) in the first sentence, by striking “Each
20 State” and inserting the following:

21 “(1) IN GENERAL.—Each State”;

22 (B) in the second sentence, by striking “In
23 the case” and inserting the following:

24 “(2) SPECIFIC STANDARDS.—

1 “(A) NET METERING AND FOSSIL FUEL
2 GENERATION EFFICIENCY.—In the case”;

3 (C) in the third sentence, by striking “In
4 the case” and inserting the following:

5 “(B) TIME-BASED METERING AND COMMU-
6 NICATIONS.—In the case”;

7 (D) in the fourth sentence—

8 (i) by striking “In the case” and in-
9 serting the following:

10 “(C) INTERCONNECTION.—In the case”;

11 and

12 (ii) by striking “paragraph (15)” and
13 inserting “paragraph (15) of section
14 111(d)”;

15 (E) in the fifth sentence, by striking “In
16 the case” and inserting the following:

17 “(D) INTEGRATED RESOURCE PLANNING,
18 RATE DESIGN MODIFICATIONS, SMART GRID IN-
19 VESTMENTS, SMART GRID INFORMATION.—In
20 the case”; and

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

22 “(E) PLUG-IN ELECTRIC DRIVE VEHICLE
23 PLANNING.—In the case of the standards estab-
24 lished by paragraph (20) of section 111(d), the
25 reference contained in this subsection to the

1 date of enactment of this Act shall be deemed
2 to be a reference to the date of enactment of
3 that paragraph.”; and

4 (3) in section 112(d) (16 U.S.C. 2622(d)), in
5 the matter preceding paragraph (1), by striking
6 “(19)” and inserting “(20)”.

7 (b) REPORT.—

8 (1) IN GENERAL.—The Secretary, in consulta-
9 tion with the Technical Advisory Committee, shall
10 convene a group of utility stakeholders, charging in-
11 frastructure providers, third party aggregators, and
12 others, as appropriate, to discuss and determine the
13 potential models for the technically and logistically
14 challenging issues involved in using electricity as a
15 fuel for vehicles, including—

16 (A) accommodation for billing for charging
17 a plug-in electric drive vehicle, both at home
18 and at publicly available charging infrastruc-
19 ture;

20 (B) plans for anticipating vehicle to grid
21 applications that will allow batteries in cars as
22 well as banks of batteries to be used for grid
23 storage, ancillary services provision, and backup
24 power;

1 (C) integration of plug-in electric drive ve-
2 hicles with smart grid, including protocols and
3 standards, necessary equipment, and informa-
4 tion technology systems; and

5 (D) any other barriers to installing suffi-
6 cient and appropriate charging infrastructure.

7 (2) REPORT.—Not later than 2 years after the
8 date of enactment of this Act and biennially there-
9 after, the Secretary shall submit to the appropriate
10 committees of Congress a report that includes—

11 (A) the issues and model solutions de-
12 scribed in paragraph (1); and

13 (B) any other issues that the Task Force
14 and Secretary determine to be appropriate.

15 **SEC. 2132. LOAN GUARANTEES.**

16 (a) LOAN GUARANTEES FOR ADVANCED BATTERY
17 PURCHASES FOR USE IN STATIONARY APPLICATIONS.—
18 Subtitle B of title I of the Energy Independence and Secu-
19 rity Act of 2007 (42 U.S.C. 17011 et seq.) is amended
20 by adding at the end the following:

21 **“SEC. 137. LOAN GUARANTEES FOR ADVANCED BATTERY**
22 **PURCHASES.**

23 “(a) DEFINITIONS.—In this section:

1 “(1) QUALIFIED AUTOMOTIVE BATTERY.—The
2 term ‘qualified automotive battery’ means a battery
3 that—

4 “(A) has at least 4 kilowatt hours of bat-
5 tery capacity; and

6 “(B) is designed for use in qualified plug-
7 in electric drive motor vehicles but is purchased
8 for nonautomotive applications.

9 “(2) ELIGIBLE ENTITY.—The term ‘eligible en-
10 tity’ means—

11 “(A) an original equipment manufacturer;

12 “(B) an electric utility;

13 “(C) any provider of range extension infra-
14 structure; or

15 “(D) any other qualified entity, as deter-
16 mined by the Secretary.

17 “(b) LOAN GUARANTEES.—

18 “(1) IN GENERAL.—The Secretary shall guar-
19 antee loans made to eligible entities for the aggre-
20 gate purchase of not less than 200 qualified auto-
21 motive batteries in a calendar year that have a total
22 minimum power rating of 1 megawatt and use ad-
23 vanced battery technology.

24 “(2) RESTRICTION.—As a condition of receiving
25 a loan guarantee under this section, an entity pur-

1 chasing qualified automotive batteries with loan
2 funds guaranteed under this section shall comply
3 with the provisions of the Buy American Act (41
4 U.S.C. 10a et seq.).

5 “(c) REGULATIONS.—The Secretary shall promulgate
6 such regulations as are necessary to carry out this section.

7 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
8 is authorized to be appropriated to carry out this section
9 \$50,000,000.”.

10 (b) LOAN GUARANTEES FOR CHARGING INFRA-
11 STRUCTURE.—Section 1705(a) of the Energy Policy Act
12 of 2005 (42 U.S.C. 16516(a)) is amended by adding at
13 the end the following:

14 “(4) Charging infrastructure and networks of
15 charging infrastructure for plug-in drive electric ve-
16 hicles, if the charging infrastructure will be oper-
17 ational prior to December 31, 2016.”.

18 **SEC. 2133. PROHIBITION ON DISPOSING OF ADVANCED BAT-**
19 **TERIES IN LANDFILLS.**

20 (a) DEFINITION OF ADVANCED BATTERY.—

21 (1) IN GENERAL.—In this section, the term
22 “advanced battery” means a battery that is a sec-
23 ondary (rechargeable) electrochemical energy storage
24 device that has enhanced energy capacity.

1 (2) EXCLUSIONS.—The term “advanced bat-
2 tery” does not include—

3 (A) a primary (nonrechargeable) battery;

4 or

5 (B) a lead-acid battery that is used to
6 start or serve as the principal electrical power
7 source for a plug-in electric drive vehicle.

8 (b) REQUIREMENT.—An advanced battery from a
9 plug-in electric drive vehicle shall be disposed of in accord-
10 ance with the Solid Waste Disposal Act (42 U.S.C. 6901
11 et seq.) (commonly known as the “Resource Conservation
12 and Recovery Act of 1976”).

13 **SEC. 2134. PLUG-IN ELECTRIC DRIVE VEHICLE TECHNICAL**
14 **ADVISORY COMMITTEE.**

15 (a) IN GENERAL.—There is established the Plug-in
16 Electric Drive Vehicle Technical Advisory Committee to
17 advise the Secretary on the programs and activities under
18 this title.

19 (b) MISSION.—The mission of the Committee shall
20 be to advise the Secretary on technical matters, includ-
21 ing—

22 (1) the priorities for research and development;

23 (2) means of accelerating the deployment of
24 safe, economical, and efficient plug-in electric drive
25 vehicles for mass market adoption;

1 (3) the development and deployment of charg-
2 ing infrastructure;

3 (4) the development of uniform codes, stand-
4 ards, and safety protocols for plug-in electric drive
5 vehicles and charging infrastructure; and

6 (5) reporting on the competitiveness of the
7 United States in plug-in electric drive vehicle and in-
8 frastructure research, manufacturing, and deploy-
9 ment.

10 (c) MEMBERSHIP.—

11 (1) MEMBERS.—

12 (A) IN GENERAL.—The Committee shall
13 consist of not less than 12, but not more than
14 25, members.

15 (B) REPRESENTATION.—The Secretary
16 shall appoint the members to Committee from
17 among representatives of—

18 (i) domestic industry;

19 (ii) institutions of higher education;

20 (iii) professional societies;

21 (iv) Federal, State, and local govern-
22 mental agencies (including the National
23 Laboratories); and

24 (v) financial, transportation, labor, en-
25 vironmental, electric utility, or other ap-

1 appropriate organizations or individuals with
2 direct experience in deploying and mar-
3 keting plug-in electric drive vehicles, as the
4 Secretary determines to be necessary.

5 (2) TERMS.—

6 (A) IN GENERAL.—The term of a Com-
7 mittee member shall not be longer than 3 years.

8 (B) STAGGERED TERMS.—The Secretary
9 may appoint members to the Committee for dif-
10 fering term lengths to ensure continuity in the
11 functioning of the Committee.

12 (C) REAPPOINTMENTS.—A member of the
13 Committee whose term is expiring may be re-
14 appointed.

15 (3) CHAIRPERSON.—The Committee shall have
16 a chairperson, who shall be elected by and from the
17 members.

18 (d) REVIEW.—The Committee shall review and make
19 recommendations to the Secretary on the implementation
20 of programs and activities under this title.

21 (e) RESPONSE.—

22 (1) IN GENERAL.—The Secretary shall consider
23 and may adopt any recommendation of the Com-
24 mittee under subsection (c).

25 (2) BIENNIAL REPORT.—

1 (A) IN GENERAL.—Not later than 2 years
2 after the date of enactment of this Act and
3 every 2 years thereafter, the Secretary shall
4 submit to the appropriate committees of Con-
5 gress a report describing any new recommenda-
6 tions of the Committee.

7 (B) CONTENTS.—The report shall in-
8 clude—

9 (i) a description of the manner in
10 which the Secretary has implemented or
11 plans to implement the recommendations
12 of the Committee; or

13 (ii) an explanation of the reason that
14 a recommendation of the Committee has
15 not been implemented.

16 (C) TIMING.—The report described in this
17 paragraph shall be submitted by the Secretary
18 at the same time the President submits the
19 budget proposal for the Department of Energy
20 to Congress.

21 (f) COORDINATION.—The Committee shall—

22 (1) hold joint annual meetings with the Hydro-
23 gen and Fuel Cell Technical Advisory Committee es-
24 tablished by section 807 of the Energy Policy Act of

1 2005 (42 U.S.C. 16156) to help coordinate the work
2 and recommendations of the Committees; and

3 (2) coordinate efforts, to the maximum extent
4 practicable, with all existing independent, depart-
5 mental, and other advisory Committees, as deter-
6 mined to be appropriate by the Secretary.

7 (g) SUPPORT.—The Secretary shall provide to the
8 Committee the resources necessary to carry out this sec-
9 tion, as determined to be necessary by the Secretary.

10 **SEC. 2135. PLUG-IN ELECTRIC DRIVE VEHICLE INTER-**
11 **AGENCY TASK FORCE.**

12 (a) IN GENERAL.—Not later than 120 days after the
13 date of enactment of this Act, the President shall establish
14 the Plug-in Electric Drive Vehicle Interagency Task
15 Force, to be chaired by the Secretary and which shall con-
16 sist of at least 1 representative from each of—

17 (1) the Office of Science and Technology Policy;

18 (2) the Council on Environmental Quality;

19 (3) the Department of Energy;

20 (4) the Department of Transportation;

21 (5) the Department of Defense;

22 (6) the Department of Commerce (including the
23 National Institute of Standards and Technology);

24 (7) the Environmental Protection Agency;

25 (8) the General Services Administration; and

1 (9) any other Federal agencies that the Presi-
2 dent determines to be appropriate.

3 (b) MISSION.—The mission of the Task Force shall
4 be to ensure awareness, coordination, and integration of
5 the activities of the Federal Government relating to plug-
6 in electric drive vehicles, including—

7 (1) plug-in electric drive vehicle research and
8 development (including necessary components);

9 (2) the development of widely accepted smart-
10 grid standards and protocols for charging infrastruc-
11 ture;

12 (3) the relationship of plug-in electric drive ve-
13 hicle charging practices to electric utility regulation;

14 (4) the relationship of plug-in electric drive ve-
15 hicle deployment to system reliability and security;

16 (5) the general deployment of plug-in electric
17 drive vehicles in the Federal, State, and local gov-
18 ernments and for private use;

19 (6) the development of uniform codes, stand-
20 ards, and safety protocols for plug-in electric drive
21 vehicles and charging infrastructure; and

22 (7) the alignment of international plug-in elec-
23 tric drive vehicle standards.

24 (c) ACTIVITIES.—

1 (1) IN GENERAL.—In carrying out this section,
2 the Task Force may—

3 (A) organize workshops and conferences;

4 (B) issue publications; and

5 (C) create databases.

6 (2) MANDATORY ACTIVITIES.—In carrying out
7 this section, the Task Force shall—

8 (A) foster the exchange of generic, non-
9 proprietary information and technology among
10 industry, academia, and the Federal Govern-
11 ment;

12 (B) integrate and disseminate technical
13 and other information made available as a re-
14 sult of the programs and activities under this
15 title;

16 (C) support education about plug-in elec-
17 tric drive vehicles;

18 (D) monitor, analyze, and report on the ef-
19 fects of plug-in electric drive vehicle deployment
20 on the environment and public health, including
21 air emissions from vehicles and electricity gen-
22 erating units; and

23 (E) review and report on—

24 (i) opportunities to use Federal pro-
25 grams (including laws, regulations, and

1 guidelines) to promote the deployment of
 2 plug-in electric drive vehicles; and

3 (ii) any barriers to the deployment of
 4 plug-in electric drive vehicles, including
 5 barriers that are attributable to Federal
 6 programs (including laws, regulations, and
 7 guidelines).

8 (d) AGENCY COOPERATION.—A Federal agency—

9 (1) shall cooperate with the Task Force; and

10 (2) provide, on request of the Task Force, ap-
 11 propriate assistance in carrying out this section, in
 12 accordance with applicable Federal laws (including
 13 regulations).

14 **DIVISION C—CLEAN ENERGY**
 15 **JOBS AND CONSUMER SAVINGS**
 16 **TITLE XXX—HOME STAR**
 17 **RETROFIT REBATE PROGRAM**

18 **SEC. 3001. SHORT TITLE.**

19 This title may be cited as the “Home Star Retrofit
 20 Act of 2010”.

21 **SEC. 3002. DEFINITIONS.**

22 In this title:

23 (1) ACCREDITED CONTRACTOR.—The term “ac-
 24 credited contractor” means a residential energy effi-
 25 ciency contractor that meets the minimum applicable

1 requirements established under subsections (a) and
2 (b) of section 3004.

3 (2) ADMINISTRATOR.—The term “Adminis-
4 trator” means the Administrator of the Environ-
5 mental Protection Agency.

6 (3) BPI.—The term “BPI” means the Building
7 Performance Institute.

8 (4) CERTIFIED WORKFORCE.—The term “cer-
9 tified workforce” means a residential efficiency con-
10 struction workforce in which all persons performing
11 installation work in the areas of building envelope
12 retrofits, duct sealing, or any other additional skill
13 category designated by the Secretary of Labor, in
14 consultation with stakeholders and the Secretary of
15 Energy, are certified through an existing certifi-
16 cation that covers the appropriate job skills under—

17 (A) an applicable third party skills stand-
18 ard established—

19 (i) by the BPI;

20 (ii) by the North American Technician
21 Excellence;

22 (iii) by the Laborers’ International
23 Union of North America;

24 (B) an applicable third party skills stand-
25 ard established in the State in which the work

1 is to be performed, pursuant to a program oper-
2 ated by the Home Builders Institute in connec-
3 tion with Ferris State University, to be effective
4 beginning on the date that is 30 days after the
5 date notice is provided by those organizations to
6 the Secretary that the program has been estab-
7 lished in the State unless the Secretary deter-
8 mines, not later than 30 days after the date of
9 the notice, that the standard or certification
10 does not equal in quality the standards and cer-
11 tifications described in subparagraph (A); or

12 (C) other standards that the Secretary
13 shall approve not later than 30 days after the
14 date of submission, in consultation with the
15 Secretary of Labor and the Administrator.

