

112TH CONGRESS
1ST SESSION

H. R. 501

To provide for the implementation of the recommendations of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 2011

Mr. MARKEY (for himself, Mr. RAHALL, Mr. WAXMAN, Mr. GEORGE MILLER of California, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HOLT, Ms. WOOLSEY, and Mrs. CAPP) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Science, Space, and Technology, Energy and Commerce, Transportation and Infrastructure, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the implementation of the recommendations of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, and for other purposes.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Implementing the Recommendations of the BP Oil Spill
 4 Commission Act of 2011”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.

TITLE I—CREATION OF NEW DEPARTMENT OF THE INTERIOR
 AGENCIES

- Sec. 101. Bureau of Ocean Energy Management.
- Sec. 102. Bureau of Safety and Environmental Enforcement.
- Sec. 103. Office of Natural Resources Revenue.
- Sec. 104. Ethics.
- Sec. 105. References.
- Sec. 106. Abolishment of Minerals Management Service.
- Sec. 107. Conforming amendment.
- Sec. 108. Outer Continental Shelf Safety and Environmental Advisory Board.
- Sec. 109. Limitation on effect on development of ocean renewable energy resource facilities.
- Sec. 110. Annual report on offshore energy development activities.

TITLE II—FEDERAL OIL AND GAS DEVELOPMENT

Subtitle A—Safety, Environmental, and Financial Reform of the Outer
 Continental Shelf Lands Act

- Sec. 201. Short title.
- Sec. 202. Definitions.
- Sec. 203. National policy for the Outer Continental Shelf.
- Sec. 204. Jurisdiction of laws on the Outer Continental Shelf.
- Sec. 205. Outer Continental Shelf leasing standard.
- Sec. 206. Chemical Safety Board Investigation.
- Sec. 207. Leases, easements, and rights-of-way.
- Sec. 208. Exploration plans.
- Sec. 209. Outer Continental Shelf leasing program.
- Sec. 210. Environmental studies.
- Sec. 211. Safety regulations.
- Sec. 212. Enforcement of safety and environmental regulations.
- Sec. 213. Judicial review.
- Sec. 214. Remedies and penalties.
- Sec. 215. Uniform planning for Outer Continental Shelf.
- Sec. 216. Oil and gas information program.
- Sec. 217. Limitation on royalty-in-kind program.
- Sec. 218. Restrictions on employment.
- Sec. 219. Repeal of royalty relief provisions.
- Sec. 220. Manning and buy- and build-American requirements.

- Sec. 221. Coordination and consultation with affected state and local governments.
- Sec. 222. Implementation.
- Sec. 223. Report on environmental baseline studies.
- Sec. 224. Cumulative impacts on marine mammal species and stocks and subsistence use.
- Sec. 225. Savings clause.

Subtitle B—Royalty Relief for American Consumers

- Sec. 231. Short title.
- Sec. 232. Eligibility for new leases and the transfer of leases.
- Sec. 233. Price thresholds for royalty suspension provisions.

TITLE III—OIL AND GAS ROYALTY REFORM

- Sec. 301. Amendments to definitions.
- Sec. 302. Compliance reviews.
- Sec. 303. Clarification of liability for royalty payments.
- Sec. 304. Required recordkeeping.
- Sec. 305. Fines and penalties.
- Sec. 306. Interest on overpayments.
- Sec. 307. Adjustments and refunds.
- Sec. 308. Conforming amendment.
- Sec. 309. Obligation period.
- Sec. 310. Notice regarding tolling agreements and subpoenas.
- Sec. 311. Appeals and final agency action.
- Sec. 312. Assessments.
- Sec. 313. Collection and production accountability.
- Sec. 314. Natural gas reporting.
- Sec. 315. Penalty for late or incorrect reporting of data.
- Sec. 316. Required recordkeeping.
- Sec. 317. Shared civil penalties.
- Sec. 318. Entitlements.
- Sec. 319. Limitation on royalty in-kind program.
- Sec. 320. Application of royalty to oil that is saved, removed, sold, or discharged under offshore oil and gas leases.
- Sec. 321. Disposition of revenue.

TITLE IV—GULF OF MEXICO RESTORATION

- Sec. 401. Short title.
- Sec. 402. Gulf coast ecosystem restoration.

TITLE V—COORDINATION AND PLANNING

- Sec. 501. Regional coordination.
- Sec. 502. Regional Coordination Councils.
- Sec. 503. Regional strategic plans.
- Sec. 504. Regulations and savings clause.
- Sec. 505. Ocean Resources Conservation and Assistance Fund.
- Sec. 506. Waiver.

TITLE VI—OIL SPILL ACCOUNTABILITY AND ENVIRONMENTAL PROTECTION

- Sec. 601. Short title.

- Sec. 602. Repeal of and adjustments to limitation on liability.
- Sec. 603. Evidence of financial responsibility for offshore facilities.
- Sec. 604. Damages to human health.
- Sec. 605. Clarification of liability for discharges from mobile offshore drilling units.
- Sec. 606. Standard of review for damage assessment.
- Sec. 607. Procedures for claims against Fund; Information on claims.
- Sec. 608. Additional amendments and clarifications to Oil Pollution Act of 1990.
- Sec. 609. Americanization of offshore operations in the Exclusive Economic Zone.
- Sec. 610. Safety management systems for mobile offshore drilling units.
- Sec. 611. Safety standards for mobile offshore drilling units.
- Sec. 612. Operational control of mobile offshore drilling units.
- Sec. 613. Single-hull tankers.
- Sec. 614. Repeal of response plan waiver.
- Sec. 615. National Contingency Plan.
- Sec. 616. Tracking Database.
- Sec. 617. Evaluation and approval of response plans; maximum penalties.
- Sec. 618. Oil and hazardous substance cleanup technologies.
- Sec. 619. Implementation of oil spill prevention and response authorities.
- Sec. 620. Impacts to Indian Tribes and public service damages.
- Sec. 621. Federal enforcement actions.
- Sec. 622. Time required before electing to proceed with judicial claim or against the Fund.
- Sec. 623. Authorized level of Coast Guard personnel.
- Sec. 624. Clarification of memorandums of understanding.
- Sec. 625. Build America requirement for offshore facilities.
- Sec. 626. Oil spill response vessel database.
- Sec. 627. Offshore sensing and monitoring systems.
- Sec. 628. Oil and gas exploration and production.
- Sec. 629. Authorization of appropriations.
- Sec. 630. Extension of liability to persons having ownership interests in responsible parties.
- Sec. 631. Clarification of liability under Oil Pollution Act of 1990.
- Sec. 632. Salvage activities.
- Sec. 633. Requirement for redundancy in response plans.
- Sec. 634. Federal Oil Spill Research Program.
- Sec. 635. Oil Spill Liability Trust Fund.

TITLE VII—MISCELLANEOUS PROVISIONS

- Sec. 701. Repeal of certain taxpayer subsidized royalty relief for the oil and gas industry.
- Sec. 702. Leasing on Indian lands.
- Sec. 703. Outer Continental Shelf State boundaries.
- Sec. 704. Liability for damages to national wildlife refuges.
- Sec. 705. Strengthening coastal State oil spill planning and response.
- Sec. 706. Information sharing.
- Sec. 707. Limitation on use of funds.
- Sec. 708. Environmental review.
- Sec. 709. Government Accountability Office evaluation.
- Sec. 710. Study on relief wells.
- Sec. 711. Flow rate technical group.

TITLE VIII—STUDY OF ACTIONS TO IMPROVE THE ACCURACY OF
COLLECTION OF ROYALTIES

Sec. 801. Short title.

Sec. 802. Study of actions to improve the accuracy of collection of Federal oil,
condensate, and natural gas royalties.

Sec. 803. Definitions.

TITLE IX—OFFSHORE OIL AND GAS WORKER WHISTLEBLOWER
PROTECTION

Sec. 901. Short title.

Sec. 902. Whistleblower protections; employee protection from other retaliation.

Sec. 903. Definitions.

1 **SEC. 2. DEFINITIONS.**

2 For the purposes of this Act:

3 (1) **AFFECTED INDIAN TRIBE.**—The term “af-
4 fected Indian tribe” means an Indian tribe that has
5 federally reserved rights that are affirmed by treaty,
6 statute, Executive order, Federal court order, or
7 other Federal law in the area at issue.

8 (2) **COASTAL STATE.**—The term “coastal
9 State” has the same meaning given the term “coast-
10 al state” in section 304 of the Coastal Zone Man-
11 agement Act of 1972 (16 U.S.C. 1453).

12 (3) **DEPARTMENT.**—The term “Department”
13 means the Department of the Interior, except as the
14 context indicates otherwise.

15 (4) **FUNCTION.**—The term “function”, with re-
16 spect to a function of an officer, employee, or agent
17 of the Federal Government, or of a Department,
18 agency, office, or other instrumentality of the Fed-
19 eral Government, includes authorities, powers,

1 rights, privileges, immunities, programs, projects,
2 activities, duties, and responsibilities.

3 (5) IMPORTANT ECOLOGICAL AREA.—The term
4 “important ecological area” means an area that con-
5 tributes significantly to local or larger marine eco-
6 system health or is an especially unique or sensitive
7 marine ecosystem.

8 (6) INDIAN LAND.—The term “Indian land”
9 has the meaning given the term in section 502(a) of
10 title V of Public Law 109–58 (25 U.S.C. 3501(2)).

11 (7) INDIAN TRIBE.—The term “Indian tribe”
12 has the same meaning given the term “Indian tribe”
13 has in section 4 of the Indian Self-Determination
14 and Education Assistance Act (25 U.S.C. 450b).

15 (8) MARINE ECOSYSTEM HEALTH.—The term
16 “marine ecosystem health” means the ability of an
17 ecosystem in ocean and coastal waters to support
18 and maintain patterns, important processes, and
19 productive, sustainable, and resilient communities of
20 organisms, having a species composition, diversity,
21 and functional organization resulting from the nat-
22 ural habitat of the region, such that it is capable of
23 supporting a variety of activities and providing a
24 complete range of ecological benefits. Such an eco-

1 system would be characterized by a variety of fac-
2 tors, including—

3 (A) a complete diversity of native species
4 and habitat wherein each native species is able
5 to maintain an abundance, population struc-
6 ture, and distribution supporting its ecological
7 and evolutionary functions, patterns, and proc-
8 esses; and

9 (B) a physical, chemical, geological, and
10 microbial environment that is necessary to
11 achieve such diversity.

12 (9) MINERAL.—The term “mineral” has the
13 same meaning that the term “minerals” has in sec-
14 tion 2(q) of the Outer Continental Shelf Lands Act
15 (43 U.S.C. 1331(q)).

16 (10) NONRENEWABLE ENERGY RESOURCE.—
17 The term “nonrenewable energy resource” means oil
18 and natural gas.

19 (11) OPERATOR.—The term “operator”
20 means—

21 (A) the lessee; or

22 (B) a person designated by the lessee as
23 having control or management of operations on
24 the leased area or a portion thereof, who is—

1 (i) approved by the Secretary, acting
2 through the Bureau of Ocean Energy Man-
3 agement, Regulation and Enforcement; or

4 (ii) the holder of operating rights
5 under an assignment of operating rights
6 that is approved by the Secretary, acting
7 through the Bureau of Ocean Energy Man-
8 agement, Regulation and Enforcement.

9 (12) OUTER CONTINENTAL SHELF.—The term
10 “Outer Continental Shelf” has the same meaning
11 given the term “outer Continental Shelf” in the
12 Outer Continental Shelf Lands Act (43 U.S.C. 1331
13 et seq.).

14 (13) REGIONAL OCEAN PARTNERSHIP.—The
15 term “Regional Ocean Partnership” means vol-
16 untary, collaborative management initiatives devel-
17 oped and entered into by the Governors of two or
18 more coastal States or created by an interstate com-
19 pact for the purpose of addressing more than one
20 ocean, coastal, or Great Lakes issue and to imple-
21 ment policies and activities identified under special
22 area management plans under the Coastal Zone
23 Management Act of 1972 (16 U.S.C. 1451 et seq.)
24 or other agreements developed and signed by the
25 Governors.

1 (14) RENEWABLE ENERGY RESOURCE.—The
2 term “renewable energy resource” means each of the
3 following:

4 (A) Wind energy.

5 (B) Solar energy.

6 (C) Geothermal energy.

7 (D) Landfill gas.

8 (E) Marine and hydrokinetic renewable en-
9 ergy, as that term is defined in section 632 of
10 the Energy Independence and Security Act of
11 2007 (42 U.S.C. 17211).

12 (15) SECRETARIES.—The term “Secretaries”
13 means the Secretary of the Interior and the Sec-
14 retary of Commerce.

15 (16) SECRETARY.—The term “Secretary”
16 means the Secretary of the Interior, except as other-
17 wise provided in this Act.

18 (17) TERMS DEFINED IN OTHER LAW.—Each
19 of the terms “Federal land”, “lease”, and “mineral
20 leasing law” has the same meaning given the term
21 under the Federal Oil and Gas Royalty Management
22 Act of 1982 (30 U.S.C. 1701 et seq.), except that
23 such terms shall also apply to all minerals and re-
24 newable energy resources in addition to oil and gas.

1 **TITLE I—CREATION OF NEW DE-**
2 **PARTMENT OF THE INTERIOR**
3 **AGENCIES**

4 **SEC. 101. BUREAU OF OCEAN ENERGY MANAGEMENT.**

5 (a) ESTABLISHMENT.—There is established in the
6 Department of the Interior a Bureau of Ocean Energy
7 Management (referred to in this section as the “Bureau”)
8 to be headed by a Director of Energy Management (re-
9 ferred to in this section as the “Director”).

10 (b) DIRECTOR.—

11 (1) APPOINTMENT.—The Director shall be ap-
12 pointed by the President, by and with the advice and
13 consent of the Senate, on the basis of—

14 (A) professional background, demonstrated
15 competence, and ability; and

16 (B) capacity to—

17 (i) administer the provisions of this
18 Act; and

19 (ii) ensure that the fiduciary duties of
20 the United States Government on behalf of
21 the people of the United States, as they re-
22 late to development of nonrenewable and
23 renewable energy and mineral resources,
24 are duly met.

1 (2) COMPENSATION.—The Director shall be
2 compensated at the rate provided for Level V of the
3 Executive Schedule under section 5316 of title 5,
4 United States Code.

5 (c) DUTIES.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (4), the Secretary shall carry out through the
8 Bureau all functions, powers, and duties vested in
9 the Secretary relating to the administration of a
10 comprehensive program of offshore nonrenewable
11 and renewable energy and mineral resources man-
12 agement—

13 (A) on the Outer Continental Shelf, pursu-
14 ant to the Outer Continental Shelf Lands Act
15 as amended by this Act (43 U.S.C. 1331 et
16 seq.); and

17 (B) pursuant to this Act and all other ap-
18 plicable Federal laws, including the administra-
19 tion and approval of all instruments and agree-
20 ments required to ensure orderly, safe, and en-
21 vironmentally responsible offshore nonrenewable
22 and renewable energy and mineral resources de-
23 velopment activities.

24 (2) SPECIFIC AUTHORITIES.—The Director
25 shall promulgate and implement regulations for the

1 proper issuance of leases for the exploration, devel-
2 opment, and production of nonrenewable and renew-
3 able energy and mineral resources, and for the
4 issuance of permits under such leases, on the Outer
5 Continental Shelf, including regulations relating to
6 resource identification, access, evaluation, and utili-
7 zation.

8 (3) INDEPENDENT ENVIRONMENTAL
9 SCIENCE.—

10 (A) IN GENERAL.—The Secretary shall
11 create an independent office within the Bureau
12 that—

13 (i) shall report to the Director;

14 (ii) shall be programmatically separate
15 and distinct from the leasing and permit-
16 ting activities of the Bureau; and

17 (iii) shall—

18 (I) carry out the environmental
19 studies program under section 20 of
20 the Outer Continental Shelf Lands
21 Act (43 U.S.C. 1346);

22 (II) conduct any environmental
23 analyses necessary for the programs
24 administered by the Bureau; and

1 (III) carry out other functions as
2 deemed necessary by the Secretary.

3 (B) CONSULTATION.—Studies and anal-
4 yses carried out by the office created under sub-
5 paragraph (A) shall be conducted in appro-
6 priate and timely consultation with other rel-
7 evant Federal agencies, including—

8 (i) the Bureau of Safety and Environ-
9 mental Enforcement;

10 (ii) the United States Fish and Wild-
11 life Service;

12 (iii) the United States Geological Sur-
13 vey; and

14 (iv) the National Oceanic and Atmos-
15 pheric Administration.

16 (4) LIMITATION.—The Secretary shall not carry
17 out through the Bureau any function, power, or duty
18 that is—

19 (A) required by section 102 to be carried
20 out through Bureau of Safety and Environ-
21 mental Enforcement; or

22 (B) required by section 103 to be carried
23 out through the Office of Natural Resources
24 Revenue.

1 (d) COMPREHENSIVE DATA AND ANALYSES ON
2 OUTER CONTINENTAL SHELF RESOURCES.—

3 (1) IN GENERAL.—

4 (A) PROGRAMS.—The Director shall de-
5 velop and carry out programs for the collection,
6 evaluation, assembly, analysis, and dissemina-
7 tion of data and information that is relevant to
8 carrying out the duties of the Bureau, including
9 studies under section 20 of the Outer Conti-
10 nental Shelf Lands Act (43 U.S.C. 1346).

11 (B) USE OF DATA AND INFORMATION.—
12 The Director shall, in carrying out functions
13 pursuant to the Outer Continental Lands Act
14 (43 U.S.C. 1331 et seq.), consider data and in-
15 formation referred to in subparagraph (A)
16 which shall inform the management functions
17 of the Bureau, and shall contribute to a broader
18 coordination of development activities within
19 the contexts of the best available science and
20 marine spatial planning.

21 (2) INTERAGENCY COOPERATION.—In carrying
22 out programs under this subsection, the Bureau
23 shall—

1 (A) utilize the authorities of subsection (g)
2 and (h) of section 18 of the Outer Continental
3 Shelf Lands Act (43 U.S.C. 1344);

4 (B) cooperate with appropriate offices in
5 the Department and in other Federal agencies;

6 (C) use existing inventories and mapping
7 of marine resources previously undertaken by
8 the Minerals Management Service, mapping un-
9 dertaken by the United States Geological Sur-
10 vey and the National Oceanographic and At-
11 mospheric Administration, and information pro-
12 vided by the Department of Defense and other
13 Federal and State agencies possessing relevant
14 data; and

15 (D) use any available data regarding re-
16 newable energy potential, navigation uses, fish-
17 eries, aquaculture uses, recreational uses, habi-
18 tat, conservation, and military uses of the
19 Outer Continental Shelf.

20 (e) RESPONSIBILITIES OF LAND MANAGEMENT
21 AGENCIES.—Nothing in this section shall affect the au-
22 thorities of the Bureau of Land Management under the
23 Federal Land Policy and Management Act of 1976 (43
24 U.S.C. 1701 et seq.) or of the Forest Service under the

1 National Forest Management Act of 1976 (Public Law
2 94–588).

3 **SEC. 102. BUREAU OF SAFETY AND ENVIRONMENTAL EN-**
4 **FORCEMENT.**

5 (a) ESTABLISHMENT.—There is established in the
6 Department a Bureau of Safety and Environmental En-
7 forcement (referred to in this section as the “Bureau”)
8 to be headed by a Director of Safety and Environmental
9 Enforcement (referred to in this section as the “Direc-
10 tor”).

11 (b) DIRECTOR.—

12 (1) APPOINTMENT.—The Director shall be ap-
13 pointed by the President for a fixed term of five
14 years, by and with the advice and consent of the
15 Senate, on the basis of—

16 (A) professional background, demonstrated
17 competence, and ability; and

18 (B) capacity to administer the provisions
19 of this Act.

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

24 (c) DUTIES.—

1 (1) IN GENERAL.—The Secretary shall carry
2 out through the Bureau all functions, powers, and
3 duties vested in the Secretary relating to the admin-
4 istration of safety and environmental enforcement
5 activities related to offshore nonrenewable and re-
6 newable energy and mineral resources—

7 (A) on the Outer Continental Shelf pursu-
8 ant to the Outer Continental Shelf Lands Act
9 (43 U.S.C. 1331 et seq.); and

10 (B) pursuant to—

11 (i) the Federal Oil and Gas Royalty
12 Management Act of 1982 (30 U.S.C. 1701
13 et seq.);

14 (ii) the Energy Policy Act of 2005
15 (Public Law 109–58);

16 (iii) the Federal Oil and Gas Royalty
17 Simplification and Fairness Act of 1996
18 (Public Law 104–185);

19 (iv) the Forest and Rangeland Renew-
20 able Resources Planning Act of 1974 (16
21 U.S.C. 1600 et seq.);

22 (v) the Federal Land Policy and Man-
23 agement Act of 1976 (43 U.S.C. 1701 et
24 seq.);

25 (vi) this Act; and

1 (vii) all other applicable Federal laws,
2 including the authority to develop, promulgate,
3 and enforce regulations to ensure the safe and
4 environmentally sound exploration, develop-
5 ment, and production of nonrenewable and re-
6 newable energy and mineral resources on the
7 Outer Continental Shelf.

8 (d) AUTHORITIES.—In carrying out the duties under
9 this section, the Secretary’s authorities shall include—

10 (1) performing necessary oversight activities to
11 ensure the proper application of environmental re-
12 views, including those conducted pursuant to the
13 National Environmental Policy Act of 1969 (42
14 U.S.C. 4321 et seq.) by the Bureau of Ocean En-
15 ergy Management in the performance of its duties
16 under the Outer Continental Shelf Lands Act (43
17 U.S.C. 1331 et seq.);

18 (2) suspending or prohibiting, on a temporary
19 basis, any operation or activity, including production
20 on leases held on the Outer Continental Shelf, in ac-
21 cordance with section 5(a)(1) of the Outer Conti-
22 nental Shelf Lands Act (43 U.S.C. 1334(a)(1));

23 (3) cancelling any lease, permit, or right-of-way
24 on the Outer Continental Shelf, in accordance with

1 section 5(a)(2) of the Outer Continental Shelf Lands
2 Act (43 U.S.C. 1334(a)(2));

3 (4) compelling compliance with applicable work-
4 er safety and environmental laws and regulations;

5 (5) requiring comprehensive safety and environ-
6 mental management programs for persons engaged
7 in activities connected with the exploration, develop-
8 ment, and production of energy or mineral re-
9 sources;

10 (6) developing and implementing regulations for
11 Federal employees to carry out any inspection or in-
12 vestigation to ascertain compliance with applicable
13 regulations, including health, safety, or environ-
14 mental regulations;

15 (7) collecting, evaluating, assembling, analyzing,
16 and publicly disseminating electronically data and
17 information that is relevant to inspections, failures,
18 or accidents involving equipment and systems used
19 for exploration and production of energy and min-
20 eral resources, including human factors associated
21 therewith;

22 (8) implementing the Offshore Technology Re-
23 search and Risk Assessment Program under section
24 21 of the Outer Continental Shelf Lands Act (43
25 U.S.C. 1347);

1 (9) summoning witnesses and directing the pro-
2 duction of evidence;

3 (10) levying fines and penalties and disquali-
4 fying operators; and

5 (11) carrying out any safety, response, and re-
6 moval preparedness functions.

7 (e) EMPLOYEES.—

8 (1) IN GENERAL.—The Secretary shall ensure
9 that the inspection force of the Bureau consists of
10 qualified, trained employees who meet qualification
11 requirements and adhere to the highest professional
12 and ethical standards.

13 (2) QUALIFICATIONS.—The qualification re-
14 quirements referred to in paragraph (1)—

15 (A) shall be determined by the Secretary,
16 subject to subparagraph (B); and

17 (B) shall include—

18 (i) three years of practical experience
19 in oil and gas exploration, development, or
20 production; or

21 (ii) a degree in an appropriate field of
22 engineering from an accredited institution
23 of higher learning.

24 (3) ASSIGNMENT.—In assigning oil and gas in-
25 spectors to the inspection and investigation of indi-

1 vidual operations, the Secretary shall give due con-
2 sideration to the extent possible to their previous ex-
3 perience in the particular type of oil and gas oper-
4 ation in which such inspections are to be made.

5 (4) TRAINING ACADEMY.—

6 (A) IN GENERAL.—The Secretary shall es-
7 tablish and maintain a National Oil and Gas
8 Health and Safety Academy (referred to in this
9 paragraph as the “Academy”) as an agency of
10 the Department of the Interior.

11 (B) FUNCTIONS OF ACADEMY.—The Sec-
12 retary, through the Academy, shall be respon-
13 sible for—

14 (i) the initial and continued training
15 of both newly hired and experienced oil
16 and gas inspectors in all aspects of health,
17 safety, environmental, and operational in-
18 spections;

19 (ii) the training of technical support
20 personnel of the Bureau;

21 (iii) any other training programs for
22 oil and gas inspectors, Bureau personnel,
23 Department personnel, or other persons as
24 the Secretary shall designate; and

1 (iv) certification of the successful
2 completion of training programs for newly
3 hired and experienced oil and gas inspec-
4 tors.

5 (C) COOPERATIVE AGREEMENTS.—

6 (i) IN GENERAL.—In performing func-
7 tions under this paragraph, and subject to
8 clause (ii), the Secretary may enter into
9 cooperative educational and training agree-
10 ments with educational institutions, related
11 Federal academies, other Federal agencies,
12 State governments, labor organizations,
13 safety training firms, and oil and gas oper-
14 ators and related industries.

15 (ii) TRAINING REQUIREMENT.—Such
16 training shall be conducted by the Acad-
17 emy in accordance with curriculum needs
18 and assignment of instructional personnel
19 established by the Secretary.

20 (D) USE OF DEPARTMENTAL PER-
21 SONNEL.—In performing functions under this
22 subsection, the Secretary shall use, to the ex-
23 tent practicable, the facilities and personnel of
24 the Department of the Interior. The Secretary
25 may appoint or assign to the Academy such of-

1 ficers and employees as the Secretary considers
2 necessary for the performance of the duties and
3 functions of the Academy.

4 (5) ADDITIONAL TRAINING PROGRAMS.—

5 (A) IN GENERAL.—The Secretary shall
6 work with appropriate educational institutions,
7 operators, and representatives of oil and gas
8 workers to develop and maintain adequate pro-
9 grams with educational institutions and oil and
10 gas operators, that are designed—

11 (i) to enable persons to qualify for po-
12 sitions in the administration of this Act;
13 and

14 (ii) to provide for the continuing edu-
15 cation of inspectors or other appropriate
16 Departmental personnel.

17 (B) FINANCIAL AND TECHNICAL ASSIST-
18 ANCE.—The Secretary may provide financial
19 and technical assistance to educational institu-
20 tions in carrying out this paragraph.

21 (6) ROLE OF OIL OR GAS OPERATORS AND RE-
22 LATED INDUSTRIES.—The Secretary shall ensure
23 that any cooperative agreement or other collabora-
24 tion with a representative of an oil or gas operator
25 or related industry in relation to a training program

1 established under paragraph (4) or paragraph (5) is
2 limited to consultation regarding curricula and does
3 not extend to the provision of instructional per-
4 sonnel.

5 **SEC. 103. OFFICE OF NATURAL RESOURCES REVENUE.**

6 (a) ESTABLISHMENT.—There is established in the
7 Department an Office of Natural Resources Revenue (re-
8 ferred to in this section as the “Office”) to be headed by
9 a Director of Natural Resources Revenue (referred to in
10 this section as the “Director”).

11 (b) APPOINTMENT AND COMPENSATION.—

12 (1) IN GENERAL.—The Director shall be ap-
13 pointed by the President, by and with the advice and
14 consent of the Senate, on the basis of—

15 (A) professional competence; and

16 (B) capacity to—

17 (i) administer the provisions of this
18 Act; and

19 (ii) ensure that the fiduciary duties of
20 the United States Government on behalf of
21 the American people, as they relate to de-
22 velopment of nonrenewable and renewable
23 energy and mineral resources, are duly
24 met.

1 (2) COMPENSATION.—The Director shall be
2 compensated at the rate provided for Level V of the
3 Executive Schedule under section 5316 of title 5,
4 United States Code.

5 (c) DUTIES.—

6 (1) IN GENERAL.—The Secretary shall carry
7 out, through the Office—

8 (A) all functions, powers, and duties vested
9 in the Secretary and relating to the administra-
10 tion of offshore royalty and revenue manage-
11 ment functions pursuant to—

12 (i) the Outer Continental Shelf Lands
13 Act (43 U.S.C. 1331 et seq.); and

14 (ii) this Act and all other applicable
15 Federal laws; and

16 (B) all functions, powers, and duties pre-
17 viously assigned to the Minerals Management
18 Service (including the authority to develop, pro-
19 mulgate, and enforce regulations) regarding off-
20 shore—

21 (i) royalty and revenue collection;

22 (ii) royalty and revenue distribution;

23 (iii) auditing and compliance;

24 (iv) investigation and enforcement of
25 royalty and revenue regulations; and

1 (v) asset management for onshore and
2 offshore activities.

3 (d) OVERSIGHT.—In order to provide transparency
4 and ensure strong oversight over the revenue program, the
5 Secretary shall create within the Office an independent
6 audit and oversight program responsible for monitoring
7 the performance of the Office with respect to the duties
8 and functions under subsection (c), and conducting inter-
9 nal control audits of the operations of the Office.

10 **SEC. 104. ETHICS.**

11 (a) CERTIFICATION.—The Secretary shall certify an-
12 nually that all Department of the Interior officers and em-
13 ployees having regular, direct contact with lessees and op-
14 erators as a function of their official duties are in full com-
15 pliance with all Federal employee ethics laws and regula-
16 tions under the Ethics in Government Act of 1978 (5
17 U.S.C. App.) and part 2635 of title 5, Code of Federal
18 Regulations, and all guidance issued under subsection (b).

19 (b) GUIDANCE.—Not later than 90 days after the
20 date of enactment of this Act, the Secretary shall issue
21 supplementary ethics guidance for the employees for which
22 certification is required under subsection (a). The Sec-
23 retary shall update the supplementary ethics guidance not
24 less than once every 3 years thereafter.

1 **SEC. 105. REFERENCES.**

2 (a) BUREAU OF OCEAN ENERGY MANAGEMENT,
3 REGULATION AND ENFORCEMENT.—Any reference in any
4 law, rule, regulation, directive, instruction, certificate, or
5 other official document, in force immediately before the
6 enactment of this Act—

7 (1) to the Minerals Management Service that
8 pertains to any of the duties and authorities referred
9 to in section 101 is deemed to refer and apply to the
10 Bureau of Ocean Energy Management established
11 by section 101;

12 (2) to the Director of the Minerals Management
13 Service that pertains to any of the duties and au-
14 thorities referred to in section 101 is deemed to
15 refer and apply to the Director of the Bureau of
16 Ocean Energy Management; and

17 (3) to any other position in the Minerals Man-
18 agement Service that pertains to any of the duties
19 and authorities referred to in section 101 is deemed
20 to refer and apply to that same or equivalent posi-
21 tion in the Bureau of Ocean Energy Management.

22 (b) BUREAU OF SAFETY AND ENVIRONMENTAL EN-
23 FORCEMENT.—Any reference in any law, rule, regulation,
24 directive, instruction, certificate, or other official docu-
25 ment in force immediately before the enactment of this
26 Act—

1 (1) to the Minerals Management Service that
2 pertains to any of the duties and authorities referred
3 to in section 102 is deemed to refer and apply to the
4 Bureau of Safety and Environmental Enforcement
5 established by section 102;

6 (2) to the Director of the Minerals Management
7 Service that pertains to any of the duties and au-
8 thorities referred to in section 102 is deemed to
9 refer and apply to the Director of the Bureau of
10 Safety and Environmental Enforcement; and

11 (3) to any other position in the Minerals Man-
12 agement Service that pertains to any of the duties
13 and authorities referred to in section 102 is deemed
14 to refer and apply to that same or equivalent posi-
15 tion in the Bureau of Safety and Environmental En-
16 forcement.

17 (c) OFFICE OF NATURAL RESOURCES REVENUE.—
18 Any reference in any law, rule, regulation, directive, or in-
19 struction, or certificate or other official document, in force
20 immediately prior to enactment—

21 (1) to the Minerals Management Service that
22 pertains to any of the duties and authorities referred
23 to in section 103 is deemed to refer and apply to the
24 Office of Natural Resources Revenue established by
25 section 103;

1 (2) COMPLETED ADMINISTRATIVE ACTION DE-
2 FINED.—For purposes of paragraph (1), the term
3 “completed administrative action” includes orders,
4 determinations, rules, regulations, personnel actions,
5 permits, agreements, grants, contracts, certificates,
6 licenses, registrations, and privileges.

7 (c) PENDING PROCEEDINGS.—Subject to the author-
8 ity of the Secretary of the Interior and the officers of the
9 Department of the Interior under this Act—

10 (1) pending proceedings in the Service, includ-
11 ing notices of proposed rulemaking, and applications
12 for licenses, permits, certificates, grants, and finan-
13 cial assistance, shall continue, notwithstanding the
14 enactment of this Act or the vesting of functions of
15 the Service in another agency, unless discontinued or
16 modified under the same terms and conditions and
17 to the same extent that such discontinuance or
18 modification could have occurred if this Act had not
19 been enacted; and

20 (2) orders issued in such proceedings, and ap-
21 peals therefrom, and payments made pursuant to
22 such orders, shall issue in the same manner and on
23 the same terms as if this Act had not been enacted,
24 and any such orders shall continue in effect until
25 amended, modified, superseded, terminated, set

1 aside, or revoked by an officer of the United States
2 or a court of competent jurisdiction, or by operation
3 of law.

4 (d) PENDING CIVIL ACTIONS.—Subject to the au-
5 thority of the Secretary of the Interior or any officer of
6 the Department of the Interior under this Act, pending
7 civil actions shall continue notwithstanding the enactment
8 of this Act, and in such civil actions, proceedings shall be
9 had, appeals taken, and judgments rendered and enforced
10 in the same manner and with the same effect as if such
11 enactment had not occurred.

12 (e) REFERENCES.—References relating to the Service
13 in statutes, Executive orders, rules, regulations, directives,
14 or delegations of authority that precede the effective date
15 of this Act are deemed to refer, as appropriate, to the De-
16 partment, to its officers, employees, or agents, or to its
17 corresponding organizational units or functions. Statutory
18 reporting requirements that applied in relation to the
19 Service immediately before the effective date of this Act
20 shall continue to apply.

21 **SEC. 107. CONFORMING AMENDMENT.**

22 Section 5316 of title 5, United States Code, is
23 amended by striking “Director, Bureau of Mines, Depart-
24 ment of the Interior.” and inserting the following new
25 items:

1 “Director, Bureau of Ocean Energy Manage-
2 ment, Department of the Interior.

3 “Director, Bureau of Safety and Environmental
4 Enforcement, Department of the Interior.

5 “Director, Office of Natural Resources Rev-
6 enue, Department of the Interior.”.

7 **SEC. 108. OUTER CONTINENTAL SHELF SAFETY AND ENVI-**
8 **RONMENTAL ADVISORY BOARD.**

9 (a) ESTABLISHMENT.—The Secretary shall establish,
10 under the Federal Advisory Committee Act, an Outer Con-
11 tinental Shelf Safety and Environmental Advisory Board
12 (referred to in this section as the “Board”), to provide
13 the Secretary and the Directors of the bureaus established
14 by this title with independent scientific and technical ad-
15 vice on safe and environmentally compliant nonrenewable
16 and renewable energy and mineral resource exploration,
17 development, and production activities.

18 (b) MEMBERSHIP.—

19 (1) SIZE.—The Board shall consist of not more
20 than 12 members, chosen to reflect a range of exper-
21 tise in scientific, engineering, management, environ-
22 mental, and other disciplines related to safe and en-
23 vironmentally compliant renewable and nonrenewable
24 energy and mineral resource exploration, develop-
25 ment, and production activities. The Secretary shall

1 consult with the National Academy of Sciences and
2 the National Academy of Engineering to identify po-
3 tential candidates for the Board.

4 (2) TERM.—The Secretary shall appoint Board
5 members to staggered terms of not more than 4
6 years, and shall not appoint a member for more
7 than 2 consecutive terms.

8 (3) BALANCE.—In appointing members to the
9 Board, the Secretary shall ensure a balanced rep-
10 resentation of industry- and nonindustry-related in-
11 terests.

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

14 (d) MEETINGS.—The Board shall meet not less than
15 3 times per year and, at least once per year, shall host
16 a public forum to review and assess the overall safety and
17 environmental performance of Outer Continental Shelf
18 nonrenewable and renewable energy and mineral resource
19 activities.

20 (e) OFFSHORE DRILLING SAFETY ASSESSMENTS
21 AND RECOMMENDATIONS.—As part of its duties under
22 this section, the Board shall, by not later than 180 days
23 after the date of enactment of this section and every 5
24 years thereafter, submit to the Secretary a report that—

1 (1) assesses offshore oil and gas well control
2 technologies, practices, voluntary standards, and
3 regulations in the United States and elsewhere;

4 (2) assesses offshore oil and gas well control
5 technologies, practices, voluntary standards, regula-
6 tions, and technologies and practices used to esti-
7 mate the flow rate of hydrocarbons in the United
8 States and elsewhere; and

9 (3) as appropriate, recommends modifications
10 to the regulations issued under this Act to ensure
11 adequate protection of safety and the environment.

12 (f) REPORTS.—Reports of the Board shall be sub-
13 mitted to the Congress and made available to the public
14 in electronically accessible form.

15 (g) TRAVEL EXPENSES.—Members of the Board,
16 other than full-time employees of the Federal Government,
17 while attending meeting of the Board or while otherwise
18 serving at the request of the Secretary or the Director
19 while serving away from their homes or regular places of
20 business, may be allowed travel expenses, including per
21 diem in lieu of subsistence, as authorized by section 5703
22 of title 5, United States Code, for individuals in the Gov-
23 ernment serving without pay.

1 **SEC. 109. LIMITATION ON EFFECT ON DEVELOPMENT OF**
2 **OCEAN RENEWABLE ENERGY RESOURCE FA-**
3 **CILITIES.**

4 Nothing in this title shall delay development of ocean
5 renewable energy resource facilities including—

- 6 (1) promotion of offshore wind development;
- 7 (2) planning, leasing, licensing, and fee and
8 royalty collection for such development of ocean re-
9 newable energy resource facilities; and
- 10 (3) developing and administering an efficient
11 leasing and licensing process for ocean renewable en-
12 ergy resource facilities.

