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S. 3643

To amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, to improve oil spill compensation, to terminate the moratorium on deepwater drilling, and for other purposes.

IN THE SENATE OF THE UNITED STATES

July 22, 2010

Mr. MCCONNELL (for himself, Ms. MURKOWSKI, Mr. ALEXANDER, Mr. INHOFE, Mr. THUNE, Mr. BENNETT, Mr. BARRASSO, Mr. CORNYN, and Mr. WICKER) introduced the following bill; which was read the first time

July 26, 2010

Read the second time and place on the calendar

A BILL

To amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, to improve oil spill compensation, to terminate the moratorium on deepwater drilling, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title- This Act may be cited as the 'Oil Spill Response Improvement Act of 2010'.

(b) Table of Contents- The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I--OUTER CONTINENTAL SHELF REFORM

Sec. 101. Purposes.

Sec. 102. Definitions.

Sec. 103. National policy for the outer Continental Shelf.

Sec. 104. Structural reform of outer Continental Shelf program management.

Sec. 105. Safety, environmental, and financial reform of the Outer Continental Shelf Lands Act.

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Sec. 107. Reform of other law.

Sec. 108. Safer oil and gas production.

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Sec. 111. Savings provisions.

Sec. 112. Budgetary effects.

TITLE II--OIL SPILL COMPENSATION

Subtitle A--Oil Spill Liability

PART I--Oil Pollution Act of 1990

Sec. 201. Liability limits.

Sec. 202. Advance payment.

PART II--Oil Spill Liability Trust Fund

Sec. 211. Rate of tax for Oil Spill Liability Trust Fund.

Sec. 212. Limitations on expenditures and borrowing authority.

Subtitle B--Federal Oil Spill Research

Sec. 221. Definitions.

Sec. 222. Federal oil spill research.

Sec. 223. National Academy of Science participation.

Sec. 224. Technical and conforming amendments.

Sec. 225. Oil spill response authority.

Sec. 226. Maritime center of expertise.

Sec. 227. National strike force.

Sec. 228. District preparedness and response teams.

Sec. 229. Oil spill response organizations.

Sec. 230. Program for oil spill and hazardous substance release response.

Sec. 230a. Oil and hazardous substance liability.

Subtitle C--Oil and Gas Leasing

Sec. 231. Revenue sharing from outer Continental Shelf areas in certain coastal States.

Sec. 232. Revenue sharing from areas in Alaska Adjacent zone.

Sec. 233. Accelerated revenue sharing to promote coastal resiliency among Gulf producing States.

Sec. 234. Coastal impact assistance program amendments.

Sec. 235. Production of oil from certain Arctic offshore leases.

Sec. 236. Use of stimulus funds to offset spending.

TITLE III--GUIDANCE ON MORATORIUM ON OUTER CONTINENTAL SHELF DRILLING

Sec. 301. Limitation of moratorium on certain permitting and drilling activities.

Sec. 302. Deepwater Horizon incident.

TITLE I--OUTER CONTINENTAL SHELF REFORM

SEC. 101. PURPOSES.

The purposes of this title are--

(1) to rationalize and reform the responsibilities of the Secretary of the Interior with respect to the management of the outer Continental Shelf in order to improve the management, oversight, accountability, safety, and environmental protection of all the resources on the outer Continental Shelf;

(2) to provide independent development and enforcement of safety and environmental laws (including regulations) governing--

(A) energy development and mineral extraction activities on the outer Continental Shelf; and

(B) related offshore activities; and

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

SEC. 102. DEFINITIONS.

In this title:

(1) DEPARTMENT- The term `Department' means the Department of the Interior.

(2) OUTER CONTINENTAL SHELF- The term `outer Continental Shelf' has the meaning given the term in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(3) SECRETARY- The term `Secretary' means the Secretary of the Interior.

SEC. 103. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.

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

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

`(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be managed in a manner that--

`(A) recognizes the need of the United States for competitive domestic sources of energy, food, minerals, and other resources;

`(B) minimizes the potential impacts of development of those resources on the marine and coastal environment and on human health and safety; and

`(C) acknowledges the long-term economic value to the United States of the balanced, expeditious, and orderly management and production of those resources that safeguards the environment and respects the multiple values and uses of the outer Continental Shelf;';

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

(3) in paragraph (5), by striking `; and' and inserting a semicolon;

(4) by redesignating paragraph (6) as paragraph (7);

(5) by inserting after paragraph (5) the following:

`(6) exploration, development, and production of energy and minerals on the outer Continental Shelf should be allowed only when those activities can be accomplished in a manner that provides reasonable assurance of adequate protection against harm to life, health, the environment, property, or other users of the waters, seabed, or subsoil; and'; and

(6) in paragraph (7) (as so redesignated)--

(A) by striking 'should be' and inserting 'shall be'; and

(B) by adding 'best available commercial' after 'using'.

SEC. 104. STRUCTURAL REFORM OF OUTER CONTINENTAL SHELF PROGRAM MANAGEMENT.

(a) In General- The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding to the end the following:

`SEC. 32. STRUCTURAL REFORM OF OUTER CONTINENTAL SHELF PROGRAM MANAGEMENT.

`(a) Leasing, Permitting, and Regulation Bureaus-

`(1) ESTABLISHMENT OF BUREAUS-

`(A) IN GENERAL- Subject to the discretion granted by Reorganization Plan Number 3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), the Secretary shall establish in the Department of the Interior not more than 2 bureaus to carry out the leasing, permitting, and safety and environmental regulatory functions vested in the Secretary by this Act and the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) related to the outer Continental Shelf.

`(B) CONFLICTS OF INTEREST- In establishing the bureaus under subparagraph (A), the Secretary shall ensure, to the maximum extent practicable, that any potential organizational conflicts of interest related to leasing, revenue creation, environmental protection, and safety are eliminated.

`(2) DIRECTOR- Each bureau shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

`(3) COMPENSATION- Each Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

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

`(b) Royalty and Revenue Office-

`(1) ESTABLISHMENT OF OFFICE- Subject to the discretion granted by Reorganization Plan Number 3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), the Secretary shall establish in the Department of the Interior an office to carry out the royalty and revenue management functions vested in the Secretary by this Act and the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.).

`(2) DIRECTOR- The office established under paragraph (1) shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

`(3) COMPENSATION- The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

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

`(c) OCS Safety and Environmental Advisory Board-

`(1) ESTABLISHMENT- The Secretary shall establish, under the Federal Advisory Committee Act (5 U.S.C. App.), an Outer Continental Shelf Safety and Environmental Advisory Board (referred to in this subsection as the `Board'), to provide the Secretary and the Directors of the bureaus established under this section with independent peer-reviewed scientific and technical advice on safe and environmentally compliant energy and mineral resource exploration, development, and production activities.

`(2) MEMBERSHIP-

`(A) SIZE-

`(i) IN GENERAL- The Board shall consist of not more than 12 members, chosen to reflect a range of expertise in scientific, engineering, management, and other disciplines related to safe and environmentally compliant energy and mineral resource exploration, development, and production activities.

`(ii) CONSULTATION- The Secretary shall consult with the National Academy of Sciences and the National Academy of Engineering to identify potential candidates for membership on the Board.

`(B) TERM- The Secretary shall appoint Board members to staggered terms of not more than 4 years, and shall not appoint a member for more than 2 consecutive terms.

`(C) CHAIR- The Secretary shall appoint the Chair for the Board.

`(3) MEETINGS- The Board shall--

`(A) meet not less than 3 times per year; and

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

`(4) REPORTS- Reports of the Board shall--

`(A) be submitted to Congress; and

`(B) made available to the public in an electronically accessible form.

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

`(d) Special Personnel Authorities-

`(1) DIRECT HIRING AUTHORITY FOR CRITICAL PERSONNEL-

`(A) IN GENERAL- Notwithstanding sections 3104, 3304, and 3309 through 3318 of title 5, United States Code, the Secretary may, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, recruit and directly appoint highly qualified accountants, scientists, engineers, or critical technical personnel into the competitive service, as officers or employees of any of the organizational units established under this section.

`(B) REQUIREMENTS- In exercising the authority granted under subparagraph (A), the Secretary shall ensure that any action taken by the Secretary--

`(i) is consistent with the merit principles of chapter 23 of title 5, United States Code; and

`(ii) complies with the public notice requirements of section 3327 of title 5, United States Code.