16 (5) **CONDITIONED SPACE.**—The term “condi-
17 tioned space” means the area of a home that is—

18 (A) intended for habitation; and

19 (B) intentionally heated or cooled.

20 (6) **CONTRACTOR.**—The term “contractor”
21 means a residential efficiency contracting business
22 entity.

23 (7) **DOE.**—The term “DOE” means the De-
24 partment of Energy.

1 (8) ELECTRIC UTILITY.—The term “electric
2 utility” means any person or State agency that de-
3 livers or sells electric energy at retail, including non-
4 regulated utilities and utilities that are subject to
5 State regulation and Federal power marketing ad-
6 ministrations.

7 (9) EPA.—The term “EPA” means the Envi-
8 ronmental Protection Agency.

9 (10) FEDERAL REBATE PROCESSING SYSTEM.—
10 The term “Federal Rebate Processing System”
11 means the Federal Rebate Processing System estab-
12 lished under section 3003(b).

13 (11) GOLD STAR HOME RETROFIT PROGRAM.—
14 The term “Gold Star Home Retrofit Program”
15 means the Gold Star Home Retrofit Program estab-
16 lished under section 3008.

17 (12) HOME.—The term “home” means a prin-
18 cipal residential dwelling unit in a building with no
19 more than 4 dwelling units that—

20 (A) is located in the United States; and

21 (B) was constructed before the date of en-
22 actment of this Act.

23 (13) HOMEOWNER.—The term “homeowner”
24 means the resident or non-resident owner of record
25 of a home.

1 (14) HOME STAR LOAN PROGRAM.—The term
2 “Home Star loan program” means the Home Star
3 efficiency loan program established under section
4 3015(a).

5 (15) HOME STAR RETROFIT REBATE PRO-
6 GRAM.—The term “Home Star Retrofit Rebate Pro-
7 gram” means the Home Star Retrofit Rebate Pro-
8 gram established under section 3003(a).

9 (16) INDIAN TRIBE.—The term “Indian tribe”
10 has the meaning given the term in section 4 of the
11 Indian Self-Determination and Education Assistance
12 Act (25 U.S.C. 450b).

13 (17) NATURAL GAS UTILITY.—The term “nat-
14 ural gas utility” means any person or State agency
15 that transports, distributes, or sells natural gas at
16 retail, including nonregulated utilities and utilities
17 that are subject to State regulation.

18 (18) QUALIFIED CONTRACTOR.—The term
19 “qualified contractor” means a contractor that
20 meets minimum applicable requirements established
21 under section 3004(a).

22 (19) QUALITY ASSURANCE FRAMEWORK.—The
23 term “quality assurance framework” means a policy
24 adopted by a State to develop high standards for en-
25 suring quality in ongoing efficiency retrofit activities

1 in which the State has a role, including operation of
2 the quality assurance program and creating signifi-
3 cant employment opportunities, in particular for tar-
4 geted workers.

5 (20) QUALITY ASSURANCE PROGRAM.—

6 (A) IN GENERAL.—The term “quality as-
7 surance program” means a program established
8 under this title or recognized by the Secretary
9 under this title, to oversee the delivery of home
10 efficiency retrofit programs to ensure that work
11 is performed in accordance with standards and
12 criteria established under this title.

13 (B) INCLUSIONS.—For purposes of sub-
14 paragraph (A), delivery of retrofit programs in-
15 cludes delivery of quality assurance reviews of
16 rebate applications and field inspections for a
17 portion of customers receiving rebates and con-
18 ducted by a quality assurance provider, with the
19 consent of participating consumers and without
20 delaying rebate payments to participating con-
21 tractors.

22 (21) QUALITY ASSURANCE PROVIDER.—The
23 term “quality assurance provider” means any entity
24 that meets the minimum applicable requirements es-
25 tablished under section 3006.

1 (22) REBATE AGGREGATOR.—The term “rebate
2 aggregator” means an entity that meets the require-
3 ments of section 3005.

4 (23) RESNET.—The term “RESNET” means
5 the Residential Energy Services Network, which is a
6 nonprofit certification and standard setting organi-
7 zation for home energy raters that evaluate the en-
8 ergy performance of a home.

9 (24) SECRETARY.—The term “Secretary”
10 means the Secretary of Energy.

11 (25) SILVER STAR HOME RETROFIT PRO-
12 GRAM.—The term “Silver Star Home Retrofit Pro-
13 gram” means the Silver Star Home Retrofit Pro-
14 gram established under section 3007.

15 (26) STATE.—The term “State” means—

16 (A) a State;

17 (B) the District of Columbia;

18 (C) the Commonwealth of Puerto Rico;

19 (D) Guam;

20 (E) American Samoa;

21 (F) the Commonwealth of the Northern
22 Mariana Islands;

23 (G) the United States Virgin Islands; and

24 (H) any other territory or possession of the
25 United States.

1 (27) TARGETED WORKER.—The term “targeted
2 worker” means—

3 (A) an individual who (as determined by
4 the Secretary of Labor, in consultation with the
5 Secretary of Energy)—

6 (i) is old enough to be employed under
7 the Fair Labor Standards Act of 1938 (29
8 U.S.C. 201 et seq.) and State law;

9 (ii) resides in an area with high or
10 chronic unemployment and low median
11 household incomes; and

12 (iii) is unemployed or underemployed;

13 or

14 (B) a veteran of Operation Iraqi Freedom
15 or Operation Enduring Freedom.

16 (28) VENDOR.—The term “vendor” means any
17 retailer that sells directly to homeowners and con-
18 tractors the materials used for the savings measures
19 under section 3007.

20 (29) WATERSENSE PRODUCT OR SERVICE.—

21 The term “WaterSense product or service” means a
22 water-efficient product or service that meets speci-
23 fications established by the Administrator under the
24 WaterSense Program of the Environmental Protec-
25 tion Agency.

1 **SEC. 3003. HOME STAR RETROFIT REBATE PROGRAM.**

2 (a) IN GENERAL.—The Secretary shall establish the
3 Home Star Retrofit Rebate Program.

4 (b) FEDERAL REBATE PROCESSING SYSTEM.—

5 (1) REQUIREMENTS.—

6 (A) IN GENERAL.—Not later than 30 days
7 after the date of enactment of this Act, the Sec-
8 retary, in consultation with the Secretary of the
9 Treasury and the Administrator, shall—

10 (i) establish a Federal Rebate Proc-
11 essing System which shall serve as a data-
12 base and information technology system
13 that will allow rebate aggregators to sub-
14 mit claims for reimbursement using stand-
15 ard data protocols;

16 (ii) establish a national retrofit
17 website that provides information on the
18 Home Star Retrofit Rebate Program, in-
19 cluding—

20 (I) how to determine whether
21 particular efficiency measures are eli-
22 gible for rebates; and

23 (II) how to participate in the
24 program;

25 (iii) make available, on a designated
26 website, model forms for compliance with

1 all applicable requirements of this title, to
2 be submitted by—

3 (I) each qualified contractor on
4 completion of an eligible home ret-
5 rofit;

6 (II) each quality assurance pro-
7 vider on completion of field
8 verification; and

9 (III) each purchaser of a
10 WaterSense product or service; and

11 (iv) subject to section 3016, provide
12 such administrative and technical support
13 to rebate aggregators and States as is nec-
14 essary to carry out this title.

15 (B) DISTRIBUTION OF FUNDS.—Not later
16 than 10 days after the date of receipt of bun-
17 dled rebate applications from a rebate
18 aggregator, the Secretary shall distribute funds
19 to the rebate aggregator on approved claims for
20 reimbursement made to the Federal Rebate
21 Processing System.

22 (C) FUNDING AVAILABILITY.—The Sec-
23 retary shall post, on a weekly basis, on the na-
24 tional retrofit website established under sub-
25 paragraph (A)(ii) information on—

1 (i) the total number of rebate claims
2 approved for reimbursement; and

3 (ii) the total amount of funds dis-
4 bursed for rebates.

5 (D) PROGRAM ADJUSTMENT OR TERMI-
6 NATION.—Based on the information described
7 in subparagraph (C), the Secretary shall an-
8 nounce a termination date and reserve funding
9 to process the rebate applications that are in
10 the Federal Rebate Processing System prior to
11 the termination date to ensure that all valid ap-
12 plications made to the program for rebate reim-
13 bursement are paid.

14 (2) MODEL FORMS.—In carrying out this sec-
15 tion, the Secretary shall consider the model forms
16 developed by the National Home Performance Coun-
17 cil.

18 (c) ADMINISTRATIVE AND TECHNICAL SUPPORT.—
19 Effective beginning not later than 30 days after the date
20 of enactment of this Act, the Secretary shall provide such
21 administrative and technical support to rebate aggregators
22 and States as is necessary to carry out this title.

23 (d) PUBLIC INFORMATION CAMPAIGN.—Not later
24 than 60 days after the date of enactment of this Act, the

1 Administrator shall develop and implement a public edu-
2 cation campaign that describes, at a minimum—

3 (1) the benefits of home energy and water-sav-
4 ing retrofits;

5 (2) the availability of rebates for—

6 (A) the installation of qualifying efficiency
7 measures; and

8 (B) whole home efficiency improvements;
9 and

10 (3) the requirements for qualified contractors
11 and accredited contractors.

12 (e) LIMITATION.—Silver Star rebates provided under
13 section 3007 and Gold Star rebates provided under section
14 3008 may be provided for the same home only if—

15 (1) Silver Star rebates are awarded prior to
16 Gold Star rebates;

17 (2) savings obtained from measures under the
18 Silver Star Home Retrofit Program are not counted
19 towards the simulated savings that determine the
20 value of a rebate under the Gold Star Home Retrofit
21 Program; and

22 (3) the combined Silver Star and Gold Star re-
23 bates provided to the individual homeowner do not
24 exceed \$8,000.

1 (f) AVAILABILITY.—Not later than 90 days after the
2 date of enactment of this Act, the Secretary shall ensure
3 that Home Star retrofit rebates are available to all home-
4 owners in the United States to the maximum extent prac-
5 ticable.

6 **SEC. 3004. CONTRACTORS.**

7 (a) CONTRACTOR QUALIFICATIONS FOR SILVER STAR
8 HOME RETROFIT PROGRAM.—A contractor may perform
9 retrofit work under the Silver Star Home Retrofit Pro-
10 gram only if the contractor meets or provides—

11 (1) all applicable contractor licensing require-
12 ments established by the applicable State or, if none
13 exist at the State level, the Secretary;

14 (2) insurance coverage of at least \$1,000,000
15 for general liability, and for such other purposes and
16 in such other amounts as required by the State;

17 (3) warranties to homeowners that completed
18 work will—

19 (A) be free of significant defects;

20 (B) be installed in accordance with the
21 specifications of the manufacturer; and

22 (C) perform properly for a period of at
23 least 1 year after the date of completion of the
24 work;

1 (4) an agreement to provide the owner of a
2 home, through a discount, the full economic value of
3 all rebates received under this title with respect to
4 the home; and

5 (5) an agreement to provide the homeowner, be-
6 fore a contract is executed between the contractor
7 and a homeowner covering the eligible work, a notice
8 of —

9 (A) the rebate amount the contractor in-
10 tends to apply for with respect to eligible work
11 under this title; and

12 (B) the means by which the rebate will be
13 passed through as a discount to the homeowner.

14 (b) CONTRACTOR QUALIFICATIONS FOR GOLD STAR
15 HOME RETROFIT PROGRAM.—

16 (1) IN GENERAL.—A contractor may perform
17 retrofit work under the Gold Star Home Retrofit
18 Program only if the contractor—

19 (A) meets the requirements for qualified
20 contractors under subsection (a);

21 (B) is accredited—

22 (i) by the BPI; or

23 (ii) under other standards that the
24 Secretary shall approve not later than 30
25 days after the date of submission, in con-

1 sultation with the Administrator, under an
2 equivalent accreditation approved by the
3 Secretary under which the contractor, at a
4 minimum—

5 (I) educates the consumer on the
6 value of comprehensive energy retrofit
7 work;

8 (II) meets whole house con-
9 tracting standards in conducting home
10 performance work relating to home
11 energy auditing, health and safety
12 testing, heating, air-conditioning, and
13 heat pumps;

14 (III) employs sufficient levels of
15 staff who are certified to the stand-
16 ards covering the appropriate whole
17 house energy audits and retrofit up-
18 grades;

19 (IV) maintains calibrated diag-
20 nostic equipment for use in con-
21 ducting energy retrofitting, assess-
22 ment, and health and safety testing
23 on the house;

1 (V) records and maintains all
2 project information for review during
3 the quality assurance inspection;

4 (VI) maintains quality assurance
5 records of internal reviews of the op-
6 eration and performance of the busi-
7 ness;

8 (VII) adopts a customer dispute
9 resolution policy that establishes a
10 specific time line in resolving any dis-
11 putes with the consumer; and

12 (VIII) meets such other stand-
13 ards as are required by the Secretary;

14 (C) except as provided in paragraph (2),
15 effective 1 year after the date on which funds
16 are provided under this title, employs a certified
17 workforce; and

18 (D) effective beginning 1 year after the
19 date of enactment of this Act, meets all require-
20 ments of an applicable State quality assurance
21 framework.

22 (2) EXCEPTION.—A contractor described in
23 paragraph (1)(C) may employ a person who is not
24 certified to perform installation work covered under
25 section 3002(4) if the employee—

1 (A) has not worked for the contractor or
2 on Home Star projects for a period of more
3 than 180 days;

4 (B) is supervised on each project by a fel-
5 low employee who is certified under section
6 3002(4) to perform the applicable covered work;

7 (C) is the only person who performs cov-
8 ered installation work on a project and has not
9 been certified under section 3002(4); and

10 (D) is directly employed by the contractor
11 or the subcontractor of the contractor, and not
12 self employed, or employed through a temporary
13 employment agency, staffing service, or other
14 intermediary.

15 (c) HEALTH AND SAFETY REQUIREMENTS.—Nothing
16 in this title relieves any contractor from the obligation to
17 comply with applicable Federal, State, and local health
18 and safety code requirements.

19 **SEC. 3005. REBATE AGGREGATORS.**

20 (a) IN GENERAL.—The Secretary shall develop a net-
21 work of rebate aggregators that can facilitate the delivery
22 of rebates to participating contractors and vendors for dis-
23 counts provided to homeowners for efficiency retrofit
24 work.

25 (b) RESPONSIBILITIES.—Rebate aggregators shall—

1 (1) review the proposed rebate application for
2 completeness and accuracy;

3 (2) review measures under the Silver Star
4 Home Retrofit Program and savings under the Gold
5 Star Home Retrofit Program for eligibility in ac-
6 cordance with this title;

7 (3) provide data to the Federal Data Processing
8 Center consistent with data protocols established by
9 the Secretary; and

10 (4) distribute funds received from DOE to con-
11 tractors, vendors, or other persons.