13 **SEC. 110. ANNUAL REPORT ON OFFSHORE ENERGY DEVEL-**
14 **OPMENT ACTIVITIES.**

15 The Secretary shall annually report to Congress on
16 offshore energy development activities. Each report shall
17 detail—

- 18 (1) the Department's progress in improving its
19 safety regulations and strengthening environmental
20 review; and
- 21 (2) steps taken by industry to address safety
22 and environmental concerns related to offshore drill-
23 ing.

1 **TITLE II—FEDERAL OIL AND GAS**
2 **DEVELOPMENT**

3 **Subtitle A—Safety, Environmental,**
4 **and Financial Reform of the**
5 **Outer Continental Shelf Lands**
6 **Act**

7 **SEC. 201. SHORT TITLE.**

8 This subtitle may be cited as the “Outer Continental
9 Shelf Lands Act Amendments of 2011”.

10 **SEC. 202. DEFINITIONS.**

11 Section 2 of the Outer Continental Shelf Lands Act
12 (43 U.S.C. 1331) is amended by adding at the end the
13 following:

14 “(r) The term ‘safety case’ means a body of evidence
15 that provides a basis for determining whether a system
16 is adequately safe for a given application in a given oper-
17 ating environment.”.

18 **SEC. 203. NATIONAL POLICY FOR THE OUTER CONTI-**
19 **NENTAL SHELF.**

20 Section 3 of the Outer Continental Shelf Lands Act
21 (43 U.S.C. 1332) is amended—

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

24 “(3) the outer Continental Shelf is a vital na-
25 tional resource reserve held by the Federal Govern-

1 ment for the public, that should be managed in a
2 manner that—

3 “(A) recognizes the need of the United
4 States for domestic sources of energy, food,
5 minerals, and other resources;

6 “(B) minimizes the potential impacts of
7 development of those resources on the marine
8 and coastal environment and on safety; and

9 “(C) acknowledges the long-term economic
10 value to the United States of the balanced and
11 orderly management of those resources that
12 safeguards the environment and respects the
13 multiple values and uses of the outer Conti-
14 nental Shelf;”;

15 (2) in paragraph (4), by striking the period at
16 the end and inserting a semicolon;

17 (3) in paragraph (5), by striking “should be”
18 and inserting “shall be”, and striking “; and” and
19 inserting a semicolon;

20 (4) by redesignating paragraph (6) as para-
21 graph (7);

22 (5) by inserting after paragraph (5) the fol-
23 lowing:

24 “(6) exploration, development, and production
25 of energy and minerals on the outer Continental

1 Shelf should be allowed only when those activities
2 can be accomplished in a manner that minimizes—

3 “(A) harmful impacts to life (including fish
4 and other aquatic life) and health;

5 “(B) damage to the marine, coastal, and
6 human environments and to property; and

7 “(C) harm to other users of the waters,
8 seabed, or subsoil; and”; and

9 (6) in paragraph (7) (as so redesignated), by—

10 (A) striking “should be” and inserting
11 “shall be”;

12 (B) inserting “best available” after
13 “using”; and

14 (C) striking “or minimize”.

15 **SEC. 204. JURISDICTION OF LAWS ON THE OUTER CONTI-**
16 **NENTAL SHELF.**

17 Section 4(a)(1) of the Outer Continental Shelf Lands
18 Act (43 U.S.C. 1333(a)(1)) is amended by—

19 (1) inserting “or producing or supporting pro-
20 duction of energy from sources other than oil and
21 gas” after “therefrom”;

22 (2) inserting “or transmitting such energy”
23 after “transporting such resources”; and

24 (3) inserting “and other energy” after “That
25 mineral”.

1 **SEC. 205. OUTER CONTINENTAL SHELF LEASING STAND-**
2 **ARD.**

3 (a) IN GENERAL.—Section 5 of the Outer Conti-
4 nental Shelf Lands Act (43 U.S.C. 1334) is amended—

5 (1) in subsection (a), by striking “The Sec-
6 retary may at any time” and inserting “The Sec-
7 retary shall”;

8 (2) in the second sentence of subsection (a), by
9 adding after “provide for” the following: “oper-
10 ational safety, the protection of the marine and
11 coastal environment, and”;

12 (3) in subsection (a), by inserting “and the Sec-
13 retary of Commerce with respect to matters that
14 may affect the marine and coastal environment”
15 after “which may affect competition”;

16 (4) in clause (ii) of subsection (a)(2)(A), by
17 striking “a reasonable period of time” and inserting
18 “30 days”;

19 (5) in subsection (a)(7), by inserting “in a
20 manner that minimizes harmful impacts to the ma-
21 rine and coastal environment” after “lease area”;

22 (6) in subsection (a), by striking “and” after
23 the semicolon at the end of paragraph (7), redesign-
24 ating paragraph (8) as paragraph (13), and insert-
25 ing after paragraph (7) the following:

1 “(8) for independent third-party certification
2 requirements of safety systems related to well con-
3 trol, such as blowout preventers;

4 “(9) for performance requirements for blowout
5 preventers, including quantitative risk assessment
6 standards, subsea testing, and secondary activation
7 methods;

8 “(10) for independent third-party certification
9 requirements of well casing and cementing programs
10 and procedures;

11 “(11) for the establishment of mandatory safety
12 and environmental management systems by opera-
13 tors on the outer Continental Shelf;

14 “(12) for procedures and technologies to be
15 used during drilling operations to minimize the risk
16 of ignition and explosion of hydrocarbons;”;

17 (7) in subsection (a), by striking the period at
18 the end of paragraph (13), as so redesignated, and
19 inserting “; and”, and by adding at the end the fol-
20 lowing:

21 “(14) ensuring compliance with other applicable
22 environmental and natural resource conservation
23 laws, including the response plan requirements of
24 section 311(j) of the Federal Water Pollution Con-
25 trol Act (33 U.S.C. 1321(j)).”; and

1 (8) by adding at the end the following new sub-
2 sections:

3 “(k) DOCUMENTS INCORPORATED BY REFERENCE.—
4 Any documents incorporated by reference in regulations
5 promulgated by the Secretary pursuant to this Act shall
6 be made available to the public, free of charge, on a
7 website maintained by the Secretary.

8 “(l) REGULATORY STANDARDS FOR BLOWOUT PRE-
9 VENTERS, WELL DESIGN, AND CEMENTING.—

10 “(1) IN GENERAL.—In promulgating regula-
11 tions under this Act related to blowout preventers,
12 well design, and cementing, the Secretary shall en-
13 sure that such regulations include the minimum
14 standards included in paragraphs (2), (3), and (4),
15 unless, after notice and an opportunity for public
16 comment, the Secretary determines that a standard
17 required under this subsection would be less effective
18 in ensuring safe operations than an available alter-
19 native technology or practice. Such regulations shall
20 require independent third-party certification, pursu-
21 ant to paragraph (5), of blowout preventers, well de-
22 sign, and cementing programs and procedures prior
23 to the commencement of drilling operations. Such
24 regulations shall also require recertification by an
25 independent third-party certifier, pursuant to para-

1 graph (5), of a blowout preventer upon any material
2 modification to the blowout preventer or well design
3 and of a well design upon any material modification
4 to the well design.

5 “(2) BLOWOUT PREVENTERS.—Subject to para-
6 graph (1), regulations issued under this Act for
7 blowout preventers shall include at a minimum the
8 following requirements:

9 “(A) Two sets of blind shear rams appro-
10 priately spaced to prevent blowout preventer
11 failure if a drill pipe joint or drill tool is across
12 one set of blind shear rams during a situation
13 that threatens loss of well control.

14 “(B) Redundant emergency backup control
15 systems capable of activating the relevant com-
16 ponents of a blowout preventer, including when
17 the communications link or other critical links
18 between the drilling rig and the blowout pre-
19 venter are destroyed or inoperable.

20 “(C) Regular testing of the emergency
21 backup control systems, including testing dur-
22 ing deployment of the blowout preventer.

23 “(D) As appropriate, remotely operated ve-
24 hicle intervention capabilities for secondary con-
25 trol of all subsea blowout preventer functions,

1 including adequate hydraulic capacity to acti-
2 vate blind shear rams, casing shear rams, and
3 other critical blowout preventer components.

4 “(3) WELL DESIGN.—Subject to paragraph (1),
5 regulations issued under this Act for well design
6 standards shall include at a minimum the following
7 requirements:

8 “(A) In connection with the installation of
9 the final casing string, the installation of at
10 least two independent, tested mechanical bar-
11 riers, in addition to a cement barrier, across
12 each flow path between hydrocarbon bearing
13 formations and the blowout preventer.

14 “(B) That wells shall be designed so that
15 a failure of one barrier does not significantly in-
16 crease the likelihood of another barrier’s failure.

17 “(C) That the casing design is appropriate
18 for the purpose for which it is intended under
19 reasonably expected wellbore conditions.

20 “(D) The installation and verification with
21 a pressure test of a lockdown device at the time
22 the casing is installed in the wellhead.

23 “(4) CEMENTING.—Subject to paragraph (1),
24 regulations issued under this Act for cementing

1 standards shall include at a minimum the following
2 requirements:

3 “(A) Adequate centralization of the casing
4 to ensure proper distribution of cement.

5 “(B) A full circulation of drilling fluids
6 prior to cementing.

7 “(C) The use of an adequate volume of ce-
8 ment to prevent any unintended flow of hydro-
9 carbons between any hydrocarbon-bearing for-
10 mation zone and the wellhead.

11 “(D) Cement bond logs for all cementing
12 jobs intended to provide a barrier to hydro-
13 carbon flow.

14 “(E) Cement bond logs or such other in-
15 tegrity tests as the Secretary may prescribe for
16 cement jobs other than those identified in sub-
17 paragraph (D).

18 “(5) INDEPENDENT THIRD-PARTY CERTIFI-
19 CATION.—The Secretary shall issue regulations that
20 establish appropriate standards for the approval of
21 independent third-party certifiers capable of exer-
22 cising certification functions for blowout preventers,
23 well design, and cementing. For any certification re-
24 quired for regulations related to blowout preventers,
25 well design, or cementing, the operator shall use a

1 qualified independent third-party certifier chosen by
2 the Secretary. The costs of any certification shall be
3 borne by the operator. The regulations issued under
4 this subsection shall require the following:

5 “(A) Prior to the commencement of drill-
6 ing through a blowout preventer at any covered
7 well, the operator shall obtain a written and
8 signed certification from an independent third
9 party approved and assigned by the appropriate
10 Federal official pursuant to subsection (a) that
11 the third party—

12 “(i) conducted or oversaw a detailed
13 physical inspection, design review, system
14 integration test, and function and pressure
15 testing of the blowout preventer; and

16 “(ii) in the third-party certifier’s best
17 professional judgment, determined that—

18 “(I) the blowout preventer is de-
19 signed for the specific drilling condi-
20 tions, equipment, and location where
21 it will be installed and for the specific
22 well design;

23 “(II) the blowout preventer and
24 all of its components and control sys-

1 tems will operate effectively and as
2 designed when installed;

3 “(III) each blind shear ram or
4 casing shear ram will function effec-
5 tively under likely emergency sce-
6 narios and is capable of shearing the
7 drill pipe or casing, as applicable, that
8 will be used when installed;

9 “(IV) emergency control systems
10 will function under the conditions in
11 which they will be installed; and

12 “(V) the blowout preventer has
13 not been compromised or damaged
14 from any previous service.

15 “(B) Not less than once every 180 days
16 after commencement of drilling through a blow-
17 out preventer at any covered well, or upon im-
18 plementation of any material modification to
19 the blowout preventer or well design at such a
20 well, the operator shall obtain a written and
21 signed recertification from an independent third
22 party approved and assigned by the appropriate
23 Federal official pursuant to subsection (a) that
24 the requirements in clause (ii) of subparagraph
25 (A) continue to be met with the systems as de-

1 ployed. Such recertification determinations shall
2 consider the results of tests required by the ap-
3 propriate Federal official, including testing of
4 the emergency control systems of a blowout pre-
5 venter.

6 “(C) Certifications under subparagraph
7 (A), recertifications under subparagraph (A),
8 and results of and data from all tests conducted
9 pursuant to this subsection shall be promptly
10 submitted to the appropriate Federal official
11 and made publicly available.

12 “(6) APPLICATION TO INSHORE WATERS; STATE
13 IMPLEMENTATION.—

14 “(A) IN GENERAL.—Requirements estab-
15 lished under this subsection shall apply, as pro-
16 vided in subparagraph (B), to offshore drilling
17 operations that take place on lands that are
18 landward of the outer Continental Shelf and
19 seaward of the line of mean high tide, and that
20 the Secretary determines, based on criteria es-
21 tablished by rule, could, in the event of a blow-
22 out, lead to extensive and widespread harm to
23 safety or the environment.

24 “(B) SUBMISSION OF STATE REGULATORY
25 REGIME.—Any State may submit to the Sec-

1 retary a plan demonstrating that the State’s
2 regulatory regime for wells identified in sub-
3 paragraph (A) establishes requirements for
4 such wells that are comparable to, or alter-
5 native requirements providing an equal or
6 greater level of safety than, those established
7 under this section for wells on the outer Conti-
8 nental Shelf. The Secretary shall promptly de-
9 termine, after notice and an opportunity for
10 public comment, whether a State’s regulatory
11 regime meets the standard set forth in the pre-
12 ceding sentence. If the Secretary determines
13 that a State’s regulatory regime does not meet
14 such standard, the Secretary shall identify the
15 deficiencies that are the basis for such deter-
16 mination and provide a reasonable period of
17 time for the State to remedy the deficiencies. If
18 the State does not do so within such reasonable
19 period of time, the Secretary shall apply the re-
20 quirements established under this section to off-
21 shore drilling operations described in subpara-
22 graph (A) that are located in such State, until
23 such time as the Secretary determines that the
24 deficiencies have been remedied.

25 “(m) RULEMAKING DOCKETS.—

1 “(1) ESTABLISHMENT.—Not later than the
2 date of proposal of any regulation under this Act,
3 the Secretary shall establish a publicly available
4 rulemaking docket for such regulation.

5 “(2) DOCUMENTS TO BE INCLUDED.—The Sec-
6 retary shall include in the docket—

7 “(A) all written comments and documen-
8 tary information on the proposed rule received
9 from any person in the comment period for the
10 rulemaking, promptly upon receipt by the Sec-
11 retary;

12 “(B) the transcript of each public hearing,
13 if any, on the proposed rule, promptly upon re-
14 ceipt from the person who transcribed such
15 hearing; and

16 “(C) all documents that become available
17 after the proposed rule is published and that
18 the Secretary determines are of central rel-
19 evance to the rulemaking, by as soon as pos-
20 sible after their availability.

21 “(3) PROPOSED AND DRAFT FINAL RULE AND
22 ASSOCIATED MATERIAL.—The Secretary shall in-
23 clude in the docket—

24 “(A) each draft proposed rule submitted by
25 the Secretary to the Office of Management and

1 Budget for any interagency review process prior
2 to proposal of such rule, all documents accom-
3 panying such draft, all written comments there-
4 on by other agencies, and all written responses
5 to such written comments by the Secretary, by
6 no later than the date of proposal of the rule;
7 and

8 “(B) each draft final rule submitted by the
9 Secretary for such review process before
10 issuance of the final rule, all such written com-
11 ments thereon, all documents accompanying
12 such draft, and all written responses thereto, by
13 no later than the date of issuance of the final
14 rule.”.

15 (b) CONFORMING AMENDMENT.—Subsection (g) of
16 section 25 of the Outer Continental Shelf Lands Act (43
17 U.S.C. 1351), as redesignated by section 215(4) of this
18 Act, is further amended by striking “paragraph (8) of sec-
19 tion 5(a) of this Act” each place it appears and inserting
20 “paragraph (13) of section 5(a) of this Act”.

21 **SEC. 206. CHEMICAL SAFETY BOARD INVESTIGATION.**

22 Section 112(r)(6) of the Clean Air Act (42 U.S.C.
23 7412(r)(6)) is amended by adding at the end the following:

24 “(T) AGREEMENT.—Not later than 30
25 days after the date of enactment of this sub-

1 paragraph, the Chemical Safety and Hazard In-
2 vestigation Board, the Coast Guard, and the
3 Department of the Interior shall enter into an
4 agreement in order to facilitate the Board's in-
5 vestigation of the facts, circumstances, and
6 causes of an accidental fire, explosion, or re-
7 lease involving an offshore oil or gas exploration
8 or production facility (regardless of whether
9 there is a resulting marine oil spill). Such
10 agreement shall provide the Board with the fol-
11 lowing:

12 “(i) Unrestricted access to any per-
13 sonnel, records, witness statements, re-
14 corded witness interviews, and physical or
15 documentary evidence related to an off-
16 shore oil or gas exploration or production
17 facility under investigation collected or pos-
18 sessed by the Coast Guard or the Depart-
19 ment of the Interior.

20 “(ii) The ability to conduct recorded
21 interviews of all agency personnel and con-
22 tractors and the right to obtain records re-
23 lated to Federal regulatory, inspection, en-
24 forcement, and safety programs for off-

1 shore oil or gas exploration and produc-
2 tion.

3 “(iii) The right to participate equally
4 in planning and executing any testing of
5 relevant items of physical evidence related
6 to the cause of the accident.

7 “(iv) Such support and facilities as
8 may be necessary for the Board’s inves-
9 tigation, including transportation to the
10 accident site, coastal waters and affected
11 areas, and other offshore oil or gas explo-
12 ration and production facilities without
13 cost to the Board.

14 “(U) RECOMMENDATIONS.—Based on an
15 investigation of an accidental fire, explosion, or
16 release involving an offshore oil or gas explo-
17 ration or production facility, the Board shall
18 make recommendations with respect to pre-
19 venting subsequent accidental fires, explosions,
20 or releases to the Secretary of the Interior and
21 the Commandant of the Coast Guard. The Sec-
22 retary of the Interior and the Commandant of
23 the Coast Guard shall respond formally and in
24 writing to any recommendation of the Board

1 within 90 days of the receipt of such rec-
2 ommendation.”.

3 **SEC. 207. LEASES, EASEMENTS, AND RIGHTS-OF-WAY.**

4 (a) FINANCIAL ASSURANCE AND FISCAL RESPONSI-
5 BILITY.—Section 8 of the Outer Continental Shelf Lands
6 Act (43 U.S.C. 1337) is amended by adding at the end
7 the following:

8 “(q) REVIEW OF BOND AND SURETY AMOUNTS.—
9 Not later than May 1, 2011, and every 5 years thereafter,
10 the Secretary shall review the minimum financial responsi-
11 bility requirements for leases issued under this section and
12 shall ensure that any bonds or surety required are ade-
13 quate to comply with the requirements of this Act or the
14 Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.).

15 “(r) PERIODIC FISCAL REVIEW AND REPORT.—

16 “(1) IN GENERAL.—Not later than 1 year after
17 the date of enactment of this subsection and every
18 3 years thereafter, the Secretary shall carry out a
19 review and prepare a report setting forth—

20 “(A)(i) the royalty and rental rates in-
21 cluded in new offshore oil and gas leases; and

22 “(ii) the rationale for the rates;

23 “(B) whether, in the view of the Secretary,
24 the royalty and rental rates described in sub-
25 paragraph (A) will yield a fair return to the

1 public while promoting the production of oil and
2 gas resources in a timely manner;

3 “(C)(i) the minimum bond or surety
4 amounts required pursuant to offshore oil and
5 gas leases; and

6 “(ii) the rationale for the minimum
7 amounts;

8 “(D) whether the bond or surety amounts
9 described in subparagraph (C) are adequate to
10 comply with subsection (q); and

11 “(E) whether the Secretary intends to
12 modify the royalty or rental rates, or bond or
13 surety amounts, based on the review.

14 “(2) PUBLIC PARTICIPATION.—In carrying out
15 a review and preparing a report under paragraph
16 (1), the Secretary shall provide to the public an op-
17 portunity to participate.

18 “(3) REPORT DEADLINE.—Not later than 30
19 days after the date on which the Secretary completes
20 a report under paragraph (1), the Secretary shall
21 transmit copies of the report to—

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

24 “(B) the Committee on Natural Resources
25 of the House of Representatives.

1 “(s) COMPARATIVE REVIEW OF FISCAL SYSTEM.—

2 “(1) IN GENERAL.—Not later than 2 years
3 after the date of enactment of this subsection and
4 every 5 years thereafter, the Secretary shall carry
5 out a comprehensive review of all components of the
6 Federal offshore oil and gas fiscal system, including
7 requirements for—

8 “(A) bonus bids;

9 “(B) rental rates; and

10 “(C) royalties.

11 “(2) REQUIREMENTS.—

12 “(A) CONTENTS; SCOPE.—A review under
13 paragraph (1) shall include—

14 “(i) the information and analyses nec-
15 essary to compare the offshore bonus bids,
16 rents, and royalties of the Federal Govern-
17 ment to the offshore bonus bids, rents, and
18 royalties of other resource owners, includ-
19 ing States and foreign countries; and

20 “(ii) an assessment of the overall off-
21 shore oil and gas fiscal system in the
22 United States, as compared to foreign
23 countries.

24 “(B) INDEPENDENT ADVISORY COM-
25 MITTEE.—In carrying out a review under para-

1 graph (1), the Secretary shall convene and seek
2 the advice of an independent advisory com-
3 mittee comprised of oil and gas and fiscal ex-
4 perts from States, Indian tribes, academia, the
5 energy industry, and appropriate nongovern-
6 mental organizations.

7 “(3) REPORT.—

8 “(A) IN GENERAL.—The Secretary shall
9 prepare a report that contains—

10 “(i) the contents and results of the re-
11 view carried out under paragraph (1) for
12 the period covered by the report; and

13 “(ii) any recommendations of the Sec-
14 retary based on the contents and results of
15 the review.

16 “(B) REPORT DEADLINE.—Not later than
17 30 days after the date on which the Secretary
18 completes a report under paragraph (1), the
19 Secretary shall transmit copies of the report to
20 the Committee on Natural Resources of the
21 House of Representatives and the Committee
22 on Energy and Natural Resources of the Sen-
23 ate.”.

24 (b) ENVIRONMENTAL DILIGENCE.—Section 8 of the
25 Outer Continental Shelf Lands Act (43 U.S.C. 1337) is

1 amended by striking subsection (d) and inserting the fol-
2 lowing:

3 “(d) REQUIREMENT FOR CERTIFICATION OF RE-
4 SPONSIBLE STEWARDSHIP.—

5 “(1) CERTIFICATION REQUIREMENT.—No bid
6 or request for a lease, easement, or right-of-way
7 under this section, or for a permit to drill under sec-
8 tion 11(d), may be submitted by any person unless
9 the person certifies to the Secretary that the person
10 (including any related person and any predecessor of
11 such person or related person) meets each of the fol-
12 lowing requirements:

13 “(A) The person is meeting due diligence,
14 safety, and environmental requirements on
15 other leases, easements, and rights-of-way.

16 “(B) In the case of a person that is a re-
17 sponsible party for a vessel or a facility from
18 which oil is discharged, for purposes of section
19 1002 of the Oil Pollution Act of 1990 (33
20 U.S.C. 2702), the person has met all of its obli-
21 gations under that Act to provide compensation
22 for covered removal costs and damages.

23 “(C) In the 7-year period ending on the
24 date of certification, the person, in connection
25 with activities in the oil industry (including ex-

1 exploration, development, production, transpor-
2 tation by pipeline, and refining)—

3 “(i) was not found to have committed
4 willful or repeated violations under the Oc-
5 cupational Safety and Health Act of 1970
6 (29 U.S.C. 651 et seq.) (including State
7 plans approved under section 18(e) of such
8 Act (29 U.S.C. 667(c))) at a rate that is
9 higher than five times the rate determined
10 by the Secretary to be the oil industry av-
11 erage for such violations for such period;

12 “(ii) was not convicted of a criminal
13 violation for death or serious bodily injury;

14 “(iii) did not have more than 10 fa-
15 talities at its exploration, development, and
16 production facilities and refineries as a re-
17 sult of violations of Federal or State
18 health, safety, or environmental laws;

19 “(iv) was not assessed, did not enter
20 into an agreement to pay, and was not oth-
21 erwise required to pay, civil penalties and
22 criminal fines for violations the person was
23 found to have committed under the Fed-
24 eral Water Pollution Control Act (33
25 U.S.C. 1251 et seq.) (including State pro-

1 grams approved under sections 402 and
2 404 of such Act (33 U.S.C. 1342 and
3 1344)) in a total amount that is equal to
4 more than \$10,000,000; and

5 “(v) was not assessed, did not enter
6 into an agreement to pay, and was not oth-
7 erwise required to pay, civil penalties and
8 criminal fines for violations the person was
9 found to have committed under the Clean
10 Air Act (42 U.S.C. 7401 et seq.) (includ-
11 ing State plans approved under section
12 110 of such Act (42 U.S.C. 7410)) in a
13 total amount that is equal to more than
14 \$10,000,000.

15 “(2) ENFORCEMENT.—If the Secretary deter-
16 mines that a certification made under paragraph (1)
17 is false, the Secretary shall cancel any lease, ease-
18 ment, or right of way and shall revoke any permit
19 with respect to which the certification was required
20 under such paragraph.

21 “(3) DEFINITION OF RELATED PERSON.—For
22 purposes of this subsection, the term ‘related person’
23 includes a parent, subsidiary, affiliate, member of
24 the same controlled group, contractor, subcontractor,
25 a person holding a controlling interest or in which

1 a controlling interest is held, and a person with sub-
2 stantially the same board members, senior officers,
3 or investors.”.

4 (c) ALTERNATIVE ENERGY DEVELOPMENT.—Section
5 8(p) of the Outer Continental Shelf Lands Act (43 U.S.C.
6 1337(p)) is amended—

7 (1) in paragraph (1)—

8 (A) in the matter preceding subparagraph
9 (A), by inserting “or” after “1501 et seq.”,
10 and by striking “or other applicable law,”; and

11 (B) by amending subparagraph (D) to
12 read as follows:

13 “(D) use, for energy-related purposes, fa-
14 cilities currently or previously used for activities
15 authorized under this Act, except that any oil
16 and gas energy-related uses shall not be author-
17 ized in areas in which oil and gas preleasing,
18 leasing, and related activities are prohibited by
19 a moratorium.”; and

20 (2) in paragraph (4)—

21 (A) in subparagraph (E), by striking “co-
22 ordination” and inserting “in consultation”;
23 and

1 (B) in subparagraph (J)(ii), by inserting
2 “a potential site for an alternative energy facil-
3 ity,” after “deepwater port,”.

4 (d) REVIEW OF IMPACTS OF LEASE SALES ON THE
5 MARINE AND COASTAL ENVIRONMENT BY SECRETARY.—
6 Section 8 of the Outer Continental Shelf Lands Act (43
7 U.S.C. 1337) is amended by adding at the end of sub-
8 section (a) the following:

9 “(9) At least 60 days prior to any lease sale,
10 the Secretary shall request a review by the Secretary
11 of Commerce of the proposed sale with respect to
12 impacts on the marine and coastal environment. The
13 Secretary of Commerce shall complete and submit in
14 writing the results of that review within 60 days
15 after receipt of the Secretary of the Interior’s re-
16 quest. If the Secretary of Commerce makes specific
17 recommendations related to a proposed lease sale to
18 reduce impacts on the marine and coastal environ-
19 ment, and the Secretary rejects or modifies such rec-
20 ommendations, the Secretary shall provide in writing
21 justification for rejecting or modifying such rec-
22 ommendations.”.

23 (e) LIMITATION ON LEASE TRACT SIZE.—Section
24 8(b)(1) of the Outer Continental Shelf Lands Act (43
25 U.S.C. 1337(b)(1)) is amended by striking “, unless the

1 Secretary finds that a larger area is necessary to comprise
2 a reasonable economic production unit”.

3 (f) SULPHUR LEASES.—Section 8(i) of the Outer
4 Continental Shelf Lands Act (43 U.S.C. 1337(i)) is
5 amended by striking “meet the urgent need” and inserting
6 “allow”.

7 (g) TERMS AND PROVISIONS.—Section 8(b) of the
8 Outer Continental Shelf Lands Act (43 U.S.C. 1337(b))
9 is amended by striking “An oil and gas lease issued pursu-
10 ant to this section shall” and inserting “An oil and gas
11 lease may be issued pursuant to this section only if the
12 Secretary determines that activities under the lease are
13 not likely to result in any condition described in section
14 5(a)(2)(A)(i), and shall”.

15 **SEC. 208. EXPLORATION PLANS.**

16 (a) WORST CASE SCENARIO DISCHARGES.—Not later
17 than 180 days after the date of enactment of this Act,
18 and every 5 years thereafter, the Secretary shall publish
19 an estimate of the worst-case scenario discharges, includ-
20 ing subsurface discharges, that are possible in each Outer
21 Continental Shelf region, based on the oil and gas explo-
22 ration, development, and production activities that are
23 being conducted or are planned to be conducted at various
24 locations and depths in each area.

1 (b) LIMITATION ON HARM FROM AGENCY EXPLO-
2 RATION.—Section 11(a)(1) of the Outer Continental Shelf
3 Lands Act (43 U.S.C. 1340(a)(1)) is amended by striking
4 “, which do not interfere with or endanger actual oper-
5 ations under any lease maintained or granted pursuant to
6 this Act, and which are not unduly harmful to aquatic life
7 in such area” and inserting “if a permit authorizing such
8 activity is issued by the Secretary under subsection (g)”.

9 (c) EXPLORATION PLAN REVIEW.—Section 11(c) of
10 the Outer Continental Shelf Lands Act (43 U.S.C.
11 1340(c)), is amended—

12 (1) by inserting “(A)” before the first sentence;

13 (2) in paragraph (1)(A), as designated by the
14 amendment made by paragraph (1) of this sub-
15 section—

16 (A) by striking “and the provisions of such
17 lease” and inserting “the provisions of such
18 lease, and other applicable environmental and
19 natural resource conservation laws”; and

20 (B) by striking the fourth sentence and in-
21 serting the following:

22 “(B) The Secretary shall approve such plan, as sub-
23 mitted or modified, within 90 days after its submission
24 and it is made publicly accessible by the Secretary, or
25 within such additional time as the Secretary determines

1 is necessary to complete any environmental, safety, or
2 other reviews, if the Secretary determines that—

3 “(i) any proposed activity under such plan is
4 not likely to result in any condition described in sec-
5 tion 5(a)(2)(A)(i);

6 “(ii) the plan complies with other applicable en-
7 vironmental or natural resource conservation laws;

8 “(iii) in the case of geophysical surveys, the ap-
9 plicant will use the best available technologies and
10 methods to minimize impacts on marine life; and

11 “(iv) the applicant has demonstrated the capa-
12 bility and technology to respond immediately and ef-
13 fectively to a worst-case-scenario discharge, which
14 shall be estimated for the proposed activities con-
15 tained in the exploration plan, utilizing, in part, the
16 relevant worst-case scenario discharge estimate pub-
17 lished by the Secretary under section 208(a) of the
18 Implementing the Recommendations of the BP Oil
19 Spill Commission Act of 2011.”; and

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

21 “(5) If the Secretary requires greater than 90
22 days to review an exploration plan submitted pursu-
23 ant to any oil and gas lease issued or maintained
24 under this Act, then the Secretary may provide for
25 a suspension of that lease pursuant to section 5

1 until the review of the exploration plan is com-
2 pleted.”.

3 (d) REQUIREMENTS.—Section 11(c) of the Outer
4 Continental Shelf Lands Act (43 U.S.C. 1340(c)), is
5 amended by amending paragraph (3) to read as follows:

6 “(3) An exploration plan submitted under this
7 subsection shall include, in the degree of detail that
8 the Secretary may by regulation require—

9 “(A) a schedule of anticipated exploration
10 activities to be undertaken;

11 “(B) a detailed and accurate description of
12 equipment to be used for such activities, includ-
13 ing—

14 “(i) a description of each drilling unit;

15 “(ii) a statement of the design and
16 condition of major safety-related pieces of
17 equipment, including independent third
18 party certification of such equipment; and

19 “(iii) a description of any new tech-
20 nology to be used;

21 “(C) a map showing the location of each
22 well to be drilled;

23 “(D) a scenario for the potential blowout
24 of the well involving the highest potential vol-
25 ume of liquid hydrocarbons, along with a com-

1 complete description of a response plan to both con-
2 trol the blowout and manage the accompanying
3 discharge of hydrocarbons, including the likeli-
4 hood for surface intervention to stop the blow-
5 out, the availability of a rig to drill a relief well,
6 an estimate of the time it would take to drill a
7 relief well, a description of other technology
8 that may be used to regain control of the well
9 or capture escaping hydrocarbons and the po-
10 tential timeline for using that technology for its
11 intended purpose, and the strategy, organiza-
12 tion, and resources necessary to avoid harm to
13 the environment from hydrocarbons;

14 “(E) an analysis of the potential impacts
15 of the worst-case-scenario discharge, which shall
16 be estimated for the proposed activities con-
17 tained in the exploratory plan, utilizing, in part,
18 the worst-case-scenario discharge performed by
19 the Secretary under section 208(a) of hydro-
20 carbons on the marine, coastal, and human en-
21 vironments for activities conducted pursuant to
22 the proposed exploration plan; and

23 “(F) such other information deemed perti-
24 nent by the Secretary.”.

1 (e) DRILLING PERMITS.—Section 11(d) of the Outer
2 Continental Shelf Lands Act (43 U.S.C. 1340(d)) is
3 amended by to read as follows:

4 “(d) DRILLING PERMITS.—

5 “(1) IN GENERAL.—The Secretary shall, by
6 regulation, require that any lessee operating under
7 an approved exploration plan obtain a permit prior
8 to drilling any well in accordance with such plan,
9 and prior to any significant modification of the well
10 design as originally approved by the Secretary.

11 “(2) ENGINEERING REVIEW REQUIRED.—The
12 Secretary may not grant any drilling permit or
13 modification of the permit prior to completion of a
14 full engineering review of the well system, including
15 a determination that critical safety systems, includ-
16 ing blowout prevention, will utilize best available
17 technology and that blowout prevention systems will
18 include redundancy and remote triggering capability.

19 “(3) OPERATOR SAFETY AND ENVIRONMENTAL
20 MANAGEMENT REQUIRED.—The Secretary shall not
21 grant any drilling permit or modification of the per-
22 mit prior to completion of a safety and environ-
23 mental management plan to be utilized by the oper-
24 ator during all well operations.”.

1 (f) EXPLORATION PERMIT REQUIREMENTS.—Section
2 11(g) of the Outer Continental Shelf Lands Act (43
3 U.S.C. 1340(g)) is amended by—

4 (1) striking “shall be issued” and inserting
5 “may be issued”;

6 (2) inserting “and after consultation with the
7 Secretary of Commerce,” after “in accordance with
8 regulations issued by the Secretary”;

9 (3) striking the “and” at the end of paragraph
10 (2);

11 (4) in paragraph (3) striking “will not be un-
12 duly harmful to” and inserting “is not likely to
13 harm”;

14 (5) striking the period at the end of paragraph
15 (3) and inserting a semicolon; and

16 (6) adding at the end the following:

17 “(4) the exploration will be conducted in ac-
18 cordance with other applicable environmental and
19 natural resource conservation laws;

20 “(5) in the case of geophysical surveys, the ap-
21 plicant will use the best available technologies and
22 methods to minimize impacts on marine life; and

23 “(6) in the case of drilling operations, the appli-
24 cant has available oil spill response and clean-up
25 equipment and technology that has been dem-

1 onstrated to be capable of effectively remediating a
2 worst-case release of oil.”.

3 (g) ENVIRONMENTAL REVIEW OF PLANS; DEEP-
4 WATER PLAN; PLAN DISAPPROVAL.—Section 11 of the
5 Outer Continental Shelf Lands Act (43 U.S.C. 1340) is
6 amended by adding at the end the following:

7 “(i) ENVIRONMENTAL REVIEW OF PLANS.—The Sec-
8 retary shall treat the approval of an exploration plan, or
9 a significant revision of such a plan, as an agency action
10 requiring preparation of an environmental assessment or
11 environmental impact statement in accordance with the
12 National Environmental Policy Act of 1969 (42 U.S.C.
13 4321 et seq.), and shall require that such plan—

14 “(1) be based on the best available technology
15 to ensure safety in carrying out both the drilling of
16 the well and any oil spill response; and

17 “(2) contain a technical systems analysis of the
18 safety of the proposed activity, the blowout preven-
19 tion technology, and the blowout and spill response
20 plans.

21 “(j) DISAPPROVAL OF PLAN.—

22 “(1) IN GENERAL.—The Secretary shall dis-
23 approve the plan if the Secretary determines, be-
24 cause of exceptional geological conditions in the
25 lease areas, exceptional resource values in the ma-

1 rine or coastal environment, or other exceptional cir-
2 cumstances, that—

3 “(A) implementation of the plan would
4 probably cause serious harm or damage to life
5 (including fish and other aquatic life), to prop-
6 erty, to any mineral deposits (in areas leased or
7 not leased), to the national security or defense,
8 or to the marine, coastal, or human environ-
9 ments;

10 “(B) the threat of harm or damage will
11 not disappear or decrease to an acceptable ex-
12 tent within a reasonable period of time; and

13 “(C) the advantages of disapproving the
14 plan outweigh the advantages of exploration.

15 “(2) CANCELLATION OF LEASE FOR DIS-
16 APPROVAL OF PLAN.—If a plan is disapproved under
17 this subsection, the Secretary may cancel such lease
18 in accordance with subsection (c)(1) of this sec-
19 tion.”.