`(2) CRITICAL PAY AUTHORITY-

`(A) IN GENERAL- Notwithstanding section 5377 of title 5, United States Code, and without regard to the provisions of that title governing appointments in the competitive service or the Senior Executive Service and chapters 51 and 53 of that title (relating to classification and pay rates), the Secretary may establish, fix the compensation of, and appoint individuals to critical positions needed to carry out the functions of any of the organizational units established under this section, if the Secretary certifies that--

`(i) the positions--

`(I) require expertise of an extremely high level in a scientific or technical field; and

`(II) any of the organizational units established in this section would not successfully accomplish an important mission without such an individual; and

`(ii) exercise of the authority is necessary to recruit an individual exceptionally well qualified for the position.

`(B) LIMITATIONS- The authority granted under subparagraph (A) shall be subject to the following conditions:

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

`(ii) The term of an appointment under subparagraph (A) may not exceed 4 years.

`(iii) An individual appointed under subparagraph (A) may not have been an employee of the Department of the Interior during the 2-year period prior to the date of appointment.

`(iv) Total annual compensation for any individual appointed under subparagraph (A) may not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3, United States Code.

`(v) An individual appointed under subparagraph (A) may not be considered to be an employee for purposes of subchapter II of chapter 75 of title 5, United States Code.

`(C) NOTIFICATION- Each year, the Secretary shall submit to Congress a notification that lists each individual appointed under this paragraph.

`(3) REEMPLOYMENT OF CIVILIAN RETIREES-

`(A) IN GENERAL- Notwithstanding part 553 of title 5, Code of Federal Regulations (relating to reemployment of civilian retirees to meet exceptional employment needs), or successor regulations, the Secretary may approve the reemployment of an individual to a particular position without reduction or termination of annuity if the hiring of the individual is necessary to carry out a critical function of any of the organizational units established under this section for which suitably qualified candidates do not exist.

`(B) LIMITATIONS- An annuitant hired with full salary and annuities under the authority granted by subparagraph (A)--

`(i) shall not be considered an employee for purposes of subchapter III of chapter 83 and chapter 84 of title 5, United States Code;

`(ii) may not elect to have retirement contributions withheld from the pay of the annuitant;

`(iii) may not use any employment under this paragraph as a basis for a supplemental or recomputed annuity; and

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

`(C) LIMITATION ON TERM- The term of employment of any individual hired under subparagraph (A) may not exceed an initial term of 2 years, with an additional 2-year appointment under exceptional circumstances.

`(e) Continuity of Authority- Subject to the discretion granted by Reorganization Plan Number 3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), any reference in any law, rule, regulation, directive, or instruction, or certificate or other official document, in force immediately prior to the date of enactment of this section--

`(1) to the Minerals Management Service that pertains to any of the duties and authorities described in this section shall be deemed to refer and apply to the appropriate bureaus and offices established under this section;

`(2) to the Director of the Minerals Management Service that pertains to any of the duties and authorities described in this section shall be deemed to refer and apply to the Director of the bureau or office under this section to whom the Secretary has assigned the respective duty or authority; and

`(3) to any other position in the Minerals Management Service that pertains to any of the duties and authorities described in this section shall be deemed to refer and apply to that same or equivalent position in the appropriate bureau or office established under this section.'

(b) Conforming Amendment- Section 5316 of title 5, United States Code, is amended by striking 'Director, Bureau of Mines, Department of the Interior' and inserting the following:

'Bureau Directors, Department of the Interior (2).

'Director, Royalty and Revenue Office, Department of the Interior.'

SEC. 105. SAFETY, ENVIRONMENTAL, AND FINANCIAL REFORM OF THE OUTER CONTINENTAL SHELF LANDS ACT.

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

'(r) Safety Case- The term 'safety case' means a complete set of safety documentation that provides a basis for determining whether a system is adequately safe for a given application in a given environment.'

(b) Administration of Leasing- Section 5(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)) is amended in the second sentence--

(1) by striking 'The Secretary may at any time' and inserting 'The Secretary shall'; and

(2) by inserting after 'provide for' the following: 'operational safety, the protection of the marine and coastal environment,'.

(c) Maintenance of Leases- Section 6 of the Outer Continental Shelf Lands Act (43 U.S.C. 1335) is amended by adding at the end the following:

'(f) Review of Bond and Surety Amounts- Not later than May 1, 2011, and every 5 years thereafter, the Secretary shall--

'(1) review the minimum financial responsibility requirements for mineral leases under subsection (a)(11); and

'(2) adjust for inflation based on the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, and recommend to Congress any further changes to existing financial responsibility requirements necessary to permit lessees to fulfill all obligations under this Act or the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.).

'(g) Periodic Fiscal Reviews and Reports-

'(1) ROYALTY RATES-

'(A) IN GENERAL- Not later than 1 year after the date of enactment of this subsection and every 4 years thereafter, the Secretary shall carry out a review of, and prepare a report that describes--

'(i) the royalty and rental rates included in new offshore oil and gas leases and the rationale for the rates;

`(ii) whether, in the view of the Secretary, the royalty and rental rates described in subparagraph (A) would yield a fair return to the public while promoting the production of oil and gas resources in a timely manner; and

`(iii) whether, based on the review, the Secretary intends to modify the royalty or rental rates.

`(B) PUBLIC PARTICIPATION- In carrying out a review and preparing a report under subparagraph (A), the Secretary shall provide to the public an opportunity to participate.

`(2) COMPARATIVE REVIEW OF FISCAL SYSTEM-

`(A) IN GENERAL- Not later than 1 year after the date of enactment of this subsection and every 4 years thereafter, the Secretary in consultation with the Secretary of the Treasury, shall carry out a comprehensive review of all components of the Federal offshore oil and gas fiscal system, including requirements and trends for bonus bids, rental rates, royalties, oil and gas taxes, income taxes, wage requirements, regulatory compliance costs, oil and gas fees, and other significant financial elements.

`(B) INCLUSIONS- The review shall include--

`(i) information and analyses comparing the offshore bonus bids, rents, royalties, taxes, and fees of the Federal Government to the offshore bonus bids, rents, royalties, taxes, and fees of other resource owners (including States and foreign countries); and

`(ii) an assessment of the overall offshore oil and gas fiscal system in the United States, as compared to foreign countries.

`(C) INDEPENDENT ADVISORY COMMITTEE- In carrying out a review under this paragraph, the Secretary shall convene and seek the advice of an independent advisory committee comprised of oil and gas and fiscal experts from States, Indian tribes, academia, the energy industry, and appropriate nongovernmental organizations.

`(D) REPORT- The Secretary shall prepare a report that contains--

`(i) the contents and results of the review carried out under this paragraph for the period covered by the report; and

`(ii) any recommendations of the Secretary and the Secretary of the Treasury based on the contents and results of the review.

`(E) COMBINED REPORT- The Secretary may combine the reports required by paragraphs (1) and (2)(D) into 1 report.

`(3) REPORT DEADLINE- Not later than 30 days after the date on which the Secretary completes each report under this subsection, the Secretary shall submit copies of the report to--

`(A) the Committee on Energy and Natural Resources of the Senate;

`(B) the Committee on Finance of the Senate;

`(C) the Committee on Natural Resources of the House of Representatives; and

`(D) the Committee on Ways and Means of the House of Representatives.'.

(d) Leases, Easements, and Rights-of-Way- Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by striking subsection (d) and inserting the following:

`(d) Disqualification From Bidding- No bid for a lease may be submitted by any entity that the Secretary finds, after prior public notice and opportunity for a hearing--

`(1) is not meeting due diligence, safety, or environmental requirements, constituting significant infractions, on other leases; or

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

`(B) has failed to meet the obligations of the responsible party under that Act to provide compensation for covered removal costs and damages.'.