12 (c) PROCESSING REBATE APPLICATIONS.—A rebate
13 aggregator shall—

14 (1) submit the rebate application to the Federal
15 Rebate Processing Center not later than 14 days
16 after the date of receipt of a rebate application from
17 a contractor; and

18 (2) distribute funds to the contractor not later
19 than 6 days after the date of receipt from the Fed-
20 eral Rebate Processing System.

21 (d) ELIGIBILITY.—To be eligible to apply to the Sec-
22 retary for approval as a rebate aggregator, an entity shall
23 be—

24 (1) a Home Performance with Energy Star
25 partner;

1 (2) an entity administering a residential effi-
2 ciency retrofit program established or approved by a
3 State;

4 (3) a Federal Power Marketing Administration,
5 an electric utility, or a natural gas utility that has—

6 (A) an approved residential efficiency ret-
7 rofit program; and

8 (B) an established quality assurance pro-
9 vider network; or

10 (4) an entity that demonstrates to the Sec-
11 retary that the entity can perform the functions of
12 an rebate aggregator, without disrupting existing
13 residential retrofits in the States that are incor-
14 porating the Home Star Program, including dem-
15 onstration of—

16 (A) corporate status or status as a State
17 or local government;

18 (B) the capability to provide electronic
19 data to the Federal Rebate Processing System;

20 (C) a financial system that is capable of
21 tracking the distribution of rebates to partici-
22 pating contractors; and

23 (D) coordination and cooperation by the
24 entity with the appropriate State office regard-
25 ing participation in the existing efficiency pro-

1 grams that will be delivering the Home Star
2 Program.

3 (e) APPLICATION TO BECOME A REBATE
4 AGGREGATOR.—Not later than 30 days after the date of
5 receipt of an application of an entity seeking to become
6 a rebate aggregator, the Secretary shall approve or deny
7 the application on the basis of the eligibility criteria under
8 subsection (d).

9 (f) APPLICATION PRIORITY.—In reviewing applica-
10 tions from entities seeking to become rebate aggregators,
11 the Secretary shall give priority to entities that commit—

12 (1) to reviewing applications for participation in
13 the program from all qualified contractors within a
14 defined geographic region; and

15 (2) to processing rebate applications more rap-
16 idly than the minimum requirements established
17 under the program.

18 (g) PUBLIC UTILITY COMMISSION EFFICIENCY TAR-
19 GETS.—The Secretary shall—

20 (1) develop guidelines for States to use to allow
21 utilities participating as rebate aggregators to count
22 the savings from the participation of the utilities to-
23 ward State-level savings targets; and

1 (2) work with States to assist in the adoption
2 of the guidelines for the purposes and duration of
3 the Home Star Retrofit Rebate Program.

4 **SEC. 3006. QUALITY ASSURANCE PROVIDERS.**

5 (a) IN GENERAL.—An entity shall be considered a
6 quality assurance provider under this title if the entity—

7 (1) is independent of the contractor;

8 (2) confirms the qualifications of contractors or
9 installers of home efficiency retrofits;

10 (3) confirms compliance with the requirements
11 of a “certified workforce”; and

12 (4) performs field inspections and other meas-
13 ures required to confirm the compliance of the ret-
14 rofit work under the Silver Star program, and the
15 retrofit work and the use of software simulation sav-
16 ings under the Gold Star program, based on the re-
17 quirements of this title.

18 (b) INCLUSIONS.—An entity shall be considered a
19 quality assurance provider under this title if the entity is
20 qualified through—

21 (1) the International Code Council;

22 (2) the BPI;

23 (3) the RESNET;

24 (4) a State;

1 (5) a State-approved residential efficiency retro-
2 fit program; or

3 (6) any other entity designated by the Sec-
4 retary, in consultation with the Administrator.

5 **SEC. 3007. SILVER STAR HOME RETROFIT PROGRAM.**

6 (a) IN GENERAL.—If the energy-efficiency or water-
7 saving retrofit of a home is carried out after the date of
8 enactment of this Act in accordance with this section, a
9 rebate shall be awarded for the energy or water savings
10 retrofit of a home for the installation of savings meas-
11 ures—

12 (1) selected from the list of energy and water
13 savings measures described in subsection (b);

14 (2) installed in the home by a qualified con-
15 tractor not later than 1 year after the date of enact-
16 ment of this Act;

17 (3) carried out in compliance with this section;
18 and

19 (4) subject to the maximum amount limitations
20 established under subsection (d)(4).

21 (b) ENERGY AND WATER SAVINGS MEASURES.—
22 Subject to subsection (c), a rebate shall be awarded under
23 this section for the installation of the following energy or
24 water savings measures for a home energy or water ret-

1 rofit that meet technical standards established under this
2 section:

3 (1) Whole house air-sealing measures (including
4 interior and exterior measures and using sealants,
5 caulks, insulating foams, gaskets, weather-stripping,
6 mastics, and other building materials), in accordance
7 with BPI standards or other procedures approved by
8 the Secretary.

9 (2) Attic insulation measures that—

10 (A) include sealing of air leakage between
11 the attic and the conditioned space, in accord-
12 ance with BPI standards or the attic portions
13 of the DOE or EPA thermal bypass checklist or
14 other procedures approved by the Secretary;

15 (B) add at least R-19 insulation to exist-
16 ing insulation;

17 (C) result in at least R-38 insulation in
18 DOE climate zones 1 through 4 and at least R-
19 49 insulation in DOE climate zones 5 through
20 8, including existing insulation, within the lim-
21 its of structural capacity; and

22 (D) cover at least—

23 (i) 100 percent of an accessible attic;

24 or

1 (ii) 75 percent of the total conditioned
2 footprint of the house.

3 (3) Duct seal or replacement that—

4 (A) is installed in accordance with BPI
5 standards or other procedures approved by the
6 Secretary; and

7 (B) in the case of duct replacement, re-
8 places and seals at least 50 percent of a dis-
9 tribution system of the home.

10 (4) Wall insulation that—

11 (A) is installed in accordance with BPI
12 standards or other procedures approved by the
13 Secretary;

14 (B) is to full-stud thickness; and

15 (C) covers at least 75 percent of the total
16 external wall area of the home.

17 (5) Crawl space insulation or basement wall
18 and rim joist insulation that is installed in accord-
19 ance with BPI standards or other procedures ap-
20 proved by the Secretary—

21 (A) covers at least 500 square feet of crawl
22 space or basement wall and adds at least—

23 (i) R-19 of cavity insulation or R-15
24 of continuous insulation to existing crawl
25 space insulation; or

1 (ii) R–13 of cavity insulation or R–10
2 of continuous insulation to basement walls;
3 and

4 (B) fully covers the rim joist with at least
5 R–10 of new continuous or R–13 of cavity insu-
6 lation.

7 (6) Window replacement that replaces at least
8 8 exterior windows, or 75 percent of the exterior
9 windows in a home, whichever is less, with windows
10 that—

11 (A) are certified by the National Fenestra-
12 tion Rating Council; and

13 (B) comply with criteria applicable to win-
14 dows under section 25(c) of the Internal Rev-
15 enue Code of 1986.

16 (7) Door replacement that replaces at least 1
17 exterior door with doors that comply with criteria
18 applicable to doors under the 2010 Energy Star
19 specification for doors.

20 (8) Skylight replacement that replaces at least
21 1 skylight with skylights that comply with criteria
22 applicable to skylights under the 2010 Energy Star
23 specification for skylights.

24 (9)(A) Heating system replacement with—

- 1 (i) a natural gas or propane furnace with
2 an AFUE rating of 95 or greater;
- 3 (ii) a natural gas or propane boiler with an
4 AFUE rating of 90 or greater;
- 5 (iii) an oil furnace with an AFUE rating
6 of 86 or greater and that uses an electrically
7 commutated blower motor;
- 8 (iv) an oil boiler with an AFUE rating of
9 86 or greater and that has temperature reset or
10 thermal purge controls; or
- 11 (v) a wood or wood pellet furnace, boiler,
12 or stove, if—
 - 13 (I) the new system—
 - 14 (aa) meets at least 75 percent of
15 the heating demands of the home; and
 - 16 (bb) in the case of a wood stove,
17 replaces an existing wood stove with a
18 stove that is EPA-certified, if a
19 voucher is provided by the installer or
20 other responsible party certifying that
21 the old stove has been removed and
22 made inoperable;
 - 23 (II) the home has a distribution sys-
24 tem (such as ducts, vents, blowers, or af-
25 fixed fans) that allows heat from the wood

1 stove, furnace, or boiler to reach all or
2 most parts of the home; and

3 (III) an independent test laboratory
4 approved by the Secretary or the Adminis-
5 trator certifies that the new system—

6 (aa) has thermal efficiency (with
7 a lower heating value) of at least 75
8 percent for stoves and 80 percent for
9 furnaces and boilers; and

10 (bb) has particulate emissions of
11 less than 3.0 grams per hour for wood
12 stoves or pellet stoves, and less than
13 0.32 lbs per million BTU for outdoor
14 boilers and furnaces.

15 (B) A rebate may be provided under this sec-
16 tion for the replacement of a furnace or boiler de-
17 scribed in clauses (i) through (iv) of subparagraph
18 (A) only if the new furnace or boiler is installed in
19 accordance with ANSI/ACCA Standard 5 QI –
20 2007.

21 (10) Automatic water temperature controllers
22 that vary boiler water temperature in response to
23 changes in outdoor temperature or the demand for
24 heat, if the retrofit is to an existing boiler and not
25 in conjunction with a new boiler.

1 (11) Air-conditioner or heat-pump replacement
2 with a new unit that—

3 (A) is installed in accordance with ANSI/
4 ACCA Standard 5 QI–2007; and

5 (B) meets or exceeds—

6 (i) in the case of an air-source condi-
7 tioner, SEER 16 and EER 13;

8 (ii) in the case of an air-source heat
9 pump, SEER 15, EER 12.5, and HSPF
10 8.5; and

11 (iii) in the case of a geothermal heat
12 pump, Energy Star tier 2 efficiency re-
13 quirements.

14 (12) Replacement of or with—

15 (A) a natural gas or propane water heater
16 with a condensing storage water heater with an
17 energy factor of 0.80 or more or a condensing
18 storage water heater or tankless water heater
19 with a thermal efficiency of 90 percent or more;

20 (B) a tankless natural gas or propane
21 water heater with an energy factor of at least
22 .82;

23 (C) a natural gas or propane storage water
24 heater with an energy factor of at least .67;

1 (D) an indirect water heater with an insu-
2 lated storage tank that—

3 (i) has a storage capacity of at least
4 30 gallons and is insulated to at least R-
5 16; and

6 (ii) is installed in conjunction with a
7 qualifying boiler described in paragraph
8 (7);

9 (E) an electric water heater with an energy
10 factor of 2.0 or more;

11 (F) a water heater with a solar hot water
12 system that—

13 (i) is certified by the Solar Rating and
14 Certification Corporation under specifica-
15 tion SRCC-OG-300; or

16 (ii) meets technical standards estab-
17 lished by the State of Hawaii; or

18 (G) a water heater installed in conjunction
19 with a qualifying geothermal heat pump de-
20 scribed in paragraph (11) that provides domes-
21 tic water heating through the use of—

22 (i) year-round demand water heating
23 capability; or

24 (ii) a desuperheater.

25 (13) Storm windows that—

1 (A) are installed on a least 5 single-glazed
2 windows that do not have storm windows;

3 (B) are installed in a home listed on or eli-
4 gible for listing in the National Register of His-
5 toric Places; and

6 (C) comply with any procedures that the
7 Secretary may establish for storm windows (in-
8 cluding installation).

9 (14) Roof replacement that replaces at least 75
10 percent of the roof area with energy-saving roof
11 products certified under the Energy Star program.

12 (15) Window films that are installed on at least
13 8 exterior windows, doors, or skylights, or 75 per-
14 cent of the total exterior square footage of glass,
15 whichever is more, in a home with window films
16 that—

17 (A) are certified by the National Fenestra-
18 tion Rating Council;

19 (B) have a Solar Heat Gain Coefficient of
20 0.43 or less with a visible light-to-solar heat
21 gain ratio of at least 1.1 in 2009 International
22 Energy Conservation Code climate zones 1
23 through 8; and

24 (C) are certified to reduce the U-factor of
25 the National Fenestration Rating Council dual

1 pane reference window by 0.05 or greater and
2 are only applied to nonmetal frame dual pane
3 windows in 2009 International Energy Con-
4 servation Code climate zones 4 through 8.

5 (16) WaterSense products or services.

6 (c) INSTALLATION COSTS.—Measures described in
7 paragraphs (1) through (16) of subsection (b) shall in-
8 clude expenditures for labor and other installation-related
9 costs (including venting system modification and conden-
10 sate disposal) properly allocable to the onsite preparation,
11 assembly, or original installation of the component.

12 (d) AMOUNT OF REBATE.—

13 (1) IN GENERAL.—Except as provided in para-
14 graphs (2) through (4), the amount of a rebate pro-
15 vided under this section shall be \$1,000 per measure
16 for the installation of savings measures described in
17 subsection (b)

18 (2) HIGHER REBATE AMOUNT.—Except as pro-
19 vided in paragraph (4), the amount of a rebate pro-
20 vided to the owner of a home or designee under this
21 section shall be \$1,500 per measure for—

22 (A) attic insulation and air sealing de-
23 scribed in subsection (b)(2);

24 (B) wall insulation described in subsection
25 (b)(4);

1 (C) a heating system described in sub-
2 section (b)(9); and

3 (D) an air-conditioner or heat-pump re-
4 placement described in subsection (b)(11).

5 (3) LOWER REBATE AMOUNT.—Except as pro-
6 vided in paragraph (4), the amount of a rebate pro-
7 vided under this section shall be—

8 (A) \$125 per door for the installation of
9 up to a maximum of 2 Energy Star doors de-
10 scribed in subsection (b)(7) for each home;

11 (B) \$125 per skylight for the installation
12 of up to a maximum of 2 Energy Star skylights
13 described in subsection (b)(8) for each home;

14 (C) \$750 for a maximum of 1 natural gas
15 or propane tankless water heater described in
16 subsection (b)(12)(B) for each home;

17 (D) \$450 for a maximum of 1 natural gas
18 or propane storage water heater described in
19 subsection (b)(12)(C) for each home;

20 (E) \$250 for rim joist insulation described
21 in subsection (b)(5)(B);

22 (F) \$50 for each storm window described
23 in subsection (b)(13);

24 (G) \$500 for a desuperheater described in
25 subsection (b)(12)(G)(ii);

1 (H) \$500 for a wood or pellet stove that
2 has a heating capacity of at least 28,000 BTU
3 per hour (using the upper end of the range list-
4 ed in the EPA list of Certified Wood Stoves)
5 and meets all of the requirements of subsection
6 (b)(9)(A)(v) other than the requirements in
7 items (aa) and (bb) of subsection
8 (b)(9)(A)(v)(I);

9 (I) \$250 for an automatic water tempera-
10 ture controller described in subsection (b)(10);

11 (J) \$500 for a roof described in subsection
12 (b)(14);

13 (K) \$500 for window films described in
14 subsection (b)(15); and

15 (L) \$150 for any combination of
16 WaterSense products or services described in
17 subsection (b)(16), if the total cost of all
18 WaterSense products or services is at least
19 \$300.