20 **SEC. 209. OUTER CONTINENTAL SHELF LEASING PROGRAM.**

21 Section 18 of the Outer Continental Shelf Lands Act
22 (43 U.S.C. 1344) is amended—

23 (1) in subsection (a) in the second sentence by
24 striking “meet national energy needs” and inserting
25 “balance national energy needs and the protection of

1 the marine and coastal environment and all the re-
2 sources in that environment,”;

3 (2) in subsection (a)(1), by striking “considers”
4 and inserting “gives equal consideration to”;

5 (3) in subsection (a)(2)(A)—

6 (A) by striking “existing” and inserting
7 “the best available scientific”; and

8 (B) by inserting “, including at least three
9 consecutive years of data” after “information”;

10 (4) in subsection (a)(2)(D), by inserting “po-
11 tential and existing sites of renewable energy instal-
12 lations,” after “deepwater ports,”;

13 (5) in subsection (a)(2)(H), by inserting “in-
14 cluding the availability of infrastructure to support
15 oil spill response” before the period;

16 (6) in subsection (a)(3), by—

17 (A) striking “to the maximum extent prac-
18 ticable,”;

19 (B) striking “obtain a proper balance be-
20 tween” and inserting “minimize”; and

21 (C) striking “damage,” and all that follows
22 through the period and inserting “damage and
23 adverse impacts on the marine, coastal, and
24 human environments, and enhancing the poten-
25 tial for the discovery of oil and gas.”;

1 (7) in subsection (b)(1), by inserting “environ-
2 mental, marine, and energy” after “obtain”;

3 (8) in subsection (b)(2), by inserting “environ-
4 mental, marine, and” after “interpret the”;

5 (9) in subsection (b)(3), by striking “and” after
6 the semicolon at the end;

7 (10) by striking the period at the end of sub-
8 section (b)(4) and inserting a semicolon;

9 (11) by adding at the end of subsection (b) the
10 following:

11 “(5) provide technical review and oversight of
12 exploration plans and a systems review of the safety
13 of well designs and other operational decisions;

14 “(6) conduct regular and thorough safety re-
15 views and inspections; and

16 “(7) enforce all applicable laws and regula-
17 tions.”;

18 (12) in the first sentence of subsection (c)(1),
19 by inserting “the National Oceanic and Atmospheric
20 Administration and” after “including”;

21 (13) in subsection (c)(2)—

22 (A) by inserting after the first sentence the
23 following: “The Secretary shall also submit a
24 copy of such proposed program to the head of
25 each Federal agency referred to in, or that oth-

1 otherwise provided suggestions under, paragraph
2 (1).”;

3 (B) in the third sentence, by inserting “or
4 head of a Federal agency” after “such Gov-
5 ernor”; and

6 (C) in the fourth sentence, by inserting “or
7 between the Secretary and the head of a Fed-
8 eral agency,” after “affected State,”;

9 (14) by redesignating subsection (c)(3) as sub-
10 section (c)(4) and by inserting before subsection
11 (c)(4) (as so redesignated) the following:

12 “(3) At least 60 days prior to the publication of a
13 proposed leasing program under this section, the Sec-
14 retary shall request a review by the Secretary of Com-
15 merce of the proposed leasing program with respect to im-
16 pacts on the marine and coastal environments. If the Sec-
17 retary rejects or modifies any of the recommendations
18 made by the Secretary of Commerce concerning the loca-
19 tion, timing, or conduct of leasing activities under the pro-
20 posed leasing program, the Secretary shall provide in writ-
21 ing justification for rejecting or modifying such rec-
22 ommendations.”;

23 (15) in the second sentence of subsection
24 (d)(2), by inserting “, the head of a Federal agen-
25 cy,” after “Attorney General”;

1 (16) in subsection (g), by inserting after the
2 first sentence the following: “Such information may
3 include existing inventories and mapping of marine
4 resources previously undertaken by the Department
5 of the Interior and the National Oceanic and Atmos-
6 pheric Administration, information provided by the
7 Department of Defense, and other available data re-
8 garding energy or mineral resource potential, navi-
9 gation uses, fisheries, aquaculture uses, recreational
10 uses, habitat, conservation, and military uses on the
11 outer Continental Shelf.”; and

12 (17) by adding at the end the following new
13 subsection:

14 “(i) RESEARCH AND DEVELOPMENT.—The Secretary
15 shall carry out a program of research and development
16 to ensure the continued improvement of methodologies for
17 characterizing resources of the outer Continental Shelf
18 and conditions that may affect the ability to develop and
19 use those resources in a safe, sound, and environmentally
20 responsible manner. Such research and development ac-
21 tivities may include activities to provide accurate estimates
22 of energy and mineral reserves and potential on the Outer
23 Continental Shelf and any activities that may assist in fill-
24 ing gaps in environmental data needed to develop each
25 leasing program under this section. As part of such pro-

1 gram the Secretary, in cooperation with the Secretary of
2 Energy, the Secretary of Commerce, and the Director of
3 the United States Geologic Survey, shall conduct joint re-
4 search to systematically collect critical scientific data, fill
5 research gaps, and provide comprehensive, ecosystem-
6 based scientific review of outer Continental Shelf Areas
7 that are currently or will likely be opened for oil and gas
8 leasing, and for offshore areas being considered for the
9 siting of sources of renewable energy.”.

10 **SEC. 210. ENVIRONMENTAL STUDIES.**

11 (a) INFORMATION NEEDED FOR ASSESSMENT AND
12 MANAGEMENT OF ENVIRONMENTAL IMPACTS.—Section
13 20 of the Outer Continental Shelf Lands Act (43 U.S.C.
14 1346) is amended by striking so much as precedes “of
15 any area” in subsection (a)(1) and inserting the following:

16 **“SEC. 20. ENVIRONMENTAL STUDIES.**

17 “(a)(1) The Secretary, in cooperation with the Sec-
18 retary of Commerce, shall conduct a study no less than
19 once every three years”.

20 (b) IMPACTS OF DEEP WATER SPILLS.—Section 20
21 of the Outer Continental Shelf Lands Act (43 U.S.C.
22 1346) is amended by—

- 23 (1) redesignating subsections (c) through (f) as
24 (d) through (g); and

1 (2) inserting after subsection (b) the following
2 new subsection:

3 “(c) The Secretary shall conduct research to identify
4 and reduce data gaps related to impacts of deepwater hy-
5 drocarbon spills, including—

6 “(1) effects to benthic substrate communities
7 and species;

8 “(2) water column habitats and species;

9 “(3) surface and coastal impacts from spills
10 originating in deep waters; and

11 “(4) the use of dispersants.”.

12 (c) RESEARCH.—Within 1 year after the date of en-
13 actment of this Act, the Secretary, in cooperation with the
14 Secretary of Commerce, shall conduct research to identify
15 and reduce data gaps related to the impacts of offshore
16 oil and gas development in the Arctic region and to iden-
17 tify and reduce gaps in oil spill response capabilities.

18 **SEC. 211. SAFETY REGULATIONS.**

19 Section 21 of the Outer Continental Shelf Lands Act
20 (43 U.S.C. 1347) is amended—

21 (1) in subsection (a), by striking “Upon the
22 date of enactment of this section,” and inserting
23 “Within 6 months after the date of enactment of the
24 Outer Continental Shelf Lands Act Amendments of
25 2011 and every three years thereafter,”;

1 (2) in subsection (b) by—

2 (A) striking “for the artificial islands, in-
3 stallations, and other devices referred to in sec-
4 tion 4(a)(1) of” and inserting “under”;

5 (B) striking “which the Secretary deter-
6 mines to be economically feasible”; and

7 (C) adding at the end the following: “Not
8 later than 6 months after the date of enactment
9 of the Outer Continental Shelf Lands Act
10 Amendments of 2011 and every 3 years there-
11 after, the Secretary shall, in consultation with
12 the Outer Continental Shelf Safety and Envi-
13 ronmental Advisory Board established under
14 title I of the Implementing the Recommenda-
15 tions of the BP Oil Spill Commission Act of
16 2011, identify and publish an updated list of
17 (1) the best available technologies for key areas
18 of well design and operation, including blowout
19 prevention and blowout and oil spill response
20 and (2) technology needs for which the Sec-
21 retary intends to identify best available tech-
22 nologies in the future.”; and

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

24 “(g) SAFETY CASE.—Not later than 6 months after
25 the date of enactment of the Outer Continental Shelf

1 Lands Act Amendments of 2011, the Secretary shall pro-
2 mulgate regulations requiring a safety case be submitted
3 along with each new application for a permit to drill on
4 the outer Continental Shelf. Not later than 5 years after
5 the date final regulations promulgated under this sub-
6 section go into effect, and not less than every 5 years
7 thereafter, the Secretary shall enter into an arrangement
8 with the National Academy of Engineering to conduct a
9 study to assess the effectiveness of these regulations and
10 to recommend improvements in their administration.

11 “(h) OFFSHORE TECHNOLOGY RESEARCH AND RISK
12 ASSESSMENT PROGRAM.—

13 “(1) IN GENERAL.—The Secretary shall carry
14 out a program of research, development, and risk as-
15 sessment to address technology and development
16 issues associated with exploration for, and develop-
17 ment and production of, energy and mineral re-
18 sources on the outer Continental Shelf, with the pri-
19 mary purpose of informing its role relating to safety,
20 environmental protection, and spill response.

21 “(2) SPECIFIC FOCUS AREAS.—The program
22 under this subsection shall include research and de-
23 velopment related to—

1 “(A) risk assessment, using all available
2 data from safety and compliance records both
3 within the United States and internationally;

4 “(B) analysis of industry trends in tech-
5 nology, investment, and frontier areas;

6 “(C) reviews of best available technologies,
7 including those associated with pipelines, blow-
8 out preventer mechanisms, casing, well design,
9 and other associated infrastructure related to
10 offshore energy development;

11 “(D) oil spill response and mitigation, in-
12 cluding reviews of the best available technology
13 for oil spill response and mitigation and the
14 availability and accessibility of such technology
15 in each region where leasing is taking place;

16 “(E) risk associated with human factors;

17 “(F) technologies and methods to reduce
18 the impact of geophysical exploration activities
19 on marine life; and

20 “(G) renewable energy operations.”.

21 **SEC. 212. ENFORCEMENT OF SAFETY AND ENVIRON-**
22 **MENTAL REGULATIONS.**

23 (a) IN GENERAL.—Section 22 of the Outer Conti-
24 nental Shelf Lands Act (43 U.S.C. 1348) is amended—

1 (1) by amending subsection (c) to read as fol-
2 lows:

3 “(c) INSPECTIONS.—The Secretary and the Secretary
4 of the department in which the Coast Guard is operating
5 shall individually, or jointly if they so agree, promulgate
6 regulations to provide for—

7 “(1) scheduled onsite inspection, at least once a
8 year, of each facility on the outer Continental Shelf
9 which is subject to any environmental or safety regu-
10 lation promulgated pursuant to this Act, which in-
11 spection shall include all safety equipment designed
12 to prevent or ameliorate blowouts, fires, spillages, or
13 other major accidents;

14 “(2) scheduled onsite inspection, at least once a
15 month, of each facility on the outer Continental
16 Shelf engaged in drilling operations and which is
17 subject to any environmental or safety regulation
18 promulgated pursuant to this Act, which inspection
19 shall include validation of the safety case required
20 for the facility under section 21(g) and identifica-
21 tions of deviations from the safety case, and shall in-
22 clude all safety equipment designed to prevent or
23 ameliorate blowouts, fires, spillages, or other major
24 accidents;

1 “(3) periodic onsite inspection without advance
2 notice to the operator of such facility to assure com-
3 pliance with such environmental or safety regula-
4 tions; and

5 “(4) periodic audits of each required safety and
6 environmental management plan, and any associated
7 safety case, both with respect to their implementa-
8 tion at each facility on the outer Continental Shelf
9 for which such a plan or safety case is required and
10 with respect to onshore management support for ac-
11 tivities at such a facility.”;

12 (2) in subsection (d)(1)—

13 (A) by striking “each major fire and each
14 major oil spillage” and inserting “each major
15 fire, each major oil spillage, each loss of well
16 control, and any other accident that presented
17 a serious risk to human or environmental safe-
18 ty”; and

19 (B) by inserting before the period at the
20 end the following: “, as a condition of the lease
21 or permit”;

22 (3) in subsection (d)(2), by inserting before the
23 period at the end the following: “as a condition of
24 the lease or permit”;

1 (4) in subsection (e), by adding at the end the
2 following: “Any such allegation from any employee
3 of the lessee or any subcontractor of the lessee shall
4 be investigated by the Secretary.”;

5 (5) in subsection (b)(1), by striking “recog-
6 nized” and inserting “uncontrolled”; and

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

8 “(g) INFORMATION ON CAUSES AND CORRECTIVE
9 ACTIONS.—For any incident investigated under this sec-
10 tion, the Secretary shall promptly make available to all
11 lessees and the public technical information about the
12 causes and corrective actions taken. All data and reports
13 related to any such incident shall be maintained in a data
14 base available to the public.

15 “(h) OPERATOR’S ANNUAL CERTIFICATION.—

16 “(1) The Secretary, in cooperation with the
17 Secretary of the department in which the Coast
18 Guard is operating, shall require all operators of all
19 new and existing drilling and production operations
20 to annually certify that their operations are being
21 conducted in accordance with applicable law and reg-
22 ulations.

23 “(2) Each certification shall include, but, not be
24 limited to, statements that verify the operator has—

1 “(A) examined all well control system
2 equipment (both surface and subsea) being used
3 to ensure that it has been properly maintained
4 and is capable of shutting in the well during
5 emergency operations;

6 “(B) examined and conducted tests to en-
7 sure that the emergency equipment has been
8 function-tested and is capable of addressing
9 emergency situations;

10 “(C) reviewed all rig drilling, casing, ce-
11 menting, well abandonment (temporary and
12 permanent), completion, and workover practices
13 to ensure that well control is not compromised
14 at any point while emergency equipment is in-
15 stalled on the wellhead;

16 “(D) reviewed all emergency shutdown and
17 dynamic positioning procedures that interface
18 with emergency well control operations;

19 “(E) taken the necessary steps to ensure
20 that all personnel involved in well operations
21 are properly trained and capable of performing
22 their tasks under both normal drilling and
23 emergency well control operations; and

24 “(F) updated the operator’s response plan
25 required under section 25(e)(7) and exploration

1 plans required under section 11(c)(3) to reflect
2 the best available technology, including the
3 availability of such technology.

4 “(i) CEO STATEMENT.—

5 “(1) IN GENERAL.—The Secretary shall not ap-
6 prove any application for a permit to drill a well
7 under this Act unless such application is accom-
8 panied by a statement in which the chief executive
9 officer of the applicant attests, in writing, that—

10 “(A) the applicant is in compliance with all
11 applicable environmental and natural resource
12 conservation laws;

13 “(B) the applicant has the capability and
14 technology to respond immediately and effec-
15 tively to a worst-case oil spill in real-world con-
16 ditions in the area of the proposed activity
17 under the permit;

18 “(C) the applicant has an oil spill response
19 plan that ensures that the applicant has the ca-
20 pacity to promptly control and stop a blowout
21 in the event that well control measures fail;

22 “(D) the blowout preventer to be used dur-
23 ing the drilling of the well has redundant sys-
24 tems to prevent or stop a blowout for all fore-
25 seeable blowout scenarios and failure modes;

1 “(E) the well design is safe; and

2 “(F) the applicant has the capability to ex-
3 peditiously begin and complete a relief well if
4 necessary in the event of a blowout.

5 “(2) CIVIL PENALTY.—Any chief executive offi-
6 cer who makes a false certification under paragraph
7 (1) shall be liable for a civil penalty under section
8 24.

9 “(j) THIRD-PARTY CERTIFICATION.—All operators
10 that modify or upgrade any emergency equipment placed
11 on any operation to prevent blow-outs or other well control
12 events, shall have an independent third party conduct a
13 detailed physical inspection and design review of such
14 equipment within 30 days of its installation. The inde-
15 pendent third party shall certify that the equipment will
16 operate as originally designed and any modifications or
17 upgrades conducted after delivery have not compromised
18 the design, performance, or functionality of the equip-
19 ment. Failure to comply with this subsection shall result
20 in suspension of the lease.”.

21 (b) APPLICATION.—Section 22(i) of the Outer Conti-
22 nental Shelf Lands Act, as added by the amendments
23 made by subsection (a), shall apply to approvals of appli-
24 cations for a permit to drill that are submitted after the

1 end of the 6-month period beginning on the date of enact-
2 ment of this Act.

3 **SEC. 213. JUDICIAL REVIEW.**

4 Section 23(c)(3) of the Outer Continental Shelf
5 Lands Act (43 U.S.C. 1349(c)(3)) is amended by striking
6 “sixty” and inserting “90”.

7 **SEC. 214. REMEDIES AND PENALTIES.**

8 (a) CIVIL PENALTY, GENERALLY.—Section 24(b) of
9 the Outer Continental Shelf Lands Act (43 U.S.C.
10 1350(b)) is amended to read as follows:

11 “(b)(1) Except as provided in paragraph (2), any per-
12 son who fails to comply with any provision of this Act,
13 or any term of a lease, license, or permit issued pursuant
14 to this Act, or any regulation or order issued under this
15 Act, shall be liable for a civil administrative penalty of not
16 more than \$75,000 for each day of the continuance of
17 such failure. The Secretary may assess, collect, and com-
18 promise any such penalty. No penalty shall be assessed
19 until the person charged with a violation has been given
20 an opportunity for a hearing. The Secretary shall, by regu-
21 lation at least every 3 years, adjust the penalty specified
22 in this paragraph to reflect any increases in the Consumer
23 Price Index (all items, United States city average) as pre-
24 pared by the Department of Labor.

1 “(2) If a failure described in paragraph (1) con-
2 stitutes or constituted a threat of harm or damage to life
3 (including fish and other aquatic life), property, any min-
4 eral deposit, or the marine, coastal, or human environ-
5 ment, a civil penalty of not more than \$150,000 shall be
6 assessed for each day of the continuance of the failure.”.

7 (b) KNOWING AND WILLFUL VIOLATIONS.—Section
8 24(c) of the Outer Continental Shelf Lands Act (43
9 U.S.C. 1350(c)) is amended in paragraph (4) by striking
10 “\$100,000” and inserting “\$10,000,000”.

11 (c) OFFICERS AND AGENTS OF CORPORATIONS.—
12 Section 24(d) of the Outer Continental Shelf Lands Act
13 (43 U.S.C. 1350(d)) is amended by inserting “, or with
14 willful disregard,” after “knowingly and willfully”.

15 **SEC. 215. UNIFORM PLANNING FOR OUTER CONTINENTAL**
16 **SHELF.**

17 Section 25 of the Outer Continental Shelf Lands Act
18 (43 U.S.C. 1351) is amended—

19 (1) by striking “other than the Gulf of Mexico,”
20 in each place it appears;

21 (2) in subsection (c), by striking “and” after
22 the semicolon at the end of paragraph (5), redesignig-
23 nating paragraph (6) as paragraph (11), and insert-
24 ing after paragraph (5) the following new para-
25 graphs:

1 “(6) a detailed and accurate description of
2 equipment to be used for the drilling of wells pursu-
3 ant to activities included in the development and
4 production plan, including—

5 “(A) a description of the drilling unit or
6 units;

7 “(B) a statement of the design and condi-
8 tion of major safety-related pieces of equip-
9 ment, including independent third-party certifi-
10 cation of such equipment; and

11 “(C) a description of any new technology
12 to be used;

13 “(7) a scenario for the potential blowout of
14 each well to be drilled as part of the plan involving
15 the highest potential volume of liquid hydrocarbons,
16 along with a complete description of a response plan
17 to both control the blowout and manage the accom-
18 panying discharge of hydrocarbons, including the
19 likelihood for surface intervention to stop the blow-
20 out, the availability of a rig to drill a relief well, an
21 estimate of the time it would take to drill a relief
22 well, a description of other technology that may be
23 used to regain control of the well or capture escap-
24 ing hydrocarbons and the potential timeline for
25 using that technology for its intended purpose, and

1 the strategy, organization, and resources necessary
2 to avoid harm to the environment from hydro-
3 carbons;

4 “(8) an analysis of the potential impacts of the
5 worst-case-scenario discharge on the marine and
6 coastal environments for activities conducted pursu-
7 ant to the proposed development and production
8 plan;

9 “(9) a comprehensive survey and characteriza-
10 tion of the coastal or marine environment within the
11 area of operation, including bathymetry, currents
12 and circulation patterns within the water column,
13 and descriptions of benthic and pelagic environ-
14 ments;

15 “(10) a description of the technologies to be de-
16 ployed on the facilities to routinely observe and mon-
17 itor in real time the marine environment throughout
18 the duration of operations, and a description of the
19 process by which such observation data and informa-
20 tion will be made available to Federal regulators and
21 to the System established under section 12304 of
22 Public Law 111–11 (33 U.S.C. 3603); and”;

23 (3) in subsection (e), by striking so much as
24 precedes paragraph (2) and inserting the following:

1 “(e)(1) The Secretary shall treat the approval of a
2 development and production plan, or a significant revision
3 of a development and production plan, as an agency action
4 requiring preparation of an environmental assessment or
5 environmental impact statement, in accordance with the
6 National Environmental Policy Act of 1969 (42 U.S.C.
7 4321 et seq.).”;

8 (4) by striking subsections (g) and (l), and re-
9 designating subsections (h) through (k) as sub-
10 sections (g) through and (j); and

11 (5) in subsection (g), as so redesignated, by re-
12 designating paragraphs (2) and (3) as paragraphs
13 (3) and (4), respectively, and inserting after para-
14 graph (1) the following:

15 “(2) The Secretary shall not approve a develop-
16 ment and production plan, or a significant revision
17 to such a plan, unless—

18 “(A) the plan is in compliance with all
19 other applicable environmental and natural re-
20 source conservation laws; and

21 “(B) the applicant has available oil spill re-
22 sponse and clean-up equipment and technology
23 that has been demonstrated to be capable of ef-
24 fectively remediating the projected worst-case

1 release of oil from activities conducted pursuant
2 to the development and production plan.”.

3 **SEC. 216. OIL AND GAS INFORMATION PROGRAM.**

4 Section 26(a)(1) of the Outer Continental Shelf
5 Lands Act (43 U.S.C. 1352(a)(1)) is amended by—

6 (1) striking the period at the end of subpara-
7 graph (A) and inserting “, provided that such data
8 shall be transmitted in electronic format either in
9 real-time or as quickly as practicable following the
10 generation of such data.”; and

11 (2) striking subparagraph (C) and inserting the
12 following:

13 “(C) Lessees engaged in drilling operations
14 shall provide to the Secretary—

15 “(i) all daily reports generated by the
16 lessee, or any daily reports generated by
17 contractors or subcontractors engaged in
18 or supporting drilling operations on the
19 lessee’s lease, no more than 24 hours after
20 the end of the day for which they should
21 have been generated;

22 “(ii) documentation of blowout pre-
23 venter maintenance and repair, and any
24 changes to design specifications of the

1 blowout preventer, within 24 hours after
2 such activity; and

3 “(iii) prompt or real-time trans-
4 mission of the electronic log from a blow-
5 out preventer control system.”.

6 **SEC. 217. LIMITATION ON ROYALTY-IN-KIND PROGRAM.**

7 Section 27(a) of the Outer Continental Shelf Lands
8 Act (43 U.S.C. 1353(a)) is amended by striking the period
9 at the end of paragraph (1) and inserting “, except that
10 the Secretary shall not conduct a regular program to take
11 oil and gas lease royalties in oil or gas.”.

12 **SEC. 218. RESTRICTIONS ON EMPLOYMENT.**

13 Section 29 of the Outer Continental Shelf Lands Act
14 (43 U.S.C. 1355) is amended—

15 (1) in the matter preceding paragraph (1)—

16 (A) by striking “SEC. 29” and all that fol-
17 lows through “No full-time” and inserting the
18 following:

19 **“SEC. 29. RESTRICTIONS ON EMPLOYMENT.**

20 “(a) IN GENERAL.—No full-time”; and

21 (B) by striking “, and who was at any
22 time during the twelve months preceding the
23 termination of his employment with the Depart-
24 ment compensated under the Executive Sched-
25 ule or compensated at or above the annual rate

1 of basic pay for grade GS-16 of the General
2 Schedule”;

3 (2) in paragraph (1)—

4 (A) in subparagraph (A), by inserting “or
5 advise” after “represent”;

6 (B) in subparagraph (B), by striking “with
7 the intent to influence, make” and inserting
8 “act with the intent to influence, directly or in-
9 directly, or make”; and

10 (C) in the matter following subparagraph
11 (C)—

12 (i) by inserting “inspection or enforce-
13 ment action,” before “or other particular
14 matter”; and

15 (ii) by striking “or” at the end;

16 (3) in paragraph (2)—

17 (A) in subparagraph (A), by inserting “or
18 advise” after “represent”;

19 (B) in subparagraph (B), by striking “with
20 the intent to influence, make” and inserting
21 “act with the intent to influence, directly or in-
22 directly, or make”; and

23 (C) by striking the period at the end and
24 inserting “; or”; and

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

1 “(3) during the 2-year period beginning on the
2 date on which the employment of the officer or em-
3 ployee ceased at the Department, accept employment
4 or compensation from any party that has a direct
5 and substantial interest—

6 “(A) that was pending under the official
7 responsibility of the officer or employee as an
8 officer at any point during the 2-year period
9 preceding the date of termination of the respon-
10 sibility; or

11 “(B) in which the officer or employee par-
12 ticipated personally and substantially as an offi-
13 cer or employee of the Department.

14 “(b) PRIOR DEALINGS.—No full-time officer or em-
15 ployee of the Department of the Interior who directly or
16 indirectly discharged duties or responsibilities under this
17 Act shall participate personally and substantially as a
18 Federal officer or employee, through decision, approval,
19 disapproval, recommendation, the rendering of advice, in-
20 vestigation, or otherwise, in a proceeding, application, re-
21 quest for a ruling or other determination, contract, claim,
22 controversy, charge, accusation, inspection, enforcement
23 action, or other particular matter in which, to the knowl-
24 edge of the officer or employee—

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

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

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

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

16 “(c) GIFTS FROM OUTSIDE SOURCES.—No full-time
17 officer or employee of the Department of the Interior who
18 directly or indirectly discharges duties or responsibilities
19 under this Act shall, directly or indirectly, solicit or accept
20 any gift in violation of subpart B of part 2635 of title
21 5, Code of Federal Regulations (or successor regulations).

22 “(d) PENALTY.—Any person that violates subsection
23 (a) or (b) shall be punished in accordance with section
24 216 of title 18, United States Code.”.

1 **SEC. 219. REPEAL OF ROYALTY RELIEF PROVISIONS.**

2 (a) REPEAL OF PROVISIONS OF ENERGY POLICY ACT
3 OF 2005.—The following provisions of the Energy Policy
4 Act of 2005 (Public Law 109–58) are repealed:

5 (1) Section 344 (42 U.S.C. 15904; relating to
6 incentives for natural gas production from deep wells
7 in shallow waters of the Gulf of Mexico).

8 (2) Section 345 (42 U.S.C. 15905; relating to
9 royalty relief for deep water production in the Gulf
10 of Mexico).

11 (b) REPEAL OF PROVISIONS RELATING TO PLAN-
12 NING AREAS OFFSHORE ALASKA.—Section 8(a)(3)(B) of
13 the Outer Continental Shelf Lands Act (43 U.S.C.
14 1337(a)(3)(B)) is amended by striking “and in the Plan-
15 ning Areas offshore Alaska”.

16 **SEC. 220. MANNING AND BUY- AND BUILD-AMERICAN RE-**
17 **QUIREMENTS.**

18 Section 30 of the Outer Continental Shelf Lands Act
19 (43 U.S.C. 1356) is amended—

20 (1) in subsection (a), by striking “shall issue
21 regulations which” and inserting “shall issue regula-
22 tions that shall be supplemental to and complemen-
23 tary with and under no circumstances a substitution
24 for the provisions of the Constitution and laws of the
25 United States extended to the subsoil and seabed of
26 the outer Continental Shelf pursuant to section

1 4(a)(1) of this Act, except insofar as such laws
2 would otherwise apply to individuals who have ex-
3 traordinary ability in the sciences, arts, education,
4 or business, which has been demonstrated by sus-
5 tained national or international acclaim, and that”;
6 and

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

8 “(d) BUY AND BUILD AMERICAN.—It is the intention
9 of the Congress that this Act, among other things, result
10 in a healthy and growing American industrial, manufac-
11 turing, transportation, and service sector employing the
12 vast talents of America’s workforce to assist in the devel-
13 opment of energy from the outer Continental Shelf. More-
14 over, the Congress intends to monitor the deployment of
15 personnel and material on the outer Continental Shelf to
16 encourage the development of American technology and
17 manufacturing to enable United States workers to benefit
18 from this Act by good jobs and careers, as well as the
19 establishment of important industrial facilities to support
20 expanded access to American resources.”.

21 **SEC. 221. COORDINATION AND CONSULTATION WITH AF-**
22 **FECTED STATE AND LOCAL GOVERNMENTS.**

23 Section 19 of the Outer Continental Shelf Lands Act
24 (43 U.S.C. 1345) is amended—

1 (1) by inserting “exploration plan or” before
2 “development and production plan” in each place it
3 appears; and

4 (2) by amending subsection (c) to read as fol-
5 lows:

6 “(c) ACCEPTANCE OR REJECTION OF RECOMMENDA-
7 TIONS.—The Secretary may accept recommendations of
8 the Governor and may accept recommendations of the ex-
9 ecutive of any affected local government if the Secretary
10 determines, after having provided the opportunity for con-
11 sultation, that they provide for a reasonable balance be-
12 tween the national interest and the well-being of the citi-
13 zens of the affected State. For purposes of this subsection,
14 a determination of the national interest shall be based on
15 the desirability of obtaining oil and gas supplies in a bal-
16 anced manner and on protecting coastal and marine eco-
17 systems and the economies dependent on those eco-
18 systems. The Secretary shall provide an explanation to the
19 Governor, in writing, of the reasons for his determination
20 to accept or reject such Governor’s recommendations, or
21 to implement any alternative identified in consultation
22 with the Governor.”.

23 **SEC. 222. IMPLEMENTATION.**

24 (a) NEW LEASES.—The provisions of this title and
25 title VII shall apply to any lease that is issued under the

1 Outer Continental Shelf Lands Act (43 U.S.C. 1331 et
2 seq.) after the effective date of this Act.

3 (b) **EXISTING LEASES.**—For all leases that were
4 issued under the Outer Continental Shelf Lands Act (43
5 U.S.C. 1331 et seq.) that are in effect on the effective
6 date of this Act, the Secretary shall take action, consistent
7 with the terms of those leases, to apply the requirements
8 of this title and title VII to those leases. Such action may
9 include, but is not limited to, promulgating regulations,
10 renegotiating such existing leases, conditioning future
11 leases on bringing such existing leases into full or partial
12 compliance with this title and title VII, or taking any other
13 actions authorized by law.

14 **SEC. 223. REPORT ON ENVIRONMENTAL BASELINE STUD-**
15 **IES.**

16 The Secretary of the Interior shall report to Congress
17 within 6 months after the date of enactment of this Act
18 on the costs of baseline environmental studies to gather,
19 analyze, and characterize resource data necessary to im-
20 plement the Outer Continental Shelf Lands Act (43
21 U.S.C. 1331 et seq.). The Secretary shall include in the
22 report proposals of fees or other ways to recoup such costs
23 from persons engaging or seeking to engage in activities
24 on the Outer Continental Shelf to which that Act applies.

1 **SEC. 224. CUMULATIVE IMPACTS ON MARINE MAMMAL SPE-**
2 **CIES AND STOCKS AND SUBSISTENCE USE.**

3 Section 20 of the Outer Continental Shelf Lands Act
4 (43 U.S.C. 1346) is further amended by adding at the
5 end the following:

6 “(h) CUMULATIVE IMPACTS ON MARINE MAMMAL
7 SPECIES AND STOCKS AND SUBSISTENCE USE.—In deter-
8 mining, pursuant to subparagraphs (A)(i) and (D)(i) of
9 section 101(a)(5) of the Marine Mammal Protection Act
10 of 1972 (16 U.S.C. 1371(a)(5)), whether takings from
11 specified activities administered under this title will have
12 a negligible impact on a marine mammal species or stock,
13 and not have an unmitigable adverse impact on the avail-
14 ability of such species or stock for taking for subsistence
15 uses, the Secretary of Commerce or Interior shall incor-
16 porate any takings of such species or stock from any other
17 reasonably foreseeable activities administered under this
18 Act.”.

19 **SEC. 225. SAVINGS CLAUSE.**

20 Nothing in this Act shall be construed to preempt
21 regulation by any State or local government of oil and gas
22 exploration and production wells drilled in State waters,
23 on State lands, or on private lands within that State pur-
24 suant to the laws of that State or local government.

1 **Subtitle B—Royalty Relief for**
2 **American Consumers**

3 **SEC. 231. SHORT TITLE.**

4 This subtitle may be cited as the “Royalty Relief for
5 American Consumers Act of 2011”.

6 **SEC. 232. ELIGIBILITY FOR NEW LEASES AND THE TRANS-**
7 **FER OF LEASES.**

8 (a) ISSUANCE OF NEW LEASES.—

9 (1) IN GENERAL.—The Secretary shall not
10 issue any new lease that authorizes the production
11 of oil or natural gas under the Outer Continental
12 Shelf Lands Act (43 U.S.C. 1331 et seq.) to a per-
13 son described in paragraph (2) unless the person has
14 renegotiated each covered lease with respect to which
15 the person is a lessee, to modify the payment re-
16 sponsibilities of the person to require the payment of
17 royalties if the price of oil and natural gas is greater
18 than or equal to the price thresholds described in
19 clauses (v) through (vii) of section 8(a)(3)(C) of the
20 Outer Continental Shelf Lands Act (43 U.S.C.
21 1337(a)(3)(C)).

22 (2) PERSONS DESCRIBED.—A person referred
23 to in paragraph (1) is a person that—

24 (A) is a lessee that—

1 (i) holds a covered lease on the date
2 on which the Secretary considers the
3 issuance of the new lease; or

4 (ii) was issued a covered lease before
5 the date of enactment of this Act, but
6 transferred the covered lease to another
7 person or entity (including a subsidiary or
8 affiliate of the lessee) after the date of en-
9 actment of this Act; or

10 (B) any other person that has any direct
11 or indirect interest in, or that derives any ben-
12 efit from, a covered lease.

13 (3) MULTIPLE LESSEES.—

14 (A) IN GENERAL.—For purposes of para-
15 graph (1), if there are multiple lessees that own
16 a share of a covered lease, the Secretary may
17 implement separate agreements with any lessee
18 with a share of the covered lease that modifies
19 the payment responsibilities with respect to the
20 share of the lessee to include price thresholds
21 that are equal to or less than the price thresh-
22 olds described in clauses (v) through (vii) of
23 section 8(a)(3)(C) of the Outer Continental
24 Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

1 (B) TREATMENT OF SHARE AS COVERED
2 LEASE.—Beginning on the effective date of an
3 agreement under subparagraph (A), any share
4 subject to the agreement shall not constitute a
5 covered lease with respect to any lessees that
6 entered into the agreement.

7 (b) TRANSFERS.—A lessee or any other person who
8 has any direct or indirect interest in, or who derives a
9 benefit from, a lease shall not be eligible to obtain by sale
10 or other transfer (including through a swap, spinoff, serv-
11 icing, or other agreement) any covered lease, the economic
12 benefit of any covered lease, or any other lease for the
13 production of oil or natural gas in the Gulf of Mexico
14 under the Outer Continental Shelf Lands Act (43 U.S.C.
15 1331 et seq.), unless the lessee or other person has—

16 (1) renegotiated each covered lease with respect
17 to which the lessee or person is a lessee, to modify
18 the payment responsibilities of the lessee or person
19 to include price thresholds that are equal to or less
20 than the price thresholds described in clauses (v)
21 through (vii) of section 8(a)(3)(C) of the Outer Con-
22 tinental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C));
23 or

24 (2) entered into an agreement with the Sec-
25 retary to modify the terms of all covered leases of

1 the lessee or other person to include limitations on
2 royalty relief based on market prices that are equal
3 to or less than the price thresholds described in
4 clauses (v) through (vii) of section 8(a)(3)(C) of the
5 Outer Continental Shelf Lands Act (43 U.S.C.
6 1337(a)(3)(C)).

7 (c) USE OF AMOUNTS FOR DEFICIT REDUCTION.—
8 Notwithstanding any other provision of law, any amounts
9 received by the United States as rentals or royalties under
10 covered leases and not used pursuant to section 321 shall
11 be deposited in the Treasury and used for Federal budget
12 deficit reduction or, if there is no Federal budget deficit,
13 for reducing the Federal debt in such manner as the Sec-
14 retary of the Treasury considers appropriate.

15 (d) DEFINITIONS.—In this section—

16 (1) COVERED LEASE.—The term “covered
17 lease” means a lease for oil or gas production in the
18 Gulf of Mexico that is—

19 (A) in existence on the date of enactment
20 of this Act;

21 (B) issued by the Department of the Inte-
22 rior under section 304 of the Outer Continental
23 Shelf Deep Water Royalty Relief Act (43
24 U.S.C. 1337 note; Public Law 104–58); and

1 (C) not subject to limitations on royalty re-
2 lief based on market price that are equal to or
3 less than the price thresholds described in
4 clauses (v) through (vii) of section 8(a)(3)(C) of
5 the Outer Continental Shelf Lands Act (43
6 U.S.C. 1337(a)(3)(C)).

7 (2) LESSEE.—The term “lessee” includes any
8 person or other entity that controls, is controlled by,
9 or is in or under common control with, a lessee.

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

12 **SEC. 233. PRICE THRESHOLDS FOR ROYALTY SUSPENSION**
13 **PROVISIONS.**

14 The Secretary of the Interior shall agree to a request
15 by any lessee to amend any lease issued for any Central
16 and Western Gulf of Mexico tract in the period of January
17 1, 1996, through November 28, 2000, to incorporate price
18 thresholds applicable to royalty suspension provisions, that
19 are equal to or less than the price thresholds described
20 in clauses (v) through (vii) of section 8(a)(3)(C) of the
21 Outer Continental Shelf Lands Act (43 U.S.C.
22 1337(a)(3)(C)). Any amended lease shall impose the new
23 or revised price thresholds effective October 1, 2010. Ex-
24 isting lease provisions shall prevail through September 30,
25 2010.