(e) Exploration Plans- Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended--

(1) in subsection (c)--

(A) in the fourth sentence of paragraph (1), by striking `within thirty days of its submission' and inserting `by the deadline described in paragraph (5)';

(B) by striking paragraph (3) and inserting the following:

`(3) MINIMUM REQUIREMENTS-

`(A) IN GENERAL- An exploration plan submitted under this subsection shall include, in such degree of detail as the Secretary by regulation may require--

`(i) a complete description and schedule of the exploration activities to be undertaken;

`(ii) a description of the equipment to be used for the exploration activities, including--

`(I) a description of the drilling unit;

`(II) a statement of the design and condition of major safety-related pieces of equipment;

`(III) a description of any new technology to be used; and

`(IV) a statement demonstrating that the equipment to be used meets the best available commercial technology requirements under section 21(b);

`(iii) a map showing the location of each well to be drilled;

`(iv)(I) a scenario for the potential blowout of the well involving the highest expected volume of liquid hydrocarbons; and

`(II) a complete description of a response plan to control the blowout and manage the accompanying discharge of hydrocarbons, including--

`(aa) the technology and estimated timeline for regaining control of the well; and

`(bb) the strategy, organization, and resources to be used to avoid harm to the environment and human health from hydrocarbons; and

`(v) any other information determined to be relevant by the Secretary.

`(B) DEEPWATER WELLS-

`(i) IN GENERAL- Before conducting exploration activities in water depths greater than 500 feet, the holder of a lease shall submit to the Secretary for approval a deepwater operations plan prepared by the lessee in accordance with this subparagraph.

`(ii) TECHNOLOGY REQUIREMENTS- A deepwater operations plan under this subparagraph shall be based on the best available commercial technology to ensure safety in carrying out the exploration activity and the blowout response plan.

`(iii) SYSTEMS ANALYSIS REQUIRED- The Secretary shall not approve a deepwater operations plan under this subparagraph unless the plan includes a technical systems analysis of--

`(I) the safety of the proposed exploration activity;

`(II) the blowout prevention technology; and

`(III) the blowout and spill response plans.'; and

(C) by adding at the end the following:

`(5) DEADLINE FOR APPROVAL-

`(A) IN GENERAL- In the case of a lease issued under a sale held after March 17, 2010, the deadline for approval of an exploration plan referred to in the fourth sentence of paragraph (1) is--

`(i) the date that is 90 days after the date on which the plan or the modifications to the plan are submitted; or

`(ii) the date that is not later than an additional 180 days after the deadline described in clause (i), if the Secretary makes a finding that additional time is necessary to complete any environmental, safety, or other reviews.

`(B) EXISTING LEASES- In the case of a lease issued under a sale held on or before March 17, 2010, the Secretary, with the consent of the holder of the lease, may extend the deadline applicable to the lease for such additional time as the Secretary determines is necessary to complete any environmental, safety, or other reviews.

`(C) EFFECT ON TERM OF LEASE- In the case of any extension of the deadline for approval of an exploration plan under this Act, the additional time taken by the Secretary shall not be assessed

against the term of the associated lease.';

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

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

`(d) Drilling Permits-

`(1) IN GENERAL- The Secretary shall, by regulation, require that any lessee operating under an approved exploration plan obtain a permit--

`(A) before the lessee drills a well in accordance with the plan; and

`(B) before the lessee significantly modifies the well design originally approved by the Secretary.

`(2) ENGINEERING REVIEW REQUIRED- The Secretary may not grant any drilling permit until the date of completion of a full review of the well system by not less than 2 agency engineers, including a written determination that--

`(A) critical safety systems (including blowout prevention) will use best available commercial technology; and

`(B) blowout prevention systems will include redundancy and remote triggering capability.

`(3) MODIFICATION REVIEW REQUIRED- The Secretary may not approve any modification of a permit without a determination, after an additional engineering review, that the modification will not compromise the safety of the well system previously approved.

`(4) OPERATOR SAFETY AND ENVIRONMENTAL MANAGEMENT REQUIRED- The Secretary may not grant any drilling permit or modification of the permit until the date of completion and approval of a safety and environmental management plan that--

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

`(B) includes--

`(i) a description of the expertise and experience requirements of crew members who will be present on the rig; and

`(ii) designation of at least 2 environmental and safety managers that--

`(I) are or will be employees of the operator;

`(II) would be present on the rig at all times; and

`(III) have overall responsibility for the safety and environmental management of the well system and spill response plan; and

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

`(e) Disapproval of Exploration Plan-

`(1) IN GENERAL- The Secretary shall disapprove an exploration plan submitted under this section if the Secretary determines that, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that--

`(A) implementation of the exploration plan would probably cause serious harm or damage to life (including fish and other aquatic life), property, mineral deposits, national security or defense, or the marine, coastal or human environments;

`(B) the threat of harm or damage would not disappear or decrease to an acceptable extent within a reasonable period of time; and

`(C) the advantages of disapproving the exploration plan outweigh the advantages of exploration.

`(2) COMPENSATION- If an exploration plan is disapproved under this subsection, the provisions of subparagraphs (B) and (C) of section 25(h)(2) shall apply to the lease and the plan or any modified plan, except that the reference in section 25(h)(2) to a development and production plan shall be considered to be a reference to an exploration plan.'

(f) Outer Continental Shelf Leasing Program- Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended--

(1) in subsection (a)--

(A) in the second sentence, by inserting after `national energy needs' the following: `and the need for the protection of the marine and coastal environment and resources';

(B) in paragraph (1), by striking `considers' and inserting `gives equal consideration to'; and

(C) in paragraph (3), by striking `, to the maximum extent practicable,';

(2) in subsection (b)--

(A) in paragraph (3), by striking `and' at the end;

(B) in paragraph (4), by striking the period at the end and inserting `; and'; and

(C) by adding at the end the following:

`(5) provide technical review and oversight of the exploration plan and a systems review of the safety of the well design and other operational decisions;

`(6) conduct regular and thorough safety reviews and inspections, and;

`(7) enforce all applicable laws (including regulations).';

(3) in the second sentence of subsection (d)(2), by inserting `, the head of an interested Federal agency,' after `Attorney General';

(4) in the first sentence of subsection (g), by inserting before the period at the end the following: `, including existing inventories and mapping of marine resources previously undertaken by the Department of the Interior and the National Oceanic and Atmospheric Administration, information provided by the Department of Defense, and other available data regarding energy or mineral resource potential, navigation uses, fisheries, aquaculture uses, recreational uses, habitat, conservation, and military uses on the outer Continental Shelf; and

(5) by adding at the end the following:

`(i) Research and Development-

`(1) IN GENERAL- The Secretary shall carry out a program of research and development to ensure the continued improvement of methodologies for characterizing resources of the outer Continental Shelf and conditions that may affect the ability to develop and use those resources in a safe, sound, and environmentally responsible manner.

`(2) INCLUSIONS- Research and development activities carried out under paragraph (1) may include activities to provide accurate estimates of energy and mineral reserves and potential on the outer Continental Shelf and any activities that may assist in filling gaps in environmental data needed to develop each leasing program under this section.

`(3) LEASING ACTIVITIES- Research and development activities carried out under paragraph (1) shall not be considered to be leasing or pre-leasing activities for purposes of this Act.'

(g) Environmental Studies- Section 20 of the Outer Continental Shelf Lands Act (43 U.S.C. 1346) is amended--

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

(2) by inserting before subsection (b) (as so redesignated) the following:

`(a) Comprehensive and Independent Studies-

`(1) IN GENERAL- The Secretary shall develop and carry out programs for the collection, evaluation, assembly, analysis, and dissemination of environmental and other resource data that are relevant to carrying out the purposes of this Act.

`(2) SCOPE OF RESEARCH- The programs under this subsection shall include--

`(A) the gathering of baseline data in areas before energy or mineral resource development activities occur;

`(B) ecosystem research and monitoring studies to support integrated resource management decisions; and

`(C) the improvement of scientific understanding of the fate, transport, and effects of discharges and spilled materials, including deep water hydrocarbon spills, in the marine environment.

`(3) USE OF DATA- The Secretary shall ensure that information from the studies carried out under this section--

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

`(B) contributes to a broader coordination of energy and mineral resource development activities within the context of best available science.

`(4) INDEPENDENCE- The Secretary shall create a program within the appropriate bureau established under section 32 that shall--

`(A) be programmatically separate and distinct from the leasing program;

`(B) carry out the environmental studies under this section;

`(C) conduct additional environmental studies relevant to the sound management of energy and mineral resources on the outer Continental Shelf;

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

`(E) subject to the restrictions of subsections (g) and (h) of section 18, make available to the public studies conducted and data gathered under this section.'; and

(3) in the first sentence of subsection (b)(1) (as so redesignated), by inserting `every 3 years' after `shall conduct'.