20 (4) MAXIMUM AMOUNT.—The total amount of a
21 rebate provided to the owner of a home or designee
22 under this section shall not exceed the lower of—

23 (A) \$3,000;

24 (B) the sum of the amounts per measure
25 specified in paragraphs (1) through (3);

1 (C) 50 percent of the total cost of the in-
2 stalled measures; or

3 (D) if the Secretary finds that the net
4 value to the homeowner of the rebates is less
5 than the amount of the rebates, the actual net
6 value to the homeowner.

7 (e) INSULATION PRODUCTS PURCHASED WITHOUT
8 INSTALLATION SERVICES.—

9 (1) IN GENERAL.—A rebate shall be awarded
10 under this section if—

11 (A) the measure—

12 (i) is—

13 (I) a whole house air-sealing
14 measure described in subsection
15 (b)(1);

16 (II) an attic insulation measure
17 described in subsection (b)(2);

18 (III) a duct seal or replacement
19 measure described in subsection
20 (b)(3);

21 (IV) a wall insulation measure
22 described in subsection (b)(4); or

23 (V) a crawl space insulation
24 measure or basement wall and rim

1 joist insulation measure described in
2 subsection (b)(5);

3 (ii) is purchased by a homeowner for
4 installation by the homeowner in a home
5 identified by the address of the home-
6 owner;

7 (iii) is identified and attributed to a
8 specific home in a submission by the ven-
9 dor to a rebate aggregator;

10 (iv) is not part of—

11 (I) a savings measure described
12 in paragraphs (6) through (11) of
13 subsection (b); and

14 (II) a retrofit for which a rebate
15 is provided under the Gold Star Home
16 Retrofit Program; and

17 (v) is not part of a savings measure
18 described in paragraphs (1) through (5) in
19 subsection (b) for which the homeowner re-
20 ceived or will receive contracting services;

21 or

22 (B) educational material on proper instal-
23 lation of the product is provided to the home-
24 owner, including material on air sealing while
25 insulating.

1 (2) AMOUNT.—A rebate under this subsection
2 shall be awarded in an amount equal to 50 percent
3 of the total cost of the products described in para-
4 graph (1), but not to exceed \$250 per home.

5 (f) QUALIFICATION FOR REBATE UNDER SILVER
6 STAR HOME RETROFIT PROGRAM.—On submission of a
7 claim by a rebate aggregator to the system established
8 under section 3005, the Secretary shall provide reimburse-
9 ment to the rebate aggregator for reduced-cost energy-effi-
10 ciency measures installed in a home, if—

11 (1) the measures undertaken for the retrofit
12 are—

13 (A) eligible measures described on the list
14 established under subsection (b);

15 (B) installed properly in accordance with
16 applicable technical specifications; and

17 (C) installed by a qualified contractor;

18 (2) the amount of the rebate does not exceed
19 the maximum amount described in subsection (d)(4);

20 (3) not less than—

21 (A) 20 percent of the retrofits performed
22 by each qualified contractor under this section
23 are randomly subject to a third-party field
24 verification of all work associated with the ret-
25 rofit by a quality assurance provider; or

1 (B) in the case of qualified contractor that
2 uses a certified workforce, 10 percent of the
3 retrofits performed under this section are ran-
4 domly subject to a third-party field verification
5 of all work associated with the retrofit by a
6 quality assurance provider; and

7 (4)(A) the installed measures will be brought
8 into compliance with the specifications and quality
9 standards for the Home Star Retrofit Rebate Pro-
10 gram, by the installing qualified contractor, at no
11 additional cost to the homeowner, not later than 14
12 days after the date of notification of a defect, if a
13 field verification by a quality assurance provider
14 finds that corrective work is needed;

15 (B) a subsequent quality assurance visit is con-
16 ducted to evaluate the remedy not later than 7 days
17 after notification by the contractor that the defect
18 has been corrected; and

19 (C) notification of disposition of the visit occurs
20 not later than 7 days after the date of that visit.

21 (g) HOMEOWNER COMPLAINTS.—

22 (1) IN GENERAL.—During the 1-year warranty
23 period, a homeowner may make a complaint under
24 the quality assurance program that compliance with

1 the requirements of this section has not been
2 achieved.

3 (2) VERIFICATION.—

4 (A) IN GENERAL.—The quality assurance
5 program shall provide that, on receiving a com-
6 plaint under paragraph (1), an independent
7 quality assurance provider shall conduct field
8 verification on the retrofit work performed by
9 the contractor.

10 (B) ADMINISTRATION.—A verification
11 under this paragraph shall be—

12 (i) in addition to verifications con-
13 ducted under subsection (f)(3); and

14 (ii) corrected in accordance with sub-
15 section (f)(4).

16 (h) AUDITS.—

17 (1) IN GENERAL.—On making payment for a
18 submission under this section, the Secretary shall re-
19 view rebate requests to determine whether program
20 requirements were met in all respects.

21 (2) INCORRECT PAYMENT.—On a determination
22 of the Secretary under paragraph (1) that a pay-
23 ment was made incorrectly to a party, the Secretary
24 may—

1 (A) recoup the amount of the incorrect
2 payment; or

3 (B) withhold the amount of the incorrect
4 payment from the next payment made to the
5 party pursuant to a subsequent request.

6 **SEC. 3008. GOLD STAR HOME RETROFIT PROGRAM.**

7 (a) IN GENERAL.—If the energy efficiency or water
8 savings retrofit of a home is carried out after the date
9 of enactment of this Act by an accredited contractor in
10 accordance with this section, a rebate shall be awarded
11 for retrofits that achieve whole home energy or water sav-
12 ings.

13 (b) AMOUNT OF REBATE.—

14 (1) ENERGY SAVINGS.—Subject to subsection
15 (e), the amount of a rebate provided to the owner
16 of a home or a designee of the owner for energy sav-
17 ings under this section shall be—

18 (A) \$3,000 for a 20-percent reduction in
19 whole home energy consumption; and

20 (B) an additional \$1,000 for each addi-
21 tional 5-percent reduction up to the lower of—

22 (i) \$8,000; or

23 (ii) 50 percent of the total retrofit
24 cost (including the cost of audit and diag-
25 nostic procedures).

1 (2) WATER SAVINGS.—Subject to subsection
2 (e), the amount of a rebate provided to the owner
3 of a home or a designee of the owner for a reduction
4 in water consumption under this section shall be—

5 (A) \$500 for measures that achieve a 20-
6 percent reduction in water consumption; and

7 (B) an additional \$100 for each additional
8 5-percent reduction in water consumption up to
9 the lower of—

10 (i) \$1,200; or

11 (ii) 50 percent of the total retrofit
12 cost (including the cost of audit and diag-
13 nostic procedures).

14 (c) ENERGY AND WATER SAVINGS.—

15 (1) IN GENERAL.—Reductions in whole home
16 energy or water consumption under this section shall
17 be determined by a comparison of the simulated en-
18 ergy or water consumption of the home before and
19 after the retrofit of the home.

20 (2) DOCUMENTATION.—The percent improve-
21 ment in energy or water consumption under this sec-
22 tion shall be documented through—

23 (A)(i) the use of a whole home simulation
24 software program that has been approved as a
25 commercial alternative under the Weatheriza-

1 tion Assistance Program for Low-Income Per-
2 sons established under part A of title IV of the
3 Energy Conservation and Production Act (42
4 U.S.C. 6861 et seq.); or

5 (ii) a equivalent performance test estab-
6 lished by the Secretary, in consultation with the
7 Administrator; or

8 (B)(i) the use of a whole home simulation
9 software program that has been approved under
10 RESNET Publication No. 06-001 (or a suc-
11 cessor publication approved by the Secretary);

12 (ii) an equivalent performance test estab-
13 lished by the Secretary; or

14 (iii) a State-certified equivalent rating net-
15 work, as specified by IRS Notice 2008-35; or

16 (iv) a HERS rating system required by
17 State law.

18 (3) MONITORING.—The Secretary—

19 (A) shall continuously monitor the software
20 packages used for determining rebates under
21 this section; and

22 (B) may disallow the use of software pro-
23 grams that improperly assess energy or water
24 savings.

1 (4) ASSUMPTIONS AND TESTING.—The Sec-
2 retary may—

3 (A) establish simulation tool assumptions
4 for the establishment of the pre-retrofit energy
5 or water consumption;

6 (B) require compliance with software per-
7 formance tests covering—

8 (i) mechanical system performance;

9 (ii) duct distribution system efficiency;

10 (iii) hot water performance; or

11 (iv) other measures; and

12 (C) require the simulation of pre-retrofit
13 energy or water usage to be bounded by me-
14 tered pre-retrofit energy or water usage.

15 (5) RECOMMENDED MEASURES.—The simula-
16 tion tool shall have the ability at a minimum to as-
17 sess the savings associated with all the measures for
18 which incentives are specifically provided under the
19 Silver Star Home Retrofit Program.

20 (6) QUANTIFICATION OF WATER SAVINGS.—Not
21 later than 180 days after the date of enactment of
22 this Act, the Secretary, in consultation with the Ad-
23 ministrator, shall make public an approved method-
24 ology for use in quantifying reductions in water con-

1 sumption for the purpose of carrying out this sec-
2 tion.

3 (d) QUALIFICATION FOR REBATE UNDER GOLD
4 STAR HOME RETROFIT PROGRAM.—On submission of a
5 claim by a rebate aggregator to the system established
6 under section 3005, the Secretary shall provide reimburse-
7 ment to the rebate aggregator for reduced-cost whole-
8 home retrofits, if—

9 (1) the retrofit is performed by an accredited
10 contractor;

11 (2) the amount of the reimbursement is not
12 more than the amount described in subsection (b);

13 (3) documentation described in subsection (c) is
14 transmitted with the claim;

15 (4) a home receiving a whole-home retrofit is
16 subject to random third-party field verification by a
17 quality assurance provider in accordance with sub-
18 section (e); and

19 (5)(A) the installed measures will be brought
20 into compliance with the specifications and quality
21 standards for the Home Star Retrofit Rebate Pro-
22 gram, by the installing qualified contractor, at no
23 additional cost to the homeowner, not later than 14
24 days after the date of notification of a defect if a

1 field verification by a quality assurance provider
2 finds that corrective work is needed;

3 (B) a subsequent quality assurance visit is con-
4 ducted to evaluate the remedy not later than 7 days
5 after notification by the contractor that the defect
6 has been corrected; and

7 (C) notification of disposition of the visit occurs
8 not later than 7 days after the date of that visit.

9 (e) VERIFICATION.—

10 (1) IN GENERAL.—Subject to paragraph (2), all
11 work installed in a home receiving a whole-home ret-
12 rofit by an accredited contractor under this section
13 shall be subject to random third-party field
14 verification by a quality assurance provider at a rate
15 of—

16 (A) 15 percent; or

17 (B) in the case of work performed by an
18 accredited contractor using a certified work-
19 force, 10 percent.

20 (2) VERIFICATION NOT REQUIRED.—A home
21 shall not be subject to random third-party field
22 verification under this section if—

23 (A) a post-retrofit home energy or water
24 rating is conducted by an eligible certifier in ac-
25 cordance with—

1 (i) RESNET Publication No. 06–001
2 (or a successor publication approved by the
3 Secretary);

4 (ii) a State-certified equivalent rating
5 network, as specified in IRS Notice 2008–
6 35; or

7 (iii) a HERS rating system required
8 by State law;

9 (B) the eligible certifier is independent of
10 the qualified contractor or accredited contractor
11 in accordance with RESNET Publication No.
12 06–001 (or a successor publication approved by
13 the Secretary); and

14 (C) the rating includes field verification of
15 measures.

16 (f) HOMEOWNER COMPLAINTS.—

17 (1) IN GENERAL.—A homeowner may make a
18 complaint under the quality assurance program dur-
19 ing the 1-year warranty period that compliance with
20 the requirements of this section has not been
21 achieved.

22 (2) VERIFICATION.—

23 (A) IN GENERAL.—The quality assurance
24 program shall provide that, on receiving a com-
25 plaint under paragraph (1), an independent

1 quality assurance provider shall conduct field
2 verification on the retrofit work performed by
3 the contractor.

4 (B) ADMINISTRATION.—A verification
5 under this paragraph shall be—

6 (i) in addition to verifications con-
7 ducted under subsection (e)(1); and

8 (ii) corrected in accordance with sub-
9 section (e).

10 (g) AUDITS.—

11 (1) IN GENERAL.—On making payment for a
12 submission under this section, the Secretary shall re-
13 view rebate requests to determine whether program
14 requirements were met in all respects.

15 (2) INCORRECT PAYMENT.—On a determination
16 of the Secretary under paragraph (1) that a pay-
17 ment was made incorrectly to a party, the Secretary
18 may—

19 (A) recoup the amount of the incorrect
20 payment; or

21 (B) withhold the amount of the incorrect
22 payment from the next payment made to the
23 party pursuant to a subsequent request.

1 **SEC. 3009. GRANTS TO STATES AND INDIAN TRIBES.**

2 (a) IN GENERAL.—A State or Indian tribe that re-
3 ceives a grant under subsection (d) shall use the grant
4 for—

5 (1) administrative costs;

6 (2) oversight of quality assurance programs;

7 (3) development and implementation of ongoing
8 quality assurance framework;

9 (4) establishment and delivery of financing pi-
10 lots in accordance with this title;

11 (5) coordination with existing residential ret-
12 rofit programs and infrastructure development to as-
13 sist deployment of the Home Star program;

14 (6) assisting in the delivery of services to rental
15 units; and

16 (7) the costs of carrying out the responsibilities
17 of the State or Indian tribe under the Silver Star
18 Home Retrofit Program and the Gold Star Home
19 Retrofit Program.

20 (b) INITIAL GRANTS.—Not later than 30 days after
21 the date of enactment of this Act, the Secretary shall
22 make the initial grants available under this section.

23 (c) INDIAN TRIBES.—The Secretary shall reserve an
24 appropriate amount of funding to be made available to
25 carry out this section for each fiscal year to make grants
26 available to Indian tribes under this section.

1 (d) STATE ALLOTMENTS.—From the amounts made
2 available to carry out this section for each fiscal year re-
3 maining after the reservation required under subsection
4 (c), the Secretary shall make grants available to States
5 in accordance with section 3016.

6 (e) QUALITY ASSURANCE PROGRAMS.—

7 (1) IN GENERAL.—A State or Indian tribe may
8 use a grant made under this section to carry out a
9 quality assurance program that is—

10 (A) operated as part of a State energy con-
11 servation plan established under part D of title
12 III of the Energy Policy and Conservation Act
13 (42 U.S.C. 6321 et seq.);

14 (B) managed by the office or the designee
15 of the office that is—

16 (i) responsible for the development of
17 the plan under section 362 of that Act (42
18 U.S.C. 6322); and

19 (ii) to the maximum extent prac-
20 ticable, conducting an existing efficiency
21 program; and

22 (C) in the case of a grant made to an In-
23 dian tribe, managed by an entity designated by
24 the Indian tribe to carry out a quality assur-

1 ance program or a national quality assurance
2 program manager.

3 (2) NONCOMPLIANCE.—If the Secretary deter-
4 mines that a State or Indian tribe has not provided
5 or cannot provide adequate oversight over a quality
6 assurance program to ensure compliance with this
7 title, the Secretary may—

8 (A) withhold further quality assurance
9 funds from the State or Indian tribe; and

10 (B) require that quality assurance pro-
11 viders operating in the State or by the Indian
12 tribe be overseen by a national quality assur-
13 ance program manager selected by the Sec-
14 retary.