1 **TITLE III—OIL AND GAS**
2 **ROYALTY REFORM**

3 **SEC. 301. AMENDMENTS TO DEFINITIONS.**

4 Section 3 of the Federal Oil and Gas Royalty Man-
5 agement Act of 1982 (30 U.S.C. 1702) is amended—

6 (1) in paragraph (8), by striking the semicolon
7 and inserting “including but not limited to the Act
8 of October 20, 1914 (38 Stat. 741); the Act of Feb-
9 ruary 25, 1920 (41 Stat. 437); the Act of April 17,
10 1926 (44 Stat. 301); the Act of February 7, 1927
11 (44 Stat. 1057); and all Acts heretofore or hereafter
12 enacted that are amendatory of or supplementary to
13 any of the foregoing Acts;”;

14 (2) in paragraph (20)(A), by striking “: *Pro-*
15 *vided, That*” and all that follows through “subject of
16 the judicial proceeding”;

17 (3) in paragraph (20)(B), by striking “(with
18 written notice to the lessee who designated the des-
19 ignee)”;

20 (4) in paragraph (23)(A), by striking “(with
21 written notice to the lessee who designated the des-
22 ignee)”;

23 (5) by striking paragraph (24) and inserting
24 the following:

1 “(24) ‘designee’ means a person who pays, off-
2 sets, or credits monies, makes adjustments, requests
3 and receives refunds, or submits reports with respect
4 to payments a lessee must make pursuant to section
5 102(a);”;

6 (6) in paragraph (25)(B)—

7 (A) by striking “(subject to the provisions
8 of section 102(a) of this Act)”; and

9 (B) in clause (ii) by striking the matter
10 after subclause (IV) and inserting the following:

11 “that arises from or relates to any lease, easement, right-
12 of-way, permit, or other agreement regardless of form ad-
13 ministered by the Secretary for, or any mineral leasing
14 law related to, the exploration, production, and develop-
15 ment of oil and gas or other energy resource on Federal
16 lands or the Outer Continental Shelf;”;

17 (7) in paragraph (29), by inserting “or permit”
18 after “lease”; and

19 (8) by striking “and” after the semicolon at the
20 end of paragraph (32), by striking the period at the
21 end of paragraph (33) and inserting a semicolon,
22 and by adding at the end the following new para-
23 graphs:

24 “(34) ‘compliance review’ means a full-scope or
25 a limited-scope examination of a lessee’s lease ac-

1 counts to compare one or all elements of the royalty
2 equation (volume, value, royalty rate, and allow-
3 ances) against anticipated elements of the royalty
4 equation to test for variances; and

5 “(35) ‘marketing affiliate’ means an affiliate of
6 a lessee whose function is to acquire the lessee’s pro-
7 duction and to market that production.”.

8 **SEC. 302. COMPLIANCE REVIEWS.**

9 Section 101 of the Federal Oil and Gas Royalty Man-
10 agement Act of 1982 (30 U.S.C. 1711) is amended by
11 adding at the end the following new subsection:

12 “(d) The Secretary may, as an adjunct to audits of
13 accounts for leases, utilize compliance reviews of accounts.
14 Such reviews shall not constitute nor substitute for audits
15 of lease accounts. Any disparity uncovered in such a com-
16 pliance review shall be immediately referred to a program
17 auditor. The Secretary shall, before completion of a com-
18 pliance review, provide notice of the review to designees
19 whose obligations are the subject of the review.”.

20 **SEC. 303. CLARIFICATION OF LIABILITY FOR ROYALTY PAY-**
21 **MENTS.**

22 Section 102(a) of the Federal Oil and Gas Royalty
23 Management Act of 1982 (30 U.S.C. 1712(a)) is amended
24 to read as follows:

1 “(a) In order to increase receipts and achieve effec-
2 tive collections of royalty and other payments, a lessee who
3 is required to make any royalty or other payment under
4 a lease, easement, right-of-way, permit, or other agree-
5 ment, regardless of form, or under the mineral leasing
6 laws, shall make such payment in the time and manner
7 as may be specified by the Secretary or the applicable dele-
8 gated State. Any person who pays, offsets, or credits mon-
9 ies, makes adjustments, requests and receives refunds, or
10 submits reports with respect to payments the lessee must
11 make is the lessee’s designee under this Act. Notwith-
12 standing any other provision of this Act to the contrary,
13 a designee shall be liable for any payment obligation of
14 any lessee on whose behalf the designee pays royalty under
15 the lease. The person owning operating rights in a lease
16 and a person owning legal record title in a lease shall be
17 liable for that person’s pro rata share of payment obliga-
18 tions under the lease.”.

19 **SEC. 304. REQUIRED RECORDKEEPING.**

20 Section 103(b) of the Federal Oil and Gas Royalty
21 Management Act of 1982 (30 U.S.C. 1712(a)) is amended
22 by striking “6” and inserting “7”.

23 **SEC. 305. FINES AND PENALTIES.**

24 Section 109 of the Federal Oil and Gas Royalty Man-
25 agement Act of 1982 (30 U.S.C. 1719) is amended—

1 (1) in subsection (a) in the matter following
2 paragraph (2), by striking “\$500” and inserting
3 “\$1,000”;

4 (2) in subsection (a)(2)(B), by inserting “(i)”
5 after “such person”, and by striking the period at
6 the end and inserting “; and (ii) has not received no-
7 tice, pursuant to paragraph (1), of more than two
8 prior violations in the current calendar year.”;

9 (3) in subsection (b), by striking “\$5,000” and
10 inserting “\$10,000”;

11 (4) in subsection (c)—

12 (A) in paragraph (2), by striking “; or”
13 and inserting “, including any failure or refusal
14 to promptly tender requested documents;”;

15 (B) in the text following paragraph (3)—

16 (i) by striking “\$10,000” and insert-
17 ing “\$20,000”; and

18 (ii) by striking the comma at the end
19 and inserting a semicolon; and

20 (C) by adding at the end the following new
21 paragraphs:

22 “(4) knowingly or willfully fails to make any
23 royalty payment in the amount or value as specified
24 by statute, regulation, order, or terms of the lease;
25 or

1 “(5) fails to correctly report and timely provide
2 operations or financial records necessary for the Sec-
3 retary or any authorized designee of the Secretary to
4 accomplish lease management responsibilities,”;

5 (5) in subsection (d), by striking “\$25,000”
6 and inserting “\$50,000”;

7 (6) in subsection (h), by striking “by registered
8 mail” and inserting “a common carrier that provides
9 proof of delivery”; and

10 (7) by adding at the end the following sub-
11 section:

12 “(m)(1) Any determination by the Secretary or a des-
13 ignee of the Secretary that a person has committed a vio-
14 lation under subsection (a), (c), or (d)(1) shall toll any
15 applicable statute of limitations for all oil and gas leases
16 held or operated by such person, until the later of—

17 “(A) the date on which the person corrects the
18 violation and certifies that all violations of a like na-
19 ture have been corrected for all of the oil and gas
20 leases held or operated by such person; or

21 “(B) the date a final, nonappealable order has
22 been issued by the Secretary or a court of competent
23 jurisdiction.

24 “(2) A person determined by the Secretary or a des-
25 ignee of the Secretary to have violated subsection (a), (c),

1 or (d)(1) shall maintain all records with respect to the per-
2 son's oil and gas leases until the later of—

3 “(A) the date the Secretary releases the person
4 from the obligation to maintain such records; and

5 “(B) the expiration of the period during which
6 the records must be maintained under section
7 103(b).”.

8 **SEC. 306. INTEREST ON OVERPAYMENTS.**

9 Section 111 of the Federal Oil and Gas Royalty Man-
10 agement Act of 1982 (30 U.S.C. 1721) is amended—

11 (1) by amending subsections (h) and (i) to read
12 as follows:

13 “(h) Interest shall not be allowed nor paid nor cred-
14 ited on any overpayment, and no interest shall accrue from
15 the date such overpayment was made.

16 “(i) A lessee or its designee may make a payment
17 for the approximate amount of royalties (hereinafter in
18 this subsection referred to as the ‘estimated payment’)
19 that would otherwise be due for such lease by the date
20 royalties are due for that lease. When an estimated pay-
21 ment is made, actual royalties are payable at the end of
22 the month following the month in which the estimated
23 payment is made. If the estimated payment was less than
24 the amount of actual royalties due, interest is owed on
25 the underpaid amount. If the lessee or its designee makes

1 a payment for such actual royalties, the lessee or its des-
2 ignee may apply the estimated payment to future royal-
3 ties. Any estimated payment may be adjusted, recouped,
4 or reinstated by the lessee or its designee provided such
5 adjustment, recoupment, or reinstatement is made within
6 the limitation period for which the date royalties were due
7 for that lease.”;

8 (2) by striking subsection (j); and

9 (3) in subsection (k)(4)—

10 (A) by striking “or overpaid royalties and
11 associated interest”; and

12 (B) by striking “, refunded, or credited”.

13 **SEC. 307. ADJUSTMENTS AND REFUNDS.**

14 Section 111A of the Federal Oil and Gas Royalty
15 Management Act of 1982 (30 U.S.C. 1721a) is amend-
16 ed—

17 (1) in subsection (a)(3), by inserting “(A)”
18 after “(3)”, and by striking the last sentence and in-
19 serting the following:

20 “(B) Except as provided in subparagraph
21 (C), no adjustment may be made with respect
22 to an obligation that is the subject of an audit
23 or compliance review after completion of the
24 audit or compliance review, respectively, unless
25 such adjustment is approved by the Secretary

1 or the applicable delegated State, as appro-
2 priate.

3 “(C) If an overpayment is identified during
4 an audit, the Secretary shall allow a credit in
5 the amount of the overpayment.”;

6 (2) in subsection (a)(4)—

7 (A) by striking “six” and inserting “four”;
8 and

9 (B) by striking “shall” the second place it
10 appears and inserting “may”; and

11 (3) in subsection (b)(1) by striking “and” after
12 the semicolon at the end of subparagraph (C), by
13 striking the period at the end of subparagraph (D)
14 and inserting “; and”, and by adding at the end the
15 following:

16 “(E) is made within the adjustment period
17 for that obligation.”.

18 **SEC. 308. CONFORMING AMENDMENT.**

19 Section 114 of the Federal Oil and Gas Royalty Man-
20 agement Act of 1982 is repealed.

21 **SEC. 309. OBLIGATION PERIOD.**

22 Section 115(c) of the Federal Oil and Gas Royalty
23 Management Act of 1982 (30 U.S.C. 1724(c)) is amended
24 by adding at the end the following new paragraph:

1 “(3) ADJUSTMENTS.—In the case of an adjust-
2 ment under section 111A(a) in which a recoupment
3 by the lessee results in an underpayment of an obli-
4 gation, for purposes of this Act the obligation be-
5 comes due on the date the lessee or its designee
6 makes the adjustment.”.

7 **SEC. 310. NOTICE REGARDING TOLLING AGREEMENTS AND**
8 **SUBPOENAS.**

9 (a) TOLLING AGREEMENTS.—Section 115(d)(1) of
10 the Federal Oil and Gas Royalty Management Act of 1982
11 (30 U.S.C. 1724(d)(1)) is amended by striking “(with no-
12 tice to the lessee who designated the designee)”.

13 (b) SUBPOENAS.—Section 115(d)(2)(A) of the Fed-
14 eral Oil and Gas Royalty Management Act of 1982 (30
15 U.S.C. 1724(d)(2)(A)) is amended by striking “(with no-
16 tice to the lessee who designated the designee, which notice
17 shall not constitute a subpoena to the lessee)”.

18 **SEC. 311. APPEALS AND FINAL AGENCY ACTION.**

19 Paragraphs (1) and (2) of section 115(h) the Federal
20 Oil and Gas Royalty Management Act of 1982 (30 U.S.C.
21 1724(h)) are amended by striking “33” each place it ap-
22 pears and inserting “48”.

23 **SEC. 312. ASSESSMENTS.**

24 Section 116 of the Federal Oil and Gas Royalty Man-
25 agement Act of 1982 (30 U.S.C. 1724) is repealed.

1 **SEC. 313. COLLECTION AND PRODUCTION ACCOUNT-**
2 **ABILITY.**

3 (a) **PILOT PROJECT.**—Within 2 years after the date
4 of enactment of this Act, the Secretary shall complete a
5 pilot project with willing operators of oil and gas leases
6 on the Outer Continental Shelf that assesses the costs and
7 benefits of automatic transmission of oil and gas volume
8 and quality data produced under Federal leases on the
9 Outer Continental Shelf in order to improve the produc-
10 tion verification systems used to ensure accurate royalty
11 collection and audit.

12 (b) **REPORT.**—The Secretary shall submit to Con-
13 gress a report on findings and recommendations of the
14 pilot project within 3 years after the date of enactment
15 of this Act.

16 **SEC. 314. NATURAL GAS REPORTING.**

17 The Secretary shall, within 180 days after the date
18 of enactment of this Act, implement the steps necessary
19 to ensure accurate determination and reporting of BTU
20 values of natural gas from all Federal oil and gas leases
21 to ensure accurate royalty payments to the United States.
22 Such steps shall include, but not be limited to—

23 (1) establishment of consistent guidelines for
24 onshore and offshore BTU information from gas
25 producers;

1 (2) development of a procedure to determine
2 the potential BTU variability of produced natural
3 gas on a by-reservoir or by-lease basis;

4 (3) development of a procedure to adjust BTU
5 frequency requirements for sampling and reporting
6 on a case-by-case basis;

7 (4) systematic and regular verification of BTU
8 information; and

9 (5) revision of the “MMS–2014” reporting
10 form to record, in addition to other information al-
11 ready required, the natural gas BTU values that
12 form the basis for the required royalty payments.

13 **SEC. 315. PENALTY FOR LATE OR INCORRECT REPORTING**
14 **OF DATA.**

15 (a) **IN GENERAL.**—The Secretary shall issue regula-
16 tions by not later than 1 year after the date of enactment
17 of this Act that establish a civil penalty for late or incor-
18 rect reporting of data under the Federal Oil and Gas Roy-
19 alty Management Act of 1982 (30 U.S.C. 1701 et seq.).

20 (b) **AMOUNT.**—The amount of the civil penalty shall
21 be—

22 (1) an amount (subject to paragraph (2)) that
23 the Secretary determines is sufficient to ensure filing
24 of data in accordance with that Act; and

1 (2) not less than \$10 for each failure to file
2 correct data in accordance with that Act.

3 (c) **CONTENT OF REGULATIONS.**—Except as provided
4 in subsection (b), the regulations issued under this section
5 shall be substantially similar to part 216.40 of title 30,
6 Code of Federal Regulations, as most recently in effect
7 before the date of enactment of this Act.

8 **SEC. 316. REQUIRED RECORDKEEPING.**

9 Within 1 year after the date of enactment of this Act,
10 the Secretary shall publish final regulations concerning re-
11 quired recordkeeping of natural gas measurement data as
12 set forth in part 250.1203 of title 30, Code of Federal
13 Regulations (as in effect on the date of enactment of this
14 Act), to include operators and other persons involved in
15 the transporting, purchasing, or selling of gas under the
16 requirements of that rule, under the authority provided
17 in section 103 of the Federal Oil and Gas Royalty Man-
18 agement Act of 1982 (30 U.S.C. 1713).

19 **SEC. 317. SHARED CIVIL PENALTIES.**

20 Section 206 of the Federal Oil and Gas Royalty Man-
21 agement Act of 1982 (30 U.S.C. 1736) is amended by
22 striking “Such amount shall be deducted from any com-
23 pensation due such State or Indian tribe under section
24 202 or such State under section 205.”.

1 **SEC. 318. ENTITLEMENTS.**

2 Not later than 180 days after the date of enactment
3 of this Act, the Secretary shall publish final regulations
4 prescribing when a Federal lessee or designee must report
5 and pay royalties on the volume of oil and gas it takes
6 under either a Federal or Indian lease or on the volume
7 to which it is entitled to based upon its ownership interest
8 in the Federal or Indian lease. The Secretary shall give
9 consideration to requiring 100 percent entitlement report-
10 ing and paying based upon the lease ownership.

11 **SEC. 319. LIMITATION ON ROYALTY IN-KIND PROGRAM.**

12 Section 36 of the Mineral Leasing Act (30 U.S.C.
13 192) is amended by inserting before the period at the end
14 of the first sentence the following: “, except that the Sec-
15 retary shall not conduct a regular program to take oil and
16 gas lease royalties in oil or gas”.

17 **SEC. 320. APPLICATION OF ROYALTY TO OIL THAT IS**
18 **SAVED, REMOVED, SOLD, OR DISCHARGED**
19 **UNDER OFFSHORE OIL AND GAS LEASES.**

20 Section 8(a) of the Outer Continental Shelf Lands
21 Act (43 U.S.C. 1337(a)) is further amended by adding
22 at the end the following new paragraph:

23 “(10)(A) Any royalty under a lease under this section
24 shall apply to all oil that is saved, removed, sold, or dis-
25 charged, without regard to whether any of the oil is un-
26 avoidably lost or used on, or for the benefit of, the lease.

1 “(B) In this paragraph the term ‘discharged’ means
2 any emission (other than natural seepage), intentional or
3 unintentional, and includes, but is not limited to, spilling,
4 leaking, pumping, pouring, emitting, emptying, or dump-
5 ing.”.

6 **SEC. 321. DISPOSITION OF REVENUE.**

7 (a) USE FOR SAFETY, INSPECTION, AND ENFORCE-
8 MENT.—Of the amounts received by the United States
9 under subtitle B of title II and this title—

10 (1) there shall be available to the Secretary, the
11 Administrator of the National Ocean and Atmos-
12 pheric Administration, and the Commandant of the
13 Coast Guard, without further appropriation, such
14 sums as may be necessary to carry out any duties
15 or responsibilities related to safety, inspection, and
16 enforcement authorities provided this Act; and

17 (2) there shall be available, without further ap-
18 propriation, \$48,000,000 for each of the fiscal years
19 2012 through 2016 to carry out the functions de-
20 scribed in section 634.

21 (b) USE OF AMOUNTS FOR DEFICIT REDUCTION.—
22 Notwithstanding any other provision of law, any amounts
23 received by the United States under this title that are not
24 used in a given calendar year shall be deposited in the
25 Treasury and used for Federal budget deficit reduction

1 or, if there is no Federal budget deficit, for reducing the
2 Federal debt in such manner as the Secretary of the
3 Treasury considers appropriate.

4 **TITLE IV—GULF OF MEXICO** 5 **RESTORATION**

6 **SEC. 401. SHORT TITLE.**

7 This title may be cited as the “Gulf Coast Restora-
8 tion Act”.

9 **SEC. 402. GULF COAST ECOSYSTEM RESTORATION.**

10 (a) DEFINITIONS.—In this section:

11 (1) CHAIR.—The term “Chair” means the
12 Chair of the Task Force appointed under subsection
13 (d)(3).

14 (2) STATE COASTAL ECOSYSTEM RESTORATION
15 PLAN.—The term “State Coastal Ecosystem Res-
16 toration Plan” means a plan submitted under sub-
17 section (c) by a qualifying State to the Task Force.

18 (3) FUND.—The term “Fund” means the Gulf
19 Coast Ecosystem Restoration Fund established by
20 subsection (b)(2)(A).

21 (4) GOVERNORS.—The term “Governors”
22 means the Governors of each of the States of Ala-
23 bama, Florida, Louisiana, Mississippi, and Texas.

24 (5) GULF COAST ECOSYSTEM.—The term “Gulf
25 Coast ecosystem” means the coastal zones, as deter-

1 mined pursuant to the Coastal Zone Management
2 Act of 1972 (16 U.S.C. 1451 et seq.), of the States
3 of Alabama, Florida, Louisiana, Mississippi, and
4 Texas and adjacent State waters and areas of the
5 Outer Continental Shelf, adversely impacted by the
6 blowout and explosion of the mobile offshore drilling
7 unit Deepwater Horizon that occurred on April 20,
8 2010, and resulting hydrocarbon releases into the
9 environment.

10 (6) SECRETARY.—The term “Secretary” means
11 the Secretary of the Interior.

12 (7) QUALIFYING STATE.—The term “qualifying
13 State” means each of the States of Alabama, Flor-
14 ida, Louisiana, Mississippi, and Texas.

15 (8) TASK FORCE.—The term “Task Force”
16 means the Gulf Coast Ecosystem Restoration Task
17 Force established by subsection (d).

18 (b) GULF COAST ECOSYSTEM RESTORATION.—

19 (1) IN GENERAL.—In accordance with this sec-
20 tion, the Chair shall review and approve or dis-
21 approve State Coastal Ecosystem Restoration Plans
22 submitted by the Governors that provide for restora-
23 tion activities with respect to the Gulf Coast eco-
24 system.

1 (2) GULF COAST ECOSYSTEM RESTORATION
2 FUND.—

3 (A) ESTABLISHMENT.—There is estab-
4 lished in the Treasury of the United States a
5 fund to be known as the “Gulf Coast Eco-
6 system Restoration Fund”.

7 (B) TRANSFERS TO FUND.—Notwith-
8 standing any other provision of law, the Sec-
9 retary of the Treasury shall deposit into the
10 Fund amounts equal to not less than 80 per-
11 cent of any amounts collected by the United
12 States as penalties, settlements, or fines under
13 sections 309 and 311 of the Federal Water Pol-
14 lution Control Act (33 U.S.C. 1319, 1321) in
15 relation to the blowout and explosion of the mo-
16 bile offshore drilling unit Deepwater Horizon
17 that occurred on April 20, 2010, and resulting
18 hydrocarbon releases into the environment.

19 (C) AUTHORIZED USES.—The Fund shall
20 be available to the Chair for the conservation,
21 protection, and restoration of the Gulf Coast
22 ecosystem in accordance with State Coastal
23 Ecosystem Restoration Plans submitted by the
24 Governors and approved by the Chair under
25 this section.

1 (3) DISBURSEMENT.—The Chair shall disburse
2 to each qualifying State for which the Chair has ap-
3 proved a State Coastal Ecosystem Restoration Plan
4 under this section such funds as are allocated to the
5 qualifying State under this section.

6 (4) USE OF FUNDS BY QUALIFYING STATE.—A
7 qualifying State shall use all amounts received under
8 this section, including any amount deposited in a
9 trust fund that is administered by the State and
10 dedicated to uses consistent with this section, in ac-
11 cordance with all applicable Federal and State law,
12 only for 1 or more of the following purposes:

13 (A) Projects and activities for the con-
14 servation, protection, or restoration of coastal
15 areas, including wetlands.

16 (B) Mitigation of damage to fish, wildlife,
17 or natural resources.

18 (C) Planning assistance and the adminis-
19 trative costs of complying with this section.

20 (D) Implementation of a federally ap-
21 proved marine, coastal, or comprehensive con-
22 servation management plan.

23 (e) STATE COASTAL ECOSYSTEM RESTORATION
24 PLAN.—

25 (1) SUBMISSION OF STATE PLANS.—

1 (A) IN GENERAL.—Not later than October
2 1, 2011, the Governor of a qualifying State
3 shall submit to the Chair a State Coastal Eco-
4 system Restoration Plan.

5 (B) PUBLIC PARTICIPATION.—In carrying
6 out subparagraph (A), the Governor shall solicit
7 local input and provide for public participation
8 in the development of the plan.

9 (2) APPROVAL.—

10 (A) IN GENERAL.—The Chair must ap-
11 prove a plan of a qualifying State submitted
12 under paragraph (1) before disbursing any
13 amount to the qualifying State under this sec-
14 tion.

15 (B) REQUIRED COMPONENTS.—The Chair
16 shall approve a plan submitted by a qualifying
17 State under paragraph (1) if—

18 (i) the Chair determines that the plan
19 is consistent with the uses described in
20 subsection (b); and

21 (ii) the plan contains—

22 (I) the name of the State agency
23 that will have the authority to rep-
24 resent and act on behalf of the State

1 in dealing with the Secretary for pur-
2 poses of this section;

3 (II) a program for the implemen-
4 tation of the plan that describes how
5 the amounts provided under this sec-
6 tion to the qualifying State will be
7 used; and

8 (III) a certification by the Gov-
9 ernor that ample opportunity has been
10 provided for public participation in
11 the development and revision of the
12 plan.

13 (3) AMENDMENTS.—Any amendment to a plan
14 submitted under paragraph (1) shall be—

15 (A) developed in accordance with this sub-
16 section; and

17 (B) submitted to the Chair for approval or
18 disapproval under paragraph (4).

19 (4) PROCEDURE.—Not later than 60 days after
20 the date on which a plan or amendment to a plan
21 is submitted under paragraph (1) or (3), respec-
22 tively, the Chair shall approve or disapprove the plan
23 or amendment.

24 (d) GULF COAST ECOSYSTEM RESTORATION TASK
25 FORCE.—

1 (1) ESTABLISHMENT.—There is established the
2 Gulf Coast Ecosystem Restoration Task Force.

3 (2) MEMBERSHIP.—The Task Force shall con-
4 sist of the following members, or in the case of a
5 Federal agency, a designee at the level of Assistant
6 Secretary or the equivalent:

7 (A) The Secretary.

8 (B) The Secretary of Commerce.

9 (C) The Secretary of the Army.

10 (D) The Attorney General.

11 (E) The Secretary of Homeland Security.

12 (F) The Administrator of the Environ-
13 mental Protection Agency.

14 (G) The Commandant of the Coast Guard.

15 (H) The Secretary of Transportation.

16 (I) The Secretary of Agriculture.

17 (J) A representative of each affected In-
18 dian tribe, appointed by the Secretary based on
19 the recommendations of the tribal chairman.

20 (K) Two representatives of each of the
21 States of Alabama, Florida, Louisiana, Mis-
22 sissippi, and Texas, appointed by the Governor
23 of each State, respectively.

24 (L) Two representatives of local govern-
25 ment within each of the States of Alabama,

1 Florida, Louisiana, Mississippi, and Texas, ap-
2 pointed by the Governor of each State, respec-
3 tively.

4 (3) CHAIR.—The Chair of the Task Force shall
5 be appointed by the President from among the mem-
6 bers under paragraph (2) who are Federal officials.

7 (4) DUTIES OF THE TASK FORCE.—The Task
8 Force shall—

9 (A) consult with, and provide recommenda-
10 tions to, the Chair regarding the approval of
11 State Coastal Ecosystem Restoration Plans;

12 (B) coordinate scientific and other re-
13 search associated with restoration of the Gulf
14 Coast ecosystem; and

15 (C) submit an annual report to Congress
16 that summarizes the State Coastal Ecosystem
17 Restoration Plans submitted by the Governors
18 and approved by the Chair.

19 (5) APPLICATION OF THE FEDERAL ADVISORY
20 COMMITTEE ACT.—The Task Force shall not be con-
21 sidered an advisory committee under the Federal
22 Advisory Committee Act (5 U.S.C. App.).

1 **TITLE V—COORDINATION AND**
2 **PLANNING**

3 **SEC. 501. REGIONAL COORDINATION.**

4 (a) IN GENERAL.—The purpose of this title is to pro-
5 mote—

6 (1) better coordination, communication, and
7 collaboration between Federal agencies with authori-
8 ties for ocean, coastal, and Great Lakes manage-
9 ment; and

10 (2) coordinated and collaborative regional plan-
11 ning efforts using the best available science, and to
12 ensure the protection and maintenance of marine
13 ecosystem health, in decisions affecting the sustain-
14 able development and use of Federal renewable and
15 nonrenewable resources on, in, or above the ocean
16 (including the Outer Continental Shelf) and the
17 Great Lakes for the long-term economic and envi-
18 ronmental benefit of the United States.

19 (b) OBJECTIVES OF REGIONAL EFFORTS.—Such re-
20 gional efforts shall achieve the following objectives:

21 (1) Greater systematic communication and co-
22 ordination among Federal, coastal State, and af-
23 fected tribal governments concerned with the con-
24 servation of and the sustainable development and

1 use of Federal renewable and nonrenewable re-
2 sources of the oceans, coasts, and Great Lakes.

3 (2) Greater reliance on a multiobjective,
4 science- and ecosystem-based, spatially explicit man-
5 agement approach that integrates regional economic,
6 ecological, affected tribal, and social objectives into
7 ocean, coastal, and Great Lakes management deci-
8 sions.

9 (3) Identification and prioritization of shared
10 State and Federal ocean, coastal, and Great Lakes
11 management issues.

12 (4) Identification of data and information need-
13 ed by the Regional Coordination Councils established
14 under section 602.

15 (c) REGIONS.—There are hereby designated the fol-
16 lowing Coordination Regions:

17 (1) PACIFIC REGION.—The Pacific Coordination
18 Region, which shall consist of the coastal waters and
19 Exclusive Economic Zone adjacent to the States of
20 Washington, Oregon, and California.

21 (2) GULF OF MEXICO REGION.—The Gulf of
22 Mexico Coordination Region, which shall consist of
23 the coastal waters and Exclusive Economic Zone ad-
24 jacent to the States of Texas, Louisiana, Mississippi,
25 and Alabama, and the west coast of Florida.

1 (3) NORTH ATLANTIC REGION.—The North At-
2 lantic Coordination Region, which shall consist of
3 the coastal waters and Exclusive Economic Zone ad-
4 jacent to the States of Maine, New Hampshire, Mas-
5 sachusetts, Rhode Island, and Connecticut.

6 (4) MID-ATLANTIC REGION.—The Mid-Atlantic
7 Coordination Region, which shall consist of the
8 coastal waters and Exclusive Economic Zone adja-
9 cent to the States of New York, New Jersey, Penn-
10 sylvania, Delaware, Maryland, and Virginia.

11 (5) SOUTH ATLANTIC REGION.—The South At-
12 lantic Coordination Region, which shall consist of
13 the coastal waters and Exclusive Economic Zone ad-
14 jacent to the States of North Carolina, South Caro-
15 lina, Georgia, the east coast of Florida, and the
16 Straits of Florida Planning Area.

17 (6) ALASKA REGION.—The Alaska Coordination
18 Region, which shall consist of the coastal waters and
19 Exclusive Economic Zone adjacent to the State of
20 Alaska.

21 (7) PACIFIC ISLANDS REGION.—The Pacific Is-
22 lands Coordination Region, which shall consist of the
23 coastal waters and Exclusive Economic Zone adja-
24 cent to the State of Hawaii, the Commonwealth of

1 the Northern Mariana Islands, American Samoa,
2 and Guam.

3 (8) CARIBBEAN REGION.—The Caribbean Co-
4 ordination Region, which shall consist of the coastal
5 waters and Exclusive Economic Zone adjacent to
6 Puerto Rico and the United States Virgin Islands.

7 (9) GREAT LAKES REGION.—The Great Lakes
8 Coordination Region, which shall consist of waters of
9 the Great Lakes in the States of Illinois, Indiana,
10 Michigan, Minnesota, New York, Ohio, Pennsyl-
11 vania, and Wisconsin.

12 **SEC. 502. REGIONAL COORDINATION COUNCILS.**

13 (a) IN GENERAL.—Within 180 days after the date
14 of enactment of this Act, the Chairman of the Council on
15 Environmental Quality, in consultation with the affected
16 coastal States and affected Indian tribes, shall establish
17 or designate a Regional Coordination Council for each of
18 the Coordination Regions designated by section 601(c).

19 (b) MEMBERSHIP.—

20 (1) FEDERAL REPRESENTATIVES.—Within 90
21 days after the date of enactment of this Act, the
22 Chairman of the Council on Environmental Quality
23 shall publish the titles of the officials of each Fed-
24 eral agency and department that shall participate in
25 each Council. The Councils shall include representa-

1 tives of each Federal agency and department that
2 has authorities related to the development of ocean,
3 coastal, or Great Lakes policies or engages in plan-
4 ning, management, or scientific activities that sig-
5 nificantly affect or inform the use of ocean, coastal,
6 or Great Lakes resources. The Chairman of the
7 Council on Environmental Quality shall determine
8 which Federal agency representative shall serve as
9 the chairperson of each Council.

10 (2) COASTAL STATE REPRESENTATIVES.—

11 (A) NOTICE OF INTENT TO PARTICI-
12 PATE.—The Governor of each coastal State
13 within each Coordination Region designated by
14 section 601(c) shall within 3 months after the
15 date of enactment of this Act, inform the Chair-
16 man of the Council on Environmental Quality
17 whether or not the State intends to participate
18 in the Regional Coordination Council for the
19 Region.

20 (B) APPOINTMENT OF RESPONSIBLE
21 STATE OFFICIAL.—If a coastal State intends to
22 participate in such Council, the Governor of the
23 coastal State shall appoint an officer or em-
24 ployee of the coastal State agency with primary

1 responsibility for overseeing ocean and coastal
2 policy or resource management to that Council.

3 (C) ALASKA REGIONAL COORDINATION
4 COUNCIL.—The Regional Coordination Council
5 for the Alaska Coordination Region shall in-
6 clude representation from each of the States of
7 Alaska, Washington, and Oregon, if appointed
8 by the Governor of that State in accordance
9 with this paragraph.

10 (3) REGIONAL FISHERY MANAGEMENT COUNCIL
11 REPRESENTATION.—A representative of each Re-
12 gional Fishery Management Council with jurisdiction
13 in the Coordination Region of a Regional Coordina-
14 tion Council (who is selected by the Regional Fish-
15 ery Management Council) and the executive director
16 of the interstate marine fisheries commission with
17 jurisdiction in the Coordination Region of a Regional
18 Coordination Council shall each serve as a member
19 of the Council.

20 (4) REGIONAL OCEAN PARTNERSHIP REP-
21 RESENTATION.—A representative of any Regional
22 Ocean Partnership that has been established for any
23 part of the Coordination Region of a Regional Co-
24 ordination Council may appoint a representative to

1 serve on the Council in addition to any Federal or
2 State appointments.

3 (5) TRIBAL REPRESENTATION.—An appropriate
4 tribal official selected by affected Indian tribes situ-
5 ated in the affected Coordination Region may elect
6 to appoint a representative of such tribes collectively
7 to serve as a member of the Regional Coordination
8 Council for that Region.

9 (6) LOCAL REPRESENTATION.—The Chairman
10 of the Council on Environmental Quality shall, in
11 consultation with the Governors of the coastal States
12 within each Coordination Region, identify and ap-
13 point representatives of county and local govern-
14 ments, as appropriate, to serve as members of the
15 Regional Coordination Council for that Region.

16 (c) ADVISORY COMMITTEE.—Each Regional Coordi-
17 nation Council shall establish advisory committees for the
18 purposes of public and stakeholder input and scientific ad-
19 vice, made up of a balanced representation from the en-
20 ergy, shipping, transportation, commercial and rec-
21 reational fishing, and recreation industries, from marine
22 environmental nongovernmental organizations, and from
23 scientific and educational authorities with expertise in the
24 conservation and management of ocean, coastal, and
25 Great Lakes resources to advise the Council during the

1 development of Regional Assessments and Regional Stra-
2 tegic Plans and in its other activities.

3 (d) COORDINATION WITH EXISTING PROGRAMS.—

4 Each Regional Coordination Council shall build upon and
5 complement current State, multistate, and regional capac-
6 ity and governance and institutional mechanisms to man-
7 age and protect ocean waters, coastal waters, and ocean
8 resources.

9 **SEC. 503. REGIONAL STRATEGIC PLANS.**

10 (a) INITIAL REGIONAL ASSESSMENT.—

11 (1) IN GENERAL.—Each Regional Coordination
12 Council, shall, within one year after the date of en-
13 actment of this Act, prepare an initial assessment of
14 its Coordination Region that shall identify defi-
15 ciencies in data and information necessary to in-
16 formed decisionmaking by Federal, State, and af-
17 fected tribal governments concerned with the con-
18 servation of and management of the oceans, coasts,
19 and Great Lakes. Each initial assessment shall to
20 the extent feasible—

21 (A) identify the Coordination Region’s re-
22 newable and non renewable resources, including
23 current and potential energy resources, except
24 for the assessment for the Great Lakes Coordi-
25 nation Region, for which the Regional Coordi-

1 nation Council for such Coordination Region
2 shall only identify the Great Lakes Coordina-
3 tion Region's renewable energy resources, in-
4 cluding current and potential renewable energy
5 resources;

6 (B) identify and include a spatially and
7 temporally explicit inventory of existing and po-
8 tential uses of the Coordination Region, includ-
9 ing fishing and fish habitat, recreation, and en-
10 ergy development;

11 (C) document the health and relative envi-
12 ronmental sensitivity of the marine ecosystem
13 within the Coordination Region, including a
14 comprehensive survey and status assessment of
15 species, habitats, and indicators of ecosystem
16 health;

17 (D) identify marine habitat types and im-
18 portant ecological areas within the Coordination
19 Region;

20 (E) assess the Coordination Region's ma-
21 rine economy and cultural attributes and in-
22 clude regionally-specific ecological and socio-
23 economic baseline data;

1 (F) identify and prioritize additional sci-
2 entific and economic data necessary to inform
3 the development of Strategic Plans; and

4 (G) include other information to improve
5 decision making as determined by the Regional
6 Coordination Council.

7 (2) DATA.—Each initial assessment shall—

8 (A) use the best available data;

9 (B) collect and provide data in a spatially
10 explicit manner wherever practicable and pro-
11 vide such data to the interagency comprehensive
12 digital mapping initiative as described in section
13 2 of Public Law 109–58 (42 U.S.C. 15801);
14 and

15 (C) make publicly available any such data
16 that is not classified information.

17 (3) PUBLIC PARTICIPATION.—Each Regional
18 Coordination Council shall provide adequate oppor-
19 tunity for review and input by stakeholders and the
20 general public during the preparation of the initial
21 assessment and any revised assessments.

22 (b) REGIONAL STRATEGIC PLANS.—

23 (1) REQUIREMENT.—Each Regional Coordina-
24 tion Council shall, within 3 years after the comple-
25 tion of the initial regional assessment, prepare and

1 submit to the Chairman of the Council on Environ-
2 mental Quality a multiobjective, science- and eco-
3 system-based, spatially explicit, integrated Strategic
4 Plan in accordance with this subsection for the
5 Council's Coordination Region.

6 (2) OBJECTIVE AND GOALS.—The objective of
7 the Strategic Plans under this subsection shall be to
8 foster comprehensive, integrated, and sustainable de-
9 velopment and use of ocean, coastal, and Great
10 Lakes resources, while protecting marine ecosystem
11 health and sustaining the long-term economic and
12 ecosystem values of the oceans, coasts, and Great
13 Lakes.

14 (3) CONTENTS.—Each Strategic Plan prepared
15 by a Regional Coordination Council shall—

16 (A) be based on the initial regional assess-
17 ment and updates for the Coordination Region
18 under subsections (a) and (c), respectively;

19 (B) foster the sustainable and integrated
20 development and use of ocean, coastal, and
21 Great Lakes resources in a manner that pro-
22 tects the health of marine ecosystems;

23 (C) identify areas with potential for siting
24 and developing renewable and nonrenewable en-
25 ergy resources in the Coordination Region cov-

1 ered by the Strategic Plan, except for the Stra-
2 tegic Plan for the Great Lakes Coordination
3 Region which shall identify only areas with po-
4 tential for siting and developing renewable en-
5 ergy resources in the Great Lakes Coordination
6 Region;

7 (D) identify other current and potential
8 uses of the ocean and coastal resources in the
9 Coordination Region;

10 (E) identify and recommend long-term
11 monitoring needs for ecosystem health and so-
12 cioeconomic variables within the Coordination
13 Region covered by the Strategic Plan;

14 (F) identify existing State and Federal
15 regulating authorities within the Coordination
16 Region covered by the Strategic Plan and meas-
17 ures to assist those authorities in carrying out
18 their responsibilities;

19 (G) identify best available technologies to
20 minimize adverse environmental impacts and
21 use conflicts in the development of ocean and
22 coastal resources in the Coordination Region;

23 (H) identify additional research, informa-
24 tion, and data needed to carry out the Strategic
25 Plan;

1 (I) identify performance measures and
2 benchmarks for purposes of fulfilling the re-
3 sponsibilities under this section to be used to
4 evaluate the Strategic Plan's effectiveness;

5 (J) define responsibilities and include an
6 analysis of the gaps in authority, coordination,
7 and resources, including funding, that must be
8 filled in order to fully achieve those perform-
9 ance measures and benchmarks; and

10 (K) include such other information at the
11 Chairman of the Council on Environmental
12 Quality determines is appropriate.

