

112TH CONGRESS
2D SESSION

S. 3298

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

IN THE SENATE OF THE UNITED STATES

JUNE 14, 2012

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Oil Spill Technology
5 and Research Act of 2012”.

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

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

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

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

10 “(b) MEMBERSHIP.—

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

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

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

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

19 “(D) at least 1 representative of the De-
20 partment of the Interior; and

21 “(E) at least 1 representative of each of
22 such other Federal agencies as the President
23 considers to be appropriate.

24 “(2) CHAIRPERSON.—The Under Secretary of
25 Commerce for Oceans and Atmosphere (referred to
26 in this section as the ‘Under Secretary’) shall des-

1 designate a Chairperson from among members of the
 2 Committee who represent the National Oceanic and
 3 Atmospheric Administration.

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

6 “(c) DUTIES OF THE COMMITTEE.—

7 “(1) RESEARCH.—The Committee shall—

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

16 “(B) foster cost-effective research mecha-
 17 nisms, including the cost sharing of research.

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

21 “(A) IN GENERAL.—Not later than 180
 22 days after the date of enactment of the Oil Spill
 23 Technology and Research Act of 2012, the
 24 Committee shall submit to Congress a report on

1 the state of oil discharge prevention and re-
2 sponse capabilities that—

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

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

9 “(iii) assesses applicability and effec-
10 tiveness of the prevention, response, and
11 mitigation technologies under clause (ii) to
12 each class of crude, bitumen crude, and di-
13 luted bitumen crude;

14 “(iv) establishes national research pri-
15 orities and goals for oil pollution tech-
16 nology development relating to prevention,
17 response, mitigation, and environmental ef-
18 fects;

19 “(v) identifies regional oil pollution re-
20 search needs and priorities for a coordi-
21 nated program of research at the regional
22 level developed in consultation with the
23 State and local governments and tribal
24 governments;

1 “(vi) assesses the current state of dis-
2 charge response equipment, and deter-
3 mines areas in need of improvement, in-
4 cluding with respect to the quantity, age,
5 quality, and effectiveness of equipment, or
6 necessary technological improvements;

7 “(vii) evaluates—

8 “(I) regional Federal, State, trib-
9 al, and private vessel assets available
10 for skim response; and

11 “(II) regional Federal, State,
12 tribal, and private vessel assets avail-
13 able for general response needs, such
14 as data collection, damage assess-
15 ment, and oiled wildlife response;

16 “(viii) assesses—

17 “(I) the current state of real-time
18 data available to mariners, including
19 data on water level, currents, ice
20 cover, ice floes, weather system track-
21 ing, weather forecasting, and other
22 weather data;

23 “(II) whether a lack of timely
24 weather information increases the risk
25 of oil discharges; and

1 “(III) whether marine weather
2 zones impact the risk of oil discharge;
3 and

4 “(ix) includes such other information
5 or recommendations as the Committee de-
6 termines to be appropriate.

7 “(B) 5-YEAR UPDATES.—Not later than 5
8 years after the date of enactment of the Oil
9 Spill Technology and Research Act of 2012,
10 and every 5 years thereafter, the Committee
11 shall submit to Congress a report updating the
12 information contained in the previous report
13 submitted under subparagraph (A).

14 “(d) RESEARCH AND DEVELOPMENT PROGRAM.—

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

19 “(2) PROGRAM ELEMENTS.—The program es-
20 tablished under paragraph (1) shall provide for re-
21 search, development, and demonstration of new or
22 improved technologies and methods that are effective
23 in preventing, detecting, responding to, mitigating,
24 and restoring damage from oil discharges and that
25 protect the environment, including—

1 “(A) high priority research areas described
2 in the reports under subsection (c)(2);

3 “(B) environmental effects of acute and
4 chronic oil discharges on coastal and marine re-
5 sources, including impacts on protected areas,
6 such as sanctuaries, and protected species;

7 “(C) long-term effects of major discharges
8 and the long-term cumulative effects of smaller
9 endemic discharges;

10 “(D) new technologies to detect accidental
11 or intentional overboard discharges;

12 “(E) response, containment, and removal
13 capabilities, such as improved booms, oil skim-
14 mers, and storage capacity;

15 “(F) oil discharge risk assessment meth-
16 ods, including the identification of areas of high
17 risk and potential risk reductions for the pre-
18 vention of discharges;

19 “(G) capabilities for predicting the envi-
20 ronmental fate, transport, and effects of oil dis-
21 charges, including prediction of the effective-
22 ness of discharge response systems to contain
23 and remove oil discharges, and how these pre-
24 diction capabilities vary by—

25 “(i) marine weather zone;

1 “(ii) degree of available marine weath-
 2 er data;

3 “(iii) weather factors, surface and
 4 wind currents, and seasonality;

5 “(iv) weather zones which have ice
 6 cover, ice floes, or other ice features;

7 “(v) environmental factors, such as
 8 naturally occurring oil consuming bacteria;

9 “(vi) bathymetric features, such as is-
 10 lands and atolls;