15 (f) IMPLEMENTATION.—A State or Indian tribe that
16 receives a grant under this section may implement a qual-
17 ity assurance program through the State, the Indian tribe,
18 or a third party designated by the State or Indian tribe,
19 including—

20 (1) an energy or water service company;

21 (2) an electric utility;

22 (3) a natural gas utility;

23 (4) a third-party administrator designated by
24 the State or Indian tribe;

25 (5) a unit of local government; or

1 (6) a public or private water utility.

2 (g) PUBLIC-PRIVATE PARTNERSHIPS.—A State or
3 Indian tribe that receives a grant under this section are
4 encouraged to form partnerships with utilities, energy
5 service companies, and other entities—

6 (1) to assist in marketing a program;

7 (2) to facilitate consumer financing;

8 (3) to assist in implementation of the Silver
9 Star Home Retrofit Program and the Gold Star
10 Home Retrofit Program, including installation of
11 qualified retrofit measures; and

12 (4) to assist in implementing quality assurance
13 programs.

14 (h) COORDINATION OF REBATE AND EXISTING
15 STATE-SPONSORED PROGRAMS.—

16 (1) IN GENERAL.—A State or Indian tribe
17 shall, to the maximum extent practicable, prevent
18 duplication through coordination of a program au-
19 thorized under this title with—

20 (A) the Energy Star appliance rebates pro-
21 gram authorized under the American Recovery
22 and Reinvestment Act of 2009 (Public Law
23 111–5; 123 Stat. 115); and

24 (B) comparable programs planned or oper-
25 ated by States, political subdivisions, electric

1 and natural gas utilities, Federal power mar-
2 keting administrations, and Indian tribes.

3 (2) EXISTING PROGRAMS.—In carrying out this
4 subsection, a State or Indian tribe shall—

5 (A) give priority to—

6 (i) comprehensive retrofit programs in
7 existence on the date of enactment of this
8 Act, including programs under the super-
9 vision of State utility regulators; and

10 (ii) using Home Star funds made
11 available under this title to enhance and
12 extend existing programs; and

13 (B) seek to enhance and extend existing
14 programs by coordinating with administrators
15 of the programs.

16 **SEC. 3010. QUALITY ASSURANCE FRAMEWORK.**

17 (a) IN GENERAL.—Not later than 180 days after the
18 date that the Secretary initially provides funds to a State
19 under this title, the State shall submit to the Secretary
20 a plan to implement a quality assurance framework.

21 (b) MODEL STATE PLANS.—The Secretary shall—

22 (1) as soon as practicable after the date of en-
23 actment of this Act, solicit the submission of model
24 State quality assurance framework plans that are
25 consistent with this section; and

1 (2) not later than 60 days after the date of en-
2 actment or the receipt of funding to carry out this
3 title (whichever is later), approve 1 or more such
4 model plans that incorporate nationally consistent
5 high standards for optional use by States.

6 (c) IMPLEMENTATION.—The State shall—

7 (1) develop a quality assurance framework in
8 consultation with industry stakeholders, including
9 representatives of efficiency program managers, con-
10 tractors, and environmental, efficiency, and labor or-
11 ganizations; and

12 (2) implement the quality assurance framework
13 not later than 1 year after the date of enactment of
14 this Act.

15 (d) COMPONENTS.—The quality assurance frame-
16 work established under this section shall include—

17 (1) a requirement that contractors performing
18 covered retrofits meet—

19 (A) the accreditation, workforce certifi-
20 cation, and all other requirements established
21 under section 3004(b); and

22 (B) minimum standards for accredited
23 contractors, including—

24 (i) compliance with applicable Fed-
25 eral, State, and local laws;

1 (ii) maintenance of records needed to
2 verify compliance; and

3 (iii) use of independent contractors
4 only when appropriately classified as such
5 pursuant to Revenue Ruling 87-41 and
6 section 530 of the Revenue Act of 1978
7 and relevant State law;

8 (2) maintenance of a list of accredited contrac-
9 tors;

10 (3) requirements for maintenance and delivery
11 to the Federal Rebate Processing System of infor-
12 mation needed to verify compliance and ensure ap-
13 propriate compensation for quality assurance pro-
14 viders;

15 (4) targets and realistic plans for—

16 (A) the recruitment of minority- and
17 women-owned small business enterprises;

18 (B) the employment of graduates of train-
19 ing programs that primarily serve targeted
20 workers;

21 (C) the employment of targeted workers;
22 and

23 (D) the availability of financial assistance
24 under the Home Star loan program to—

1 (i) public use microdata areas that
2 have a poverty rate of 12 percent or more;
3 and

4 (ii) homeowners served by units of
5 local government in jurisdictions that have
6 an unemployment rate that is 2 percent
7 higher than the national unemployment
8 rate;

9 (5) a plan to link workforce training for effi-
10 ciency retrofits with training for the broader range
11 of skills and occupations in construction or emerging
12 clean energy industries;

13 (6) quarterly reports to the Secretary on the
14 progress of implementation of the quality assurance
15 framework and any success in meeting the targets
16 and plans; and

17 (7) maintenance of a list of qualified quality as-
18 surance providers and minimum standards for the
19 quality assurance providers.

20 (e) NONCOMPLIANCE.—If the Secretary determines
21 that a State that has elected to implement a quality assur-
22 ance program, but has failed to plan, develop, or imple-
23 ment a quality assurance framework in accordance with
24 this section, the Secretary shall suspend further grants for
25 State administration pursuant to section 3016(b)(1).

1 (f) COORDINATION.—The Secretary shall take rea-
2 sonable steps consistent with the existing authority of the
3 Secretary to promote coordination between State quality
4 assurance frameworks and any residential retrofit pro-
5 gram funded in whole or in part by the Secretary, which
6 may include the adoption of standards established under
7 the quality assurance frameworks and the use of partici-
8 pating accredited contractors.

9 (g) EXCLUSIONS.—The quality assurance frame-
10 works shall not apply to any measures or activities under
11 the Silver Star Home Retrofit Program.

12 **SEC. 3011. REPORT.**

13 (a) IN GENERAL.—Not later than 1 year after the
14 date of enactment of this Act, the Secretary shall submit
15 to the Committee on Energy and Natural Resources of
16 the Senate and the Committee on Energy and Commerce
17 of the House of Representatives a report on the use of
18 funds under this title.

19 (b) CONTENTS.—The report shall include a descrip-
20 tion of—

21 (1) the savings produced as a result of this
22 title;

23 (2) the direct and indirect employment created
24 as a result of the programs supported by the funds
25 provided under this title;

1 (3) the specific entities implementing the effi-
2 ciency programs;

3 (4) the beneficiaries who received the efficiency
4 improvements;

5 (5) the manner in which funds provided under
6 this title were used;

7 (6) the sources (such as mortgage lenders, util-
8 ity companies, and local governments) and types of
9 financing used by the beneficiaries to finance the
10 retrofit expenses that were not covered by grants
11 provided under this title; and

12 (7) the results of verification requirements; and

13 (8) any other information the Secretary con-
14 siders appropriate

15 (c) NONCOMPLIANCE.—If the Secretary determines
16 that a rebate aggregator, State, or Indian tribe has not
17 provided the information required under this section, the
18 Secretary shall provide to the rebate aggregator, State, or
19 Indian tribe a period of at least 90 days to provide any
20 necessary information, subject to penalties imposed by the
21 Secretary for entities other than States and Indian tribes,
22 which may include withholding of funds or reduction of
23 future grant amounts.

1 **SEC. 3012. ADMINISTRATION.**

2 (a) IN GENERAL.—Subject to section 3016(b), not
3 later than 30 days after the date of enactment of this Act,
4 the Secretary shall provide such administrative and tech-
5 nical support to rebate aggregators, States, and Indian
6 tribes as is necessary to carry out the functions designated
7 to States under this title.

8 (b) APPOINTMENT OF PERSONNEL.—Notwith-
9 standing the provisions of title 5, United States Code, gov-
10 erning appointments in the competitive service and Gen-
11 eral Schedule classifications and pay rates, the Secretary
12 may appoint such professional and administrative per-
13 sonnel as the Secretary considers necessary to carry out
14 this title.

15 (c) RATE OF PAY.—The rate of pay for a person ap-
16 pointed under subsection (a) shall not exceed the max-
17 imum rate payable for GS–15 of the General Schedule
18 under chapter 53 of title 5, United States Code.

19 (d) CONSULTANTS.—Notwithstanding section 303 of
20 the Federal Property and Administrative Services Act of
21 1949 (41 U.S.C. 253), the Secretary may retain such con-
22 sultants on a noncompetitive basis as the Secretary con-
23 siders necessary to carry out this title.

24 (e) CONTRACTING.—In carrying out this title, the
25 Secretary may waive all or part of any provision of the
26 Competition in Contracting Act of 1984 (Public Law 98–

1 369; 98 Stat. 1175), an amendment made by that Act,
2 or the Federal Acquisition Regulation on a determination
3 that circumstances make compliance with the provisions
4 contrary to the public interest.

5 (f) REGULATIONS.—

6 (1) IN GENERAL.—Notwithstanding section 553
7 of title 5, United States Code, the Secretary may
8 issue regulations that the Secretary, in the sole dis-
9 cretion of the Secretary, determines necessary to
10 carry out the Home Star Retrofit Rebate Program.

11 (2) DEADLINE.—If the Secretary determines
12 that regulations described in paragraph (1) are nec-
13 essary, the regulations shall be issued not later than
14 60 days after the date of the enactment of this Act.

15 (3) LIMITATIONS.—

16 (A) IN GENERAL.—Subject to subpara-
17 graph (B), the Secretary shall not use the au-
18 thority provided under this subsection—

19 (i) to develop, adopt, or implement a
20 public labeling system that rates and com-
21 pares the energy or water performance of
22 1 home with another home; or

23 (ii) to require the public disclosure of
24 an energy or water performance evaluation
25 or rating developed for any specific home.

1 (B) ADMINISTRATION.—Nothing in this
2 paragraph precludes—

3 (i) the computation, collection, or use
4 by the Secretary, rebate aggregators, qual-
5 ity assurance providers, or States, for the
6 purposes of carrying out sections 3007 and
7 3008, of information on the rating and
8 comparison of the energy and water per-
9 formance of homes with and without en-
10 ergy or water efficiency features or an en-
11 ergy or water performance evaluation or
12 rating;

13 (ii) the use and publication of aggre-
14 gate data (without identifying individual
15 homes or participants) based on informa-
16 tion referred to in clause (i) to determine
17 or demonstrate the performance of the
18 Home Star program; or

19 (iii) the provision of information re-
20 ferred to in clause (i) with respect to a
21 specific home—

22 (I) to the State, homeowner,
23 quality assurance provider, rebate
24 aggregator, or contractor performing
25 retrofit work on that home, or an en-

1 tity providing Home Star services, as
2 necessary to enable carrying out this
3 title; or

4 (II) for purposes of prosecuting
5 fraud or abuse.

6 (4) WATERSENSE PRODUCTS OR SERVICES.—In
7 issuing regulations under this subsection, the Sec-
8 retary shall coordinate with the Administrator to
9 carry out the provisions of the Home Star Retrofit
10 Rebate Program relating to WaterSense products or
11 services.

12 (g) INFORMATION COLLECTION.—Chapter 35 of title
13 44, United States Code, shall not apply to any information
14 collection requirement necessary for the implementation of
15 the Home Star Retrofit Rebate Program.

16 (h) ADJUSTMENT OF REBATE AMOUNTS.—Effective
17 beginning on the date that is 180 days after the date of
18 enactment of this Act, the Secretary may, after not less
19 than 30 days public notice, prospectively adjust the rebate
20 amounts provided in this section based on—

21 (1) the use of the Silver Star Home Retrofit
22 Program and the Gold Star Home Retrofit Program;
23 and

24 (2) other program data.

1 **SEC. 3013. TREATMENT OF REBATES.**

2 (a) IN GENERAL.—For purposes of the Internal Rev-
3 enue Code of 1986, rebates received for eligible measures
4 under this title—

5 (1) shall not be considered taxable income to a
6 homeowner;

7 (2) shall prohibit the consumer from applying
8 for a tax credit allowed under section 25C or 25D
9 of that Code for the same eligible measures per-
10 formed in the home of the homeowner; and

11 (3) shall be considered a credit allowed under
12 section 25C or 25D of that Code for purposes of any
13 limitation on the amount of the credit under that
14 section.

15 (b) NOTICE.—

16 (1) IN GENERAL.—A participating contractor
17 shall provide notice to a homeowner of the provisions
18 of subsection (a) before eligible work is performed in
19 the home of the homeowner.

20 (2) NOTICE IN REBATE FORM.—A homeowner
21 shall be notified of the provisions of subsection (a)
22 in the appropriate rebate form developed by the Sec-
23 retary, in consultation with the Secretary of the
24 Treasury.

25 (3) AVAILABILITY OF REBATE FORM.—A par-
26 ticipating contractor shall obtain the rebate form on

1 a designated website in accordance with section
2 3003(b)(1)(A)(iii).

3 **SEC. 3014. PENALTIES.**

4 (a) IN GENERAL.—It shall be unlawful for any per-
5 son to violate this title (including any regulation issued
6 under this title), other than a violation as the result of
7 a clerical error.

8 (b) CIVIL PENALTY.—Any person who commits a vio-
9 lation of this title shall be liable to the United States for
10 a civil penalty in an amount that is not more than the
11 higher of—

12 (1) \$15,000 for each violation; or

13 (2) 3 times the value of any associated rebate
14 under this title.

15 (c) ADMINISTRATION.—The Secretary may—

16 (1) assess and compromise a penalty imposed
17 under subsection (b); and

18 (2) require from any entity the records and in-
19 spections necessary to enforce this title.

20 (d) EXCLUSION.—A State may bar a contractor from
21 receiving receive rebates under this title if the contractor
22 has committed repeated violations of this title.

23 (e) FRAUD.—In addition to any civil penalty, any per-
24 son who commits a fraudulent violation of this title shall
25 be subject to criminal prosecution.

1 **SEC. 3015. HOME STAR EFFICIENCY LOAN PROGRAM.**

2 (a) DEFINITIONS.—In this section:

3 (1) ELIGIBLE PARTICIPANT.—The term “eligi-
4 ble participant” means a homeowner who receives fi-
5 nancial assistance from a qualified financing entity
6 to carry out energy or water efficiency or renewable
7 energy improvements to an existing home or other
8 residential building of the homeowner in accordance
9 with the Gold Star Home Retrofit Program or the
10 Silver Star Home Retrofit Program.

11 (2) PROGRAM.—The term “program” means
12 the Home Star Efficiency Loan Program established
13 under subsection (b).

14 (3) QUALIFIED FINANCING ENTITY.—The term
15 “qualified financing entity” means a State, political
16 subdivision of a State, tribal government, electric
17 utility, natural gas utility, nonprofit or community-
18 based organization, energy service company, retailer,
19 public water system, or any other qualified entity
20 that—

21 (A) meets the eligibility requirements of
22 this section; and

23 (B) is designated by the Governor of a
24 State in accordance with subsection (e).