(h) Safety Research and Regulations- Section 21 of the Outer Continental Shelf Lands Act (43 U.S.C. 1347) is amended--

(1) in the first sentence of subsection (a), by striking `Upon the date of enactment of this section,' and inserting `Not later than May 1, 2011, and every 3 years thereafter,';

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

`(b) Best Available Technologies and Practices-

`(1) IN GENERAL- In exercising respective responsibilities under this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, to the maximum extent practicable, on existing operations, the use of the best available and safest commercial technologies and practices, if the failure of equipment would have a significant effect on safety, health, or the environment.

`(2) IDENTIFICATION OF BEST AVAILABLE TECHNOLOGIES- Not later than May 1, 2011, the Secretary shall identify and publish a list, to be updated and maintained to reflect technological advances, of best available commercial technologies for key areas of well design and operation, including blowout prevention and blowout and oil spill response.

`(3) SAFETY CASE- Not later than May 1, 2011, the Secretary shall promulgate regulations requiring a safety case be submitted along with each new application for a permit to drill on the outer Continental Shelf.

`(4) EMPLOYEE TRAINING-

`(A) IN GENERAL- Not later than May 1, 2011, the Secretary shall promulgate regulations setting standards for training for all workers on offshore facilities (including mobile offshore drilling units) conducting energy and mineral resource exploration, development, and production operations on the outer Continental Shelf.

`(B) REQUIREMENTS- The training standards under this paragraph shall require that employers of workers described in subparagraph (A)--

`(i) establish training programs approved by the Secretary; and

`(ii) demonstrate that employees involved in the offshore operations meet standards that demonstrate the aptitude of the employees in critical technical skills.

`(C) EXPERIENCE- The training standards under this section shall require that any offshore worker with less than 5 years of applied experience in offshore facilities operations pass a certification requirement after receiving the appropriate training.

`(D) MONITORING TRAINING COURSES- The Secretary shall ensure that Department employees responsible for inspecting offshore facilities monitor, observe, and report on training courses established under this paragraph, including attending a representative number of the training sessions, as determined by the Secretary.; and

(3) by adding at the end the following:

`(g) Technology Research and Risk Assessment Program-

`(1) IN GENERAL- The Secretary shall carry out a program of research, development, and risk assessment to address technology and development issues associated with outer Continental Shelf energy and mineral resource activities, with the primary purpose of informing the role of research, development, and risk assessment relating to safety, environmental protection, and spill response.

`(2) SPECIFIC AREAS OF FOCUS- The program under this subsection shall include research, development, and other activities related to--

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

`(B) analysis of industry trends in technology, investment, and interest in frontier areas;

`(C) analysis of incidents investigated under section 22;

`(D) reviews of best available commercial technologies, including technologies associated with pipelines, blowout preventer mechanisms, casing, well design, and other associated infrastructure related to offshore energy development;

`(E) oil spill response and mitigation;

`(F) risks associated with human factors; and

`(G) renewable energy operations.

`(3) INFORMATION SHARING ACTIVITIES-

`(A) DOMESTIC ACTIVITIES- The Secretary shall carry out programs to facilitate the exchange and dissemination of scientific and technical information and best practices related to the management of safety and environmental issues associated with energy and mineral resource exploration, development, and production.

`(B) INTERNATIONAL COOPERATION- The Secretary shall carry out programs to cooperate with international organizations and foreign governments to share information and best practices related to the management of safety and environmental issues associated with energy and mineral resource exploration, development, and production.

`(4) REPORTS- The program under this subsection shall provide to the Secretary, each Bureau Director under section 32, and the public quarterly reports that address--

`(A) developments in each of the areas under paragraph (2); and

`(B)(i) any accidents that have occurred in the past quarter; and

`(ii) appropriate responses to the accidents.

`(5) INDEPENDENCE- The Secretary shall create a program within the appropriate bureau established under section 32 that shall--

`(A) be programmatically separate and distinct from the leasing program;

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

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

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

`(6) USE OF DATA- The Secretary shall ensure that the information from the studies and research carried out under this section inform the development of safety practices and regulations as required by this Act and other applicable laws.'

(i) Enforcement- Section 22 of the Outer Continental Shelf Lands Act (43 U.S.C. 1348) is amended--

(1) in subsection (d)--

(A) in paragraph (1)--

(i) in the first sentence, by inserting `, each loss of well control, blowout, activation of the shear rams, and other accident that presented a serious risk to human or environmental safety,' after `fire'; and

(ii) in the last sentence, by inserting `as a condition of the lease' before the period at the end;

(B) in the last sentence of paragraph (2), by inserting `as a condition of lease' before the period at the end;

(2) in subsection (e)--

(A) by striking `(e) The' and inserting the following:

`(e) Review of Alleged Safety Violations-

`(1) IN GENERAL- The'; and

(B) by adding at the end the following:

`(2) INVESTIGATION- The Secretary shall investigate any allegation from any employee of the lessee or any subcontractor of the lessee made under paragraph (1).'; and

(3) by adding at the end of the section the following:

`(g) Independent Investigation-

`(1) IN GENERAL- At the request of the Secretary, the National Transportation Safety Board may conduct an independent investigation of any accident, occurring in the outer Continental Shelf and involving activities under this Act, that does not otherwise fall within the definition of an accident or major marine casualty, as those terms are used in chapter 11 of title 49, United States Code.

`(2) TRANSPORTATION ACCIDENT- For purposes of an investigation under this subsection, the accident that is the subject of the request by the Secretary shall be determined to be a transportation accident within the meaning of that term in chapter 11 of title 49, United States Code.

`(h) Information on Causes and Corrective Actions-

`(1) IN GENERAL- For each incident investigated under this section, the Secretary shall promptly make available to all lessees and the public technical information about the causes and corrective actions taken.

`(2) PUBLIC DATABASE- All data and reports related to an incident described in paragraph (1) shall be maintained in a database that is available to the public.

`(i) Inspection Fee-

`(1) IN GENERAL- To the extent necessary to fund the inspections described in this paragraph, the Secretary shall collect a non-refundable inspection fee, which shall be deposited in the Ocean Energy Enforcement Fund established under paragraph (3), from the designated operator for facilities subject to inspection under subsection (c).

`(2) ESTABLISHMENT- The Secretary shall establish, by rule, inspection fees--

`(A) at an aggregate level equal to the amount necessary to offset the annual expenses of inspections of outer Continental Shelf facilities (including mobile offshore drilling units) by the Department of the Interior; and

`(B) using a schedule that reflects the differences in complexity among the classes of facilities to be inspected.

`(3) OCEAN ENERGY ENFORCEMENT FUND- There is established in the Treasury a fund, to be known as the `Ocean Energy Enforcement Fund' (referred to in this subsection as the `Fund'), into which shall be deposited amounts collected under paragraph (1) and which shall be available as provided under paragraph (4).

`(4) AVAILABILITY OF FEES- Notwithstanding section 3302 of title 31, United States Code, all amounts collected by the Secretary under this section--

`(A) shall be credited as offsetting collections;

`(B) shall be available for expenditure only for purposes of carrying out inspections of outer Continental Shelf facilities (including mobile offshore drilling units) and the administration of the inspection program;

`(C) shall be available only to the extent provided for in advance in an appropriations Act; and

`(D) shall remain available until expended.

`(5) ANNUAL REPORTS-

`(A) IN GENERAL- Not later than 60 days after the end of each fiscal year beginning with fiscal year 2011, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report on the operation of the Fund during the fiscal year.

`(B) CONTENTS- Each report shall include, for the fiscal year covered by the report, the following:

`(i) A statement of the amounts deposited into the Fund.

`(ii) A description of the expenditures made from the Fund for the fiscal year, including the purpose of the expenditures.

`(iii) Recommendations for additional authorities to fulfill the purpose of the Fund.

`(iv) A statement of the balance remaining in the Fund at the end of the fiscal year.'

(j) Remedies and Penalties- Section 24 of the Outer Continental Shelf Lands Act (43 U.S.C. 1350) is amended--

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

`(b) Civil Penalty-

`(1) IN GENERAL- Subject to paragraphs (2) through (3), if any person fails to comply with this Act, any term of a lease or permit issued under this Act, or any regulation or order issued under this Act, the person shall be liable for a civil administrative penalty of not more than \$75,000 for each day of continuance of each failure.