13 (4) PUBLIC PARTICIPATION.—Each Regional
14 Coordination Council shall provide adequate oppor-
15 tunities for review and input by stakeholders and the
16 general public during the development of the Stra-
17 tegic Plan and any Strategic Plan revisions.

18 (c) UPDATED REGIONAL ASSESSMENTS.—Each Re-
19 gional Coordination Council shall update the initial re-
20 gional assessment prepared under subsection (a) in coordi-
21 nation with each Strategic Plan revision under subsection
22 (e), to provide more detailed information regarding the re-
23 quired elements of the assessment and to include any rel-
24 evant new information that has become available in the
25 interim.

1 (d) REVIEW AND APPROVAL.—

2 (1) COMMENCEMENT OF REVIEW.—Within 10
3 days after receipt of a Strategic Plan under this sec-
4 tion, or any revision to such a Strategic Plan, from
5 a Regional Coordination Council, the Chairman of
6 the Council of Environmental Quality shall com-
7 mence a review of the Strategic Plan or the revised
8 Strategic Plan, respectively.

9 (2) PUBLIC NOTICE AND COMMENT.—Imme-
10 diately after receipt of such a Strategic Plan or revi-
11 sion, the Chairman of the Council of Environmental
12 Quality shall publish the Strategic Plan or revision
13 in the Federal Register and provide an opportunity
14 for the submission of public comment for a 90-day
15 period beginning on the date of such publication.

16 (3) REQUIREMENTS FOR APPROVAL.—Before
17 approving a Strategic Plan, or any revision to a
18 Strategic Plan, the Chairman of the Council on En-
19 vironmental Quality must find that the Strategic
20 Plan or revision—

21 (A) complies with subsection (b); and

22 (B) complies with the purposes of this title
23 as identified in section 601(a) and the objec-
24 tives identified in section 601(b).

1 (4) DEADLINE FOR COMPLETION.—Within 180
2 days after the receipt of a Strategic Plan, or a revision
3 to a Strategic Plan, the Chairman of the Council
4 of Environmental Quality shall approve or dis-
5 approve the Strategic Plan or revision. If the Chair-
6 man disapproves the Strategic Plan or revision, the
7 Chairman shall transmit to the Regional Coordina-
8 tion Council that submitted the Strategic Plan or re-
9 vision, an identification of the deficiencies and rec-
10 ommendations to improve it. The Council shall sub-
11 mit a revised Strategic Plan or revision to such plan
12 with 180 days after receiving the recommendations
13 from the Chairman.

14 (e) PLAN REVISION.—Each Strategic Plan shall be
15 reviewed and revised by the relevant Regional Coordina-
16 tion Council at least once every 5 years. Such review and
17 revision shall be based on the most recently updated re-
18 gional assessment. Any proposed revisions to the Strategic
19 Plan shall be submitted to the Chairman of the Council
20 on Environmental Quality for review and approval pursu-
21 ant to this section.

22 **SEC. 504. REGULATIONS AND SAVINGS CLAUSE.**

23 (a) REGULATIONS.—The Chairman of the Council on
24 Environmental Quality may issue such regulations as the

1 Chairman considers necessary to implement sections 601
2 through 603.

3 (b) SAVINGS CLAUSE.—Nothing in this title shall be
4 construed to affect existing authorities under Federal law.

5 **SEC. 505. OCEAN RESOURCES CONSERVATION AND ASSIST-**
6 **ANCE FUND.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—There is established in the
9 Treasury of the United States a separate account to
10 be known as the Ocean Resources Conservation and
11 Assistance Fund.

12 (2) CREDITS.—The ORCA Fund shall be cred-
13 ited with such sums as may be necessary.

14 (3) ALLOCATION OF THE ORCA FUND.—Of the
15 amounts appropriated from the ORCA Fund each
16 fiscal year—

17 (A) 70 percent shall be allocated to the
18 Secretary, of which—

19 (i) one-half shall be used to make
20 grants to coastal States and affected In-
21 dian tribes under subsection (b); and

22 (ii) one-half shall be used for the
23 ocean, coastal, and Great Lakes grants
24 program established by subsection (c);

1 (B) 20 percent shall be allocated to the
2 Secretary to carry out the purposes of sub-
3 section (e); and

4 (C) 10 percent shall be allocated to the
5 Secretary to make grants to Regional Ocean
6 Partnerships under subsection (d) and the Re-
7 gional Coordination Councils established under
8 section 602.

9 (4) PROCEDURES.—The Secretary shall estab-
10 lish application, review, oversight, financial account-
11 ability, and performance accountability procedures
12 for each grant program for which funds are allo-
13 cated under this subsection.

14 (b) GRANTS TO COASTAL STATES.—

15 (1) GRANT AUTHORITY.—The Secretary may
16 use amounts allocated under subsection
17 (a)(3)(A)(i)(I) to make grants to—

18 (A) coastal States pursuant to the formula
19 established under section 306(e) of the Coastal
20 Zone Management Act of 1972 (16 U.S.C.
21 1455(c)); and

22 (B) affected Indian tribes based on and
23 proportional to any specific coastal and ocean
24 management authority granted to an affected

1 tribe pursuant to affirmation of a Federal re-
2 served right.

3 (2) ELIGIBILITY.—To be eligible to receive a
4 grant under this subsection, a coastal State or af-
5 fected Indian tribe must prepare and revise a 5-year
6 plan and annual work plans that—

7 (A) demonstrate that activities for which
8 the coastal State or affected Indian tribe will
9 use the funds are consistent with the eligible
10 uses of the Fund described in subsection (f);
11 and

12 (B) provide mechanisms to ensure that
13 funding is made available to government, non-
14 government, and academic entities to carry out
15 eligible activities at the county and local level.

16 (3) APPROVAL OF STATE AND AFFECTED TRIB-
17 AL PLANS.—

18 (A) IN GENERAL.—Plans required under
19 paragraph (2) must be submitted to and ap-
20 proved by the Secretary.

21 (B) PUBLIC INPUT AND COMMENT.—In de-
22 termining whether to approve such plans, the
23 Secretary shall provide opportunity for, and
24 take into consideration, public input and com-

1 ment on the plans from stakeholders and the
2 general public.

3 (4) ENERGY PLANNING GRANTS.—For each of
4 the fiscal years 2011 through 2015, the Secretary
5 may use funds allocated for grants under this sub-
6 section to make grants to coastal States and affected
7 tribes under section 320 of the Coastal Zone Man-
8 agement Act of 1972 (16 U.S.C. 1451 et seq.), as
9 amended by this Act.

10 (5) USE OF FUNDS.—Any amounts provided as
11 a grant under this subsection, other than as a
12 grants under paragraph (4), may only be used for
13 activities described in subsection (f).

14 (c) OCEAN AND COASTAL COMPETITIVE GRANTS
15 PROGRAM.—

16 (1) ESTABLISHMENT.—The Secretary shall use
17 amounts allocated under subsection (a)(3)(A)(I)(II)
18 to make competitive grants for conservation and
19 management of ocean, coastal, and Great Lakes eco-
20 systems and marine resources.

21 (2) OCEAN, COASTAL, AND GREAT LAKES RE-
22 VIEW PANEL.—

23 (A) IN GENERAL.—The Secretary shall es-
24 tablish an Ocean, Coastal, and Great Lakes Re-
25 view Panel (in this subsection referred to as the

1 “Panel”), which shall consist of 12 members
2 appointed by the Secretary with expertise in the
3 conservation and management of ocean, coastal,
4 and Great Lakes ecosystems and marine re-
5 sources. In appointing members to the Council,
6 the Secretary shall include a balanced diversity
7 of representatives of relevant Federal agencies,
8 the private sector, nonprofit organizations, and
9 academia.

10 (B) FUNCTIONS.—The Panel shall—

11 (i) review, in accordance with the pro-
12 cedures and criteria established under
13 paragraph (3), grant applications under
14 this subsection;

15 (ii) make recommendations to the
16 Secretary regarding which grant applica-
17 tions should be funded and the amount of
18 each grant; and

19 (iii) establish any specific require-
20 ments, conditions, or limitations on a grant
21 application recommended for funding.

22 (3) PROCEDURES AND ELIGIBILITY CRITERIA
23 FOR GRANTS.—

24 (A) IN GENERAL.—The Secretary shall es-
25 tablish—

1 (i) procedures for applying for a grant
2 under this subsection and criteria for eval-
3 uating applications for such grants; and

4 (ii) criteria, in consultation with the
5 Panel, to determine what persons are eligi-
6 ble for grants under the program.

7 (B) ELIGIBLE PERSONS.—Persons eligible
8 under the criteria under subparagraph (A)(ii)
9 shall include Federal, State, affected tribal, and
10 local agencies, fishery or wildlife management
11 organizations, nonprofit organizations, and aca-
12 demic institutions.

13 (4) APPROVAL OF GRANTS.—In making grants
14 under this subsection the Secretary shall give the
15 highest priority to the recommendations of the
16 Panel. If the Secretary disapproves a grant rec-
17 ommended by the Panel, the Secretary shall explain
18 that disapproval in writing.

19 (5) USE OF GRANT FUNDS.—Any amounts pro-
20 vided as a grant under this subsection may only be
21 used for activities described in subsection (f).

22 (d) GRANTS TO REGIONAL OCEAN PARTNERSHIPS.—

23 (1) GRANT AUTHORITY.—The Secretary may
24 use amounts allocated under subsection (a)(3)(A)(iii)
25 to make grants to Regional Ocean Partnerships.

1 (2) ELIGIBILITY.—In order to be eligible to re-
2 ceive a grant, a Regional Ocean Partnership must
3 prepare and annually revise a plan that—

4 (A) identifies regional science and informa-
5 tion needs, regional goals and priorities, and
6 mechanisms for facilitating coordinated and col-
7 laborative responses to regional issues;

8 (B) establishes a process for coordinating
9 and collaborating with the Regional Coordina-
10 tion Councils established under section 602 to
11 address regional issues and information needs
12 and achieve regional goals and priorities; and

13 (C) demonstrates that activities to be car-
14 ried out with such funds are eligible uses of the
15 funds identified in subsection (f).

16 (3) APPROVAL BY SECRETARY.—Such plans
17 must be submitted to and approved by the Sec-
18 retary.

19 (4) PUBLIC INPUT AND COMMENT.—In deter-
20 mining whether to approve such plans, the Secretary
21 shall provide opportunity for, and take into consider-
22 ation, input and comment on the plans from stake-
23 holders and the general public.

1 (5) USE OF FUNDS.—Any amounts provided as
2 a grant under this subsection may only be used for
3 activities described in subsection (f).

4 (e) LONG-TERM OCEAN AND COASTAL OBSERVA-
5 TIONS.—

6 (1) IN GENERAL.—The Secretary shall use the
7 amounts allocated under subsection (a)(3)(A)(ii) to
8 build, operate, and maintain the system established
9 under section 12304 of Public Law 111–11 (33
10 U.S.C. 3603), in accordance with the purposes and
11 policies for which the system was established.

12 (2) ADMINISTRATION OF FUNDS.—The Sec-
13 retary shall administer and distribute funds under
14 this subsection based upon comprehensive system
15 budgets adopted by the Council referred to in section
16 12304(c)(1)(A) of the Integrated Coastal and Ocean
17 Observation System Act of 2009 (33 U.S.C.
18 3603(c)(1)(A)).

19 (f) ELIGIBLE USE OF FUNDS.—Any funds made
20 available under this section may only be used for activities
21 that contribute to the conservation, protection, mainte-
22 nance, and restoration of ocean, coastal, and Great Lakes
23 ecosystems in a manner that is consistent with Federal
24 environmental laws and that avoids environmental deg-
25 radation, including—

1 (1) activities to conserve, protect, maintain, and
2 restore coastal, marine, and Great Lakes ecosystem
3 health;

4 (2) activities to protect marine biodiversity and
5 living marine and coastal resources and their habi-
6 tats, including fish populations;

7 (3) the development and implementation of
8 multiobjective, science- and ecosystem-based plans
9 for monitoring and managing the wide variety of
10 uses affecting ocean, coastal, and Great Lakes eco-
11 systems and resources that consider cumulative im-
12 pacts and are spatially explicit where appropriate;

13 (4) activities to improve the resiliency of those
14 ecosystems;

15 (5) activities to improve the ability of those eco-
16 systems to become more resilient, and to adapt to
17 and withstand the impacts of climate change and
18 ocean acidification;

19 (6) planning for and managing coastal develop-
20 ment to minimize the loss of life and property asso-
21 ciated with sea level rise and the coastal hazards re-
22 sulting from it;

23 (7) research, education, assessment, monitoring,
24 and dissemination of information that contributes to
25 the achievement of these purposes;

1 (8) research of, protection of, enhancement to,
2 and activities to improve the resiliency of culturally
3 significant areas and resources; and

4 (9) activities designed to rescue, rehabilitate,
5 and recover injured marine mammals, marine birds,
6 and sea turtles.

7 (g) DEFINITIONS.—In this section:

8 (1) ORCA FUND.—The term “ORCA Fund”
9 means the Ocean Resources Conservation and As-
10 sistance Fund established by this section.

11 (2) SECRETARY.—Notwithstanding section 3,
12 the term “Secretary” means the Secretary of Com-
13 merce.

14 **SEC. 506. WAIVER.**

15 The Federal Advisory Committee Act (5 U.S.C. App.)
16 shall not apply to the Regional Coordination Councils es-
17 tablished under section 602.

18 **TITLE VI—OIL SPILL ACCOUNT-**
19 **ABILITY AND ENVIRON-**
20 **MENTAL PROTECTION**

21 **SEC. 601. SHORT TITLE.**

22 This title may be cited as the “Oil Spill Account-
23 ability and Environmental Protection Act of 2011”.

1 **SEC. 602. REPEAL OF AND ADJUSTMENTS TO LIMITATION**
2 **ON LIABILITY.**

3 (a) IN GENERAL.—Section 1004 of the Oil Pollution
4 Act of 1990 (33 U.S.C. 2704) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (2) by adding “and”
7 after the semicolon at the end;

8 (B) by striking paragraph (3); and

9 (C) by redesignating paragraph (4) as
10 paragraph (3);

11 (2) in subsection (b)(2) by striking the second
12 sentence; and

13 (3) by striking subsection (d)(4) and inserting
14 the following:

15 “(4) ADJUSTMENT OF LIMITS ON LIABILITY.—
16 Not later than 3 years after the date of enactment
17 of the Oil Spill Accountability and Environmental
18 Protection Act of 2011, and at least once every 3
19 years thereafter, the President shall review the limits
20 on liability specified in subsection (a) and shall by
21 regulation revise such limits upward to reflect either
22 the amount of liability that the President determines
23 is commensurate with the risk of discharge of oil
24 presented by a particular category of vessel, facility,
25 or port or any increase in the Consumer Price Index,
26 whichever is greater.”.

1 (b) APPLICABILITY.—The amendments made by this
2 section apply to—

3 (1) any claim arising from an event occurring
4 after the date of enactment of this Act; and

5 (2) any claim arising from an event occurring
6 before such date of enactment, if the claim is
7 brought within the limitations period applicable to
8 the claim.

9 **SEC. 603. EVIDENCE OF FINANCIAL RESPONSIBILITY FOR**
10 **OFFSHORE FACILITIES.**

11 Section 1016 of the Oil Pollution Act of 1990 (33
12 U.S.C. 2716) is amended—

13 (1) in subsection (c)(1)—

14 (A) in subparagraph (B) by striking “sub-
15 paragraph (A) is” and all that follows before
16 the period and inserting “subparagraph (A) is
17 \$300,000,000”; and

18 (B) by striking subparagraph (C) and in-
19 serting the following:

20 “(C) ALTERNATE AMOUNT.—

21 “(i) SPECIFIC FACILITIES.—

22 “(I) IN GENERAL.—If the Presi-
23 dent determines that an amount of fi-
24 nancial responsibility for a responsible
25 party that is less than the amount re-

1 required by subparagraph (B) is justi-
2 fied based on the criteria established
3 under clause (ii), the evidence of fi-
4 nancial responsibility required shall be
5 for an amount determined by the
6 President.

7 “(II) MINIMUM AMOUNTS.—In
8 no case shall the evidence of financial
9 responsibility required under this sec-
10 tion be less than—

11 “(aa) \$105,000,000 for an
12 offshore facility located seaward
13 of the seaward boundary of a
14 State; or

15 “(bb) \$30,000,000 for an
16 offshore facility located landward
17 of the seaward boundary of a
18 State.

19 “(ii) CRITERIA FOR DETERMINATION
20 OF FINANCIAL RESPONSIBILITY.—The
21 President shall prescribe the amount of fi-
22 nancial responsibility required under clause
23 (i)(I) based on the following:

1 “(I) The market capacity of the
2 insurance industry to issue such in-
3 struments.

4 “(II) The operational risk of a
5 discharge and the effects of that dis-
6 charge on the environment and the re-
7 gion.

8 “(III) The quantity and location
9 of the oil and gas that is explored for,
10 drilled for, produced, or transported
11 by the responsible party.

12 “(IV) The asset value of the
13 owner of the offshore facility, includ-
14 ing the combined asset value of all
15 partners that own the facility.

16 “(V) The cost of all removal
17 costs and damages for which the
18 owner may be liable under this Act
19 based on a worst-case scenario.

20 “(VI) The safety history of the
21 owner of the offshore facility.

22 “(VII) Any other factors that the
23 President considers appropriate.

24 “(iii) ADJUSTMENT FOR ALL OFF-
25 SHORE FACILITIES.—

1 “(I) IN GENERAL.—Not later
2 than 3 years after the date of enact-
3 ment of the Oil Spill Accountability
4 and Environmental Protection Act of
5 2011, and at least once every 3 years
6 thereafter, the President shall review
7 the levels of financial responsibility
8 specified in this subsection and the
9 limit on liability specified in sub-
10 section (f)(4) and may by regulation
11 revise such levels and limit upward to
12 the levels and limit that the President
13 determines are justified based on the
14 relative operational, environmental,
15 and other risks posed by the quantity,
16 quality, or location of oil that is ex-
17 plored for, drilled for, produced, or
18 transported by the responsible party.

19 “(II) NOTICE TO CONGRESS.—
20 Upon completion of a review specified
21 in subclause (I), the President shall
22 notify Congress as to whether the
23 President will revise the levels of fi-
24 nancial responsibility and limit on li-
25 ability referred to in subclause (I) and

1 the factors used in making such deter-
2 mination.”;

3 (2) in subsection (e) by striking “self-insurer,”
4 and inserting “self-insurer, participation in coopera-
5 tive arrangements such as pooling or joint insur-
6 ance,”; and

7 (3) in subsection (f)—

8 (A) in paragraph (1) by striking “Subject”
9 and inserting “Except as provided in paragraph
10 (4) and subject”; and

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

12 “(4) MAXIMUM LIABILITY.—The maximum li-
13 ability of a guarantor of an offshore facility under
14 this subsection is \$300,000,000.”.

15 **SEC. 604. DAMAGES TO HUMAN HEALTH.**

16 (a) IN GENERAL.—Section 1002(b)(2) of the Oil Pol-
17 lution Act of 1990 (33 U.S.C. 2702(b)(2)) is amended by
18 adding at the end the following:

19 “(G) HUMAN HEALTH.—

20 “(i) IN GENERAL.—Damages to
21 human health, including fatal injuries,
22 which shall be recoverable by any claimant
23 who has a demonstrable, adverse impact to
24 human health or, in the case of a fatal in-

1 jury to an individual, a claimant filing a
2 claim on behalf of such individual.

3 “(ii) INCLUSION.—For purposes of
4 clause (i), the term ‘human health’ in-
5 cludes mental health.”.

6 (b) APPLICABILITY.—The amendments made by this
7 section apply to—

8 (1) any claim arising from an event occurring
9 after the date of enactment of this Act; and

10 (2) any claim arising from an event occurring
11 before such date of enactment, if the claim is
12 brought within the limitations period applicable to
13 the claim.

14 **SEC. 605. CLARIFICATION OF LIABILITY FOR DISCHARGES**
15 **FROM MOBILE OFFSHORE DRILLING UNITS.**

16 (a) IN GENERAL.—Section 1004(b)(2) of the Oil Pol-
17 lution Act of 1990 (33 U.S.C. 2704(b)(2)) is amended—

18 (1) by striking “from any incident described in
19 paragraph (1)” and inserting “from any discharge of
20 oil, or substantial threat of a discharge of oil, into
21 or upon the water”; and

22 (2) by striking “liable” and inserting “liable as
23 described in paragraph (1)”.

24 (b) APPLICABILITY.—The amendments made by this
25 section shall apply to—

1 (1) any claim arising from an event occurring
2 after the date of enactment of this Act; and

3 (2) any claim arising from an event occurring
4 before such date of enactment, if the claim is
5 brought within the limitations period applicable to
6 the claim.

7 **SEC. 606. STANDARD OF REVIEW FOR DAMAGE ASSESS-**
8 **MENT.**

9 Section 1006(e)(2) of the Oil Pollution Act of 1990
10 (33 U.S.C. 2706(e)(2)) is amended—

11 (1) in the heading by striking “REBUTTABLE
12 PRESUMPTION” and inserting “JUDICIAL REVIEW OF
13 ASSESSMENTS”; and

14 (2) by striking “have the force and effect” and
15 all that follows before the period and inserting the
16 following: “be subject to judicial review under sub-
17 chapter II of chapter 5 of title 5, United States
18 Code (commonly known as the Administrative Proce-
19 dure Act), on the basis of the administrative record
20 developed by the lead Federal trustee as provided in
21 such regulations”.

22 **SEC. 607. PROCEDURES FOR CLAIMS AGAINST FUND; IN-**
23 **FORMATION ON CLAIMS.**

24 (a) PROCEDURES FOR CLAIMS AGAINST FUND.—
25 Section 1013(e) of the Oil Pollution Act of 1990 (33

1 U.S.C. 2713(e)) is amended by adding at the end the fol-
2 lowing: “In the event of a spill of national significance,
3 the President may exercise the authorities under this sec-
4 tion to ensure that the presentation, filing, processing, set-
5 tlement, and adjudication of claims occurs within the
6 States and local governments affected by such spill to the
7 greatest extent practicable.”.

8 (b) INFORMATION ON CLAIMS.—Title I of the Oil
9 Pollution Act of 1990 (33 U.S.C. 2701 et seq.) is amended
10 by inserting after section 1013 the following:

11 **“SEC. 1013A. INFORMATION ON CLAIMS.**

12 “In the event of a spill of national significance, the
13 President may require a responsible party or a guarantor
14 of a source designated under section 1014(a) to provide
15 to the President any information on or related to claims,
16 either individually, in the aggregate, or both, that the
17 President requests, including—

18 “(1) the transaction date or dates of such
19 claims, including processing times; and

20 “(2) any other data pertaining to such claims
21 necessary to ensure the performance of the respon-
22 sible party or the guarantor with regard to the proc-
23 essing and adjudication of such claims.”.

24 (c) CONFORMING AMENDMENT.—The table of con-
25 tents contained in section 2 of such Act is amended by

1 inserting after the item relating to section 1013 the fol-
2 lowing:

“Sec. 1013A. Information on claims.”.

3 (d) APPLICABILITY.—The amendments made by this
4 section apply to—

5 (1) any claim arising from an event occurring
6 after the date of enactment of this Act; and

7 (2) any claim arising from an event occurring
8 before such date of enactment, if the claim is
9 brought within the limitations period applicable to
10 the claim.

11 **SEC. 608. ADDITIONAL AMENDMENTS AND CLARIFICATIONS**

12 **TO OIL POLLUTION ACT OF 1990.**

13 (a) DEFINITIONS.—

14 (1) REMOVAL COSTS.—Section 1001(31) of the
15 Oil Pollution Act of 1990 (33 U.S.C. 2701(31)) is
16 amended by inserting before the semicolon the fol-
17 lowing: “and includes all costs of Federal enforce-
18 ment activities related thereto”.

19 (2) RESPONSIBLE PARTY.—Section
20 1001(32)(B) of such Act (33 U.S.C. 2701(32)(B))
21 is amended by inserting before “, except a” the fol-
22 lowing: “or any person who owns or who has a lease-
23 hold interest or other property interest in the land
24 or in the minerals beneath the land on which the fa-
25 cility is located, and any person who is the assignor

1 of a property interest in the land or in the minerals
2 beneath the land on which the facility is located,”.

3 (b) ELEMENTS OF LIABILITY.—Section
4 1002(b)(1)(A) of such Act (33 U.S.C. 2702(b)(1)(A)) is
5 amended by inserting before the semicolon the following:
6 “, including all costs of Federal enforcement activities re-
7 lated thereto”.

8 (c) SUBROGATION.—Section 1015(c) of such Act (33
9 U.S.C. 2715(c)) is amended by adding at the end the fol-
10 lowing: “In such actions, the Fund shall recover all costs
11 and damages paid from the Fund unless the decision to
12 make the payment is found to be arbitrary or capricious.”.

13 (d) FINANCIAL RESPONSIBILITY.—Section
14 1016(f)(1) of such Act (33 U.S.C. 2717(f)(1)) is amend-
15 ed—

16 (1) by inserting “and” at the end of subpara-
17 graph (A);

18 (2) by striking “; and” at the end of subpara-
19 graph (B) and inserting a period; and

20 (3) by striking subparagraph (C).

21 (e) CONSIDERATIONS OF TRUSTEES.—Section
22 1006(d) of such Act (33 U.S.C. 2706(d)) is amended by
23 adding at the end the following:

24 “(4) CONSIDERATIONS OF TRUSTEES.—

1 “(A) EQUAL AND FULL CONSIDERATION.—

2 Trustees shall—

3 “(i) give equal and full consideration
4 to restoration, rehabilitation, replacement,
5 and the acquisition of the equivalent of the
6 natural resources under their trusteeship;
7 and

8 “(ii) consider restoration, rehabilita-
9 tion, replacement, and the acquisition of
10 the equivalent of the natural resources
11 under their trusteeship in a holistic eco-
12 system context and using, where available,
13 eco-regional or natural resource plans.

14 “(B) SPECIAL RULE ON ACQUISITION.—

15 Acquisition shall only be given full and equal
16 consideration under subparagraph (A) if it pro-
17 vides a substantially greater likelihood of im-
18 proving the resilience of the lost or damaged re-
19 source and supports local ecological processes.”.

20 (f) APPLICABILITY.—The amendments made by this
21 section apply to—

22 (1) any claim arising from an event occurring
23 after the date of enactment of this Act; and

24 (2) any claim arising from an event occurring
25 before such date of enactment, if the claim is

1 brought within the limitations period applicable to
2 the claim.

3 **SEC. 609. AMERICANIZATION OF OFFSHORE OPERATIONS**
4 **IN THE EXCLUSIVE ECONOMIC ZONE.**

5 (a) **REGISTRY ENDORSEMENT REQUIRED.**—

6 (1) **IN GENERAL.**—Section 12111 of title 46,
7 United States Code, is amended by adding at the
8 end the following:

9 “(e) **RESOURCE ACTIVITIES IN THE EEZ.**—Except
10 for activities requiring an endorsement under sections
11 12112 or 12113, only a vessel for which a certificate of
12 documentation with a registry endorsement is issued and
13 that is owned by a citizen of the United States (as deter-
14 mined under section 50501(d)) may engage in support of
15 exploration, development, or production of resources in,
16 on, above, or below the exclusive economic zone or any
17 other activity in the exclusive economic zone to the extent
18 that the regulation of such activity is not prohibited under
19 customary international law.”.

20 (2) **APPLICABILITY.**—The amendment made by
21 paragraph (1) applies only with respect to explo-
22 ration, development, production, and support activi-
23 ties that commence on or after July 1, 2011.

24 (b) **LEGAL AUTHORITY.**—Section 2301 of title 46,
25 United States Code, is amended—

1 (1) by striking “chapter” and inserting “title”;
2 and

3 (2) by inserting after “1988” the following:
4 “and the exclusive economic zone to the extent that
5 the regulation of such operation is not prohibited
6 under customary international law”.

7 (c) TRAINING FOR COAST GUARD PERSONNEL.—Not
8 later than 180 days after the date of enactment of this
9 Act, the Secretary of the department in which the Coast
10 Guard is operating shall establish a program to provide
11 Coast Guard personnel with the training necessary for the
12 implementation of the amendments made by this section.

13 **SEC. 610. SAFETY MANAGEMENT SYSTEMS FOR MOBILE**
14 **OFFSHORE DRILLING UNITS.**

15 Section 3203 of title 46, United States Code, is
16 amended—

17 (1) by redesignating subsections (b) and (c) as
18 subsections (c) and (d), respectively; and

19 (2) by inserting after subsection (a) the fol-
20 lowing:

21 “(b) MOBILE OFFSHORE DRILLING UNITS.—The
22 safety management system described in subsection (a) for
23 a mobile offshore drilling unit operating in waters subject
24 to the jurisdiction of the United States (including the ex-
25 clusive economic zone) shall include processes, procedures,

1 and policies related to the safe operation and maintenance
2 of the machinery and systems on board the vessel that
3 may affect the seaworthiness of the vessel in a worst-case
4 event.”.

5 **SEC. 611. SAFETY STANDARDS FOR MOBILE OFFSHORE**
6 **DRILLING UNITS.**

7 Section 3306 of title 46, United States Code, is
8 amended by adding at the end the following:

9 “(l) In prescribing regulations for mobile offshore
10 drilling units, the Secretary shall develop standards to ad-
11 dress a worst-case event on the vessel.”.

12 **SEC. 612. OPERATIONAL CONTROL OF MOBILE OFFSHORE**
13 **DRILLING UNITS.**

14 (a) **LICENSES FOR MASTERS OF MOBILE OFFSHORE**
15 **DRILLING UNITS.—**

16 (1) **IN GENERAL.—**Chapter 71 of title 46,
17 United States Code, is amended by redesignating
18 sections 7104 through 7115 as sections 7105
19 through 7116, respectively, and by inserting after
20 section 7103 the following:

21 **“§ 7104. Licenses for masters of mobile offshore drill-**
22 **ing units**

23 “A license as master of a mobile offshore drilling unit
24 may be issued only to an applicant who has been issued
25 a license as master under section 7101(c)(1) and has dem-

1 onstrated the knowledge, understanding, proficiency, and
 2 sea service for all industrial business or functions of a mo-
 3 bile offshore drilling unit.”.

4 (2) CONFORMING AMENDMENT.—Section 7109
 5 of such title, as so redesignated, is amended by
 6 striking “section 7106 or 7107” and inserting “sec-
 7 tion 7107 or 7108”.

8 (3) CLERICAL AMENDMENT.—The analysis at
 9 the beginning of such chapter is amended by strik-
 10 ing the items relating to sections 7104 through 7115
 11 and inserting the following:

“7104. Licenses for masters of mobile offshore drilling units.

“7105. Certificates for medical doctors and nurses.

“7106. Oaths.

“7107. Duration of licenses.

“7108. Duration of certificates of registry.

“7109. Termination of licenses and certificates of registry.

“7110. Review of criminal records.

“7111. Exhibiting licenses.

“7112. Oral examinations for licenses.

“7113. Licenses of masters or mates as pilots.

“7114. Exemption from draft.

“7115. Fees.

“7116. Merchant Mariner Medical Advisory Committee.”.

12 (b) REQUIREMENT FOR CERTIFICATE OF INSPEC-
 13 TION.—Section 8101(a)(2) of title 46, United States
 14 Code, is amended by inserting before the semicolon the
 15 following: “and shall at all times be under the command
 16 of a master licensed under section 7104”.

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall take effect 6 months after the date of
 19 enactment of this Act.

1 **SEC. 613. SINGLE-HULL TANKERS.**

2 (a) APPLICATION OF TANK VESSEL CONSTRUCTION
3 STANDARDS.—Section 3703a(b) of title 46, United States
4 Code, is amended by striking paragraph (3), and redesignig-
5 nating paragraphs (4) through (6) as paragraphs (3)
6 through (5), respectively.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) takes effect on January 1, 2011.

9 **SEC. 614. REPEAL OF RESPONSE PLAN WAIVER.**

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

12 (1) by striking “a tank vessel, nontank vessel,
13 offshore facility, or onshore facility” and inserting
14 “a nontank vessel”;

15 (2) by striking “tank vessel, nontank vessel, or
16 facility” and inserting “nontank vessel”; and

17 (3) by adding at the end the following: “A mo-
18 bile offshore drilling unit, as such term is defined in
19 section 1001 of the Oil Pollution Act of 1990 (33
20 U.S.C. 2701), is not eligible to operate without a re-
21 sponse plan approved under this section.”.

22 **SEC. 615. NATIONAL CONTINGENCY PLAN.**

23 (a) GUIDELINES FOR CONTAINMENT BOOMS.—Sec-
24 tion 311(d)(2) of the Federal Water Pollution Control Act
25 (33 U.S.C. 1321(d)(2)) is amended by adding at the end
26 the following:

1 “(N) Guidelines regarding the use of con-
2 tainment booms to contain a discharge of oil or
3 a hazardous substance, including identification
4 of quantities of containment booms likely to be
5 needed, available sources of containment booms,
6 and best practices for containment boom place-
7 ment, monitoring, and maintenance.”.

8 (b) SCHEDULE, CRITERIA, AND FEES.—Section
9 311(d) of the Federal Water Pollution Control Act (33
10 U.S.C. 1321(d)) is amended by adding at the end the fol-
11 lowing:

12 “(5) SCHEDULE FOR USE OF DISPERSANTS,
13 OTHER CHEMICALS, AND OTHER SPILL MITIGATING
14 DEVICES AND SUBSTANCES.—

15 “(A) RULEMAKING.—Not later than 2
16 years after the date of enactment of this para-
17 graph, the President, acting through the Ad-
18 ministrator, after providing notice and an op-
19 portunity for public comment, shall issue a re-
20 vised regulation for the development of the
21 schedule for the use of dispersants, other
22 chemicals, and other spill mitigating devices
23 and substances developed under paragraph
24 (2)(G) in a manner that is consistent with the
25 requirements of this paragraph and shall mod-

1 ify the existing schedule to take into account
2 the requirements of the revised regulation.

3 “(B) SCHEDULE LISTING REQUIRE-
4 MENTS.—In issuing the regulation under sub-
5 paragraph (A), the Administrator shall—

6 “(i) with respect to dispersants, other
7 chemicals, and other spill mitigating sub-
8 stances included or proposed to be included
9 on the schedule under paragraph (2)(G)—

10 “(I) establish minimum toxicity
11 and efficacy testing criteria, taking
12 into account the results of the study
13 carried out under subparagraph (D);

14 “(II) provide for testing or other
15 verification (independent from the in-
16 formation provided by an applicant
17 seeking the inclusion of such dispers-
18 ant, chemical, or substance on the
19 schedule) related to the toxicity and
20 effectiveness of such dispersant, chem-
21 ical, or substance;

22 “(III) establish a framework for
23 the application of any such dispersant,
24 chemical, or substance, including—

25 “(aa) application conditions;

1 “(bb) the quantity thresh-
2 olds for which approval by the
3 Administrator is required;

4 “(cc) the criteria to be used
5 to develop the appropriate max-
6 imum quantity of any such dis-
7 persant, chemical, or substance
8 that the Administrator deter-
9 mines may be used, both on a
10 daily and cumulative basis; and

11 “(dd) a ranking, by geo-
12 graphic area, of any such dis-
13 persant, chemical, or substance
14 based on a combination of its ef-
15 fectiveness for each type of oil
16 and its level of toxicity;

17 “(IV) establish a requirement
18 that the volume of oil or hazardous
19 substance discharged, and the volume
20 and location of any such dispersant,
21 chemical, or substance used, be meas-
22 ured and made publicly available, in-
23 cluding on the Internet;

24 “(V) require that an applicant
25 seeking the inclusion of a dispersant,

1 chemical, or substance on the schedule
2 shall assure that such applicant will
3 publicly disclose, upon a declaration of
4 a spill of national significance, the
5 constituent ingredients of such dis-
6 persant, chemical, or substance if
7 such dispersant, chemical, or sub-
8 stance will be used to respond to the
9 spill; and

10 “(VI) in addition to existing au-
11 thority, expressly provide a mecha-
12 nism for the delisting of any such dis-
13 persant, chemical, or substance that
14 the Administrator determines poses a
15 significant risk or impact to water
16 quality, aquatic life, the environment,
17 or any other factor the Administrator
18 determines appropriate;

19 “(ii) with respect to a dispersant,
20 other chemical, and other spill mitigating
21 substance not specifically identified on the
22 schedule, and prior to the use of such dis-
23 persant, chemical, or substance in accord-
24 ance with paragraph (2)(G)—

1 “(I) establish the minimum tox-
2 icity and efficacy levels for such dis-
3 persant, chemical, or substance;

4 “(II) require that, upon a dec-
5 laration of a spill of national signifi-
6 cance, the constituent ingredients of
7 such dispersant, chemical, or sub-
8 stance be publicly disclosed if such
9 dispersant, chemical, or substance will
10 be used to respond to the spill; and

11 “(III) require the provision of
12 such additional information as the Ad-
13 ministrator determines necessary; and

14 “(iii) with respect to other spill miti-
15 gating devices included or proposed to be
16 included on the schedule under paragraph
17 (2)(G)—

18 “(I) require the manufacturer of
19 such device to carry out a study of the
20 risks and effectiveness of the device
21 according to guidelines developed and
22 published by the Administrator; and

23 “(II) in addition to existing au-
24 thority, expressly provide a mecha-
25 nism for the delisting of any such de-

1 vice based on any information made
2 available to the Administrator that
3 demonstrates that such device poses a
4 significant risk or impact to water
5 quality, aquatic life, the environment,
6 or any other factor the Administrator
7 determines appropriate.

8 “(C) DELISTING.—In carrying out sub-
9 paragraphs (B)(i)(VI) and (B)(iii)(II), the Ad-
10 ministrator, after posting a notice in the Fed-
11 eral Register and providing an opportunity for
12 public comment, shall initiate a formal review
13 of the potential risks and impacts associated
14 with a dispersant, chemical, substance, or de-
15 vice prior to delisting the dispersant, chemical,
16 substance, or device.