1 (4) QUALIFIED LOAN PROGRAM MECHANISM.—

2 The term “qualified loan program mechanism”
3 means a loan program that is—

4 (A) administered by a qualified financing
5 entity; and

6 (B) principally funded—

7 (i) by funds provided by or overseen
8 by a State or local government; or

9 (ii) through the energy loan program
10 of the Federal National Mortgage Associa-
11 tion.

12 (b) ESTABLISHMENT.—The Secretary shall establish
13 a Home Star Efficiency Loan Program under which the
14 Secretary shall make funds available to States to support
15 financial assistance provided by qualified financing enti-
16 ties for making, to existing homes, efficiency improve-
17 ments that qualify under the Gold Star Home Retrofit
18 Program or the Silver Star Home Retrofit Program.

19 (c) ELIGIBILITY OF QUALIFIED FINANCING ENTI-
20 TIES.—To be eligible to participate in the program, a
21 qualified financing entity shall—

22 (1) offer a financing product under which eligi-
23 ble participants may pay over time for the cost to
24 the eligible participant (after all applicable Federal,
25 State, local, and other rebates or incentives are ap-

1 plied) of making improvements described in sub-
2 section (b);

3 (2) require all financed improvements to be per-
4 formed by contractors in a manner that meets min-
5 imum standards that are at least as stringent as the
6 standards provided under sections 3007 and 3008;
7 and

8 (3) establish standard underwriting criteria to
9 determine the eligibility of program applicants,
10 which criteria shall be consistent with—

11 (A) with respect to unsecured consumer
12 loan programs, standard underwriting criteria
13 used under the energy loan program of the
14 Federal National Mortgage Association; or

15 (B) with respect to secured loans or other
16 forms of financial assistance, commercially rec-
17 ognized best practices applicable to the form of
18 financial assistance being provided (as deter-
19 mined by the designated entity administering
20 the program in the State).

21 (d) ALLOCATION.—In making funds available to
22 States for each fiscal year under this section, the Sec-
23 retary shall use the formula used to allocate funds to
24 States to carry out State energy conservation plans estab-

1 lished under part D of title III of the Energy Policy and
2 Conservation Act (42 U.S.C. 6321 et seq.).

3 (e) QUALIFIED FINANCING ENTITIES.—Before mak-
4 ing funds available to a State under this section, the Sec-
5 retary shall require the Governor of the State to provide
6 to the Secretary a letter of assurance that the State—

7 (1) has 1 or more qualified financing entities
8 that meet the requirements of this section;

9 (2) has established a qualified loan program
10 mechanism that—

11 (A) includes a methodology to ensure cred-
12 ible energy or water savings or renewable en-
13 ergy generation;

14 (B) incorporates an effective repayment
15 mechanism, which may include—

16 (i) on-utility-bill repayment;

17 (ii) tax assessment or other form of
18 property assessment financing;

19 (iii) municipal service charges;

20 (iv) energy, water, or energy or water
21 efficiency services contracts;

22 (v) efficiency power purchase agree-
23 ments;

24 (vi) unsecured loans applying the un-
25 derwriting requirements of the energy loan

1 program of the Federal National Mortgage
2 Association; or

3 (vii) alternative contractual repayment
4 mechanisms that have been demonstrated
5 to have appropriate risk mitigation fea-
6 tures; and

7 (C) will provide, in a timely manner, all in-
8 formation regarding the administration of the
9 program as the Secretary may require to permit
10 the Secretary to meet the reporting require-
11 ments of subsection (h).

12 (f) USE OF FUNDS.—Funds made available to States
13 under the program may be used to support financing prod-
14 ucts offered by qualified financing entities to eligible par-
15 ticipants for eligible efficiency work, by providing—

16 (1) interest rate reductions;

17 (2) loan loss reserves or other forms of credit
18 enhancement;

19 (3) revolving loan funds from which qualified fi-
20 nancing entities may offer direct loans; or

21 (4) other debt instruments or financial products
22 necessary—

23 (A) to maximize leverage provided through
24 available funds; and

1 (B) to support widespread deployment of
2 efficiency finance programs.

3 (g) USE OF REPAYMENT FUNDS.—In the case of a
4 revolving loan fund established by a State described in
5 subsection (f)(3), a qualified financing entity may use
6 funds repaid by eligible participants under the program
7 to provide financial assistance for additional eligible par-
8 ticipants to make improvements described in subsection
9 (b) in a manner that is consistent with this section or
10 other such criteria as are prescribed by the State.

11 (h) PROGRAM EVALUATION.—Not later than 1 year
12 after the date of enactment of this Act, the Secretary shall
13 submit to Congress a program evaluation that describes—

14 (1) how many eligible participants have partici-
15 pated in the program;

16 (2) how many jobs have been created through
17 the program, directly and indirectly;

18 (3) what steps could be taken to promote fur-
19 ther deployment of energy and water efficiency and
20 renewable energy retrofits;

21 (4) the quantity of verifiable energy and water
22 savings, homeowner energy and water bill savings,
23 and other benefits of the program; and

24 (5) the performance of the programs carried
25 out by qualified financing entities under this section,

1 including information on the rate of default and re-
2 payment.

3 (i) CREDIT SUPPORT FOR FINANCING PROGRAMS.—

4 Section 1705 of the Energy Policy Act of 2005 (42 U.S.C.
5 16516) (as amended by section 2132(b)) is amended—

6 (1) in subsection (a), by adding at the end the
7 following:

8 “(5) Energy and water efficiency projects, in-
9 cluding projects to retrofit residential, commercial,
10 and industrial buildings, facilities, and equipment,
11 including financing programs that finance the retro-
12 fitting of residential, commercial, and industrial
13 buildings, facilities, and equipment.”.

14 (2) by redesignating subsection (e) as sub-
15 section (f); and

16 (3) by inserting after subsection (d) the fol-
17 lowing:

18 “(e) CREDIT SUPPORT FOR FINANCING PRO-
19 GRAMS.—

20 “(1) IN GENERAL.—In the case of programs
21 that finance the retrofitting of residential, commer-
22 cial, and industrial buildings, facilities, and equip-
23 ment described in subsection (a)(4), the Secretary
24 may—

1 “(A) offer loan guarantees for portfolios of
2 debt obligations; and

3 “(B) purchase or make commitments to
4 purchase portfolios of debt obligations.

5 “(2) TERM.—Notwithstanding section 1702(f),
6 the term of any debt obligation that receives credit
7 support under this subsection shall require full re-
8 payment over a period not to exceed the lesser of—

9 “(A) 30 years; and

10 “(B) the projected weighted average useful
11 life of the measure or system financed by the
12 debt obligation or portfolio of debt obligations
13 (as determined by the Secretary).

14 “(3) UNDERWRITING.—The Secretary may—

15 “(A) delegate underwriting responsibility
16 for portfolios of debt obligations under this sub-
17 section to financial institutions that meet quali-
18 fications determined by the Secretary; and

19 “(B) determine an appropriate percentage
20 of loans in a portfolio to review in order to con-
21 firm sound underwriting.

22 “(4) ADMINISTRATION.—Subsections (c) and
23 (d)(3) of section 1702 and subsection (c) of this sec-
24 tion shall not apply to loan guarantees made under
25 this subsection.”.

1 (j) TERMINATION OF EFFECTIVENESS.—The author-
2 ity provided by this section and the amendments made by
3 this section terminates effective on the date that is 2 years
4 after the date of enactment of this Act.

5 **SEC. 3016. FUNDING.**

6 (a) FUNDING.—

7 (1) IN GENERAL.—On October 1, 2010, out of
8 any funds in the Treasury not otherwise appro-
9 priated, the Secretary of the Treasury shall transfer
10 to the Secretary to carry out this title
11 \$5,000,000,000, to remain available until September
12 30, 2012.

13 (2) RECEIPT AND ACCEPTANCE.—The Sec-
14 retary shall be entitled to receive, shall accept, and
15 shall use to carry out this title the funds transferred
16 under paragraph (1), without further appropriation.

17 (3) MAINTENANCE OF FUNDING.—Funds pro-
18 vided under this section shall supplement and not
19 supplant any Federal and State funding provided to
20 carry out efficiency programs in existence on the
21 date of enactment of this Act.

22 (b) GRANTS TO STATES.—

23 (1) IN GENERAL.—Of the amount provided
24 under subsection (a), \$380,000,000 or not more

1 than 6 percent, whichever is less, shall be used to
2 carry out section 3009.

3 (2) DISTRIBUTION TO STATE ENERGY OF-
4 FICES.—

5 (A) IN GENERAL.—Not later than 30 days
6 after the date of enactment of this Act, the Sec-
7 retary shall—

8 (i) provide to State energy offices 25
9 percent of the funds described in para-
10 graph (1); and

11 (ii) determine a formula to provide
12 the balance of funds to State energy offices
13 through a performance-based system.

14 (B) ALLOCATION.—

15 (i) ALLOCATION FORMULA.—Funds
16 described in subparagraph (A)(i) shall be
17 made available in accordance with the allo-
18 cation formula for State energy conserva-
19 tion plans established under part D of title
20 III of the Energy Policy and Conservation
21 Act (42 U.S.C.6321 et seq.).

22 (ii) PERFORMANCE-BASED SYSTEM.—
23 The balance of the funds described in sub-
24 paragraph (A)(ii) shall be made available
25 in accordance with the performance-based

1 system described in subparagraph (A)(ii)
2 designed to support the objectives of
3 achieving efficiency gains, employment of
4 underemployed workers, and implementing
5 quality assurance programs and frame-
6 works in participating States.

7 (c) QUALITY ASSURANCE COSTS.—

8 (1) IN GENERAL.—Of the amount provided
9 under subsection (a), not more than 5 percent shall
10 be used to carry out the quality assurance provisions
11 of this title.

12 (2) MANAGEMENT.—Funds provided under this
13 subsection shall be overseen by—

14 (A) State energy offices described in sub-
15 section (b)(2); or

16 (B) other entities determined by the Sec-
17 retary to be eligible to carry out quality assur-
18 ance functions under this title.

19 (3) DISTRIBUTION TO QUALITY ASSURANCE
20 PROVIDERS OR REBATE AGGREGATORS.—The Sec-
21 retary shall use funds provided under this subsection
22 to compensate quality assurance providers, or rebate
23 aggregators, for services under the Silver Star Home
24 Retrofit Program or the Gold Star Home Retrofit
25 Program through the Federal Rebate Processing

1 Center based on the services provided to contractors
2 under a quality assurance program and rebate ag-
3 gregation.

4 (4) INCENTIVES.—The amount of incentives
5 provided to quality assurance providers or rebate
6 aggregators shall be—

7 (A)(i) in the case of the Silver Star Home
8 Retrofit Program—

9 (I) \$25 per rebate review and submis-
10 sion provided under the program; and

11 (II) \$150 for each field inspection
12 conducted under the program; and

13 (ii) in the case of the Gold Star Home Ret-
14 rofit Program—

15 (I) \$35 for each rebate review and
16 submission provided under the program;
17 and

18 (II) \$300 for each field inspection
19 conducted under the program; or

20 (B) such other amounts as the Secretary
21 considers necessary to carry out the quality as-
22 surance provisions of this title.

23 (d) TRACKING OF REBATES AND EXPENDITURES.—
24 Of the amount provided under subsection (a), not more
25 than \$150,000,000 shall be used for costs associated with

1 database systems to track rebates and expenditures under
2 this title and related administrative costs incurred by the
3 Secretary.

4 (e) PUBLIC EDUCATION AND COORDINATION.—Of
5 the amount provided under subsection (a), not more than
6 \$10,000,000 shall be used for costs associated with public
7 education and coordination with the Federal Energy Star
8 program incurred by the Administrator.

9 (f) INDIAN TRIBES.—Of the amount provided under
10 subsection (a), the Secretary shall reserve not more than
11 3 percent to make grants available to Indian tribes under
12 this section.

13 (g) SILVER STAR HOME RETROFIT PROGRAM.—

14 (1) IN GENERAL.—In the case of the Silver
15 Star Home Retrofit Program, of the amount pro-
16 vided under subsection (a) after funds are provided
17 in accordance with subsections (b) through (f), $\frac{2}{3}$ of
18 the remaining funds for the 1-year period beginning
19 on the date of enactment of this Act (less any
20 amounts required under subsection (f)) shall be used
21 by the Secretary to provide rebates and incentives
22 authorized under the Silver Star Home Retrofit Pro-
23 gram.

24 (2) PRODUCTS PURCHASED WITHOUT INSTAL-
25 LATION SERVICES.—Of the amounts made available

1 for the Silver Star Home Retrofit Program under
2 this section, not more than \$250,000,000 shall be
3 made available for rebates under section 3007(e).

4 (h) GOLD STAR HOME RETROFIT PROGRAM.—

5 (1) IN GENERAL.—In the case of the Gold Star
6 Home Retrofit Program, of the amount provided
7 under subsection (a) after funds are provided in ac-
8 cordance with subsections (b) through (g), $\frac{1}{3}$ of the
9 remaining funds for the 2-year period beginning on
10 the date of enactment of this Act (less any amounts
11 required under subsection (f)) shall be used by the
12 Secretary to provide rebates and incentives author-
13 ized under the Gold Star Home Retrofit Program.

14 (2) WATER EFFICIENCY RETROFITS.—Of the
15 amounts made available for the Gold Star Home
16 Retrofit Program under this section, \$70,000,000
17 shall be made available for rebates for water effi-
18 ciency retrofits under section 3008.

19 (i) PROGRAM REVIEW AND BACKSTOP FUNDING.—

20 (1) REVIEW AND ANALYSIS.—

21 (A) IN GENERAL.—Not later than 180
22 days after the date of enactment of this Act,
23 the Secretary shall perform a State-by-State
24 analysis and review the distribution of Home
25 Star retrofit rebates under this title.

1 (B) RENTAL UNITS.—Not later than 120
2 days after the date of enactment of this Act,
3 the Secretary shall perform a review and anal-
4 ysis, with input and review from the Secretary
5 of Housing and Urban Development, of the pro-
6 cedures for delivery of services to rental units.

7 (2) ADJUSTMENT.—The Secretary may allocate
8 technical assistance funding to assist States that, as
9 determined by the Secretary—

10 (A) have not sufficiently benefitted from
11 the Home Star Retrofit Rebate Program; or

12 (B) in which rental units have not been
13 adequately served.

14 (j) RETURN OF UNDISBURSED FUNDS.—

15 (1) SILVER STAR HOME RETROFIT PROGRAM.—
16 If the Secretary has not disbursed all the funds
17 available for rebates under the Silver Star Home
18 Retrofit Program by the date that is 1 year after the
19 date of enactment of this Act, any undisbursed
20 funds shall be made available to the Gold Star
21 Home Retrofit Program.

22 (2) GOLD STAR HOME RETROFIT PROGRAM.—If
23 the Secretary has not disbursed all the funds avail-
24 able for rebates under the Gold Star Home Retrofit
25 Program by the date that is 2 years after the date

1 of enactment of this Act, any undisbursed funds
2 shall be returned to the Treasury.

3 (k) FINANCING.—Of the amounts allocated to the
4 States under subsection (b), not less than \$200,000,000
5 shall be used to carry out the financing provisions of this
6 title in accordance with section 3015.