`(2) ADMINISTRATION- The Secretary may assess, collect, and compromise any penalty under paragraph (1).

`(3) HEARING- No penalty shall be assessed under this subsection until the person charged with a violation has been given the opportunity for a hearing.

`(4) ADJUSTMENT- The penalty amount specified in this subsection shall increase each year to reflect any increases in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.;

(2) in subsection (c)--

(A) in the first sentence, by striking '\$100,000' and inserting '\$10,000,000'; and

(B) by adding at the end the following: 'The penalty amount specified in this subsection shall increase each year to reflect any increases in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.'; and

(3) in subsection (d), by inserting ', or with reckless disregard,' after 'knowingly and willfully'.

(k) Oil and Gas Development and Production- Section 25 of the Outer Continental Shelf Lands Act (43 U.S.C. 1351) is amended by striking ', other than the Gulf of Mexico,' each place it appears in subsections (a)(1), (b), and (e)(1).

(l) Conflicts of Interest- Section 29 of the Outer Continental Shelf Lands Act (43 U.S.C. 1355) is amended to read as follows:

`SEC. 29. CONFLICTS OF INTEREST.

`(a) Restrictions on Employment- No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall--

`(1) within 2 years after his employment with the Department has ceased--

`(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before;

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

`(C) knowingly aid, advise, or assist in--

`(i) representing any other person (except the United States) in any formal or informal appearance before; or

`(ii) making, with the intent to influence, any oral or written communication on behalf of any other person (except the United States) to,

any department, agency, or court of the United States, or any officer or employee thereof, in

connection with any judicial or other proceeding, application, request for a ruling or other determination, regulation, order lease, permit, rulemaking, inspection, enforcement action, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee;

`(2) within 1 year after his employment with the Department has ceased--

`(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before;

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

`(C) knowingly aid , advise, or assist in --

`(i) representing any other person (except the United States in any formal or informal appearance before, or

`(ii) making, with the intent to influence, any oral or written communication on behalf of any other person (except the United States) to,

the Department of the Interior, or any officer or employee thereof, in connection with any judicial, rulemaking, regulation, order, lease, permit, regulation, inspection, enforcement action, or other particular matter which is pending before the Department of the Interior or in which the Department has a direct and substantial interest; or

`(3) accept employment or compensation, during the 1-year period beginning on the date on which employment with the Department has ceased, from any person (other than the United States) that has a direct and substantial interest--

`(A) that was pending under the official responsibility of the employee as an officer or employee of the Department during the 1-year period preceding the termination of the responsibility; or

`(B) in which the employee participated personally and substantially as an officer or employee.

`(b) Prior Employment Relationships- No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall participate personally and substantially as a Federal officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, inspection, enforcement action, or other particular matter in which, to the knowledge of the officer or employee--

`(1) the officer or employee or the spouse, minor child, or general partner of the officer or employee has a financial interest;

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

`(3) any person or organization with whom the officer or employee is negotiating or has any arrangement concerning prospective employment has a financial interest; or

`(4) any person or organization in which the officer or employee has, within the preceding 1-year period, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee has a financial interest.

`(c) Gifts From Outside Sources- No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall, directly or indirectly, solicit or accept any gift in violation of subpart B of part 2635 of title V, Code of Federal Regulations (or successor regulations).

`(d) Exemptions- The Secretary may, by rule, exempt from this section clerical and support personnel who do not conduct inspections, perform audits, or otherwise exercise regulatory or policy making authority under this Act.

`(e) Penalties-

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

`(2) CIVIL PENALTIES- Any person who violates subsection (a)(3) or (c) shall be punished in accordance with subsection (b) of section 216 of title 18, United States Code.'

SEC. 106. STUDY ON THE EFFECT OF THE MORATORIA ON NEW DEEPWATER DRILLING IN THE GULF OF MEXICO ON EMPLOYMENT AND SMALL BUSINESSES.

(a) In General- The Secretary of Energy, acting through the Energy Information Administration, shall publish a monthly study evaluating the effect of the moratoria which followed from the blowout and explosion of the mobile offshore drilling unit *Deepwater Horizon* that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment, on employment and small businesses.

(b) Report- Not later than 60 days after the date of enactment of this Act and at the beginning of each month thereafter during the effective period of the moratoria described in subsection (a), the Secretary of Energy, acting through the Energy Information Administration, shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report regarding the results of the study conducted under subsection (a), including--

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

(2) a survey of the effect of the moratoria on employment in the industries indirectly involved in oil and natural gas exploration in the outer Continental Shelf, including suppliers of supplies or services and customers of industries directly involved in oil and natural gas exploration;

(3) an estimate of the effect of the moratoria on the revenues of small business located near the Gulf of Mexico and, to the maximum extent practicable, throughout the United States; and

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

SEC. 107. REFORM OF OTHER LAW.

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

`(4) FEDERAL AGENCIES- Any head of a Federal department or agency shall, on request of the Secretary, provide to the Secretary all data and information that the Secretary determines to be necessary for the purpose of including the data and information in the mapping initiative, except that no Federal department or agency shall be required to provide any data or information that is privileged or proprietary.'.

SEC. 108. SAFER OIL AND GAS PRODUCTION.

(a) Program Authority- Section 999A of the Energy Policy Act of 2005 (42 U.S.C. 16371) is amended--

(1) in subsection (a)--

(A) by striking `ultra-deepwater' and inserting `deepwater'; and

(B) by inserting `well control and accident prevention,' after `safe operations,';

(2) in subsection (b)--

(A) by striking paragraph (1) and inserting the following:

`(1) Deepwater architecture, well control and accident prevention, and deepwater technology, including drilling to deep formations in waters greater than 500 feet.'; and

(B) by striking paragraph (4) and inserting the following:

`(4) Safety technology research and development for drilling activities aimed at well control and accident prevention performed by the Office of Fossil Energy of the Department.'; and

(3) in subsection (d)--

(A) in the subsection heading, by striking `National Energy Technology Laboratory' and inserting `Office of Fossil Energy of the Department'; and

(B) by striking `National Energy Technology Laboratory' and inserting `Office of Fossil Energy of the Department'.

(b) Deepwater and Unconventional Onshore Natural Gas and Other Petroleum Research and Development Program- Section 999B of the Energy Policy Act of 2005 (42 U.S.C. 16372) is amended--

(1) in the section heading, by striking `ultra-deepwater and unconventional onshore natural gas and other petroleum' and inserting `safe oil and gas production and accident prevention';

(2) in subsection (a), by striking `, by increasing' and all that follows through the period at the end and inserting `and the safe and environmentally responsible exploration, development, and production of hydrocarbon resources.';

(3) in subsection (c)(1)--

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

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

`(D) projects will be selected on a competitive, peer-reviewed basis.'; and

(4) in subsection (d)--

(A) in paragraph (6), by striking `ultra-deepwater' and inserting `deepwater';

(B) in paragraph (7)--

(i) in subparagraph (A)--

(I) in the subparagraph heading, by striking `ULTRA-DEEPWATER' and inserting `DEEPWATER';

(II) by striking `development and' and inserting `research, development, and'; and

(III) by striking `as well as' and all that follows through the period at the end and inserting `aimed at improving operational safety of drilling activities, including well integrity systems, well control, blowout prevention, the use of non-toxic materials, and integrated systems approach-based management for exploration and production in deepwater.';

(ii) in subparagraph (B), by striking `and environmental mitigation' and inserting `use of non-toxic materials, drilling safety, and environmental mitigation and accident prevention';

(iii) in subparagraph (C), by inserting `safety and accident prevention, well control and systems integrity,' after `including'; and

(iv) by adding at the end the following:

`(D) SAFETY AND ACCIDENT PREVENTION TECHNOLOGY RESEARCH AND DEVELOPMENT- Awards from allocations under section 999H(d)(4) shall be expended on areas including--

`(i) development of improved cementing and casing technologies;

`(ii) best management practices for cementing, casing, and other well control activities and technologies;

`(iii) development of integrity and stewardship guidelines for--

`(I) well-plugging and abandonment;

`(II) development of wellbore sealant technologies; and

`(III) improvement and standardization of blowout prevention devices.'; and

(C) by adding at the end the following:

`(8) STUDY; REPORT-

`(A) STUDY- As soon as practicable after the date of enactment of this paragraph, the Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct a study to determine--

`(i) whether the benefits provided through each award under this subsection during calendar year 2011 have been maximized; and

`(ii) the new areas of research that could be carried out to meet the overall objectives of the program.