17 “(D) STUDY.—

18 “(i) IN GENERAL.—Not later than 3
19 months after the date of enactment of this
20 paragraph, the Administrator shall initiate
21 a study of the potential risks and impacts
22 to water quality, aquatic life, the environ-
23 ment, or any other factor the Adminis-
24 trator determines appropriate, from the
25 use of dispersants, other chemicals, and

1 other spill-mitigating substances, if any,
2 that may be used to carry out the National
3 Contingency Plan, including an assessment
4 of—

5 “(I) acute and chronic impacts
6 resulting from short term and sus-
7 tained use on marine, coastal, estua-
8 rine, and freshwater environments;

9 “(II) risks and impacts to a rep-
10 resentative sample of biota from var-
11 ious ocean depths, including effects on
12 early life stages such as eggs and lar-
13 vae;

14 “(III) risks and impacts from
15 any byproducts created from the use
16 of such dispersants, chemicals, or sub-
17 stances; and

18 “(IV) efficacy on particular types
19 of oil from locations where such
20 dispersants, chemicals, or substances
21 may potentially be used.

22 “(ii) INFORMATION FROM MANUFAC-
23 TURERS.—

24 “(I) IN GENERAL.—In conjunc-
25 tion with the study authorized by

1 clause (i), the Administrator shall de-
2 termine the requirements for manu-
3 facturers of dispersants, chemicals, or
4 substances to evaluate the potential
5 risks and impacts to water quality,
6 the environment, human and aquatic
7 health, or any other factor the Admin-
8 istrator determines appropriate, in-
9 cluding acute and chronic risks, asso-
10 ciated with the use of the dispersants,
11 chemicals, or substances and any by-
12 products generated by such use and to
13 provide the details of such evaluation
14 as a condition for listing on the sched-
15 ular, or approving for use under this
16 section, according to guidelines devel-
17 oped and published by the Adminis-
18 trator.

19 “(II) MINIMUM REQUIREMENTS
20 FOR EVALUATION.—In carrying out
21 this clause, the Administrator shall re-
22 quire a manufacturer to include—

23 “(aa) information that de-
24 scribes the potential acute health
25 impacts on humans who are in-

1 involved in application activities
2 and who may reasonably be ex-
3 posed during such activities;

4 “(bb) information on the oils
5 and locations where such
6 dispersants, chemicals, or sub-
7 stances may potentially be used;
8 and

9 “(cc) if appropriate, an as-
10 sessment of impacts from subsea
11 use of the dispersant, chemical,
12 or substance, including the po-
13 tential long-term effects of such
14 use on water quality, aquatic life,
15 and the environment.

16 “(E) PERIODIC REVISIONS.—

17 “(i) IN GENERAL.—Not later than 5
18 years after the date of the issuance of the
19 regulation under this paragraph, and at
20 least once every 5 years thereafter, the Ad-
21 ministrator shall review the schedule for
22 the use of dispersants, other chemicals,
23 and other spill mitigating devices and sub-
24 stances that may be used to carry out the
25 National Contingency Plan and update or

1 revise the schedule, as necessary, to ensure
2 the protection of water quality, aquatic
3 life, the environment, and any other factor
4 the Administrator determines appropriate.

5 “(ii) EFFECTIVENESS.—The Adminis-
6 trator shall ensure, to the maximum extent
7 practicable, that each update or revision to
8 the schedule increases the effectiveness and
9 decreases the toxicity values necessary for
10 listing a dispersant, other chemical, or
11 other spill mitigating device or substance
12 on the schedule.

13 “(F) APPROVAL OF USE AND APPLICATION
14 OF DISPERSANTS.—

15 “(i) IN GENERAL.—In issuing the reg-
16 ulation under subparagraph (A), the Ad-
17 ministrator shall require the approval of
18 the Federal On-Scene Coordinator, in co-
19 ordination with the Administrator, for all
20 uses of a dispersant, other chemical, or
21 other spill mitigating substance in any re-
22 moval action, including—

23 “(I) any such dispersant, chem-
24 ical, or substance that is included on

1 the schedule developed pursuant to
2 this subsection; or

3 “(II) any dispersant, chemical, or
4 other substance that is included as
5 part of an approved area contingency
6 plan or response plan developed under
7 this section.

8 “(ii) REPEAL.—Any part of section
9 300.910 of title 40, Code of Federal Regu-
10 lations, that is inconsistent with this para-
11 graph is hereby repealed.

12 “(G) TOXICITY DEFINITION.—In this sec-
13 tion, the term ‘toxicity’ is used in reference to
14 the potential impacts of a dispersant, sub-
15 stance, or device on water quality, organismal
16 health, or the environment.

17 “(6) REVIEW OF AND DEVELOPMENT OF CRI-
18 TERIA FOR EVALUATING RESPONSE PLANS.—

19 “(A) REVIEW.—Not later than 6 months
20 after the date of enactment of this paragraph,
21 the President shall review the procedures and
22 standards developed under paragraph (2)(J) to
23 determine their sufficiency in ceasing and re-
24 moving a worst case discharge of oil or haz-
25 ardous substances, and for mitigating or pre-

1 venting a substantial threat of such a dis-
2 charge.

3 “(B) RULEMAKING.—Not later than 2
4 years after the date of enactment of this para-
5 graph, the President, after providing notice and
6 an opportunity for public comment, shall issue
7 a final rule to—

8 “(i) revise the procedures and stand-
9 ards for ceasing and removing a worst case
10 discharge of oil or hazardous substances,
11 and for mitigating or preventing a substan-
12 tial threat of such a discharge; and

13 “(ii) develop a metric for the periodic
14 evaluation and, as necessary, revision, of
15 the National Contingency Plan, Area Con-
16 tingency Plans, and tank vessel, nontank
17 vessel, and facility response plans con-
18 sistent with the procedures and standards
19 developed pursuant to this paragraph.

20 “(C) USE OF WORST-CASE SCENARIO DIS-
21 CHARGE ESTIMATES.—In carrying out the ac-
22 tivities required under this paragraph, the
23 President shall use the worst-case scenario dis-
24 charge estimates published by the Secretary
25 under section 208(a) of the Implementing the

1 Recommendations of the BP Oil Spill Commis-
2 sion Act of 2011 as a basis for assessing the
3 sufficiency of the procedures and standards de-
4 veloped under paragraph (2)(J).

5 “(7) FEES.—

6 “(A) GENERAL AUTHORITY AND FEES.—

7 Subject to subparagraph (B), the Administrator
8 shall establish a schedule of fees to be collected
9 from the manufacturer of a dispersant, chem-
10 ical, or spill mitigating substance or device to
11 offset the costs of the Administrator associated
12 with evaluating the use of the dispersant, chem-
13 ical, substance, or device in accordance with
14 this subsection and listing the dispersant, chem-
15 ical, substance, or device on the schedule under
16 paragraph (2)(G).

17 “(B) LIMITATION ON COLLECTION.—No

18 fee may be collected under this subsection un-
19 less the expenditure of the fee to pay the costs
20 of activities and services for which the fee is im-
21 posed is provided for in advance in an appro-
22 priations Act.

23 “(C) FEES CREDITED AS OFFSETTING

24 COLLECTIONS.—

1 “(i) IN GENERAL.—Notwithstanding
2 section 3302 of title 31, United States
3 Code, any fee authorized to be collected
4 under this paragraph shall—

5 “(I) be credited as offsetting col-
6 lections to the account that finances
7 the activities and services for which
8 the fee is imposed;

9 “(II) be available for expenditure
10 only to pay the costs of activities and
11 services for which the fee is imposed,
12 including all costs associated with col-
13 lecting such fees; and

14 “(III) remain available until ex-
15 pended.

16 “(ii) CONTINUING APPROPRIATIONS.—
17 The Administrator may continue to assess,
18 collect, and spend fees established under
19 this section during any period in which the
20 funding for the Environmental Protection
21 Agency is provided under an Act providing
22 continuing appropriations in lieu of the
23 Administration’s regular appropriations.

24 “(iii) ADJUSTMENTS.—The Adminis-
25 trator shall adjust the fees established by

1 subparagraph (A) periodically to ensure
2 that each of the fees required by subpara-
3 graph (A) is reasonably related to the Ad-
4 ministration’s costs, as determined by the
5 Administrator, of performing the activity
6 for which the fee is imposed.”.

7 (c) INCLUSION OF CONTAINMENT BOOMS IN AREA
8 CONTINGENCY PLANS.—Section 311(j)(4)(C)(iv) of such
9 Act (33 U.S.C. 1321(j)(4)(C)(iv)) is amended by striking
10 “(including firefighting equipment)” and inserting “(in-
11 cluding firefighting equipment and containment booms)”.

12 **SEC. 616. TRACKING DATABASE.**

13 Section 311(b) of the Federal Water Pollution Con-
14 trol Act (33 U.S.C. 1321(b)) is amended by adding at the
15 end the following:

16 “(13) TRACKING DATABASE.—

17 “(A) IN GENERAL.—The President shall
18 create a database to track all discharges of oil
19 or hazardous substances—

20 “(i) into the waters of the United
21 States, onto adjoining shorelines, or into or
22 upon the waters of the contiguous zone;

23 “(ii) in connection with activities
24 under the Outer Continental Shelf Lands
25 Act (43 U.S.C. 1331 et seq.) or the Deep-

1 water Port Act of 1974 (33 U.S.C. 1501
2 et seq.); or

3 “(iii) which may affect natural re-
4 sources belonging to, appertaining to, or
5 under the exclusive management authority
6 of the United States (including resources
7 under the Fishery Conservation and Man-
8 agement Act of 1976 (16 U.S.C. 1801 et
9 seq.)).

10 “(B) REQUIREMENTS.—The database
11 shall—

12 “(i) include—

13 “(I) the name of the vessel or fa-
14 cility;

15 “(II) the name of the owner, op-
16 erator, or person in charge of the ves-
17 sel or facility;

18 “(III) the date of the discharge;

19 “(IV) the volume of the dis-
20 charge;

21 “(V) the location of the dis-
22 charge, including an identification of
23 any receiving waters that are or could
24 be affected by the discharge;

1 “(VI) the type, volume, and loca-
2 tion of the use of any dispersant,
3 other chemical, or other spill miti-
4 gating substance used in any removal
5 action;

6 “(VII) a record of any deter-
7 mination of a violation of this section
8 or liability under section 1002 of the
9 Oil Pollution Act of 1990 (33 U.S.C.
10 2702);

11 “(VIII) a record of any enforce-
12 ment action taken against the owner,
13 operator, or person in charge; and

14 “(IX) any additional information
15 that the President determines nec-
16 essary;

17 “(ii) use data provided by the Envi-
18 ronmental Protection Agency, the Coast
19 Guard, and other appropriate Federal
20 agencies;

21 “(iii) use data protocols developed and
22 managed by the Environmental Protection
23 Agency; and

24 “(iv) be publicly accessible, including
25 by electronic means.”.

1 **SEC. 617. EVALUATION AND APPROVAL OF RESPONSE**
2 **PLANS; MAXIMUM PENALTIES.**

3 (a) AGENCY REVIEW OF RESPONSE PLANS.—

4 (1) LEAD FEDERAL AGENCY FOR REVIEW OF
5 RESPONSE PLANS.—Section 311(j)(5)(A) of the Fed-
6 eral Water Pollution Control Act (33 U.S.C.
7 1321(j)(5)(A)) is amended by adding at the end the
8 following:

9 “(iii) In issuing the regulations under this para-
10 graph, the President shall ensure that—

11 “(I) the owner, operator, or person in
12 charge of a tank vessel, nontank vessel, or off-
13 shore facility described in subparagraph (C) will
14 not be considered to have complied with this
15 paragraph until the owner, operator, or person
16 in charge submits a plan under clause (i) or
17 (ii), as appropriate, to the Secretary of the de-
18 partment in which the Coast Guard is oper-
19 ating, the Secretary of the Interior, or the Ad-
20 ministrator, with respect to such offshore facili-
21 ties as the President may designate, and the
22 Secretary or Administrator, as appropriate, de-
23 termines and notifies the owner, operator, or
24 person in charge that the plan, if implemented,
25 will provide an adequate response to a worst

1 case discharge of oil or a hazardous substance
2 or a substantial threat of such a discharge; and

3 “(II) the owner, operator, or person in
4 charge of an onshore facility described in sub-
5 paragraph (C)(iv) will not be considered to have
6 complied with this paragraph until the owner,
7 operator, or person in charge submits a plan
8 under clause (i) either to the Secretary of
9 Transportation, with respect to transportation-
10 related onshore facilities, or the Administrator,
11 with respect to all other onshore facilities, and
12 the Secretary or Administrator, as appropriate,
13 determines and notifies the owner, operator, or
14 person in charge that the plan, if implemented,
15 will provide an adequate response to a worst-
16 case discharge of oil or a hazardous substance
17 or a substantial threat of such a discharge.

18 “(iv)(I) The Secretary of the department in
19 which the Coast Guard is operating, the Secretary of
20 the Interior, the Secretary of Transportation, or the
21 Administrator, as appropriate, shall require that a
22 plan submitted to the Secretary or Administrator for
23 a vessel or facility under clause (iii)(I) or (iii)(II) by
24 an owner, operator, or person in charge—

1 “(aa) contain a probabilistic risk analysis
2 for all critical engineered systems of the vessel
3 or facility; and

4 “(bb) adequately address all risks identi-
5 fied in the risk analysis.

6 “(II) The Secretary or Administrator, as appro-
7 priate, shall require that a risk analysis developed
8 under subclause (I) include, at a minimum, the fol-
9 lowing:

10 “(aa) An analysis of human factors risks,
11 including both organizational and management
12 failure risks.

13 “(bb) An analysis of technical failure risks,
14 including both component technologies and inte-
15 grated systems risks.

16 “(cc) An analysis of interactions between
17 humans and critical engineered systems.

18 “(dd) Quantification of the likelihood of
19 modes of failure and potential consequences.

20 “(ee) A description of methods for reduc-
21 ing known risks.

22 “(III) The Secretary or Administrator, as ap-
23 propriate, shall require an owner, operator, or per-
24 son in charge that develops a risk analysis under

1 subclause (I) to make the risk analysis available to
2 the public.”.

3 (2) REVIEW AND APPROVAL OF RESPONSE
4 PLANS.—Section 311(j)(5)(E) of such Act (33
5 U.S.C. 1321(j)(5)(E)) is amended to read as follows:

6 “(E) With respect to any response plan sub-
7 mitted under this paragraph for an onshore facility
8 that, because of its location, could reasonably be ex-
9 pected to cause significant and substantial harm to
10 the environment by discharging into or on the navi-
11 gable waters or adjoining shorelines or the exclusive
12 economic zone, and with respect to each response
13 plan submitted under this paragraph for a tank ves-
14 sel, nontank vessel, or offshore facility, the President
15 shall—

16 “(i) promptly review the response plan;

17 “(ii) verify that the response plan complies
18 with subparagraph (A)(iv), relating to risk anal-
19 yses;

20 “(iii) with respect to a plan for an offshore
21 or onshore facility or a tank vessel that carries
22 liquefied natural gas, provide an opportunity for
23 public notice and comment on the response
24 plan;

1 “(iv) taking into consideration any public
2 comments received and other appropriate fac-
3 tors, as determined by the President, require
4 revisions to the response plan;

5 “(v) approve, approve with revisions, or
6 disapprove the response plan;

7 “(vi) review the response plan periodically
8 thereafter, and if applicable requirements are
9 not met, acting through the head of the appro-
10 priate Federal department or agency—

11 “(I) issue administrative orders di-
12 recting the owner, operator, or person in
13 charge to comply with the response plan or
14 any regulation issued under this section; or

15 “(II) assess civil penalties or conduct
16 other appropriate enforcement actions in
17 accordance with subsections (b)(6), (b)(7),
18 and (b)(8) for failure to develop, submit,
19 receive approval of, adhere to, or maintain
20 the capability to implement the response
21 plan, or failure to comply with any other
22 requirement of this section;

23 “(vii) acting through the head of the ap-
24 propriate Federal department or agency, con-
25 duct, at a minimum, biennial inspections of the

1 tank vessel, nontank vessel, or facility to ensure
2 compliance with the response plan or identify
3 deficiencies in such plan;

4 “(viii) acting through the head of the ap-
5 propriate Federal department or agency, make
6 the response plan available to the public, includ-
7 ing on the Internet; and

8 “(ix) in the case of a plan for a nontank
9 vessel, consider any applicable State-mandated
10 response plan in effect on the date of enactment
11 of the Coast Guard and Maritime Transpor-
12 tation Act of 2004 and ensure consistency to
13 the extent practicable.”.

14 (3) BIENNIAL REPORT.—Section 311(j)(5) of
15 such Act (33 U.S.C. 1321(j)(5)) is amended by add-
16 ing at the end the following:

17 “(J) Not later than 2 years after the date of
18 enactment of this subparagraph, and biennially
19 thereafter, the President, acting through the Admin-
20 istrator, the Secretary of the department in which
21 the Coast Guard is operating, and the Secretary of
22 Transportation, shall submit to Congress a report
23 containing the following information for each owner,
24 operator, or person in charge that submitted a re-

1 sponse plan for a tank vessel, nontank vessel, or fa-
2 cility under this paragraph:

3 “(i) The number of response plans ap-
4 proved, disapproved, or approved with revisions
5 under subparagraph (E) annually for tank ves-
6 sels, nontank vessels, and facilities of the
7 owner, operator, or person in charge.

8 “(ii) The number of inspections conducted
9 under subparagraph (E) annually for tank ves-
10 sels, nontank vessels, and facilities of the
11 owner, operator, or person in charge.

12 “(iii) A summary of each administrative or
13 enforcement action concluded with respect each
14 tank vessel, nontank vessel, and facility of the
15 owner, operator, or person in charge, including
16 a description of the violation, the date of viola-
17 tion, the amount of each penalty proposed, and
18 the final assessment of each penalty and an ex-
19 planation for any reduction in a penalty.”.

20 (4) ADMINISTRATIVE PROVISIONS FOR FACILI-
21 TIES.—Section 311(m)(2) of such Act (33 U.S.C.
22 1321(m)(2)) is amended in each of subparagraphs
23 (A) and (B) by inserting “, the Secretary of Trans-
24 portation,” before “or the Secretary of the depart-
25 ment in which the Coast Guard is operating”.

1 (b) PENALTIES.—

2 (1) ADMINISTRATIVE PENALTIES.—

3 (A) AUTHORITY OF SECRETARY OF TRANS-
4 PORTATION TO ASSESS PENALTIES.—Section
5 311(b)(6)(A) of such Act (33 U.S.C.
6 1321(b)(6)(A)) is amended by inserting “, the
7 Secretary of Transportation,” before “or the
8 Administrator”.

9 (B) ADMINISTRATIVE PENALTIES FOR
10 FAILURE TO PROVIDE NOTICE.—Section
11 311(b)(6)(A) of such Act (33 U.S.C.
12 1321(b)(6)(A)) is further amended—

13 (i) in clause (i) by striking “para-
14 graph (3), or” and inserting “paragraph
15 (3),”;

16 (ii) in clause (ii) by striking “any reg-
17 ulation issued under subsection (j)” and
18 inserting “any order or action required by
19 the President under subsection (c) or (e)
20 or any regulation issued under subsection
21 (d) or (j)”;

22 (iii) by redesignating clause (ii) as
23 clause (iii);

24 (iv) by inserting after clause (i) the
25 following:

1 “(ii) who fails to provide notice to the
2 appropriate Federal agency pursuant to
3 paragraph (5), or”]; and

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

5 “Whenever the President delegates the au-
6 thority to issue regulations under sub-
7 section (j), the head of the agency who
8 issues regulations pursuant to that author-
9 ity shall have the authority to assess a civil
10 penalty in accordance with this section for
11 violations of such regulations.”.

12 (C) PENALTY AMOUNTS.—Section
13 311(b)(6)(B) of such Act (33 U.S.C.
14 1321(b)(6)(B)) is amended—

15 (i) in clause (i)—

16 (I) by striking “\$10,000” and in-
17 serting “\$100,000”; and

18 (II) by striking “\$25,000” and
19 inserting “\$250,000”; and

20 (ii) in clause (ii)—

21 (I) by striking “\$10,000” and in-
22 serting “\$100,000”; and

23 (II) by striking “\$125,000” and
24 inserting “\$1,000,000”.

1 (2) CIVIL PENALTIES.—Section 311(b)(7) of
2 such Act (33 U.S.C. 1321(b)(7)) is amended—

3 (A) in subparagraph (A)—

4 (i) by striking “\$25,000” and insert-
5 ing “\$100,000”; and

6 (ii) by striking “\$1,000” and insert-
7 ing “\$2,500”;

8 (B) in subparagraph (B)—

9 (i) by striking “described in subpara-
10 graph (A)”;

11 (ii) in clause (i) by striking “carry out
12 removal of the discharge under an order of
13 the President pursuant to subsection (c);
14 or” and inserting “comply with any order
15 or action required by the President pursu-
16 ant to subsection (c),”;

17 (iii) in clause (ii) by striking
18 “(1)(B)”;

19 (iv) by redesignating clause (ii) as
20 clause (iii);

21 (v) by inserting after clause (i) the
22 following:

23 “(ii) fails to provide notice to the ap-
24 propriate Federal agency pursuant to para-
25 graph (5), or”; and

1 (vi) by striking “\$25,000” and insert-
2 ing “\$100,000”;

3 (C) in subparagraph (C)—

4 (i) by striking “(j)” and inserting “(d)
5 or (j)”;

6 (ii) by striking “\$25,000” and insert-
7 ing “\$100,000”; and

8 (iii) by adding at the end the fol-
9 lowing: “Whenever the President delegates
10 the authority to issue regulations under
11 subsection (j), the head of the agency who
12 issues regulations pursuant to that author-
13 ity shall have the authority to seek injunc-
14 tive relief or assess a civil penalty in ac-
15 cordance with this section for violations of
16 such regulations and the authority to refer
17 the matter to the Attorney General for ac-
18 tion under subparagraph (E).”;

19 (D) in subparagraph (D)—

20 (i) by striking “\$100,000” and insert-
21 ing “\$300,000”; and

22 (ii) by striking “\$3,000” and insert-
23 ing “\$7,500”; and

24 (E) in subparagraph (E) by adding at the
25 end the following: “The court may award ap-

1 appropriate relief, including a temporary or per-
2 manent injunction, civil penalties, and punitive
3 damages.”.

4 (3) APPLICABILITY.—The amendments made
5 by this subsection apply to—

6 (A) any claim arising from an event occur-
7 ring after the date of enactment of this Act;
8 and

9 (B) any claim arising from an event occur-
10 ring before such date of enactment, if the claim
11 is brought within the limitations period applica-
12 ble to the claim.

13 (c) CLARIFICATION OF FEDERAL REMOVAL AUTHOR-
14 ITY.—Section 311(c)(1)(B)(ii) of such Act (33 U.S.C.
15 1321(c)(1)(B)(ii)) is amended by striking “direct” and in-
16 serting “direct, including through the use of an adminis-
17 trative order,”.

18 **SEC. 618. OIL AND HAZARDOUS SUBSTANCE CLEANUP**
19 **TECHNOLOGIES.**

20 Section 311(j) of the Federal Water Pollution Control
21 Act (33 U.S.C. 1321(j)) is amended by adding at the end
22 the following:

23 “(9) OIL AND HAZARDOUS SUBSTANCE CLEAN-
24 UP TECHNOLOGIES.—The President, acting through

1 the Secretary of the department in which the Coast
2 Guard is operating, shall—

3 “(A) in coordination with the Secretary of
4 the Interior and the heads of other appropriate
5 Federal agencies, establish a process for—

6 “(i) quickly and effectively soliciting,
7 assessing, and deploying offshore oil and
8 hazardous substance cleanup technologies
9 in the event of a discharge or substantial
10 threat of a discharge of oil or a hazardous
11 substance; and

12 “(ii) effectively coordinating with
13 other appropriate agencies, industry, aca-
14 demia, small businesses, and others to en-
15 sure the best technology available is imple-
16 mented in the event of such a discharge or
17 threat; and

18 “(B) in coordination with the Secretary of
19 the Interior and the heads of other appropriate
20 Federal agencies, maintain a database on best
21 available oil and hazardous substance cleanup
22 technologies in the event of a discharge or sub-
23 stantial threat of a discharge of oil or a haz-
24 ardous substance.”.

1 **SEC. 619. IMPLEMENTATION OF OIL SPILL PREVENTION**
2 **AND RESPONSE AUTHORITIES.**

3 Section 311(l) of the Federal Water Pollution Control
4 Act (33 U.S.C. 1321(l)) is amended—

5 (1) by striking “(l) The President” and insert-
6 ing the following:

7 “(1) DELEGATION AND IMPLEMENTATION.—

8 “(1) DELEGATION.—The President”; and

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

10 “(2) ENVIRONMENTAL PROTECTION AGENCY.—

11 “(A) IN GENERAL.—The President shall
12 delegate the responsibilities under subparagraph
13 (B) to the Administrator.

14 “(B) RESPONSIBILITIES.—With respect to
15 onshore facilities (other than transportation-re-
16 lated facilities) and such offshore facilities as
17 the President may designate, the Administrator
18 shall ensure that Environmental Protection
19 Agency personnel develop and maintain oper-
20 ational capability—

21 “(i) for effective inspection, moni-
22 toring, prevention, preparedness, and re-
23 sponse authorities related to the discharge
24 or substantial threat of a discharge of oil
25 or a hazardous substance;

1 “(ii) to protect water quality and the
2 environment from impacts of a discharge
3 or substantial threat of a discharge of oil
4 or a hazardous substance; and

5 “(iii) to review and approve of, dis-
6 approve of, or require revisions (if nec-
7 essary) to facility response plans and to
8 carry out all other responsibilities under
9 subsection (j)(5)(E).

10 “(3) COAST GUARD.—

11 “(A) IN GENERAL.—The President shall
12 delegate the responsibilities under subparagraph
13 (B) to the Secretary of the department in which
14 the Coast Guard is operating.

15 “(B) RESPONSIBILITIES.—The Secretary
16 shall ensure that Coast Guard personnel de-
17 velop and maintain operational capability—

18 “(i) to establish and enforce regula-
19 tions and standards for procedures, meth-
20 ods, equipment, and other requirements to
21 prevent and to contain a discharge of oil or
22 a hazardous substance from a tank vessel
23 or nontank vessel or such an offshore facil-
24 ity as the President may designate;

1 “(ii) to establish and enforce regula-
2 tions, and to carry out all other respon-
3 sibilities, under subsection (j)(5) with re-
4 spect to such vessels and offshore facilities
5 as the President may designate; and

6 “(iii) to protect the environment and
7 natural resources from impacts of a dis-
8 charge or substantial threat of a discharge
9 of oil or a hazardous substance from such
10 vessels and offshore facilities as the Presi-
11 dent may designate.

12 “(C) ROLE AS FIRST RESPONDER.—

13 “(i) IN GENERAL.—The responsibil-
14 ities delegated to the Secretary under sub-
15 paragraph (B) shall be sufficient to allow
16 the Coast Guard to act as a first responder
17 to a discharge or substantial threat of a
18 discharge of oil or a hazardous substance
19 from a tank vessel, nontank vessel, or off-
20 shore facility.

21 “(ii) CAPABILITIES.—The President
22 shall ensure that the Coast Guard has suf-
23 ficient personnel and resources to act as a
24 first responder as described in clause (i),
25 including the resources necessary for on-

1 going training of personnel, acquisition of
2 equipment (including containment booms,
3 dispersants, and skimmers), and
4 prepositioning of equipment.

5 “(D) CONTRACTS.—The Secretary may
6 enter into contracts with private and nonprofit
7 organizations for personnel and equipment in
8 carrying out the responsibilities delegated to the
9 Secretary under subparagraph (B).

10 “(4) DEPARTMENT OF TRANSPORTATION.—

11 “(A) IN GENERAL.—The President shall
12 delegate the responsibilities under subparagraph
13 (B) to the Secretary of Transportation.

14 “(B) RESPONSIBILITIES.—The Secretary
15 of Transportation shall—

16 “(i) establish and enforce regulations
17 and standards for procedures, methods,
18 equipment, and other requirements to pre-
19 vent and to contain discharges of oil and
20 hazardous substances from transportation-
21 related onshore facilities;

22 “(ii) have the authority to review and
23 approve of, disapprove of, or require revi-
24 sions (if necessary) to transportation-re-
25 lated onshore facility response plans and to

1 carry out all other responsibilities under
2 subsection (j)(5)(E); and

3 “(iii) ensure that Department of
4 Transportation personnel develop and
5 maintain operational capability—

6 “(I) for effective inspection, mon-
7 itoring, prevention, preparedness, and
8 response authorities related to the dis-
9 charge or substantial threat of a dis-
10 charge of oil or a hazardous substance
11 from a transportation-related onshore
12 facility; and

13 “(II) to protect the environment
14 and natural resources from the im-
15 pacts of a discharge or substantial
16 threat of a discharge of oil or a haz-
17 ardous substance from a transpor-
18 tation-related onshore facility.

19 “(5) DEPARTMENT OF THE INTERIOR.—

20 “(A) IN GENERAL.—The President shall
21 delegate the responsibilities under subparagraph
22 (B) to the Secretary of the Interior.

23 “(B) RESPONSIBILITIES.—The Secretary
24 of the Interior shall—

1 “(i) establish and enforce regulations
2 and standards for procedures, methods,
3 equipment, and other requirements to pre-
4 vent and to contain discharges of oil and
5 hazardous substances from such offshore
6 facilities as the President may designate;

7 “(ii) establish and enforce regulations
8 to carry out all other responsibilities under
9 subsection (j)(5) for such offshore facilities
10 as the President may designate;

11 “(iii) have the authority to review and
12 approve of, disapprove of, or require revi-
13 sions (if necessary) to offshore facility re-
14 sponse plans under subsection (j)(5) for
15 such offshore facilities as the President
16 may designate; and

17 “(iv) ensure that Department of the
18 Interior personnel develop and maintain
19 operational capability for effective inspec-
20 tion, monitoring, prevention, and prepared-
21 ness authorities related to the discharge or
22 a substantial threat of a discharge of oil or
23 hazardous material from such offshore fa-
24 cilities as the President may designate.”.

1 **SEC. 620. IMPACTS TO INDIAN TRIBES AND PUBLIC SERV-**
2 **ICE DAMAGES.**

3 (a) IN GENERAL.—Section 1002(b)(2) of the Oil Pol-
4 lution Act of 1990 (33 U.S.C. 2702(b)(2)) is amended—

5 (1) in subparagraph (D) by striking “or a polit-
6 ical subdivision thereof” and inserting “a political
7 subdivision of a State, or an Indian tribe”; and

8 (2) in subparagraph (F) by striking “by a
9 State” and all that follows before the period and in-
10 sserting “the United States, a State, a political sub-
11 division of a State, or an Indian tribe”.

12 (b) APPLICABILITY.—The amendments made by this
13 section apply to—

14 (1) any claim arising from an event occurring
15 after the date of enactment of this Act; and

16 (2) any claim arising from an event occurring
17 before such date of enactment, if the claim is
18 brought within the limitations period applicable to
19 the claim.

20 **SEC. 621. FEDERAL ENFORCEMENT ACTIONS.**

21 Section 309(g)(6)(A) of the Federal Water Pollution
22 Control Act (33 U.S.C. 1319(g)(6)(A)) is amended by
23 striking “or section 311(b)”.

1 **SEC. 622. TIME REQUIRED BEFORE ELECTING TO PROCEED**
2 **WITH JUDICIAL CLAIM OR AGAINST THE**
3 **FUND.**

4 Paragraph (2) of section 1013(c) of the Oil Pollution
5 Act of 1990 (33 U.S.C. 2713(c)) is amended by striking
6 “90” and inserting “45”.

7 **SEC. 623. AUTHORIZED LEVEL OF COAST GUARD PER-**
8 **SONNEL.**

9 The authorized end-of-year strength for active duty
10 personnel of the Coast Guard for fiscal year 2011 is here-
11 by increased by 300 personnel, above any other level au-
12 thorized by law, for implementing the activities of the
13 Coast Guard under this title, including the amendments
14 made by this title.

15 **SEC. 624. CLARIFICATION OF MEMORANDUMS OF UNDER-**
16 **STANDING.**

17 Not later than September 30, 2011, the President
18 (acting through the head of the appropriate Federal de-
19 partment or agency) shall implement or revise, as appro-
20 priate, memorandums of understanding to clarify the roles
21 and jurisdictional responsibilities of the Environmental
22 Protection Agency, the Coast Guard, the Department of
23 the Interior, the Department of Transportation, and other
24 Federal agencies relating to the prevention of oil dis-
25 charges from tank vessels, nontank vessels, and facilities
26 subject to the Oil Pollution Act of 1990.

1 **SEC. 625. BUILD AMERICA REQUIREMENT FOR OFFSHORE**
2 **FACILITIES.**

3 (a) IN GENERAL.—Title VI of the Oil Pollution Act
4 of 1990 (33 U.S.C. 2751 et seq.) is amended by adding
5 at the end the following:

6 **“SEC. 6005. BUILD AMERICA REQUIREMENT FOR OFFSHORE**
7 **FACILITIES.**

8 “(a) BUILD AMERICA REQUIREMENT.—Except as
9 provided by subsection (b), a person may not use an off-
10 shore facility to engage in support of exploration, develop-
11 ment, or production of oil or natural gas in, on, above,
12 or below the exclusive economic zone unless the facility
13 was built in the United States, including construction of
14 any major component of the hull or superstructure of the
15 facility.

16 “(b) WAIVER AUTHORITY.—A person seeking to
17 charter an offshore facility in the exclusive economic zone
18 may seek a waiver of subsection (a). The Secretary may
19 waive subsection (a) if the Secretary, in consultation with
20 the Secretary of the Interior and the Secretary of Trans-
21 portation, finds that—

22 “(1) the offshore facility was built in a foreign
23 country and is under contract, on the date of enact-
24 ment of this section, in support of exploration, devel-
25 opment, or production of oil or natural gas in, on,
26 above, or below the exclusive economic zone;

1 “(2) an offshore facility built in the United
2 States is not available within a reasonable period of
3 time, as defined in subsection (e), or of sufficient
4 quality to perform drilling operations required under
5 a contract; or

6 “(3) an emergency requires the use of an off-
7 shore facility built in a foreign country.

8 “(c) WRITTEN JUSTIFICATION AND PUBLIC NOTICE
9 OF NONAVAILABILITY WAIVER.—When issuing a waiver
10 based on a determination under subsection (b)(2), the Sec-
11 retary shall issue a detailed written justification as to why
12 the waiver meets the requirement of such subsection. The
13 Secretary shall publish the justification in the Federal
14 Register and provide the public with 45 days for notice
15 and comment.

16 “(d) FINAL DECISION.—The Secretary shall approve
17 or deny any waiver request submitted under subsection (b)
18 not later than 90 days after the date of receipt of the re-
19 quest.

20 “(e) REASONABLE PERIOD OF TIME DEFINED.—For
21 purposes of subsection (b)(2), the term ‘reasonable period
22 of time’ means the time needed for a person seeking to
23 charter an offshore facility in the exclusive economic zone
24 to meet the requirements in the primary term of the per-
25 son’s lease.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 contained in section 2 of such Act is amended by inserting
3 after the item relating to section 6004 the following:

“Sec. 6005. Build America requirement for offshore facilities.”.

4 **SEC. 626. OIL SPILL RESPONSE VESSEL DATABASE.**

5 (a) REQUIREMENT.—Not later than 90 days after the
6 date of enactment of this Act, the Commandant of the
7 Coast Guard shall complete an inventory of all vessels op-
8 erating in the waters of the United States that are capable
9 of meeting oil spill response needs designated in the Na-
10 tional Contingency Plan authorized by section 311(d) of
11 the Federal Water Pollution Control Act (33 U.S.C.
12 1321(d)).

13 (b) CATEGORIZATION.—The inventory required under
14 subsection (a) shall categorize such vessels by capabilities,
15 type, function, and location.

16 (c) MAINTENANCE OF DATABASE.—The Com-
17 mandant shall maintain a database containing the results
18 of the inventory required under subsection (a) and update
19 the information in the database on no less than a quar-
20 terly basis.

21 (d) AVAILABILITY.—The Commandant may make in-
22 formation regarding the location and capabilities of oil
23 spill response vessels available to a Federal On-Scene Co-
24 ordinator designated under section 311 of such Act (33

1 U.S.C. 1321) to assist in the response to an oil spill or
2 other incident in the waters of the United States.

3 **SEC. 627. OFFSHORE SENSING AND MONITORING SYSTEMS.**

4 (a) REQUIREMENT.—Subtitle A of title IV of the Oil
5 Pollution Act of 1990 is amended by adding at the end
6 the following new section:

7 **“SEC. 4119. OFFSHORE SENSING AND MONITORING SYS-**
8 **TEMS.**

9 “(a) IN GENERAL.—The equipment required to be
10 available under section 311(j)(5)(D)(iii) of the Federal
11 Water Pollution Control Act for facilities listed in section
12 311(j)(5)(C)(iii) of such Act and located in more than 500
13 feet of water includes sensing and monitoring systems that
14 meet the requirements of this section.

15 “(b) SYSTEMS REQUIREMENTS.—Sensing and moni-
16 toring systems required under subsection (a) shall—

17 “(1) use an integrated, modular, expandable,
18 multi-sensor, open-architecture design and tech-
19 nology with interoperable capability;

20 “(2) be capable of—

21 “(A) operating for at least 25 years;

22 “(B) real-time physical, biological, geologi-
23 cal, and environmental monitoring;

24 “(C) providing alerts in the event of anom-
25 alous circumstances;

1 “(D) providing docking bases to accommo-
2 date spatial sensors for remote inspection and
3 monitoring; and

4 “(E) collecting chemical boundary condi-
5 tion data for drift and flow modeling; and

6 “(3) include—

7 “(A) an uninterruptible power source;

8 “(B) a spatial sensor;

9 “(C) secure Internet access to real-time
10 physical, biological, geological, and environ-
11 mental monitoring data gathered by the system
12 sensors; and

13 “(D) a process by which such observation
14 data and information will be made available to
15 Federal Regulators and to the system estab-
16 lished under section 12304 of Public Law 111–
17 11 (33 U.S.C. 3603).”.