7 **DIVISION D—PROTECTING THE**
8 **ENVIRONMENT**
9 **TITLE XL—LAND AND WATER**
10 **CONSERVATION AUTHORIZA-**
11 **TION AND FUNDING**

12 **SEC. 4001. SHORT TITLE.**

13 This title may be cited as the “Land and Water Con-
14 servation Authorization and Funding Act of 2010”.

15 **SEC. 4002. PERMANENT AUTHORIZATION; FULL FUNDING.**

16 (a) PURPOSES.—The purposes of the amendments
17 made by subsection (b) are—

18 (1) to provide consistent and reliable authority
19 for, and for the funding of, the land and water con-
20 servation fund established under section 2 of the
21 Land and Water Conservation Fund Act of 1965
22 (16 U.S.C. 4601–5); and

23 (2) to maximize the effectiveness of the fund
24 for future generations.

25 (b) AMENDMENTS.—

1 (1) PERMANENT AUTHORIZATION.—Section 2
2 of the Land and Water Conservation Fund Act of
3 1965 (16 U.S.C. 460l–5) is amended—

4 (A) in the matter preceding subsection (a),
5 by striking “During the period ending Sep-
6 tember 30, 2015, there” and inserting “There”;
7 and

8 (B) in subsection (c)—

9 (i) in paragraph (1), by striking
10 “through September 30, 2015”; and

11 (ii) in paragraph (2), by striking “:
12 *Provided,*” and all that follows through the
13 end of the sentence and inserting a period..

14 (2) FULL FUNDING.—Section 3 of the Land
15 and Water Conservation Fund Act of 1965 (16
16 U.S.C. 460l–6) is amended to read as follows:

17 **“SEC. 3. AVAILABILITY OF FUNDS.**

18 “(a) IN GENERAL.—

19 “(1) FISCAL YEARS 2011 THROUGH 2015.—For
20 each of fiscal years 2011 through 2015,
21 \$900,000,000 of amounts covered into the fund
22 under section 2 shall be available for expenditure to
23 carry out the purposes of this Act, without further
24 appropriation.

1 “(2) FISCAL YEAR 2016.—For fiscal year
2 2016—

3 “(A) \$425,000,000 of amounts covered
4 into the fund under section 2 shall be available
5 for expenditure to carry out the purposes of
6 this Act, without further appropriation; and

7 “(B) the remainder of amounts covered
8 into the fund shall be available subject to ap-
9 propriations, which may be made without fiscal
10 year limitation.

11 “(3) FISCAL YEARS 2017 THROUGH 2020.—For
12 each of fiscal years 2017 through 2020, amounts
13 covered into the fund under section 2 shall be avail-
14 able for expenditure to carry out the purposes of this
15 Act subject to appropriations, which may be made
16 without fiscal year limitation.

17 “(4) FISCAL YEAR 2021 AND SUBSEQUENT FIS-
18 CAL YEARS.—For fiscal year 2021 and each fiscal
19 year thereafter—

20 “(A) \$500,000,000 of amounts covered
21 into the fund under section 2 shall be available
22 to carry out the purposes of this Act, without
23 further appropriation; and

24 “(B) the remainder of amounts covered
25 into the fund shall be available subject to ap-

1 appropriations, which may be made without fiscal
2 year limitation.

3 “(b) USES.—Amounts made available for obligation
4 or expenditure from the fund may be obligated or ex-
5 pended only as provided in this Act.”.

6 (c) ALLOCATION OF LAND AND WATER CONSERVA-
7 TION FUND FOR STATE AND FEDERAL PURPOSES.—Sec-
8 tion 5 of the Land and Water Conservation Fund Act of
9 1965 (16 U.S.C. 460l-7) is amended—

10 (1) in the first sentence, by inserting “or ex-
11 penditures” after “appropriations”;

12 (2) in the second sentence—

13 (A) by inserting “or expenditures” after
14 “appropriations”; and

15 (B) by inserting before the period at the
16 end the following: “, including the amounts to
17 be allocated from the fund for Federal and
18 State purposes”; and

19 (3) by striking “Those appropriations from”
20 and all that follows through the end of the section.

21 (d) CONFORMING AMENDMENTS.—Section 6(b) of
22 the Land and Water Conservation Fund Act of 1965 (16
23 U.S.C. 460l-8(b)) is amended —

24 (1) in the matter preceding paragraph (1), by
25 inserting “or expended” after “appropriated”;

1 (2) in paragraph (1)—

2 (A) by inserting “or expenditures” after
3 “appropriations”; and

4 (B) by striking “; and” and inserting a pe-
5 riod; and

6 (3) in the first sentence of paragraph (2), by
7 inserting “or expenditure” after “appropriation”.

8 (e) FEDERAL LAND ACQUISITION PROJECTS.—Sec-
9 tion 7(a) of the Land and Water Conservation Fund Act
10 of 1965 (16 U.S.C. 460l–9(a)) is amended—

11 (1) by redesignating paragraphs (1) through
12 (3) as paragraphs (2) through (4), respectively;

13 (2) in the matter preceding paragraph (2) (as
14 redesignated by paragraph (1), by striking “Moneys
15 appropriated” and all that follows through “subpur-
16 poses” and inserting the following:

17 “(1) PRIORITY LIST.—

18 “(A) IN GENERAL.—The President shall
19 transmit, as part of the annual budget pro-
20 posal, a priority list for Federal land acquisition
21 projects.

22 “(B) AVAILABILITY OF AMOUNTS.—

23 “(i) IN GENERAL.—Amounts shall be
24 made available from the fund, without fur-
25 ther appropriation, on the date that is 15

1 days after the date on which the Congress
2 adjourns sine die for each year, for the
3 projects on the priority list of the Presi-
4 dent, unless prior to that date, legislation
5 is enacted establishing an alternate priority
6 list, in which case amounts from the fund
7 shall be made available, without further
8 appropriation, for expenditure on the
9 projects on the alternate priority list.

10 “(ii) ALTERNATE PRIORITY LIST.—If
11 Congress enacts legislation establishing an
12 alternate priority list and the priority list
13 provides for less than the amount made
14 available for that fiscal year under this
15 subsection, the difference between that
16 amount and the amount required to fund
17 projects on the alternate priority list shall
18 be available for expenditure, without fur-
19 ther appropriation, in accordance with the
20 priority list submitted by the President.

21 “(C) DUTIES OF SECRETARIES.—

22 “(i) IN GENERAL.—In developing the
23 annual land acquisition priority list re-
24 quired under subparagraph (A), the Presi-
25 dent shall require the Secretary of the In-

1 terior and the Secretary of Agriculture to
2 develop the priority list for the sites under
3 the jurisdiction of that Secretary.

4 “(ii) CONSULTATION.—The Secretary
5 of the Interior and the Secretary of Agri-
6 culture shall prepare the priority list de-
7 scribed in subparagraph (A) in consulta-
8 tion with the head of each affected Federal
9 agency.

10 “(iii) RECREATIONAL ACCESS.—

11 “(I) IN GENERAL.—In preparing
12 the priority list under subparagraph
13 (A), the Secretary of the Interior and
14 the Secretary of Agriculture shall en-
15 sure that not less than 1.5 percent of
16 the annual authorized funding amount
17 is made available each year for
18 projects that secure recreational pub-
19 lic access to existing Federal public
20 land for hunting, fishing, and other
21 recreational purposes through ease-
22 ments, rights-of-way, or fee title ac-
23 quisitions.

24 “(II) ACQUISITION OF LAND.—

25 For each recreational access project

1 carried out under subclause (I), the
2 land or interest in land shall be ac-
3 quired by the Federal Government
4 only from willing sellers.”; and

5 (3) in paragraph (2) (as redesignated by para-
6 graph (1)), by striking “For the acquisition of land”
7 and all that follows through “as follows:” and insert-
8 ing the following:

9 “(3) USE OF FUNDS.—Amounts from the fund
10 for the acquisition of land, waters, or interests in
11 land or waters under this Act shall be used as fol-
12 lows:”.

13 (f) CONFORMING AMENDMENT.—Section 9 of the
14 Land and Water Conservation Fund Act of 1965 (16
15 U.S.C. 460l–10a) is amended in the first sentence by
16 striking “section 7(a)(1) of this Act” and inserting “sec-
17 tion 7(a)(2)”.

18 **TITLE XLI—NATIONAL WILDLIFE**
19 **REFUGE SYSTEM RESOURCE**
20 **PROTECTION**

21 **SEC. 4101. SHORT TITLE.**

22 This title may be cited as the “National Wildlife Ref-
23 uge System Resource Protection Act of 2010”.

24 **SEC. 4102. DEFINITIONS.**

25 In this title:

1 (1) DAMAGES.—The term “damages” includes,
2 when used in connection with compensation—

3 (A) compensation for—

4 (i)(I) the cost of replacing, restoring,
5 rehabilitating, or acquiring the equivalent
6 of a refuge system resource; and

7 (II) the value of any significant loss of
8 use of a refuge system resource pending its
9 restoration or replacement or the acqui-
10 sition of an equivalent resource; or

11 (ii) the value of the refuge system re-
12 source if the resource cannot be replaced
13 or restored; and

14 (B) the cost of damage assessments under
15 this section.

16 (2) FISH AND WILDLIFE SERVICE SYSTEM RE-
17 SOURCE.—

18 (A) IN GENERAL.—The term “Fish and
19 Wildlife Service system resource” means any
20 living or nonliving resource that is located with-
21 in the boundaries of a unit of—

22 (i) the National Wildlife Refuge Sys-
23 tem;

24 (ii) the National Fish Hatchery Sys-
25 tem; or

1 (iii) other land managed by the
2 United States Fish and Wildlife Service.

3 (B) EXCLUSION.—The term “Fish and
4 Wildlife Service system resource” does not in-
5 clude a resource owned by a non-Federal entity.

6 (3) MARINE OR AQUATIC REFUGE SYSTEM RE-
7 SOURCE.—

8 (A) IN GENERAL.—The term “marine or
9 aquatic refuge system resource” means any liv-
10 ing or nonliving part of a marine or aquatic
11 regimen that is located within the boundaries of
12 a unit of—

13 (i) the National Wildlife Refuge Sys-
14 tem; or

15 (ii) the National Fish Hatchery Sys-
16 tem.

17 (B) EXCLUSION.—The term “marine or
18 aquatic refuge system resource” does not in-
19 clude a resource owned by a non-Federal entity.

20 (4) REFUGE SYSTEM RESOURCE.—The term
21 “refuge system resource” means—

22 (A) a Fish and Wildlife Service system re-
23 source; and

24 (B) a marine or aquatic refuge system re-
25 source.

1 (5) REGIMEN.—The term “regimen” means a
2 water column and submerged land, up to the high-
3 tide or high-water line.

4 (6) RESPONSE COSTS.—The term “response
5 costs” means the costs of actions taken by the Sec-
6 retary—

7 (A) to prevent or minimize destruction or
8 loss of or injury to refuge system resources;

9 (B) to abate or minimize the imminent risk
10 of such destruction, loss, or injury; or

11 (C) to monitor ongoing effects of incidents
12 causing such destruction, loss, or injury.

13 **SEC. 4103. LIABILITY.**

14 (a) IN GENERAL.—Subject to subsection (c), any per-
15 son that destroys, damages, causes the loss of, or injures
16 any refuge system resource is liable to the United States
17 for response costs and damages resulting from the de-
18 struction, loss, or injury.

19 (b) LIABILITY IN REM.—Any instrumentality (includ-
20 ing a vessel, vehicle, aircraft, or other equipment) that de-
21 stroys, causes the loss of, or injures any refuge system
22 resource shall be liable in rem to the United States for
23 response costs and damages resulting from the destruc-
24 tion, loss, or injury to the same extent as a person is liable
25 under subsection (a).

1 (c) DEFENSES.—A person shall not be liable under
2 this section if the person establishes that—

3 (1) the destruction, loss of, or injury to the ref-
4 uge system resource was caused solely by an act of
5 God or act of war, if the person exercised due care
6 to employ safety precautions and best management
7 practices to minimize potential destruction, loss, or
8 injury in advance of an act of God or act of war;

9 (2) the person acted with due care, and the de-
10 struction, loss of, or injury to the refuge system re-
11 source was caused solely by an act or omission of a
12 third party, other than an employee or agent of the
13 person; or

14 (3) the destruction, loss, or injury to the refuge
15 system resource was caused by an activity author-
16 ized by Federal or State law, if the activity was con-
17 ducted in accordance with Federal and State law.

18 (d) SCOPE.—Liability under this section shall be in
19 addition to any other liability that may arise under Fed-
20 eral or State law.

21 **SEC. 4104. ACTIONS.**

22 (a) CIVIL ACTIONS FOR RESPONSE COSTS AND DAM-
23 AGES.—

24 (1) IN GENERAL.—If the Secretary makes a
25 finding of damage to a refuge system resource or

1 makes a finding that, absent response costs, damage
2 to a refuge system resource will occur and the Sec-
3 retary requests the Attorney General to initiate ac-
4 tion, the Attorney General may commence a civil ac-
5 tion in the United States district court for the ap-
6 propriate district against any person that may be
7 liable under section 4103 for response costs and
8 damages.

9 (2) REQUESTS FOR ACTION.—The Secretary
10 shall submit a request for an action described in
11 paragraph (1) to the Attorney General if a person
12 may be liable or an instrumentality may be liable in
13 rem for response costs and damages under section
14 4103.

15 (b) RESPONSE ACTIONS AND ASSESSMENT OF DAM-
16 AGES.—

17 (1) IN GENERAL.—The Secretary shall take all
18 necessary actions—

19 (A) to prevent or minimize the destruction,
20 loss of, or injury to a refuge system resource;
21 or

22 (B) to minimize the imminent risk of such
23 destruction, loss, or injury.

24 (2) MONITORING.—The Secretary shall assess
25 and monitor damages to refuge system resources.

1 **SEC. 4105. USE OF RECOVERED AMOUNTS.**

2 (a) IN GENERAL.—Subject to subsections (b) and (c),
3 response costs and damages recovered by the Secretary
4 under this title or amounts recovered by the Federal Gov-
5 ernment under any Federal, State, or local law (including
6 regulations) or otherwise as a result of damage to any liv-
7 ing or nonliving resource located within a unit managed
8 by the United States Fish and Wildlife Service (other than
9 resources owned by a non-Federal entity) shall be avail-
10 able to the Secretary, without further appropriation—

11 (1) to reimburse response costs and damage as-
12 sessments incurred by the Secretary or other Fed-
13 eral agencies as the Secretary considers appropriate;
14 or

15 (2) to restore, replace, or acquire the equivalent
16 of resources that were the subject of an action and
17 to monitor and study the resources.

18 (b) ACQUISITION.—No funds may be used under sub-
19 section (a) to acquire any land, water, or interest or right
20 in land or water unless the acquisition is—

21 (1) specifically approved in advance in an ap-
22 propriations Act; and

23 (2) consistent with any limitations contained in
24 the organic law authorizing the refuge unit.

1 (c) EXCESS FUNDS.—Any amounts remaining after
 2 expenditures pursuant to subsection (a) shall be deposited
 3 into the general fund of the Treasury.

4 **SEC. 4106. DONATIONS.**

5 (a) IN GENERAL.—The Secretary may accept dona-
 6 tions of money or services for expenditure or employment
 7 to meet expected, immediate, or ongoing response costs.

8 (b) AVAILABILITY.—The donations may be expended
 9 or employed at any time after the acceptance of the dona-
 10 tion, without further appropriation.