11 “(vii) class of crude oil; and

12 “(viii) mixed or thinned crude, such
 13 as diluted bitumen crude;

14 “(H) methods to restore and rehabilitate
 15 natural resources and ecosystem functions dam-
 16 aged by oil discharges;

17 “(I) potential impacts on ecosystems, habi-
 18 tat, and wildlife from the additional toxicity,
 19 heavy metal concentrations, and increased cor-
 20 rosiveness of mixed crude, such as diluted bitu-
 21 men crude;

22 “(J) methods to restore and rehabilitate
 23 natural resources and ecosystem services dam-
 24 aged by oil discharges;

1 “(K) research and training, in consultation
2 with the National Response Team, to improve
3 the ability of industry and the Federal Govern-
4 ment to remove an oil discharge quickly and ef-
5 fectively;

6 “(L) technology and method development
7 for oil pollution prevention, such as improved
8 blowout preventers and emergency shutoff
9 equipment;

10 “(M) oil pollution technology evaluation;
11 and

12 “(N) any other priorities identified by the
13 Committee.

14 “(3) IMPLEMENTATION PLAN.—

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

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

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

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

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

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

11 “(1) IN GENERAL.—The Under Secretary shall
 12 manage a program of competitive grants to univer-
 13 sities or other research institutions, including State
 14 universities or research institutions and tribal biolo-
 15 gists, or groups of universities or research institu-
 16 tions, or partnerships between public entities, non-
 17 profit organizations, universities or other research
 18 institutions, for the purposes of conducting the pro-
 19 gram established under subsection (d).

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

22 “(A) shall establish a notification and ap-
 23 plication procedure;

24 “(B) may establish such conditions and re-
 25 quire such assurances as are appropriate to en-

1 sure the efficiency and integrity of the grant
2 program; and

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

5 “(f) ADVICE AND GUIDANCE.—

6 “(1) IN GENERAL.—The Committee shall ac-
7 cept comments and input from State and local gov-
8 ernments, tribal governments, industry representa-
9 tives, institutions of higher education, and other
10 stakeholders in carrying out the duties of the Com-
11 mittee under subsection (c).

12 “(2) ADVISORY COUNCIL.—The Committee may
13 establish an advisory council consisting of non-
14 government experts and stakeholders for the purpose
15 of providing guidance to the Committee on matters
16 under this section.

17 “(g) FACILITATION.—The Committee may develop
18 joint partnerships or enter into memoranda of agreement
19 or memoranda of understanding with institutions of high-
20 er education, States, and other entities, including tribal
21 biologists, to facilitate the program required by subsection
22 (d).

23 “(h) ANNUAL REPORTS.—Not later than 1 year after
24 the date of enactment of the Oil Spill Technology and Re-
25 search Act of 2012, and annually thereafter, the Chair-

1 person of the Committee shall submit to Congress a report
2 that describes—

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

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

8 “(i) AUTHORIZATION OF APPROPRIATIONS.—There is
9 authorized to be appropriated to the Secretary of Com-
10 merce to carry out this section \$2,000,000 for each of the
11 fiscal years 2012 through 2015, to remain available until
12 expended.”.

13 (b) TERMINATION OF AUTHORITY OF INTERAGENCY
14 COMMITTEE.—

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

22 (2) FUNDING.—Any funds made available for
23 the Interagency Coordinating Committee on Oil Pol-
24 lution Research described in paragraph (1) and re-
25 maining available as of the date of enactment of this

1 Act shall be transferred to and available for use by
 2 the Federal Oil Spill Research Committee (as estab-
 3 lished under section 2(a) of this Act), without fur-
 4 ther appropriation or fiscal year limitation.

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

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

8 (1) in subparagraph (D)—

9 (A) by amending clause (v) to read as fol-
 10 lows:

11 “(v)(I) be updated at least every 5
 12 years;

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

20 “(III) be resubmitted for approval
 21 upon each update (which shall be consid-
 22 ered to be a significant change to the re-
 23 sponse plan) under this clause;”;

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

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

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

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

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

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

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

21 (b) APPROVAL.—

22 (1) IN GENERAL.—The program shall establish
23 a process for new methods and technologies to be
24 submitted, evaluated, and gain validation for use in

1 responses to discharges of oil and inclusion in re-
2 sponse plans.

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

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

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

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

16 (c) TECHNOLOGY CLEARINGHOUSE.—Each method
17 and technology validated under this section shall be in-
18 cluded in the comprehensive list of discharge removal re-
19 sources maintained through the National Response Unit
20 of the Coast Guard.

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

23 (1) the Secretary of the Interior;

24 (2) the Administrator of the National Oceanic
25 and Atmospheric Administration;

1 (3) the Administrator of the Environmental
2 Protection Agency; and

3 (4) the Secretary of Transportation.

4 **SEC. 5. CONFORMING AMENDMENT.**

5 Section 5001(c)(4) of the Oil Pollution Act of 1990
6 (33 U.S.C. 2731(c)(4)) is amended by striking “, as part
7 of its responsibilities under section 7001(b)(2)”.

○