18 (b) REQUEST FOR INFORMATION.—Within 60 days
19 after the date of enactment of this Act, the Secretary of
20 the department in which the Coast Guard is operating
21 shall issue a request for information to determine the most
22 capable and efficient domestic systems that meet the re-
23 quirements under section 4119 of the Oil Pollution Act
24 of 1990, as amended by this section.

1 (c) IMPLEMENTING REGULATIONS.—Within 180
2 days after the date of enactment of this Act, the Secretary
3 of the department in which the Coast Guard is operating
4 shall issue regulations to implement section 4119 of the
5 Oil Pollution Act of 1990 as amended by this section.

6 (d) CLERICAL AMENDMENT.—The table of contents
7 in section 2 of the Oil Pollution Act of 1990 is amended
8 by adding at the end of the items relating to such subtitle
9 the following new item:

“Sec. 4119. Offshore sensing and monitoring systems.”.

10 **SEC. 628. OIL AND GAS EXPLORATION AND PRODUCTION.**

11 Section 502 of the Federal Water Pollution Control
12 Act (33 U.S.C. 1362) is amended—

13 (1) by striking paragraph (24); and

14 (2) by redesignating paragraph (25) as para-
15 graph (24).

16 **SEC. 629. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) COAST GUARD.—In addition to amounts made
18 available pursuant to section 1012(a)(5)(A) of the Oil Pol-
19 lution Act of 1990 (33 U.S.C. 2712(a)(5)(A)), there is au-
20 thorized to be appropriated to the Secretary of the depart-
21 ment in which the Coast Guard is operating from the Oil
22 Spill Liability Trust Fund established by section 9509 of
23 the Internal Revenue Code of 1986 (26 U.S.C. 9509) to
24 carry out the purposes of this title and the amendments
25 made by this title the following:

1 (1) For fiscal year 2011, \$30,000,000.

2 (2) For each of fiscal years 2012 through 2015,
3 \$32,000,000.

4 (b) ENVIRONMENTAL PROTECTION AGENCY.—In ad-
5 dition to amounts made available pursuant to section 1012
6 of the Oil Pollution Act of 1990 (33 U.S.C. 2712), there
7 is authorized to be appropriated to the Administrator of
8 the Environmental Protection Agency from the Oil Spill
9 Liability Trust Fund to implement this title and the
10 amendments made by this title \$10,000,000 for each of
11 fiscal years 2011 through 2015.

12 (c) DEPARTMENT OF TRANSPORTATION.—In addi-
13 tion to amounts made available pursuant to section 60125
14 of title 49, United States Code, there is authorized to be
15 appropriated to the Secretary of Transportation from the
16 Oil Spill Liability Trust Fund to carry out the purposes
17 of this title and the amendments made by this title the
18 following:

19 (1) For each of fiscal years 2011 through 2013,
20 \$7,000,000.

21 (2) For each of fiscal years 2014 and 2015,
22 \$6,000,000.

1 **SEC. 630. EXTENSION OF LIABILITY TO PERSONS HAVING**
2 **OWNERSHIP INTERESTS IN RESPONSIBLE**
3 **PARTIES.**

4 (a) DEFINITION OF RESPONSIBLE PARTY.—Section
5 1001(32) of the Oil Pollution Act of 1990 (33 U.S.C.
6 2701(32)) is amended by adding at the end the following:

7 “(G) PERSON HAVING OWNERSHIP INTER-
8 EST.—Any person, other than an individual,
9 having an ownership interest (directly or indi-
10 rectly) in any entity described in any of sub-
11 paragraphs (A) through (F) of more than 25
12 percent, in the aggregate, of the total ownership
13 interests in such entity, if the assets of such en-
14 tity are insufficient to pay the claims owed by
15 such entity as a responsible party under this
16 Act.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to an incident occurring on or after
19 January 1, 2010.

20 **SEC. 631. CLARIFICATION OF LIABILITY UNDER OIL POLLU-**
21 **TION ACT OF 1990.**

22 The Oil Pollution Act of 1990 is amended—

23 (1) in section 1013 (33 U.S.C. 2713), by insert-
24 ing after subsection (f) the following:

25 “(g) LIMITATION ON RELEASE OF LIABILITY.—No
26 release of liability in connection with compensation re-

1 ceived by a claimant under this Act shall apply to liability
2 for any type of harm unless—

3 “(1) the claimant presented a claim under sub-
4 section (a) with respect to such type of harm; and

5 “(2) the claimant received compensation for
6 such type of harm, from the responsible party or
7 from guarantor of the source designated under sec-
8 tion 1014(a), in connection with such release.”; and

9 (2) in section 1018 (33 U.S.C. 2718), by—

10 (A) striking “or” at the end of paragraph

11 (1);

12 (B) striking the period at the end of para-
13 graph (2) and inserting “; and”; and

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

16 “(3) with respect to a claim described in section
17 1013(g), affect, or be construed or interpreted to af-
18 fect or modify in any way, the obligations or liabil-
19 ities of any person under other Federal law.”.

20 **SEC. 632. SALVAGE ACTIVITIES.**

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

23 (1) in subsection (a)(2)(D) by inserting “or sal-
24 vage activities” after “removal”; and

1 (2) in subsection (c)(4)(A) by inserting “or con-
2 ducting salvage activities” after “advice”.

3 **SEC. 633. REQUIREMENT FOR REDUNDANCY IN RESPONSE**
4 **PLANS.**

5 (a) REQUIREMENT.—Section 311(j)(5)(D) of the
6 Federal Water Pollution Control Act (33 U.S.C.
7 1331(j)(5)(D)) is amended by redesignating clauses (v)
8 and (vi) as clauses (vii) and (viii), and by inserting after
9 clause (iv) the following new clauses:

10 “(v) include redundancies that specify
11 response actions that will be taken if other
12 response actions specified in the plan fail;
13 “(vi) be vetted by impartial experts;”.

14 (b) CONDITION OF PERMIT.—The Outer Continental
15 Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by
16 adding at the end the following new section:

17 **“SEC. 32. RESPONSE PLAN REQUIRED FOR PERMIT OR LI-**
18 **CENSE AUTHORIZING DRILLING FOR OIL AND**
19 **GAS.**

20 “The Secretary may not issue any license or permit
21 authorizing drilling for oil and gas on the Outer Conti-
22 nental Shelf unless the applicant for the license or permit
23 has a response plan approved under section 311(j)(5)(D)
24 of the Federal Water Pollution Control Act (33 U.S.C.

1 1331(j)(5)(D)) for the vessel or facility that will be used
2 to conduct such drilling.”.

3 **SEC. 634. FEDERAL OIL SPILL RESEARCH PROGRAM.**

4 (a) SHORT TITLE.—This section may be cited as the
5 “Oil Pollution Research and Development Program Reau-
6 thorization Act of 2011”.

7 (b) FEDERAL OIL POLLUTION RESEARCH COM-
8 MITTEE.—

9 (1) PURPOSES.—Section 7001(a)(2) of the Oil
10 Pollution Act of 1990 (33 U.S.C. 2761(a)(2)) is
11 amended by striking “State” and inserting “State
12 and tribal”.

13 (2) MEMBERSHIP.—Section 7001(a)(3) of such
14 Act (33 U.S.C. 2761(a)(3)) is amended to read as
15 follows:

16 “(3) STRUCTURE.—

17 “(A) MEMBERS.—The Interagency Com-
18 mittee shall consist of representatives from the
19 following:

20 “(i) The Coast Guard.

21 “(ii) The Department of Commerce,
22 including the National Oceanic and Atmos-
23 pheric Administration.

24 “(iii) The Department of the Interior.

1 “(iv) The Environmental Protection
2 Agency.

3 “(B) COLLABORATING AGENCIES.—The
4 Interagency Committee shall collaborate with
5 the following:

6 “(i) The National Institute of Stand-
7 ards and Technology.

8 “(ii) The Department of Energy.

9 “(iii) The Department of Transpor-
10 tation, including the Maritime Administra-
11 tion and the Pipeline and Hazardous Mate-
12 rials Safety Administration.

13 “(iv) The Department of Defense, in-
14 cluding the Army Corps of Engineers and
15 the Navy.

16 “(v) The Department of Homeland
17 Security, including the United States Fire
18 Administration in the Federal Emergency
19 Management Agency.

20 “(vi) The National Aeronautics and
21 Space Administration.

22 “(vii) The National Science Founda-
23 tion.

24 “(viii) Other Federal agencies, as ap-
25 propriate.”.

1 (3) ROLE OF THE CHAIR.—Section 7001(a)(4)
2 of such Act (33 U.S.C. 2761(a)(4)) is amended to
3 read as follows:

4 “(4) CHAIR.—

5 “(A) IN GENERAL.—A representative of
6 the Coast Guard shall serve as Chair.

7 “(B) ROLE OF CHAIR.—The primary role
8 of the Chair shall be to ensure that—

9 “(i) the activities of the Interagency
10 Committee and the agencies listed in para-
11 graph (3)(B) are coordinated;

12 “(ii) the implementation plans re-
13 quired under subsection (b)(1) are com-
14 pleted and submitted;

15 “(iii) the annual reports required
16 under subsection (e) are completed and
17 submitted;

18 “(iv) the Interagency Committee
19 meets in accordance with the requirements
20 of paragraph (5); and

21 “(v) the Oil Pollution Research Advi-
22 sory Committee under subsection (f) is es-
23 tablished and utilized.”.

1 (4) ACTIVITIES.—Section 7001(a) of such Act
2 (33 U.S.C. 2761(a)) is amended by adding at the
3 end the following:

4 “(5) ACTIVITIES.—

5 “(A) ONGOING, COORDINATED EFFORTS.—

6 The Interagency Committee shall ensure that
7 the research, development, and demonstration
8 efforts authorized by this section are coordi-
9 nated and conducted on an ongoing basis.

10 “(B) MEETINGS.—

11 “(i) IN GENERAL.—The Interagency
12 Committee shall meet, or otherwise com-
13 municate, as appropriate, to—

14 “(I) plan program-related activi-
15 ties; and

16 “(II) determine whether the pro-
17 gram is resulting in the development
18 of new or improved methods and tech-
19 nologies to prevent, detect, respond to,
20 contain, and mitigate oil discharge.

21 “(ii) FREQUENCY.—In no event shall
22 the Interagency Committee meet less than
23 once per year.

24 “(C) INFORMATION EXCHANGE.—The
25 Interagency Committee, acting through the Ad-

1 administrator of the National Oceanic and Atmos-
2 pheric Administration, shall develop a national
3 information clearinghouse on oil discharge
4 that—

5 “(i) includes scientific information
6 and research on preparedness, response,
7 and restoration; and

8 “(ii) serves as a single electronic ac-
9 cess and input point for Federal agencies,
10 emergency responders, the research com-
11 munity, and other interested parties for
12 such information.”.

13 (c) OIL POLLUTION RESEARCH AND TECHNOLOGY

14 PLAN.—

15 (1) IMPLEMENTATION PLAN.—Section
16 7001(b)(1) of such Act (33 U.S.C. 2761(b)(1)) is
17 amended—

18 (A) by striking “180 days after the date of
19 enactment of this Act” and inserting “180 days
20 after the date of enactment of the Oil Pollution
21 Research and Development Program Reauthor-
22 ization Act of 2011 and periodically thereafter,
23 as appropriate, but not less than once every 5
24 years”;

1 (B) by striking subparagraph (A) and in-
2 serting the following:

3 “(A) identify the roles and responsibilities
4 of each member agency of the Interagency
5 Committee under subsection (a)(3)(A) and each
6 of the collaborating agencies under subsection
7 (a)(3)(B);”;

8 (C) in subparagraph (B) by inserting “con-
9 tainment,” after “response,”;

10 (D) in subparagraph (D) by inserting
11 “containment,” after “response,”;

12 (E) by striking “and” at the end of sub-
13 paragraph (E);

14 (F) in subparagraph (F)—

15 (i) by striking “the States, regional oil
16 pollution research needs” and inserting
17 “State and tribal governments, regional oil
18 pollution research needs, including natural
19 seeps and pollution resulting from import-
20 ing oil from overseas,”; and

21 (ii) by striking the period at the end
22 and inserting a semicolon; and

23 (G) by adding at the end the following new
24 subparagraphs:

1 “(G) identify the information needed to
2 conduct risk assessment and risk analysis re-
3 search to effectively prevent oil discharges, in-
4 cluding information on human factors and deci-
5 sionmaking, and to protect the environment;
6 and

7 “(H) identify a methodology that—

8 “(i) provides for the solicitation, eval-
9 uation, preapproval, funding, and utiliza-
10 tion of technologies and research projects
11 developed by the public and private sector
12 in advance of future oil discharges; and

13 “(ii) where appropriate, ensures that
14 such technologies are readily available for
15 rapid testing and potential deployment and
16 that research projects can be implemented
17 during an incident response.”.

18 (2) ADVICE AND GUIDANCE.—Section 7001(b)
19 of such Act (33 U.S.C. 2761(b)) is amended by
20 striking paragraph (2) and all that follows through
21 “under this section.” and by inserting the following:

22 “(2) ADVICE AND GUIDANCE.—

23 “(A) IN GENERAL.—The Chair shall solicit
24 advice and guidance in the development of the
25 research plan under paragraph (1) from—

1 “(i) the Oil Pollution Research Advi-
2 sory Committee established under sub-
3 section (f);

4 “(ii) the National Institute of Stand-
5 ards and Technology on issues relating to
6 quality assurance and standards measure-
7 ments;

8 “(iii) third party standard-setting or-
9 ganizations on issues relating to voluntary
10 consensus standards; and

11 “(iv) the public in accordance with
12 subparagraph (B).

13 “(B) PUBLIC COMMENT.—Prior to the
14 submission of the research plan to Congress
15 under paragraph (1), the research plan shall be
16 published in the Federal Register and subject
17 to a public comment period of 30 days. The
18 Chair shall review the public comments received
19 and incorporate those comments into the plan,
20 as appropriate.”.

21 (3) REVIEW.—Section 7001(b) of such Act (33
22 U.S.C. 2761(b)) is further amended by adding at
23 the end the following:

24 “(3) REVIEW.—After the submission of each re-
25 search plan to Congress under paragraph (1), the

1 Chair shall contract with the National Academy of
2 Sciences—

3 “(A) to review the research plan;

4 “(B) to assess the adequacy of the re-
5 search plan; and

6 “(C) to submit a report to Congress on the
7 conclusions of the assessment.

8 “(4) INCORPORATION OF RECOMMENDA-
9 TIONS.—The Chair shall address any recommenda-
10 tions in the review conducted under paragraph (3)
11 and shall incorporate such recommendations into the
12 research plan, as appropriate.”.

13 (d) OIL POLLUTION RESEARCH AND DEVELOPMENT
14 PROGRAM.—

15 (1) ESTABLISHMENT.—Section 7001(c)(1) of
16 such Act (33 U.S.C. 2761(c)(1)) is amended by
17 striking “research and development, as provided in
18 this subsection” and inserting “research, develop-
19 ment, and demonstration, as provided in this sub-
20 section and subsection (a)(2)”.

21 (2) INNOVATIVE OIL POLLUTION TECH-
22 NOLOGY.—Section 7001(c)(2) of such Act (33
23 U.S.C. 2761(c)(2)) is amended—

24 (A) in the matter before subparagraph (A),
25 by striking “preventing or mitigating” and in-

1 serting “preventing, detecting, containing, re-
2 covering, or mitigating”;

3 (B) by striking subparagraph (I);

4 (C) by redesignating subparagraph (J) as
5 subparagraph (I);

6 (D) by striking the period at the end of
7 subparagraph (I) (as so redesignated) and by
8 inserting at the end a semicolon; and

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

10 “(J) technologies and methods to address
11 oil discharge on land and in inland waters,
12 coastal areas, offshore areas, including deep-
13 water and ultra-deepwater areas, and polar and
14 other icy areas; and

15 “(K) modeling and simulation capabilities,
16 including tools and technologies, that can be
17 used to facilitate effective recovery and contain-
18 ment of oil discharge during incident re-
19 sponse.”.

20 (3) OIL POLLUTION TECHNOLOGY EVALUA-
21 TION.—Section 7001(c)(3) of such Act (33 U.S.C.
22 2761(c)(3)) is amended to read as follows:

23 “(3) OIL POLLUTION TECHNOLOGY EVALUA-
24 TION.—The program established under this sub-
25 section shall provide for the evaluation of oil pollu-

1 tion prevention, containment, and mitigation tech-
2 nologies, including—

3 “(A) the evaluation of the performance and
4 effectiveness of such technologies in preventing,
5 detecting, containing, recovering, and miti-
6 gating oil discharges;

7 “(B) the evaluation of the environmental
8 effects of the use of such technologies;

9 “(C) the evaluation and testing of tech-
10 nologies developed independently of the research
11 and development program established under
12 this subsection, including technologies developed
13 by small businesses;

14 “(D) the establishment, with the advice
15 and guidance of the National Institute of
16 Standards and Technology, of standards and
17 testing protocols traceable to national standards
18 to measure the performance of oil pollution pre-
19 vention, containment, or mitigation tech-
20 nologies;

21 “(E) an evaluation of the environmental
22 effects and utility of controlled field testing;

23 “(F) the use, where appropriate, of con-
24 trolled field testing to evaluate real-world appli-
25 cation of new or improved oil discharge preven-

1 tion, response, containment, recovery, or mitiga-
2 tion technologies;

3 “(G) an evaluation of the effectiveness of
4 oil pollution prevention technologies based on
5 probabilistic risk analyses of the system; and

6 “(H) research conducted by the Environ-
7 mental Protection Agency and other appro-
8 priate Federal agencies for the evaluation and
9 testing of technologies that demonstrate—

10 “(i) maximum effectiveness, including
11 application and delivery mechanisms; and

12 “(ii) minimum effects, including tox-
13 icity, to human health and the environment
14 in both the near-term and long-term.”.

15 (4) OIL POLLUTION EFFECTS RESEARCH.—Sec-
16 tion 7001(c)(4) of such Act (33 U.S.C. 2761(c)(4))
17 is amended—

18 (A) by striking subparagraph (A) and in-
19 serting the following:

20 “(A) IN GENERAL.—

21 “(i) ESTABLISHMENT.—The Inter-
22 agency Committee, acting through the Ad-
23 ministrator of the National Oceanic and
24 Atmospheric Administration, shall estab-
25 lish a research program to monitor and

1 scientifically evaluate the environmental ef-
2 fects, including long-term effects, of oil dis-
3 charge.

4 “(ii) SPECIFICATIONS.—Such pro-
5 gram shall include the following elements:

6 “(I) Research on and the devel-
7 opment of effective tools to detect,
8 measure, observe, analyze, monitor,
9 model, and forecast the presence,
10 transport, fate, and effect of an oil
11 discharge throughout the environ-
12 ment, including tools and models to
13 accurately measure and predict the
14 flow of oil discharged.

15 “(II) The development of meth-
16 ods, including economic methods, to
17 assess and predict damages to natural
18 resources, including air quality, result-
19 ing from oil discharges, including in
20 economically disadvantaged commu-
21 nities and areas.

22 “(III) The identification of types
23 of ecologically sensitive areas at par-
24 ticular risk from oil discharges, such
25 as inland waters, coastal areas, off-

1 shore areas, including deepwater and
2 ultra-deepwater areas, and polar and
3 other icy areas.

4 “(IV) The preparation of sci-
5 entific monitoring and evaluation
6 plans for the areas identified under
7 subclause (III) to be implemented in
8 the event of major oil discharges in
9 such areas.

10 “(V) The collection of environ-
11 mental baseline data in the areas
12 identified under subclause (III) if
13 such data are insufficient.

14 “(VI) The use of both onshore
15 and offshore air quality monitoring to
16 study the effects of an oil discharge
17 and oil discharge cleanup technologies
18 on air quality.

19 “(VII) Making the results,
20 health, and safety warnings readily
21 available to the public, including
22 emergency responders, the research
23 community, local residents, and other
24 interested parties.

1 “(VIII) Research on technologies,
2 methods, and standards for protecting
3 removal personnel and for volunteers
4 that may participate in incident re-
5 sponses, including training, adequate
6 supervision, protective equipment,
7 maximum exposure limits, and decon-
8 tamination procedures.”;

9 (B) in subparagraph (B)—

10 (i) by striking “(B) The Department
11 of Commerce” and all that follows through
12 “future oil discharges.” and inserting the
13 following:

14 “(B) CONDITIONS.—The Interagency Com-
15 mittee, acting through the Administrator of the
16 National Oceanic and Atmospheric Administra-
17 tion, shall conduct research activities under
18 subparagraph (A) for areas in which—

19 “(i) the amount of oil discharged ex-
20 ceeds 250,000 gallons; and

21 “(ii) a study of the long-term environ-
22 mental effects of the discharge would be of
23 significant scientific value, especially for
24 preventing or responding to future oil dis-
25 charges.”;

1 (ii) by striking “ATHOS I, and” and
2 inserting “ATHOS I;”; and

3 (iii) by striking the period at the end
4 and inserting “; Prince William Sound,
5 where oil was discharged by the EXXON
6 VALDEZ; and the Gulf of Mexico, where
7 oil was discharged by the DEEPWATER
8 HORIZON.”; and

9 (C) in subparagraph (C) by striking “Re-
10 search” and inserting “COORDINATION.—Re-
11 search”.

12 (5) DEMONSTRATION PROJECTS.—Section
13 7001(e)(6) of such Act (33 U.S.C. 2761(e)(6)) is
14 amended—

15 (A) by striking the first sentence and in-
16 serting the following: “The United States Coast
17 Guard, in conjunction with such agencies as the
18 President may designate, shall conduct a total
19 of 2 port oil pollution minimization demonstra-
20 tion projects, 1 with the Ports of Los Angeles
21 and Long Beach, California, and 1 with a port
22 on the Great Lakes, for the purpose of devel-
23 oping and demonstrating integrated port oil
24 pollution prevention and cleanup systems that
25 utilize the information and implement the im-

1 proved practices and technologies developed
2 from the research, development, and demonstra-
3 tion program established in this section.”; and

4 (B) in the second sentence by striking “oil
5 spill” and inserting “oil discharge”.

6 (6) SIMULATED ENVIRONMENTAL TESTING.—
7 Section 7001(c)(7) of such Act (33 U.S.C.
8 2761(c)(7)) is amended by inserting “Oil pollution
9 technology testing and evaluations shall be given pri-
10 ority over all other activities performed at such Re-
11 search Center.” after “evaluations.”.

12 (7) REGIONAL RESEARCH PROGRAM.—

13 (A) IN GENERAL.—Section 7001(c)(8) of
14 such Act (33 U.S.C. 2761(c)(8)) is amended—

15 (i) in subparagraph (A)—

16 (I) by striking “program of com-
17 petitive grants” and inserting “pro-
18 gram of peer-reviewed, competitive
19 grants”; and

20 (II) by striking “(1989)” and in-
21 serting “(2009)”;

22 (ii) in subparagraph (C) by striking
23 “the entity or entities which” and inserting
24 “at least one entity that”; and

1 (iii) by adding at the end the fol-
2 lowing new subparagraph:

3 “(H) In carrying out this paragraph, the
4 Interagency Committee shall coordinate the
5 program of peer-reviewed, competitive grants to
6 universities or other research institutions, in-
7 cluding Minority Serving Institutions as defined
8 under section 371(a) of the Higher Education
9 Act of 1965 (20 U.S.C. 1067q(a)), and provide
10 consideration to such institutions in the rec-
11 ommendations for awarding grants.”.

12 (B) FUNDING.—Section 7001(c)(9) of such
13 Act (33 U.S.C. 2761(c)(9)) is amended by
14 striking “1991” and all that follows through
15 “shall be available” and inserting “2011, 2012,
16 2013, 2014, and 2015, there are authorized to
17 be appropriated from amounts in the Fund
18 \$12,000,000”.

19 (e) INTERNATIONAL COOPERATION.—Section
20 7001(d) of such Act (33 U.S.C. 2761(d)) is amended to
21 read as follows:

22 “(d) INTERNATIONAL COOPERATION.—In accordance
23 with the research plan submitted under subsection (b), the
24 Interagency Committee shall engage in international co-
25 operation by—

1 “(1) harnessing global expertise through col-
2 laborative partnerships with foreign governments
3 and research entities, and domestic and foreign pri-
4 vate actors, including nongovernmental organizations
5 and private sector companies; and

6 “(2) leveraging public and private capital, tech-
7 nology, expertise, and services towards innovative
8 models that can be instituted to conduct collabo-
9 rative oil pollution research, development, and dem-
10 onstration activities, including controlled field tests
11 of oil discharges and other activities designed to im-
12 prove oil recovery and cleanup.”.

13 (f) ANNUAL REPORTS.—Section 7001(e) of such Act
14 (33 U.S.C. 2761(e)) is amended to read as follows:

15 “(e) ANNUAL REPORT.—

16 “(1) Concurrent with the submission to Con-
17 gress of the President’s annual budget request in
18 each year after the date of enactment of the Oil Pol-
19 lution Research and Development Program Reau-
20 thorization Act of 2011, the Chair of the Inter-
21 agency Committee shall submit to Congress a report
22 describing the—

23 “(A) activities carried out under this sec-
24 tion in the preceding fiscal year, including—

1 “(i) a description of major research
2 conducted on oil discharge prevention, de-
3 tection, containment, recovery, and mitiga-
4 tion techniques in all environments by each
5 agency described in subsection (a)(3)(A)
6 and (B); and

7 “(ii) a summary of—

8 “(I) projects in which the agency
9 contributed funding or other re-
10 sources;

11 “(II) major projects undertaken
12 by State and tribal governments, and
13 foreign governments; and

14 “(III) major projects undertaken
15 by the private sector and educational
16 institutions;

17 “(B) activities being carried out under this
18 section in the current fiscal year, including a
19 description of major research and development
20 activities on oil discharge prevention, detection,
21 containment, recovery, and mitigation tech-
22 nologies and techniques in all environments that
23 each agency will conduct or contribute to; and

24 “(C) activities proposed to be carried out
25 under this section in the subsequent fiscal year,

1 including an analysis of how these activities will
2 further the purposes of the program authorized
3 by this section.

4 “(2) If the National Academy of Sciences pro-
5 vides recommendations on the research plan under
6 subsection (b)(3), the Chair shall include, in the first
7 annual report under paragraph (1) of this sub-
8 section, a description of those recommendations in-
9 corporated into the research plan, and a description
10 of, and explanation for, any recommendations that
11 are not included in such plan.”

12 (g) ADVISORY COMMITTEE.—Section 7001 of such
13 Act (33 U.S.C. 2761) is further amended—

14 (1) by redesignating subsection (f) as sub-
15 section (g); and

16 (2) by inserting after subsection (e) the fol-
17 lowing:

18 “(f) ADVISORY COMMITTEE.—

19 “(1) ESTABLISHMENT.—Not later than 90 days
20 after the date of enactment of the Oil Pollution Re-
21 search and Development Program Reauthorization
22 Act of 2011, the Chair of the Interagency Com-
23 mittee shall establish an advisory committee to be
24 known as the Oil Pollution Research Advisory Com-

1 mittee (in this subsection referred to as the ‘advisory
2 committee’).

3 “(2) MEMBERSHIP.—

4 “(A) IN GENERAL.—The advisory com-
5 mittee shall be composed of members appointed
6 by the Chair, in consultation with each member
7 agency described in subsection (a)(3), includ-
8 ing—

9 “(i) individuals with extensive knowl-
10 edge and research experience or oper-
11 ational knowledge of prevention, detection,
12 response, containment, and mitigation of
13 oil discharges;

14 “(ii) individuals broadly representative
15 of stakeholders affected by oil discharges;
16 and

17 “(iii) other individuals, as determined
18 by the Chair.

19 “(B) LIMITATIONS.—The Chair shall—

20 “(i) appoint no more than 25 mem-
21 bers that shall not include representatives
22 of the Federal Government, but may in-
23 clude representatives from State, tribal,
24 and local governments; and

1 “(ii) ensure that no class of individ-
2 uals described in clause (ii) or (iii) of sub-
3 paragraph (A) comprises more than $\frac{1}{3}$ of
4 the membership of the advisory committee.

5 “(C) TERMS OF SERVICE.—

6 “(i) IN GENERAL.—Members shall be
7 appointed for a 3-year term and may serve
8 for not more than 2 terms, except as pro-
9 vided in clause (iii).

10 “(ii) VACANCIES.—Vacancy appoint-
11 ments shall be for the remainder of the un-
12 expired term of the vacancy.

13 “(iii) SPECIAL RULE.—If a member is
14 appointed to fill a vacancy and the remain-
15 der of the unexpired term is less than 1
16 year, the member may subsequently be ap-
17 pointed for 2 full terms.

18 “(D) COMPENSATION AND EXPENSES.—

19 Members of the advisory committee shall not be
20 compensated for service on the advisory com-
21 mittee, but may be allowed travel expenses, in-
22 cluding per diem in lieu of subsistence, in ac-
23 cordance with subchapter I of chapter 57 of
24 title 5, United States Code.

1 “(3) DUTIES.—The advisory committee shall
2 review, advise, and comment on Interagency Com-
3 mittee activities, including the following:

4 “(A) Management and functioning of the
5 Interagency Committee.

6 “(B) Collaboration of the Interagency
7 Committee and the agencies listed in subsection
8 (a)(3)(B).

9 “(C) The research and technology develop-
10 ment of new or improved response capabilities.

11 “(D) The use of cost-effective research
12 mechanisms.

13 “(E) Research, computation, and modeling
14 needs and other resources needed to develop a
15 comprehensive program of oil pollution re-
16 search.

17 “(4) SUBCOMMITTEES.—The advisory com-
18 mittee may establish subcommittees of its members.

19 “(5) MEETINGS.—The advisory committee shall
20 meet at least once per year and at other times at the
21 call of the Chair of the Interagency Committee.

22 “(6) REPORT.—The advisory committee shall
23 submit biennial reports to the Interagency Com-
24 mittee and Congress on the function, activities, and

1 progress of the Interagency Committee and the pro-
2 grams established under this section.

3 “(7) EXPIRATION.—Section 14 of the Federal
4 Advisory Committee Act (5 U.S.C. App.) shall not
5 apply to the advisory committee.”.

6 (h) FUNDING.—

7 (1) IN GENERAL.—Section 7001(g) of such Act,
8 as redesignated by subsection (g) of this section, is
9 amended to read as follows:

10 “(g) FUNDING.—From the amounts authorized in
11 section 321 of the Implementing the Recommendations of
12 the BP Oil Spill Commission Act of 2011, there are au-
13 thorized to be appropriated—

14 “(1) \$16,000,000 to the Administrator of the
15 National Oceanic and Atmospheric Administration
16 annually to carry out this section; and

17 “(2) \$2,000,000 for each of fiscal years 2011,
18 2012, 2013, and 2014 to carry out the activities in
19 subsection (c)(6).”.

20 (i) ACCESS TO RESEARCH DURING AN EMER-
21 GENCY.—Section 7001 of such Act (33 U.S.C. 2761) is
22 amended by adding at the end the following new sub-
23 section:

24 “(h) ACCESS TO RESEARCH DURING AN EMER-
25 GENCY.—Any entity that receives Federal funding for re-

1 search, the methodologies or results of which may be use-
2 ful for response activities in the event of an oil discharge
3 incident described in sections 300.300–334 of title 40 of
4 the Code of Federal Regulations, shall, upon request to
5 that entity, make the methodologies or results of such re-
6 search available to the Interagency Committee and the
7 Federal On-Scene Coordinator (as defined in section
8 311(a)(21) of the Federal Water Pollution Control Act
9 (33 U.S.C. 1321(a)(21))). Any methodologies or research
10 results made available under this subsection shall be for
11 use only for purposes of the response activities with re-
12 spect to the oil discharge incident, and shall not be avail-
13 able for disclosure under section 552 of title 5, United
14 States Code, or included in information made publicly
15 available pursuant to this Act.”.

16 **SEC. 635. OIL SPILL LIABILITY TRUST FUND.**

17 (a) **ADVANCE PAYMENTS.**—Section 1012 of the Oil
18 Pollution Act of 1990 (33 U.S.C. 2712) is amended by
19 adding at the end the following:

20 “(m) **ADVANCE PAYMENTS.**—The President shall
21 promulgate regulations that allow advance payments to be
22 made from the Fund to States and political subdivisions
23 of States for actions taken to prepare for and mitigate
24 substantial threats from the discharge of oil.”.

25 (b) **OIL SPILL LIABILITY TRUST FUND.**—

1 (1) LIMITATIONS ON EXPENDITURES.—Section
2 9509(e) of the Internal Revenue Code of 1986 (re-
3 lating to expenditures from the Oil Spill Liability
4 Trust Fund) is amended—

5 (A) by striking paragraph (2);

6 (B) by striking “EXPENDITURES” and all
7 that follows through “Amounts in” and insert-
8 ing “EXPENDITURES.—Amounts in”; and

9 (C) by redesignating subparagraphs (A)
10 through (F) as paragraphs (1) through (6), re-
11 spectively, and indenting appropriately.

12 (2) AUTHORITY TO BORROW.—Section 9509(d)
13 of the Internal Revenue Code of 1986 (relating to
14 authority to borrow for the Oil Spill Liability Trust
15 Fund) is amended—

16 (A) by striking paragraph (2);

17 (B) by redesignating paragraph (3) as
18 paragraph (2); and

19 (C) in paragraph (2) (as so redesignig-
20 nated)—

21 (i) by striking subparagraph (B); and

22 (ii) by redesignating subparagraph

23 (C) as subparagraph (B).

1 **TITLE VII—MISCELLANEOUS**
2 **PROVISIONS**

3 **SEC. 701. REPEAL OF CERTAIN TAXPAYER SUBSIDIZED**
4 **ROYALTY RELIEF FOR THE OIL AND GAS IN-**
5 **DUSTRY.**

6 (a) PROVISIONS RELATING TO PLANNING AREAS
7 OFFSHORE ALASKA.—Section 8(a)(3)(B) of the Outer
8 Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B))
9 is amended by striking “and in the Planning Areas off-
10 shore Alaska” after “West longitude”.

11 (b) PROVISIONS RELATING TO NAVAL PETROLEUM
12 RESERVE IN ALASKA.—Section 107 of the Naval Petro-
13 leum Reserves Production Act of 1976 (as transferred, re-
14 designated, moved, and amended by section 347 of the En-
15 ergy Policy Act of 2005 (119 Stat. 704)) is amended—

16 (1) in subsection (i) by striking paragraphs (2)
17 through (6); and

18 (2) by striking subsection (k).

19 **SEC. 702. LEASING ON INDIAN LANDS.**

20 Nothing in this Act modifies, amends, or affects leas-
21 ing on Indian lands as currently carried out by the Bureau
22 of Indian Affairs.

1 **SEC. 703. OUTER CONTINENTAL SHELF STATE BOUND-**
2 **ARIES.**

3 (a) GENERAL.—Not later than 2 years after the date
4 of enactment of this Act, the President, acting through
5 the Secretary of the Interior, shall publish a final deter-
6 mination under section 4(a)(2) of the Outer Continental
7 Shelf Lands Act (43 U.S.C. 1333(a)(2)) of the boundaries
8 of coastal States projected seaward to the outer margin
9 of the Outer Continental Shelf.

10 (b) NOTICE AND COMMENT.—In determining the
11 projected boundaries specified in subsection (a), the Sec-
12 retary shall comply with the notice and comment require-
13 ments under chapter 5 of title 5, United States Code.

14 (c) SAVINGS CLAUSE.—The determination and publi-
15 cation of projected boundaries under subsection (a) shall
16 not be construed to alter, limit, or modify the jurisdiction,
17 control, or any other authority of the United States over
18 the Outer Continental Shelf.

19 **SEC. 704. LIABILITY FOR DAMAGES TO NATIONAL WILDLIFE**
20 **REFUGES.**

21 Section 4 of the National Wildlife Refuge System Ad-
22 ministration Act of 1966 (16 U.S.C. 668dd) is amended
23 by adding at the end the following new subsection:

24 “(p) DESTRUCTION OR LOSS OF, OR INJURY TO,
25 REFUGE RESOURCES.—

26 “(1) LIABILITY.—

1 “(A) LIABILITY TO UNITED STATES.—Any
2 person who destroys, causes the loss of, or in-
3 jures any refuge resource is liable to the United
4 States for an amount equal to the sum of—

5 “(i) the amount of the response costs
6 and damages resulting from the destruc-
7 tion, loss, or injury; and

8 “(ii) interest on that amount cal-
9 culated in the manner described under sec-
10 tion 1005 of the Oil Pollution Act of 1990
11 (33 U.S.C. 2705).

12 “(B) LIABILITY IN REM.—Any instrumen-
13 tality, including a vessel, vehicle, aircraft, or
14 other equipment, that destroys, causes the loss
15 of, or injures any refuge resource shall be liable
16 in rem to the United States for response costs
17 and damages resulting from such destruction,
18 loss, or injury to the same extent as a person
19 is liable under subparagraph (A).

20 “(C) DEFENSES.—A person is not liable
21 under this paragraph if that person establishes
22 that—

23 “(i) the destruction or loss of, or in-
24 jury to, the refuge resource was caused
25 solely by an act of God, an act of war, or

1 an act or omission of a third party, and
2 the person acted with due care;

3 “(ii) the destruction, loss, or injury
4 was caused by an activity authorized by
5 Federal or State law; or

6 “(iii) the destruction, loss, or injury
7 was negligible.

8 “(D) LIMITS TO LIABILITY.—Nothing in
9 sections 30501 to 30512 or section 30706 of
10 title 46, United States Code, shall limit the li-
11 ability of any person under this section.

12 “(2) RESPONSE ACTIONS.—The Secretary may
13 undertake or authorize all necessary actions to pre-
14 vent or minimize the destruction or loss of, or injury
15 to, refuge resources, or to minimize the imminent
16 risk of such destruction, loss, or injury.

17 “(3) CIVIL ACTIONS FOR RESPONSE COSTS AND
18 DAMAGES.—

19 “(A) IN GENERAL.—The Attorney General,
20 upon request of the Secretary, may commence
21 a civil action against any person or instrumen-
22 tality who may be liable under paragraph (1)
23 for response costs and damages. The Secretary,
24 acting as trustee for refuge resources for the
25 United States, shall submit a request for such

1 an action to the Attorney General whenever a
2 person may be liable for such costs or damages.

3 “(B) JURISDICTION AND VENUE.—An ac-
4 tion under this subsection may be brought in
5 the United States district court for any district
6 in which—

7 “(i) the defendant is located, resides,
8 or is doing business, in the case of an ac-
9 tion against a person;

10 “(ii) the instrumentality is located, in
11 the case of an action against an instru-
12 mentality; or

13 “(iii) the destruction of, loss of, or in-
14 jury to a refuge resource occurred.