11 **TITLE XLII—GULF COAST**
 12 **ECOSYSTEM RESTORATION**

13 **SEC. 4201. GULF COAST ECOSYSTEM RESTORATION.**

14 (a) DEFINITIONS.—In this section:

15 (1) COMPREHENSIVE PLAN.—The term “com-
 16 prehensive plan” means the comprehensive plan re-
 17 quired by subsection (c).

18 (2) GOVERNORS.—The term “Governors”
 19 means the Governors of each of the States of Ala-
 20 bama, Florida, Louisiana, and Mississippi.

21 (3) GULF COAST ECOSYSTEM.—The term “Gulf
 22 Coast ecosystem” means the coastal zones (as deter-
 23 mined pursuant to the Coastal Zone Management
 24 Act of 1972 (16 U.S.C. 1451 et seq.)) of the States
 25 of Alabama, Florida, Louisiana, and Mississippi and

1 adjacent State waters and areas of the outer Conti-
2 nental Shelf, adversely impacted by the blowout and
3 explosion of the mobile offshore drilling unit *Deep-*
4 *water Horizon* that occurred on April 20, 2010, and
5 resulting hydrocarbon releases into the environment.

6 (4) SECRETARY.—The term “Secretary” means
7 the Secretary of the Interior.

8 (5) TASK FORCE.—The term “Task Force”
9 means the Gulf Coast Ecosystem Restoration Task
10 Force established by subsection (g).

11 (b) GULF COAST ECOSYSTEM RESTORATION.—

12 (1) IN GENERAL.—The Chair of the Task
13 Force shall undertake restoration activities in the
14 Gulf Coast ecosystem in accordance with this sec-
15 tion.

16 (2) FUNDING.—Subject to appropriations, of
17 amounts in the Oil Spill Liability Trust Fund, there
18 shall be available to the Chair of the Task Force to
19 carry out this section \$2,500,000,000 for the period
20 of fiscal years 2012 through 2021.

21 (3) AUTHORIZED USES.—Amounts under para-
22 graph (2) shall be available to the Chair of the Task
23 Force for the conservation, protection, and restora-
24 tion of the Gulf Coast ecosystem in accordance with
25 the comprehensive plan.

1 (c) COMPREHENSIVE PLAN.—

2 (1) IN GENERAL.—Not later than 1 year after
3 the date of enactment of this Act and after notice
4 and opportunity for public comment, the Chair of
5 the Task Force shall develop a proposed comprehen-
6 sive plan for the purpose of long-term conservation,
7 protection, and restoration of biological integrity,
8 productivity, and ecosystem functions in the Gulf
9 Coast ecosystem.

10 (2) EXISTING PLANS.—The Chair of the Task
11 Force shall incorporate, to the maximum extent
12 practicable, any applicable plans developed by local,
13 State and Federal agencies for the restoration of
14 coastal wetland and other areas of the Gulf Coast
15 ecosystem.

16 (d) CRITICAL AND EMERGENCY RESTORATION
17 PROJECTS AND ACTIVITIES.—If the Chair of the Task
18 Force, in cooperation with the Governors, determines that
19 a restoration project or activity will produce independent,
20 immediate, and substantial conservation, protection, or
21 restoration benefits, and will be consistent with overall res-
22 toration goals, the Chair of the Task Force shall proceed
23 expeditiously with the implementation of the project or ac-
24 tivity in accordance with laws (including regulations) in
25 existence on the date of enactment of this Act.

1 (e) PRIORITY PROJECTS.—

2 (1) LIST.—

3 (A) IN GENERAL.—The comprehensive
4 plan shall include a list of specific projects to
5 be funded and carried out during the subse-
6 quent 3-year period.

7 (B) PREREQUISITES.—Each project listed
8 in the comprehensive plan shall be—

9 (i) consistent with the strategies iden-
10 tified in the comprehensive plan; and

11 (ii) cost-effective.

12 (C) UPDATES.—The Task Force shall up-
13 date annually the list of projects in the com-
14 prehensive plan.

15 (2) SELECTION.—The Task Force shall select
16 projects and activities to carry out under this sec-
17 tion—

18 (A) based on the best available science;

19 (B) without regard to geographic location;

20 and

21 (C) with the highest priority to projects
22 and activities that will achieve the greatest con-
23 tribution in restoring—

24 (i) the ability of Gulf Coast eco-
25 systems to become self-sustaining;

- 1 (ii) biological productivity; and
2 (iii) ecosystem function in the Gulf of
3 Mexico.

4 (f) COST SHARING.—The Federal share of projects
5 and activities conducted under this section shall not exceed
6 65 percent, as determined by the Task Force.

7 (g) GULF COAST ECOSYSTEM RESTORATION TASK
8 FORCE.—

9 (1) IN GENERAL.—There is established the Gulf
10 Coast Ecosystem Restoration Task Force.

11 (2) MEMBERSHIP.—The Task Force shall con-
12 sist of the following members or, in the case of a
13 Federal agency, a designee at the level of Assistant
14 Secretary or the equivalent:

15 (A) The Secretary of the Interior.

16 (B) The Secretary of Commerce.

17 (C) The Secretary of the Army.

18 (D) The Attorney General.

19 (E) The Secretary of Homeland Security.

20 (F) The Administrator of the Environ-
21 mental Protection Agency.

22 (G) The Commandant of the Coast Guard.

23 (H) The Secretary of Transportation.

24 (I) The Secretary of Agriculture.

1 (J) A representative of each affected In-
2 dian tribe, appointed by the Secretary based on
3 the recommendations of the tribal chairman.

4 (K) 2 representatives of each of the States
5 of Alabama, Florida, Louisiana, and Mis-
6 sissippi, appointed by the Governor of each
7 State, respectively.

8 (L) 2 representatives of local government
9 within each of the States of Alabama, Florida,
10 Louisiana, and Mississippi, appointed by the
11 Governor of each State, respectively.

12 (3) CHAIR.—The chair of the Task Force shall
13 be a Federal official appointed by the President.

14 (4) DUTIES.—The Task Force shall—

15 (A) consult with, and provide recommenda-
16 tions to, the Chair of the Task Force during de-
17 velopment of the comprehensive plan;

18 (B) coordinate the development of con-
19 sistent policies, strategies, plans, programs,
20 projects, activities, and priorities for addressing
21 the restoration of the Gulf Coast ecosystem;

22 (C) establish a Gulf Coast-based working
23 group composed of representatives of members
24 of the Task Force and other local agencies and
25 representatives as appropriate for purposes of

1 recommending, coordinating, and implementing
2 policies, programs, activities, and projects to ac-
3 complish Gulf Coast ecosystem restoration;

4 (D) coordinate scientific and other re-
5 search associated with restoration of the Gulf
6 Coast ecosystem;

7 (E) prepare an integrated financial plan
8 and coordinated budget requests for the funds
9 proposed to be expended by the agencies rep-
10 resented on the Task Force; and

11 (F) submit an annual report to Congress
12 that summarizes the activities of the Task
13 Force and the policies, plans, activities, and
14 projects for restoration of the Gulf Coast eco-
15 system.

16 (5) APPLICATION OF FEDERAL ADVISORY COM-
17 MITTEE ACT.—The Task Force and the working
18 group established under paragraph (4)(C) shall not
19 be considered to be advisory committees under the
20 Federal Advisory Committee Act (5 U.S.C. App.).

21 (h) RELATIONSHIP TO OTHER LAW AND AUTHOR-
22 ITY.—Nothing in this section preempts or otherwise af-
23 fects any Federal law or limits the authority of any Fed-
24 eral agency.

1 **TITLE XLIII—HYDRAULIC**
2 **FRACTURING CHEMICALS**

3 **SEC. 4301. DISCLOSURE OF HYDRAULIC FRACTURING**
4 **CHEMICALS.**

5 (a) DISCLOSURE.—Title III of the Emergency Plan-
6 ning and Community Right-To-Know Act of 1986 (42
7 U.S.C. 11041 et seq.) is amended by adding at the end
8 the following:

9 **“SEC. 331. DISCLOSURE OF HYDRAULIC FRACTURING**
10 **CHEMICALS.**

11 “(a) IN GENERAL.—

12 “(1) STATE AUTHORITY.—A State that permits
13 oil and natural gas drilling—

14 “(A) may require any person using hy-
15 draulic fracturing for an oil or natural gas well
16 in the State to disclose to the State, not later
17 than 30 days after completion of drilling the
18 well, the list of chemicals used in each hydraulic
19 fracturing process (identified by well location
20 and number), including the chemical constitu-
21 ents of mixtures, Chemical Abstracts Service
22 registry numbers, and material safety data
23 sheets; and

1 “(B) shall make any such disclosure avail-
2 able to the public, including a posting of the in-
3 formation online.

4 “(2) DISCLOSURE IF NO STATE IMPLEMENTA-
5 TION.—If a State that permits oil and natural gas
6 drilling does not require and make available disclo-
7 sures in accordance with paragraph (1) by December
8 31, 2011, or ceases to require and make available
9 disclosures in accordance with paragraph (1) after
10 that date, the operator of the oil or natural gas well
11 in the State shall make available to the public on-
12 line, not later than 30 days after completion of drill-
13 ing the well, the list of chemicals used in each hy-
14 draulic fracturing process (identified by well location
15 and number), including the chemical constituents of
16 mixtures, Chemical Abstracts Service registry num-
17 bers, and material safety data sheets.

18 “(b) PROPRIETARY CHEMICAL FORMULAS; MEDICAL
19 EMERGENCIES.—

20 “(1) IN GENERAL.—Except as provided in this
21 subsection, this section does not require the disclo-
22 sure of proprietary chemical formulas used in hy-
23 draulic fracturing.

24 “(2) DISCLOSURE IN MEDICAL EMER-
25 GENCIES.—

1 “(A) IN GENERAL.—If the State or the
2 Administrator, or a treating physician or nurse,
3 determines that a medical emergency exists and
4 the proprietary chemical formulas, or the iden-
5 tity, of 1 or more chemical constituents used in
6 hydraulic fracturing is necessary for medical
7 treatment, the person using hydraulic frac-
8 turing shall immediately disclose the propri-
9 etary chemical formulas or the identity of the
10 chemical constituents to the State, the Adminis-
11 trator, or that treating physician or nurse, re-
12 gardless of the existence of a written statement
13 of need or a confidentiality agreement.

14 “(B) STATEMENT OF NEED.—The person
15 using hydraulic fracturing may require a writ-
16 ten statement of need and a confidentiality
17 agreement as soon thereafter as circumstances
18 permit.

19 “(c) THRESHOLDS INAPPLICABLE.—Threshold limi-
20 tations under this Act shall not apply to disclosures made
21 under this section.”.

22 (b) ENFORCEMENT.—Section 325(c)(2) of the Emer-
23 gency Planning and Community Right-To-Know Act of
24 1986 (42 U.S.C. 11045(c)(2)) is amended by striking

1 “section 311 or 323(b)” and inserting “section 311,
2 323(b), 331(a)(2), or 331(b)”.

3 **TITLE XLIV—WATERSHED**
4 **RESTORATION**

5 **SEC. 4401. WATERSHED RESTORATION.**

6 (a) **IN GENERAL.**—The Secretary of Agriculture shall
7 conduct a program of watershed restoration and job sta-
8 bilization for the purposes of—

9 (1) performing landscape scale restoration, re-
10 ducing hazardous fuels, increasing employment, and
11 maintaining infrastructure in timber communities;
12 or

13 (2) making biomass available for sustainable
14 economic development.

15 (b) **ELIGIBLE PROJECTS.**—The program conducted
16 under this section may include projects and activities
17 for—

18 (1) preparing and implementing riparian cor-
19 ridor improvements;

20 (2) fish and wildlife habitat improvements;

21 (3) invasive species eradications;

22 (4) nonsystem road decommissioning;

23 (5) appropriate road density achievement;

24 (6) forest health improvements; and

1 (7) sustainable timber harvest and fuels treat-
2 ments, specifically for reducing the potential effects
3 that fires pose to water quality and communities.

4 (c) FUNDING.—On October 1, 2010, out of any funds
5 in the Treasury not otherwise appropriated, the Secretary
6 of the Treasury shall transfer to the Secretary of Agri-
7 culture \$75,000,000, to remain available until expended,
8 for use in carrying out this section.

9 (d) TERMINATION OF PROGRAM.—The program con-
10 ducted under this section shall terminate on the date that
11 is 10 years after the date of enactment of this Act.

12 (e) NO EFFECT ON COMPLIANCE WITH LAWS.—
13 Nothing in this section affects or limits the application
14 of, or obligation to comply with, any law, including any
15 public health or environmental law.

16 **DIVISION E—FISCAL** 17 **RESPONSIBILITY**

18 **SEC. 5001. MODIFICATIONS WITH RESPECT TO OIL SPILL** 19 **LIABILITY TRUST FUND.**

20 (a) EXTENSION OF APPLICATION OF OIL SPILL LI-
21 ABILITY TRUST FUND FINANCING RATE.—Paragraph (2)
22 of section 4611(f) of the Internal Revenue Code of 1986
23 is amended by striking “December 31, 2017” and insert-
24 ing “December 31, 2020”.

1 (b) INCREASE IN OIL SPILL LIABILITY TRUST FUND
2 FINANCING RATE.—Subparagraph (B) of section
3 4611(c)(2) of the Internal Revenue Code of 1986 is
4 amended to read as follows:

5 “(B) the Oil Spill Liability Trust Fund fi-
6 nancing rate is 45 cents a barrel.”.

7 (c) INCREASE IN PER INCIDENT LIMITATIONS ON
8 EXPENDITURES.—Subparagraph (A) of section
9 9509(c)(2) of the Internal Revenue Code of 1986 is
10 amended—

11 (1) by striking “\$1,000,000,000” in clause (i)
12 and inserting “\$5,000,000,000”;

13 (2) by striking “\$500,000,000” in clause (ii)
14 and inserting “\$2,500,000,000”; and

15 (3) by striking “\$1,000,000,000 PER INCIDENT,
16 ETC” in the heading and inserting “PER INCIDENT
17 LIMITATIONS”.

18 (d) EFFECTIVE DATE.—

19 (1) EXTENSION OF FINANCING RATE.—Except
20 as provided in paragraph (2), the amendments made
21 by this section shall take effect on the date of the
22 enactment of this Act.

23 (2) INCREASE IN FINANCING RATE.—The
24 amendment made by subsection (b) shall apply to
25 crude oil received and petroleum products entered

1 during calendar quarters beginning more than 60
2 days after the date of the enactment of this Act.

3 **DIVISION F—MISCELLANEOUS**

4 **SEC. 6001. BUDGETARY EFFECTS.**

5 The budgetary effects of this Act, for the purpose of
6 complying with the Statutory Pay-As-You-Go-Act of 2010,
7 shall be determined by reference to the latest statement
8 titled “Budgetary Effects of PAYGO Legislation” for this
9 Act, submitted for printing in the Congressional Record
10 by the Chairman of the Senate Budget Committee, pro-
11 vided that such statement has been submitted prior to the
12 vote on passage.

Calendar No. 493

11TH CONGRESS
2^D SESSION

S. 3663

A BILL

To promote clean energy jobs and oil company
accountability, and for other purposes.

JULY 29, 2010

Read the second time and placed on the calendar