`(B) REPORT- Not later than January 1, 2012, the Secretary shall submit to the appropriate committees of Congress a report that contains a description of the results of the study conducted under subparagraph (A).

`(C) OPTIONAL UPDATES- The Secretary may update the report described in subparagraph (B) for the 5-year period beginning on the date described in that subparagraph and each 5-year period thereafter.';

(5) in subsection (e)--

(A) in paragraph (2)--

(i) in the second sentence of subparagraph (A), by inserting 'to the Secretary for review' after 'submit'; and

(ii) in the first sentence of subparagraph (B), by striking 'Ultra-Deepwater' and all that follows through 'and such Advisory Committees' and inserting 'Program Advisory Committee established under section 999D(a), and the Advisory Committee'; and

(B) by adding at the end the following:

`(6) RESEARCH FINDINGS AND RECOMMENDATIONS FOR IMPLEMENTATION- The Secretary, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register an annual report on the research findings of the program carried out under this section and any recommendations for implementation that the Secretary, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, determines to be necessary.';

(6) in subsection (i)--

(A) in the subsection heading, by striking 'United States Geological Survey' and inserting 'Department of the Interior'; and

(B) by striking ', through the United States Geological Survey,'; and

(7) in the first sentence of subsection (j), by striking 'National Energy Technology Laboratory' and inserting 'Office of Fossil Energy of the Department'.

(c) Additional Requirements for Awards- Section 999C(b) of the Energy Policy Act of 2005 (42 U.S.C. 16373(b)) is amended by striking 'an ultra-deepwater technology or an ultra-deepwater architecture' and inserting 'a deepwater technology'.

(d) Program Advisory Committee- Section 999D of the Energy Policy Act of 2005 (42 U.S.C. 16374) is amended to read as follows:

'SEC. 999D. PROGRAM ADVISORY COMMITTEE.

'(a) Establishment- Not later than 270 days after the date of enactment of the Oil Spill Response Improvement Act of 2010, the Secretary shall establish an advisory committee to be known as the 'Program Advisory Committee' (referred to in this section as the 'Advisory Committee').

'(b) Membership-

'(1) IN GENERAL- The Advisory Committee shall be composed of members appointed by the Secretary, including--

'(A) individuals with extensive research experience or operational knowledge of hydrocarbon exploration and production;

'(B) individuals broadly representative of the affected interests in hydrocarbon production, including interests in environmental protection and safety operations;

'(C) representatives of Federal agencies, including the Environmental Protection Agency and the Department of the Interior;

'(D) State regulatory agency representatives; and

'(E) other individuals, as determined by the Secretary.

'(2) LIMITATIONS-

'(A) IN GENERAL- The Advisory Committee shall not include individuals who are board members, officers, or employees of the program consortium.

'(B) CATEGORICAL REPRESENTATION- In appointing members of the Advisory Committee, the Secretary shall ensure that no class of individuals described in any of subparagraphs (A), (B), (D), or (E) of paragraph (1) comprises more than 1/3 of the membership of the Advisory Committee.

'(c) Subcommittees- The Advisory Committee may establish subcommittees for separate research

programs carried out under this subtitle.

`(d) Duties- The Advisory Committee shall--

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

`(2) carry out section 999B(e)(2)(B).

`(e) Compensation- A member of the Advisory Committee shall serve without compensation but shall be entitled to receive travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

`(f) Prohibition- The Advisory Committee shall not make recommendations on funding awards to particular consortia or other entities, or for specific projects.'

(e) Definitions- Section 999G of the Energy Policy Act of 2005 (42 U.S.C. 16377) is amended--

(1) in paragraph (1), by striking `200 but less than 1,500 meters' and inserting `500 feet';

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

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

(4) by inserting after paragraph (1) the following:

`(2) DEEPWATER ARCHITECTURE- The term `deepwater architecture' means the integration of technologies for the exploration for, or production of, natural gas or other petroleum resources located at deepwater depths.

`(3) DEEPWATER TECHNOLOGY- The term `deepwater technology' means a discrete technology that is specially suited to address 1 or more challenges associated with the exploration for, or production of, natural gas or other petroleum resources located at deepwater depths.'; and

(5) in paragraph (10) (as redesignated by paragraph (3)), by striking `in an economically inaccessible geological formation, including resources of small producers'.

(f) Funding- Section 999H of the Energy Policy Act of 2005 (42 U.S.C. 16378) is amended--

(1) in the first sentence of subsection (a) by striking `Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund' and inserting `Safe and Responsible Energy Production Research Fund';

(2) in subsection (d)--

(A) in paragraph (1), by striking `35 percent' and inserting `21.5 percent';

(B) in paragraph (2), by striking `32.5 percent' and inserting `21 percent';

(C) in paragraph (4)--

(i) by striking `25 percent' and inserting `30 percent';

(ii) by striking `complementary research' and inserting `safety technology research and development'; and

(iii) by striking `contract management,' and all that follows through the period at the end and inserting `and contract management.'; and

(D) by adding at the end the following:

`(5) 20 percent shall be used for research activities required under sections 20 and 21 of the Outer Continental Shelf Lands Act (43 U.S.C. 1346, 1347).'

(3) in subsection (f), by striking `Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund' and inserting `Safer Oil and Gas Production and Accident Prevention Research Fund'.

(g) Conforming Amendment- Subtitle J of title IX of the Energy Policy Act of 2005 (42 U.S.C. 16371 et seq.) is amended in the subtitle heading by striking `**Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources**' and inserting `**Safer Oil and Gas Production and Accident Prevention**'.

SEC. 109. NATIONAL COMMISSION ON OUTER CONTINENTAL SHELF OIL SPILL PREVENTION.

(a) Establishment- There is established in the Legislative branch the National Commission on Outer Continental Shelf Oil Spill Prevention (referred to in this section as the `Commission').

(b) Purposes- The purposes of the Commission are--

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

(2) to ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the incident;

(3) to build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of--

(A) the Committees on Energy and Natural Resources and Commerce, Science, and Transportation of the Senate;

(B) the Committee on Natural Resources and the Subcommittee on Oversight and Investigations of the House of Representatives; and

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

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

(5) to investigate and report to the President and Congress findings, conclusions, and recommendations for corrective measures that may be taken to prevent similar incidents.

(c) Composition of Commission-

(1) MEMBERS- The Commission shall be composed of 10 members, of whom--

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

(B) 1 member shall be appointed by the majority or minority (as the case may be) leader of the Senate from the Republican Party and the majority or minority (as the case may be) leader of the House of Representatives from the Republican Party, who shall serve as Vice Chairperson of the Commission;

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

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

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

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

(2) QUALIFICATIONS; INITIAL MEETING-

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

(B) NONGOVERNMENTAL APPOINTEES- An individual appointed to the Commission may not be a current officer or employee of the Federal Government or any State or local government.

(C) OTHER QUALIFICATIONS- It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience and expertise in such areas as--

(i) engineering;

(ii) environmental compliance;

(iii) health and safety law (particularly oil spill legislation);

(iv) oil spill insurance policies;

(v) public administration;

(vi) oil and gas exploration and production;

(vii) environmental cleanup; and

(viii) fisheries and wildlife management.

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

(E) INITIAL MEETING- The Commission shall meet and begin the operations of the Commission as soon as practicable after the date of enactment of this Act.

(3) QUORUM; VACANCIES-

(A) IN GENERAL- After the initial meeting of the Commission, the Commission shall meet upon the call of the Chairperson or a majority of the members of the Commission.

(B) QUORUM- 6 members of the Commission shall constitute a quorum.

(C) VACANCIES- Any vacancy in the Commission shall not affect the powers of the Commission, but shall be filled in the same manner in which the original appointment was made.