15 “(4) USE OF RECOVERED AMOUNTS.—Response
16 costs and damages recovered by the Secretary under
17 this subsection shall be retained by the Secretary in
18 the manner provided for in section 107(f)(1) of the
19 Comprehensive Environmental Response, Compensa-
20 tion, and Liability Act of 1980 (42 U.S.C.
21 9607(f)(1)) and used as follows:

22 “(A) RESPONSE COSTS.—Amounts recov-
23 ered by the United States for costs of response
24 actions and damage assessments under this

1 subsection shall be used, as the Secretary con-
2 siders appropriate—

3 “(i) to reimburse the Secretary or any
4 other Federal or State agency that con-
5 ducted those activities; and

6 “(ii) after reimbursement of such
7 costs, to restore, replace, or acquire the
8 equivalent of any refuge resource.

9 “(B) OTHER AMOUNTS.—All other
10 amounts recovered shall be used, in order of
11 priority—

12 “(i) to restore, replace, or acquire the
13 equivalent of the refuge resources that
14 were the subject of the action, including
15 the costs of monitoring the refuge re-
16 sources;

17 “(ii) to restore degraded refuge re-
18 sources of the refuge that was the subject
19 of the action, giving priority to refuge re-
20 sources that are comparable to the refuge
21 resources that were the subject of the ac-
22 tion; and

23 “(iii) to restore degraded refuge re-
24 sources of other refuges.

1 “(5) DEFINITIONS.—In this subsection, the
2 term—

3 “(A) ‘damages’ includes—

4 “(i) compensation for—

5 “(I)(aa) the cost of replacing, re-
6 storing, or acquiring the equivalent of
7 a refuge resource; and

8 “(bb) the value of the lost use of
9 a refuge resource pending its restora-
10 tion or replacement or the acquisition
11 of an equivalent refuge resource; or

12 “(II) the value of a refuge re-
13 source if the refuge resource cannot
14 be restored or replaced or if the equiv-
15 alent of such resource cannot be ac-
16 quired;

17 “(ii) the cost of conducting damage
18 assessments;

19 “(iii) the reasonable cost of moni-
20 toring appropriate to the injured, restored,
21 or replaced refuge resource; and

22 “(iv) the cost of enforcement actions
23 undertaken by the Secretary in response to
24 the destruction or loss of, or injury to, a
25 refuge resource;

1 “(B) ‘response costs’ means the costs of
2 actions taken or authorized by the Secretary to
3 minimize destruction or loss of, or injury to,
4 refuge resources, or to minimize the imminent
5 risks of such destruction, loss, or injury, includ-
6 ing costs related to seizure, forfeiture, storage,
7 or disposal arising from liability, or to monitor
8 ongoing effects of incidents causing such de-
9 struction, loss, or injury under this subsection;
10 and

11 “(C) ‘refuge resource’ means any living or
12 nonliving resource of a refuge that contributes
13 to the conservation, management, and restora-
14 tion mission of the System, including living or
15 nonliving resources of a marine national monu-
16 ment that may be managed as a unit of the
17 System.”.

18 **SEC. 705. STRENGTHENING COASTAL STATE OIL SPILL**

19 **PLANNING AND RESPONSE.**

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

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

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

5 “(1) to revise management programs approved
6 under section 306 (16 U.S.C. 1455) to identify and
7 implement new enforceable policies and procedures
8 to ensure sufficient response capabilities at the State
9 level to address the environmental, economic, and so-
10 cial impacts of oil spills or other accidents resulting
11 from Outer Continental Shelf energy activities with
12 the potential to affect any land or water use or nat-
13 ural resource of the coastal zone; and

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

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

22 “(B) new policies and procedures developed
23 under paragraph (1); and

24 “(3) after a State has adopted new or revised
25 enforceable policies and procedures under para-
26 graphs (1) and (2)—

1 “(A) the State shall submit the policies
2 and procedures to the Secretary; and

3 “(B) the Secretary shall notify the State
4 whether the Secretary approves or disapproves
5 the incorporation of the policies and procedures
6 into the State’s management program pursuant
7 to section 306(e).

8 “(b) ELEMENTS.—New enforceable policies and pro-
9 cedures developed by coastal States with grants awarded
10 under this section shall consider, but not be limited to—

11 “(1) other existing emergency response plans,
12 procedures and enforceable policies developed under
13 other Federal or State law that affect the coastal
14 zone;

15 “(2) identification of critical infrastructure es-
16 sential to facilitate spill or accident response activi-
17 ties;

18 “(3) identification of coordination, logistics and
19 communication networks between Federal and State
20 government agencies, and between State agencies
21 and affected local communities, to ensure the effi-
22 cient and timely dissemination of data and other in-
23 formation;

24 “(4) inventories of shore locations and infra-
25 structure and equipment necessary to respond to oil

1 spills or other accidents resulting from Outer Conti-
2 nental Shelf energy activities;

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

7 “(6) inventories and surveys of shore locations
8 and infrastructure capable of supporting alternative
9 energy development; and

10 “(7) other information or actions as may be
11 necessary.

12 “(c) GUIDELINES.—The Secretary shall, within 180
13 days after the date of enactment of this section and after
14 consultation with the coastal states, publish guidelines for
15 the application for and use of grants under this section.

16 “(d) PARTICIPATION.—A coastal state shall provide
17 opportunity for public participation in developing new en-
18 forceable policies and procedures under this section pursu-
19 ant to sections 306(d)(1) and 306(e), especially by rel-
20 evant Federal agencies, other coastal state agencies, local
21 governments, regional organizations, port authorities, and
22 other interested parties and stakeholders, public and pri-
23 vate, that are related to, or affected by Outer Continental
24 Shelf energy activities.

25 “(e) ANNUAL GRANTS.—

1 “(1) IN GENERAL.—For each of fiscal years
2 2011 through 2015, the Secretary may make a
3 grant to a coastal state to develop new enforceable
4 policies and procedures as required under this sec-
5 tion.

6 “(2) GRANT AMOUNTS AND LIMIT ON
7 AWARDS.—The amount of any grant to any one
8 coastal State under this section shall not exceed
9 \$750,000 for any fiscal year. No coastal state may
10 receive more than two grants under this section.

11 “(3) NO STATE MATCHING CONTRIBUTION RE-
12 QUIRED.—As it is in the national interest to be able
13 to respond efficiently and effectively at all levels of
14 government to oil spills and other accidents resulting
15 from Outer Continental Shelf energy activities, a
16 coastal state shall not be required to contribute any
17 portion of the cost of a grant awarded under this
18 section.

19 “(4) SECRETARIAL REVIEW AND LIMIT ON
20 AWARDS.—After an initial grant is made to a coastal
21 state under this section, no subsequent grant may be
22 made to that coastal state under this section unless
23 the Secretary finds that the coastal state is satisfac-
24 torily developing revisions to address offshore energy

1 impacts. No coastal state is eligible to receive grants
2 under this section for more than 2 fiscal years.

3 “(f) APPLICABILITY.—The requirements of this sec-
4 tion shall only apply if appropriations are provided to the
5 Secretary to make grants under this section. This section
6 shall not be construed to convey any new authority to any
7 coastal state, or repeal or supersede any existing authority
8 of any coastal state, to regulate the siting, licensing, leas-
9 ing, or permitting of energy facilities in areas of the Outer
10 Continental Shelf under the administration of the Federal
11 Government. Nothing in this section repeals or supersedes
12 any existing coastal state authority.

13 “(g) ASSISTANCE BY THE SECRETARY.—The Sec-
14 retary as authorized under section 310(a) and to the ex-
15 tent practicable, shall make available to coastal states the
16 resources and capabilities of the National Oceanic and At-
17 mospheric Administration to provide technical assistance
18 to the coastal states to prepare revisions to approved man-
19 agement programs to meet the requirements under this
20 section.”.

21 **SEC. 706. INFORMATION SHARING.**

22 Section 388(b) of the Energy Policy Act of 2005 (43
23 U.S.C. 1337 note) is amended by adding at the end the
24 following:

1 “(4) AVAILABILITY OF DATA AND INFORMA-
2 TION.—All heads of departments and agencies of the
3 Federal Government shall, upon request of the Sec-
4 retary, provide to the Secretary all data and infor-
5 mation that the Secretary deems necessary for the
6 purpose of including such data and information in
7 the mapping initiative, except that no department or
8 agency of the Federal Government shall be required
9 to provide any data or information that is privileged
10 or proprietary.”.

11 **SEC. 707. LIMITATION ON USE OF FUNDS.**

12 None of the funds authorized or made available by
13 this Act may be used to carry out any activity or pay any
14 costs for removal or damages for which a responsible party
15 (as such term is defined in section 1001 of the Oil Pollu-
16 tion Act of 1990 (33 U.S.C. 2701)) is liable under the
17 Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) or
18 other law.

19 **SEC. 708. ENVIRONMENTAL REVIEW.**

20 Section 390 of the Energy Policy Act of 2005 (Public
21 Law 109–58; 42 U.S.C. 15942) is repealed.

1 **SEC. 709. GOVERNMENT ACCOUNTABILITY OFFICE EVALUA-**
2 **TION.**

3 (a) EVALUATION.—The Comptroller General shall
4 conduct an evaluation of the Department of the Interior
5 to determine—

6 (1) whether the reforms carried out under this
7 Act and the amendments made by this Act address
8 concerns of the Government Accountability Office
9 and the Inspector General expressed before the date
10 of enactment of this Act;

11 (2) whether the increased hiring authority given
12 to the Secretary of the Interior under this Act and
13 the amendments made by this Act has resulted in
14 the Department of the Interior being more effective
15 in addressing its oversight missions; and

16 (3) whether there has been a sufficient reduc-
17 tion in the conflict between mission and interest
18 within the Department of the Interior.

19 (b) REPORT.—Not later than 3 years after the date
20 of enactment of this Act, the Comptroller General shall
21 submit to Congress a report containing the results of the
22 evaluation conducted under subsection (a).

23 **SEC. 710. STUDY ON RELIEF WELLS.**

24 Not later than 60 days after the date of enactment
25 of this Act, the Secretary shall enter into an arrangement
26 with the National Academy of Engineering under which

1 the Academy shall, not later than 1 year after such ar-
2 rangement is entered into, submit to the Secretary and
3 to Congress a report that assesses the economic, safety,
4 and environmental impacts of requiring that 1 or more
5 relief wells be drilled in tandem with the drilling of some
6 or all wells subject to the requirements of this Act and
7 the amendments made by this Act.

8 **SEC. 711. FLOW RATE TECHNICAL GROUP.**

9 (a) ESTABLISHMENT.—Within 180 days after the
10 date of enactment of this Act, the Secretary, acting
11 through the Director of the United States Geologic Sur-
12 vey, shall establish a permanent Flow Rate Technical
13 Group to develop and maintain expertise in measuring and
14 estimating flow rates and spill volumes.

15 (b) MEMBERSHIP.—The Flow Rate Technical Group
16 shall be chaired by the Director of the United States Geo-
17 logic Survey and shall include representatives from the
18 Coast Guard, the National Oceanic and Atmospheric Ad-
19 ministration, the Department of Energy, the national lab-
20 oratories, and academic institutions.

21 (c) APPLICATION OF THE FEDERAL ADVISORY COM-
22 MITTEE ACT.—The Task Force shall not be considered an
23 advisory committee under the Federal Advisory Com-
24 mittee Act (5 U.S.C. App.).

1 **TITLE VIII—STUDY OF ACTIONS**
2 **TO IMPROVE THE ACCURACY**
3 **OF COLLECTION OF ROYAL-**
4 **TIES**

5 **SEC. 801. SHORT TITLE.**

6 This title may be cited as the “Study of Ways To
7 Improve the Accuracy of the Collection of Federal Oil,
8 Condensate, and Natural Gas Royalties Act of 2011”.

9 **SEC. 802. STUDY OF ACTIONS TO IMPROVE THE ACCURACY**
10 **OF COLLECTION OF FEDERAL OIL, CONDEN-**
11 **SATE, AND NATURAL GAS ROYALTIES.**

12 The Secretary of the Interior shall seek to enter into
13 an arrangement with the National Academy of Engineer-
14 ing under which the Academy, by not later than six
15 months after the date of the enactment of this Act, shall
16 study and report to the Secretary regarding whether the
17 accuracy of collection of royalties on production of oil, con-
18 densate, and natural gas under leases of Federal lands (in-
19 cluding submerged and deep water lands) and Indian
20 lands would be improved by any of the following:

21 (1) Requiring the installation of digital meters,
22 calibrated at least monthly to an absolute zero value,
23 for all lands from which natural gas (including con-
24 densate) is produced under such leases.

25 (2) Requiring that—

1 (A) the size of every orifice plate on each
2 natural gas well operated under such leases be
3 inspected at least quarterly by the Secretary;
4 and

5 (B) chipped orifice plates and wrong-sized
6 orifice plates be replaced immediately after
7 those inspections and reported to the Secretary
8 for retroactive volume measurement corrections
9 and royalty payments with interest of 8 percent
10 compounded monthly.

11 (3) Requiring that any plug valves that are in
12 natural gas gathering lines be removed and replaced
13 with ball valves.

14 (4) Requiring that—

15 (A) all meter runs should be opened for in-
16 spection by the Secretary and the producer at
17 all times; and

18 (B) any welding or closing of the meter
19 runs leading to the orifice plates should be pro-
20 hibited unless authorized by the Secretary.

21 (5) Requiring the installation of straightening
22 vanes approximately 10 feet before natural gas en-
23 ters each orifice meter, including each master meter
24 and each sales meter.

1 (6) Requiring that all master meters be in-
2 spected and the results of such inspections be made
3 available to the Secretary and the producers imme-
4 diately.

5 (7) Requiring that—

6 (A) all sampling of natural gas for heating
7 content analysis be performed monthly up-
8 stream of each natural gas meter, including up-
9 stream of each master meter;

10 (B) records of such sampling and heating
11 content analysis be maintained by the pur-
12 chaser and made available to the Secretary and
13 to the producer monthly;

14 (C) probes for such upstream sampling be
15 installed upstream within three feet of each
16 natural gas meter;

17 (D) any oil and natural gas lease for which
18 heat content analysis is falsified shall be subject
19 to cancellation;

20 (E) natural gas sampling probes be lo-
21 cated—

22 (i) upstream of the natural gas meter
23 at all times;

24 (ii) within a few feet of the natural
25 gas meter; and

1 (iii) after the natural gas goes
2 through a Welker or Y-Z vanishing cham-
3 ber; and

4 (F) temperature probes and testing probes
5 be located between the natural gas sampling
6 probe and the orifice of the natural gas meter.

7 (8) Prohibiting the dilution of natural gas with
8 inert nitrogen or inert carbon dioxide gas for royalty
9 determination, sale, or resale at any point.

10 (9) Requiring that both the measurement of the
11 volume of natural gas and the heating content anal-
12 yses be reported only on the basis of 14.73 PSI and
13 60 degrees Fahrenheit, regardless of the elevation
14 above sea level of such volume measurement and
15 heating content analysis, for both purchases and
16 sales of natural gas.

17 (10) Prohibiting the construction of bypass
18 pipes that go around the natural gas meter, and im-
19 posing criminal penalties for any such construction
20 or subsequent removal including, but not limited to,
21 automatic cancellation of the lease.

22 (11) Requiring that all natural gas sold to con-
23 sumers have a minimum BTU content of 960 at an
24 atmospheric pressure of 14.73 PSI and be at a tem-

1 perature of 60 degrees Fahrenheit, as required by
2 the State of Wyoming Public Utilities Commission.

3 (12) Requiring that all natural gas sold in the
4 USA will be on a MMBTU basis with the BTU con-
5 tent adjusted for elevation above sea level in higher
6 altitudes. Thus all natural gas meters must correct
7 for BTU content in higher elevations (altitudes).

8 (13) Issuance by the Secretary of rules for the
9 measurement at the wellhead of the standard volume
10 of natural gas produced, based on independent in-
11 dustry standards such as those suggested by the
12 American Society of Testing Materials (ASTM).

13 (14) Requiring use of the fundamental orifice
14 meter mass flow equation, as revised in 1990, for
15 calculating the standard volume of natural gas pro-
16 duced.

17 (15) Requiring the use of F_{pv} in standard vol-
18 ume measurement computations as described in the
19 1992 American Gas Association Report No. 8 enti-
20 tled Compressibility Factor of Natural Gas and
21 Other Related Hydrocarbon Gases.

22 (16) Requiring that gathering lines must be
23 constructed so as to have as few angles and turns
24 as possible, with a maximum of three angles, before
25 they connect with the natural gas meter.

1 (17) Requiring that for purposes of reporting
2 the royalty value of natural gas, condensate, oil, and
3 associated natural gases, such royalty value must be
4 based upon the natural gas' condensate's, oil's, and
5 associated natural gases' arm's length, independent
6 market value, as reported in independent, respected
7 market reports such as Platts or Bloomborgs, and
8 not based upon industry controlled posted prices,
9 such as Koch's.

10 (18) Requiring that royalties be paid on all the
11 condensate recovered through purging gathering
12 lines and pipelines with a cone-shaped device to push
13 out condensate (popularly referred to as a pig) and
14 on condensate recovered from separators,
15 dehydrators, and processing plants.

16 (19) Requiring that all royalty deductions for
17 dehydration, treating, natural gas gathering, com-
18 pression, transportation, marketing, removal of im-
19 purities such as carbon dioxide (CO₂), nitrogen (N₂),
20 hydrogen sulphide (H₂S), mercaptain (HS), helium
21 (He), and other similar charges on natural gas, con-
22 densate, and oil produced under such leases that are
23 now in existence be eliminated.

24 (20) Requiring that at all times—

1 (A) the quantity, quality, and value ob-
2 tained for natural gas liquids (condensate) be
3 reported to the Secretary; and

4 (B) such reported value be based on fair
5 independent arm's length market value.

6 (21) Issuance by the Secretary of regulations
7 that prohibit venting or flaring (or both) of natural
8 gas in cases for which technology exists to reason-
9 ably prevent it, strict enforcement of such prohibi-
10 tions, and cancellation of leases for violations.

11 (22) Requiring lessees to pay full royalties on
12 any natural gas that is vented, flared, or otherwise
13 avoidably lost.

14 (23)(A) Requiring payment of royalties on car-
15 bon dioxide at the wellhead used for tertiary oil re-
16 covery from depleted oil fields on the basis of 5 per-
17 cent of the West Texas Intermediate crude oil fair
18 market price to be used for one MCF (1,000 cubic
19 feet) of carbon dioxide gas.

20 (B) Requiring that—

21 (i) carbon dioxide used for edible purposes
22 should be subjected to a royalty per thousand
23 cubic feet (MCF) on the basis of the sales price
24 at the downstream delivery point without de-

1 ducting for removal of impurities, processing,
2 transportation, and marketing costs;

3 (ii) such price to apply with respect to gas-
4 eous forms, liquid forms, and solid (dry ice)
5 forms of carbon dioxide converted to equivalent
6 MCF; and

7 (iii) such royalty to apply with respect to
8 both a direct producer of carbon dioxide and
9 purchases of carbon dioxide from another per-
10 son that is either affiliated or not affiliated with
11 the purchaser.

12 (24) Requiring that—

13 (A) royalties be paid on the fair market
14 value of nitrogen extracted from such leases
15 that is used industrially for well stimulation,
16 helium recovery, or other uses; and

17 (B) royalties be paid on the fair market
18 value of ultimately processed helium recovered
19 from such leases.

20 (25) Allowing only 5 percent of the value of the
21 elemental sulfur recovered during processing of hy-
22 drogen sulfide gas from such leases to be deducted
23 for processing costs in determining royalty pay-
24 ments.

1 (26) Requiring that all heating content analysis
2 of natural gas be conducted to a minimum level of
3 C₁₅.

4 (27) Eliminating artificial conversion from dry
5 BTU to wet BTU, and requiring that natural gas be
6 analyzed and royalties paid for at all times on the
7 basis of dry BTU only.

8 (28) Requiring that natural gas sampling be
9 performed at all times with a floating piston cylinder
10 container at the same pressure intake as the pres-
11 sure of the natural gas gathering line.

12 (29) Requiring use of natural gas filters with a
13 minimum of 10 microns, and preferably 15 microns,
14 both in the intake to natural gas sampling con-
15 tainers and in the exit from the natural gas sam-
16 pling containers into the chromatograph.

17 (30) Mandate the use of a Quad Unit for both
18 portable and stationary chromatographs in order to
19 correct for the presence of nitrogen and oxygen, if
20 any, in certain natural gas streams.

21 (31) Require the calibration of all chro-
22 matograph equipment every three months and the
23 use of only American Gas Association-approved
24 standard comparison containers for such calibration.

1 (32) Requiring payment of royalties on any
2 such natural gas stored on Federal or Indian lands
3 on the basis of corresponding storage charges for the
4 use of Federal or Indian lands, respectively, for such
5 storage service.

6 (33) Imposing penalties for the intentional non-
7 payment of royalties for natural gas liquids recov-
8 ered—

9 (A) from purging of natural gas gathering
10 lines and natural gas pipelines; or

11 (B) from field separators, dehydrators, and
12 processing plants,

13 including cancellation of oil and natural gas leases
14 and criminal penalties.

15 (34) Requiring that the separator, dehydrator,
16 and natural gas meter be located within 100 feet of
17 each natural gas wellhead.

18 (35) Requiring that BTU heating content anal-
19 ysis be performed when the natural gas is at a tem-
20 perature of 140 to 150 degrees Fahrenheit at all
21 times, as required by the American Gas Association
22 (AGA) regulations.

23 (36) Requiring that heating content analysis
24 and volume measurements are identical at the sales
25 point to what they are at the purchase point, after

1 allowing for a small volume for leakage in old pipes,
2 but with no allowance for heating content discrep-
3 ancy.

4 (37) Verification by the Secretary that the spe-
5 cific gravity of natural gas produced under such
6 leases, as measured at the meter run, corresponds to
7 the heating content analysis data for such natural
8 gas, in accordance with the Natural Gas Processors
9 Association Publication 2145–71(1), entitled “Phys-
10 ical Constants Of Paraffin Hydrocarbons And Other
11 Components Of Natural Gas”, and reporting of all
12 discrepancies immediately.

13 (38) Prohibiting all deductions on royalty pay-
14 ments for marketing of natural gas, condensate, and
15 oil by an affiliate or agent.

16 (39) Requiring that all standards of the Amer-
17 ican Petroleum Institute, the American Gas Associa-
18 tion, the Gas Processors Association, and the Amer-
19 ican Society of Testing Materials, Minerals Manage-
20 ment Service Order No. 5, and all other Minerals
21 Management Service orders be faithfully observed
22 and applied, and willful misconduct of such stand-
23 ards and orders be subject to oil and gas lease can-
24 cellation.

1 **SEC. 803. DEFINITIONS.**

2 In this title:

3 (1) COVERED LANDS.—The term “covered
4 lands” means—

5 (A) all Federal onshore lands and offshore
6 lands that are under the administrative jurisdic-
7 tion of the Department of the Interior for pur-
8 poses of oil and gas leasing; and

9 (B) Indian onshore lands.

10 (2) SECRETARY.—The term “Secretary” means
11 the Secretary of the Interior.

12 **TITLE IX—OFFSHORE OIL AND**
13 **GAS WORKER WHISTLE-**
14 **BLOWER PROTECTION**

15 **SEC. 901. SHORT TITLE.**

16 This title may be cited as the “Offshore Oil and Gas
17 Worker Whistleblower Protection Act of 2011”.

18 **SEC. 902. WHISTLEBLOWER PROTECTIONS; EMPLOYEE**
19 **PROTECTION FROM OTHER RETALIATION.**

20 (a) PROHIBITION AGAINST RETALIATION.—

21 (1) IN GENERAL.—No employer may discharge
22 or otherwise discriminate against a covered employee
23 because the covered employee, whether at the cov-
24 ered employee’s initiative or in the ordinary course
25 of the covered employee’s duties—

1 (A) provided, caused to be provided, or is
2 about to provide or cause to be provided to the
3 employer or to a Federal or State government
4 official, information relating to any violation of,
5 or any act or omission the covered employee
6 reasonably believes to be a violation of, any pro-
7 vision of the Outer Continental Shelf Lands Act
8 (43 U.S.C. 1301 et seq.), or any order, rule,
9 regulation, standard, or prohibition under that
10 Act, or exercised any rights provided to employ-
11 ees under that Act;

12 (B) testified or is about to testify in a pro-
13 ceeding concerning such violation;

14 (C) assisted or participated or is about to
15 assist or participate in such a proceeding;

16 (D) testified or is about to testify before
17 Congress on any matter covered by such Act;

18 (E) objected to, or refused to participate in
19 any activity, policy, practice, or assigned task
20 that the covered employee reasonably believed
21 to be in violation of any provision of such Act,
22 or any order, rule, regulation, standard, or ban
23 under such Act;

24 (F) reported to the employer or a State or
25 Federal government official any of the following

1 related to the employer's activities described in
2 section 1003(1): an illness, injury, unsafe condi-
3 tion, or information regarding the adequacy of
4 any oil spill response plan required by law; or

5 (G) refused to perform the covered employ-
6 ee's duties, or exercised stop work authority, re-
7 lated to the employer's activities described in
8 section 1003(1) if the covered employee had a
9 good faith belief that performing such duties
10 could result in injury to or impairment of the
11 health of the covered employee or other employ-
12 ees, or cause an oil spill to the environment.

13 (2) GOOD FAITH BELIEF.—For purposes of
14 paragraph (1)(E), the circumstances causing the
15 covered employee's good faith belief that performing
16 such duties would pose a health and safety hazard
17 shall be of such a nature that a reasonable person
18 under circumstances confronting the covered em-
19 ployee would conclude there is such a hazard.

20 (b) PROCESS.—

21 (1) IN GENERAL.—A covered employee who be-
22 lieves that he or she has been discharged or other-
23 wise discriminated against (hereafter referred to as
24 the "complainant") by any employer in violation of
25 subsection (a)(1) may, not later than 180 days after

1 the date on which such alleged violation occurs or
2 the date on which the covered employee knows or
3 should reasonably have known that such alleged vio-
4 lation occurred, file (or have any person file on his
5 or her behalf) a complaint with the Secretary of
6 Labor (referred to in this section as the “Sec-
7 retary”) alleging such discharge or discrimination
8 and identifying employer or employers responsible
9 for such act. Upon receipt of such a complaint, the
10 Secretary shall notify, in writing, the employer or
11 employers named in the complaint of the filing of
12 the complaint, of the allegations contained in the
13 complaint, of the substance of evidence supporting
14 the complaint, and of the opportunities that will be
15 afforded to such person under paragraph (2).

16 (2) INVESTIGATION.—

17 (A) IN GENERAL.—Not later than 90 days
18 after the date of receipt of a complaint filed
19 under paragraph (1) the Secretary shall initiate
20 an investigation and determine whether there is
21 reasonable cause to believe that the complaint
22 has merit and notify, in writing, the complain-
23 ant and the employer or employers alleged to
24 have committed a violation of subsection (a)(1)
25 of the Secretary’s findings. The Secretary shall,

1 during such investigation afford the complain-
2 ant and the employer or employers named in
3 the complaint an opportunity to submit to the
4 Secretary a written response to the complaint
5 and an opportunity to meet with a representa-
6 tive of the Secretary to present statements from
7 witnesses. The complainant shall be provided
8 with an opportunity to review the information
9 and evidence provided by employer or employers
10 to the Secretary, and to review any response or
11 rebuttal by such the complaint, as part of such
12 investigation.

13 (B) REASONABLE CAUSE FOUND; PRELIMI-
14 NARY ORDER.—If the Secretary concludes that
15 there is reasonable cause to believe that a viola-
16 tion of subsection (a)(1) has occurred, the Sec-
17 retary shall accompany the Secretary’s findings
18 with a preliminary order providing the relief
19 prescribed by paragraph (3)(B). Not later than
20 30 days after the date of notification of find-
21 ings under this paragraph, the employer or em-
22 ployers alleged to have committed the violation
23 or the complainant may file objections to the
24 findings or preliminary order, or both, and re-
25 quest a hearing on the record before an admin-

1 istrative law judge of the Department of Labor.
2 The filing of such objections shall not operate
3 to stay any reinstatement remedy contained in
4 the preliminary order. Any such hearing shall
5 be conducted expeditiously. If a hearing is not
6 requested in such 30-day period, the prelimi-
7 nary order shall be deemed a final order that is
8 not subject to judicial review. The Secretary of
9 Labor is authorized to enforce preliminary rein-
10 statement orders in the United States district
11 court for the district in which the violation was
12 found to occur, or in the United States district
13 court for the District of Columbia.

14 (C) DISMISSAL OF COMPLAINT.—

15 (i) STANDARD FOR COMPLAINANT.—

16 The Secretary shall dismiss a complaint
17 filed under this subsection and shall not
18 conduct an investigation otherwise required
19 under subparagraph (A) unless the com-
20 plainant makes a prima facie showing that
21 any behavior described in subparagraphs
22 (A) through (G) of subsection (a)(1) was a
23 contributing factor in the adverse action
24 alleged in the complaint.

1 (ii) STANDARD FOR EMPLOYER.—Not-
2 withstanding a finding by the Secretary
3 that the complainant has made the show-
4 ing required under clause (i), no investiga-
5 tion otherwise required under subpara-
6 graph (A) shall be conducted if the em-
7 ployer demonstrates, by clear and con-
8 vincing evidence, that the employer would
9 have taken the same adverse action in the
10 absence of that behavior.

11 (iii) VIOLATION STANDARD.—The
12 Secretary may determine that a violation
13 of subsection (a)(1) has occurred only if
14 the complainant demonstrates that any be-
15 havior described in subparagraphs (A)
16 through (G) of such subsection was a con-
17 tributing factor in the adverse action al-
18 leged in the complaint.

19 (iv) RELIEF STANDARD.—Relief may
20 not be ordered under subparagraph (A) if
21 the employer demonstrates by clear and
22 convincing evidence that the employer
23 would have taken the same adverse action
24 in the absence of that behavior.

25 (3) ORDERS.—

1 (A) IN GENERAL.—Not later than 90 days
2 after the receipt of a request for a hearing
3 under subsection (b)(2)(B), the administrative
4 law judge shall issue findings of fact and order
5 the relief provided under this paragraph or
6 deny the complaint. At any time before issuance
7 of an order, a proceeding under this subsection
8 may be terminated on the basis of a settlement
9 agreement entered into by the Secretary, the
10 complainant, and the person alleged to have
11 committed the violation. Such a settlement may
12 not be agreed by such parties if it contains con-
13 ditions which conflict with rights protected
14 under this title, are contrary to public policy, or
15 include a restriction on a complainant's right to
16 future employment with employers other than
17 the specific employers named in the complaint.

18 (B) CONTENT OF ORDER.—If, in response
19 to a complaint filed under paragraph (1), the
20 administrative law judge determines that a vio-
21 lation of subsection (a)(1) has occurred, the ad-
22 ministrative law judge shall order the employer
23 or employers who committed such violation—

24 (i) to take affirmative action to abate
25 the violation;

1 (ii) to reinstate the complainant to his
2 or her former position together with com-
3 pensation (including back pay and prejudg-
4 ment interest) and restore the terms, con-
5 ditions, and privileges associated with his
6 or her employment; and

7 (iii) to provide compensatory and con-
8 sequential damages, and, as appropriate,
9 exemplary damages to the complainant.

10 (C) ATTORNEY FEES.—If such an order is
11 issued under this paragraph, the Secretary, at
12 the request of the complainant, shall assess
13 against the employer or employers a sum equal
14 to the aggregate amount of all costs and ex-
15 penses (including attorneys' and expert witness
16 fees) reasonably incurred by the complainant
17 for, or in connection with, the bringing of the
18 complaint upon which the order was issued at
19 the conclusion of any stage of the proceeding.

20 (D) BAD FAITH CLAIM.—If the Secretary
21 finds that a complaint under paragraph (1) is
22 frivolous or has been brought in bad faith, the
23 Secretary may award to the prevailing employer
24 reasonable attorneys' fees, not exceeding
25 \$1,000, to be paid by the complainant.

1 (E) ADMINISTRATIVE APPEAL.—Not later
2 than 30 days after the receipt of findings of
3 fact or an order under subparagraph (B), the
4 employer or employers alleged to have com-
5 mitted the violation or the complainant may
6 file, with objections, an administrative appeal
7 with the Secretary, who may designate such ap-
8 peal to a review board. In reviewing a decision
9 and order of the administrative law judge, the
10 Secretary shall affirm the decision and order if
11 it is determined that the factual findings set
12 forth therein are supported by substantial evi-
13 dence and the decision and order are made in
14 accordance with applicable law. The Secretary
15 shall issue a final decision and order affirming,
16 or reversing, in whole or in part, the decision
17 under review within 90 days after receipt of the
18 administrative appeal under this subparagraph.
19 If it is determined that a violation of subsection
20 (a)(1) has occurred, the Secretary shall order
21 relief provided under subparagraphs (B) and
22 (C). Such decision shall constitute a final agen-
23 cy action with respect to the matter appealed.
24 (4) ACTION IN COURT.—

1 (A) IN GENERAL.—If the Secretary has
2 not issued a final decision within 330 days after
3 the filing of the complaint, the complainant
4 may bring an action at law or equity for de
5 novo review in the appropriate district court of
6 the United States, which action shall, at the re-
7 quest of either party to such action, be tried by
8 the court with a jury. The proceedings shall be
9 governed by the same legal burdens of proof
10 specified in paragraph (2)(C).

11 (B) RELIEF.—The court may award all
12 appropriate relief including injunctive relief,
13 compensatory and consequential damages, in-
14 cluding—

15 (i) reinstatement with the same se-
16 niority status that the covered employee
17 would have had, but for the discharge or
18 discrimination;

19 (ii) the amount of back pay sufficient
20 to make the covered employee whole, with
21 prejudgment interest;

22 (iii) exemplary damages, as appro-
23 priate; and

24 (iv) litigation costs, including reason-
25 able attorney fees and expert witness fees.

1 (5) REVIEW.—

2 (A) IN GENERAL.—Any person aggrieved
3 by a final order issued under paragraph (3) or
4 a judgment or order under paragraph (4) may
5 obtain review of the order in the appropriate
6 United States Court of Appeals. The petition
7 for review must be filed not later than 60 days
8 after the date of the issuance of the final order
9 of the Secretary. Review shall be in accordance
10 with chapter 7 of title 5, United States Code.
11 The commencement of proceedings under this
12 subparagraph shall not, unless ordered by the
13 court, operate as a stay of the order.

14 (B) NO OTHER JUDICIAL REVIEW.—An
15 order of the Secretary with respect to which re-
16 view could have been obtained under subpara-
17 graph (A) shall not be subject to judicial review
18 in any other proceeding.

19 (6) FAILURE TO COMPLY WITH ORDER.—When-
20 ever any employer has failed to comply with an order
21 issued under paragraph (3), the Secretary may ob-
22 tain in a civil action in the United States district
23 court for the district in which the violation was
24 found to occur, or in the United States district court
25 for the District of Columbia, all appropriate relief

1 including, but not limited to, injunctive relief and
2 compensatory damages.

3 (7) CIVIL ACTION TO REQUIRE COMPLIANCE.—

4 (A) IN GENERAL.—Whenever an employer
5 has failed to comply with an order issued under
6 paragraph (3), the complainant on whose behalf
7 the order was issued may obtain in a civil ac-
8 tion in an appropriate United States district
9 court against the employer to whom the order
10 was issued, all appropriate relief.

11 (B) AWARD.—The court, in issuing any
12 final order under this paragraph, may award
13 costs of litigation (including reasonable attor-
14 neys' and expert witness fees) to any party
15 whenever the court determines such award is
16 appropriate.

17 (c) CONSTRUCTION.—

18 (1) EFFECT ON OTHER LAWS.—Nothing in this
19 section preempts or diminishes any other safeguards
20 against discrimination, demotion, discharge, suspen-
21 sion, threats, harassment, reprimand, retaliation, or
22 any other manner of discrimination provided by Fed-
23 eral or State law.

24 (2) RIGHTS OF EMPLOYEES.—Nothing in this
25 section shall be construed to diminish the rights,

1 privileges, or remedies of any employee under any
2 Federal or State law or under any collective bar-
3 gaining agreement. The rights and remedies in this
4 section may not be waived by any agreement, policy,
5 form, or condition of employment.

6 (d) ENFORCEMENT OF NONDISCRETIONARY DU-
7 TIES.—Any nondiscretionary duty imposed by this section
8 shall be enforceable in a mandamus proceeding brought
9 under section 1361 of title 28, United States Code.

10 (e) POSTING OF NOTICE AND TRAINING.—All em-
11 ployers shall post a notice which has been approved as to
12 form and content by the Secretary of Labor in a con-
13 spicuous location in the place of employment where cov-
14 ered employees frequent which explains employee rights
15 and remedies under this section. Each employer shall pro-
16 vide training to covered employees of their rights under
17 this section within 30 days of employment, and at not less
18 than once every 12 months thereafter, and provide covered
19 employees with a card which contains a toll free telephone
20 number at the Department of Labor which covered em-
21 ployees can call to get information or file a complaint
22 under this section.

23 (f) DESIGNATION BY THE SECRETARY.—The Sec-
24 retary of Labor shall, within 30 days of the date of enact-
25 ment of this Act, designate by order the appropriate agen-

1 cy officials to receive, investigate, and adjudicate com-
2 plaints of violations of subsection (a)(1).

3 **SEC. 903. DEFINITIONS.**

4 As used in this title the following definitions apply:

5 (1) The term “covered employee”—

6 (A) means an individual performing serv-
7 ices on behalf of an employer that is engaged
8 in activities on or in waters above the Outer
9 Continental Shelf related to—

10 (i) supporting, or carrying out explo-
11 ration, development, production, proce-
12 ssing, or transportation of oil or gas; or

13 (ii) oil spill cleanup, emergency re-
14 sponse, environmental surveillance, protec-
15 tion, or restoration, or other oil spill activi-
16 ties related to occupational safety and
17 health; and

18 (B) includes an applicant for such employ-
19 ment.

20 (2) The term “employer” means one or more
21 individuals, partnerships, associations, corporations,
22 trusts, unincorporated organizations, nongovern-
23 mental organizations, or trustees, and includes any
24 agent, contractor, subcontractor, grantee or consult-
25 ant of such employer.

1 (3) The term “Outer Continental Shelf” has
2 the meaning that the term “outer Continental Shelf”
3 has in the Outer Continental Shelf Lands Act (43
4 U.S.C. 1331 et seq.).

○