(d) Functions of Commission-

(1) IN GENERAL- The functions of the Commission are--

(A) to conduct an investigation that--

(i) investigates relevant facts and circumstances relating to the Deepwater Horizon incident of April 20, 2010, and the associated oil spill thereafter, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(ii) may include relevant facts and circumstances relating to--

(I) permitting agencies;

(II) environmental and worker safety law enforcement agencies;

(III) national energy requirements;

(IV) deepwater and ultradeepwater oil and gas exploration and development;

(V) regulatory specifications, testing, and requirements for offshore oil and gas well explosion prevention;

(VI) regulatory specifications, testing, and requirements offshore oil and gas well casing and cementing regulation;

(VII) the role of congressional oversight and resource allocation; and

(VIII) other areas of the public and private sectors determined to be relevant to the Deepwater Horizon incident by the Commission;

(B) to identify, review, and evaluate the lessons learned from the Deepwater Horizon incident of April 20, 2010, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, and the private sector, relative to detecting, preventing, and responding to those incidents; and

(C) to submit to the President and Congress such reports as are required under this section containing such findings, conclusions, and recommendations as the Commission determines to be appropriate, including proposals for organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(2) RELATIONSHIP TO INQUIRY BY CONGRESSIONAL COMMITTEES- In investigating facts and circumstances relating to energy policy, the Commission shall--

(A) first review the information compiled by, and any findings, conclusions, and recommendations of, the committees identified in subparagraphs (A) and (B) of subsection (b)(3); and

(B) after completion of that review, pursue any appropriate area of inquiry, if the Commission determines that--

(i) those committees have not investigated that area;

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

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

(e) Powers of Commission-

(1) HEARINGS AND EVIDENCE- The Commission or, on the authority of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out this section--

(A) hold such hearings, meet and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials;

as the Commission or such subcommittee or member considers to be advisable.

(2) SUBPOENAS-

(A) ISSUANCE-

(i) IN GENERAL- A subpoena may be issued under this paragraph only--

(I) by the agreement of the Chairperson and the Vice Chairperson; or

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

(ii) SIGNATURE- Subject to clause (i), a subpoena issued under this paragraph--

(I) shall bear the signature of the Chairperson or any member designated by a majority of the Commission;

(II) and may be served by any person or class of persons designated by the Chairperson or by a member designated by a majority of the Commission for that purpose.

(B) ENFORCEMENT-

(i) IN GENERAL- In the case of contumacy or failure to obey a subpoena issued under subparagraph (A), the United States district court for the district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence.

(ii) JUDICIAL ACTION FOR NONCOMPLIANCE- Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(iii) ADDITIONAL ENFORCEMENT- In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes (2 U.S.C. 192 through 194).

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

(4) INFORMATION FROM FEDERAL AGENCIES-

(A) IN GENERAL- The Commission may secure directly from any Executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government, information, suggestions, estimates, and statistics for the purposes of this section.

(B) COOPERATION- Each Federal department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairperson, the Chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(C) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION- Information shall be received, handled, stored, and disseminated only by members of the Commission and the staff of the Commission in accordance with all applicable laws (including regulations and Executive orders).

(5) ASSISTANCE FROM FEDERAL AGENCIES-

(A) GENERAL SERVICES ADMINISTRATION- The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the functions of the Commission.

(B) OTHER DEPARTMENTS AND AGENCIES- In addition to the assistance prescribed in subparagraph (A), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as are determined to be advisable and authorized by law.

(6) GIFTS- The Commission may accept, use, and dispose of gifts or donations of services or property, including travel, for the direct advancement of the functions of the Commission.

(7) POSTAL SERVICES- The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(f) Public Meetings and Hearings-

(1) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS- The Commission shall--

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

(B) release public versions of the reports required under paragraphs (1) and (2) of subsection (j).

(2) PUBLIC HEARINGS- Any public hearings of the Commission shall be conducted in a manner consistent with the protection of proprietary or sensitive information provided to or developed for or by the Commission as required by any applicable law (including a regulation or Executive order).

(g) Staff of Commission-

(1) IN GENERAL-

(A) APPOINTMENT AND COMPENSATION-

(i) IN GENERAL- The Chairperson, in consultation with the Vice Chairperson and in accordance with rules agreed upon by the Commission, may, without regard to the civil service laws (including regulations), appoint and fix the compensation of a staff director and such other personnel as are necessary to enable the Commission to carry out the functions of the Commission.

(ii) MAXIMUM RATE OF PAY- No rate of pay fixed under this subparagraph may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(B) PERSONNEL AS FEDERAL EMPLOYEES-

(i) IN GENERAL- The staff director and any personnel of the Commission who are employees shall be considered to be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(ii) MEMBERS OF COMMISSION- Clause (i) shall not apply to members of the Commission.

(2) DETAILEES-

(A) IN GENERAL- An employee of the Federal Government may be detailed to the Commission without reimbursement.

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

(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES- The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(h) Compensation and Travel Expenses-

(1) COMPENSATION OF MEMBERS-

(A) NON-FEDERAL EMPLOYEES- A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(B) FEDERAL EMPLOYEES- A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(2) TRAVEL EXPENSES- A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(i) Security Clearances for Commission Members and Staff-

(1) IN GENERAL- Subject to paragraph (2), the appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the members and staff of the Commission appropriate security clearances, to the maximum extent practicable, pursuant to existing procedures and requirements.

(2) PROPRIETARY INFORMATION- No person shall be provided with access to proprietary information under this section without the appropriate security clearances.

(j) Reports of Commission; Adjournment-

(1) INTERIM REPORTS- The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of members of the Commission.

(2) FINAL REPORT- Not later than 180 days after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of members of the Commission.

(3) TEMPORARY ADJOURNMENT-

(A) IN GENERAL- The Commission, and all the authority provided under this section, shall adjourn and be suspended, respectively, on the date that is 60 days after the date on which the final report is submitted under paragraph (2).

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

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

(ii) disseminating the final report submitted under paragraph (2).

(C) RECONVENING OF COMMISSION- The Commission shall stand adjourned until such time as the President or the Secretary of Homeland Security declares an oil spill of national significance to have occurred, at which time--

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

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

(k) Funding-

(1) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this section--

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

(B) \$3,000,000 for each fiscal year thereafter in which the Commission convenes.

(2) AVAILABILITY- Amounts made available to carry out this section shall be available--

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

(B) until the date on which the Commission adjourns for the fiscal year under subsection (j)(3).

(l) Nonapplicability of Federal Advisory Committee Act- The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(m) Conflicts of Interest for Certain Commission Members- Notwithstanding any other provision of law, any member of a federally sponsored presidential commission that is a senior official in an organization that is engaged in legal action that is materially relevant to the work of the Commission shall be excluded from making recommendations to the President.

SEC. 110. CLASSIFICATION OF OFFSHORE SYSTEMS.

(a) Regulations-

(1) **IN GENERAL-** Not later than 2 years after the date of enactment of this Act, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall jointly issue regulations requiring systems (including existing systems) used in the offshore exploration, development, and production of oil and gas in the outer Continental Shelf to be constructed, maintained, and operated so as to meet classification, certification, rating, and inspection standards that are necessary--

(A) to protect the health and safety of affiliated workers; and

(B) to prevent environmental degradation.

(2) **THIRD-PARTY VERIFICATION-** The standards established by regulation under paragraph (1) shall be verified through certification and classification by independent third parties that--

(A) have been preapproved by both the Secretary and the Secretary of the Department in which the Coast Guard is operating; and

(B) have no financial conflict of interest in conducting the duties of the third parties.

(3) **MINIMUM SYSTEMS COVERED-** At a minimum, the regulations issued under paragraph (1) shall require the certification and classification by an independent third party who meets the requirements of paragraph (2) of--

(A) mobile offshore drilling units;

(B) fixed and floating drilling or production facilities;

(C) drilling systems, including risers and blowout preventers; and

(D) any other equipment dedicated to the safety systems relating to offshore extraction and production of oil and gas.

(4) **EXCEPTIONS-** The Secretary and the Secretary of the Department in which the Coast Guard is operating may waive the standards established by regulation under paragraph (1) for an existing system only if--

(A) the system is of an age or type where meeting such requirements is impractical; and

(B) the system poses an acceptably low level of risk to the environment and to human safety.

(b) **Authority of Coast Guard-** Nothing in this section preempts or interferes with the authority of the Coast Guard.

SEC. 111. SAVINGS PROVISIONS.

(a) Existing Law- All regulations, rules, standards, determinations, contracts and agreements, memoranda of understanding, certifications, authorizations, appointments, delegations, results and findings of investigations, or any other actions issued, made, or taken by, or pursuant to or under, the authority of any law (including regulations) that resulted in the assignment of functions or activities to the Secretary, the Director of the Minerals Management Service (including by delegation from the Secretary), or the Department (as related to the implementation of the purposes referenced in this title) that were in effect on the date of enactment of this Act shall continue in full force and effect after the date of enactment of this Act unless previously scheduled to expire or until otherwise modified or rescinded by this title or any other Act.

(b) Effect on Other Authorities- This title does not amend or alter the provisions of other applicable laws, unless otherwise noted.

SEC. 112. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled 'Budgetary Effects of PAYGO Legislation' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

TITLE II--OIL SPILL COMPENSATION

Subtitle A--Oil Spill Liability

PART I--OIL POLLUTION ACT OF 1990

SEC. 201. LIABILITY LIMITS.

(a) Presidential Establishment of Limits- Section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704) is amended by adding at the end the following:

“(e) Limits for Strict Liability-

“(1) IN GENERAL- For the purpose of subsection (a)(3), after a 60-day period of public notice and comment beginning on the date of enactment of this subsection, and from time to time thereafter, the President shall establish a set of limits for strict liability for damages for incidents occurring from offshore facilities (other than deepwater ports) covered by Outer Continental Shelf leases issued after the date of enactment of the Oil Spill Response Improvement Act of 2010.

“(2) REQUIREMENTS- The limits for strict liability established under paragraph (1) shall--

“(A) take into account the availability of insurance products for offshore facilities; and

“(B) be otherwise based equally on and categorized by--

- `(i) the water depth of the lease;
 - `(ii) the minimum projected well depth of the lease;
 - `(iii) the proximity of the lease to oil and gas emergency response equipment and infrastructure;
 - `(iv) the likelihood of the offshore facility covered by the lease to encounter broken sea ice;
 - `(v) the record and historical number of regulatory violations of the leaseholder under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (or the absence of such a record or violations);
 - `(vi) the estimated hydrocarbon reserves of the lease;
 - `(vii) the estimated well pressure, expressed in pounds per square inch, of the reservoir associated with the lease;
 - `(viii) the availability and projected availability, including through borrowing authority, of funds in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986;
 - `(ix) other available remedies under law;
 - `(x) the estimated economic value of nonenergy coastal resources that may be impacted by a spill of national significance involving the offshore facility covered by the lease;
 - `(xi) whether the offshore facility covered by the lease employs a subsea or surface blowout preventer stack; and
 - `(xii) the availability of industry payments under subsection (f).
- `(3) PUBLIC LIABILITY INSURANCE- In no case shall the strict liability limits under this subsection for the applicable offshore facility be less than the maximum amount of public liability insurance that is broadly available for related offshore environmental incidents.
- `(f) Liability of Industry-
- `(1) IN GENERAL- If an incident on the Outer Continental Shelf results in economic damages claims exceeding the maximum amount for strict liability for economic damages to be paid by the responsible party under subsection (a)(3), the claims in excess of the maximum amount for strict liability for economic damages under subsection (a)(3) shall be paid initially, in an amount not to exceed a total of \$20,000,000,000, by all other entities operating offshore facilities on the Outer Continental Shelf on the date of the incident, as determined by the Secretary of the Interior, in accordance with paragraph (2).
- `(2) PROPORTIONAL PAYMENT- The amount of liability claims to be paid under paragraph (1) by an entity described in that paragraph shall be determined by the Secretary of the Interior based on the proportion that--
- `(A) the number of offshore facilities operated by the entity on the Outer Continental Shelf; bears to

`(B) the total number of offshore facilities operated by all entities on the Outer Continental Shelf.

`(3) OIL SPILL LIABILITY TRUST FUND- Economic damages that exceed the amounts available under subsection (a)(3) and paragraph (1) shall be paid from the Oil Spill Liability Trust Fund and amounts made available to the Fund under part II of the Oil Spill Response Improvement Act of 2010.'

(b) Conforming Amendments-

(1) LIMIT FOR OFFSHORE FACILITIES- Section 1004(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)) is amended--

(A) in paragraph (2), by striking `,' and inserting a comma; and

(B) by striking paragraph (3) and inserting the following:

`(3) for an offshore facility (except a deepwater port) covered by an Outer Continental Shelf lease--

`(A) if the lease was issued prior to the date of enactment of the Oil Spill Response Improvement Act of 2010, the total of all removal costs plus \$75,000,000; and

`(B) if the lease was issued on or after the date of enactment of the Oil Spill Response Improvement Act of 2010, the total of all removal costs plus the limit for strict liability for damages for that offshore facility established by the President under subsection (e); and'.

(2) EXCEPTIONS- Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended in the first sentence by inserting `1004(f),' after `sections'.

SEC. 202. ADVANCE PAYMENT.

Section 1012 of the Oil Pollution Act of 1990 (33 U.S.C. 2712) is amended by adding at the end the following:

`(l) Advance Payments- The President shall promulgate regulations that allow advance payments to be made from the Fund to States and political subdivisions of States for actions taken to prepare for and mitigate substantial threats from the discharge of oil.'

PART II--OIL SPILL LIABILITY TRUST FUND

SEC. 211. RATE OF TAX FOR OIL SPILL LIABILITY TRUST FUND.

(a) In General- Section 4611 of the Internal Revenue Code of 1986 (relating to the imposition of tax) is amended--

(1) in subsection (c), by adding at the end the following new paragraph:

`(3) ADJUSTMENTS TO TEMPORARY SUSPENSION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE- In the case of any calendar quarter in which the Secretary estimates that, as of the close of the previous quarter, the unobligated balance in the Oil Spill Liability Trust Fund is

greater than \$10,000,000,000, the Oil Spill Liability Trust Fund financing shall be 0 cents a barrel.'; and

(2) by striking subsection (f).

(b) Effective Date- The amendments made by this section shall apply on and after the first day of the first calendar quarter after the date of enactment of this Act.

(c) New Revenues to the Oil Spill Liability Trust Fund- Notwithstanding section 3302 of title 31, United States Code, the revenue resulting from any increase in the Oil Spill Liability Trust Fund financing rate under this section or the amendments made by this section shall--

(1) be credited only as offsetting collections for the Oil Spill Liability Trust Fund;

(2) be available for expenditure only for purposes of the Oil Spill Liability Trust Fund; and

(3) remain available until expended.

SEC. 212. LIMITATIONS ON EXPENDITURES AND BORROWING AUTHORITY.

(a) Limitations on Expenditures- Section 9509(c) of the Internal Revenue Code of 1986 (relating to expenditures from the Oil Spill Liability Trust Fund) is amended--

(1) by striking paragraph (2);

(2) by striking 'EXPENDITURES' in the subsection heading and all that follows through 'Amounts in' in paragraph (1) and inserting 'EXPENDITURES- Amounts in'; and

(3) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively, and indenting appropriately.

(b) Authority To Borrow- Section 9509(d) of the Internal Revenue Code of 1986 (relating to authority to borrow from the Oil Spill Liability Trust Fund) is amended--

(1) in paragraph (2), by striking '\$1,000,000,000' and inserting '\$10,000,000,000'; and

(2) in paragraph (3)--

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B).

Subtitle B--Federal Oil Spill Research

SEC. 221. DEFINITIONS.

In this subtitle:

(1) COMMANDANT- The term 'Commandant' means the Commandant of the Coast Guard.

(2) PROGRAM- The term 'program' means the program for oil spill response established pursuant to section 230.

SEC. 222. FEDERAL OIL SPILL RESEARCH.

(a) In General- Title VII of the Oil Pollution Act of 1990 is amended--

(1) by inserting before section 7001 (33 U.S.C. 2761) the following:

'SEC. 7000. DEFINITIONS.

'In this title:

'(1) ASSESSMENT- The term 'assessment' means the research assessment on the status of the oil spill prevention and response capabilities conducted under section 7004.

'(2) COMMITTEE- The term 'Committee' means the Interagency Committee established under section 7001.

'(3) PLAN- The term 'plan' means the Federal oil spill research plan developed under section 7005.

'(4) PROGRAM- The term 'program' means the Federal oil spill research program established under section 7003.';

(2) by redesignating section 7002 (33 U.S.C. 2762) as section 7009;

(3) in section 7001 (33 U.S.C. 2761), by striking subsections (b) through (e) and inserting the following:

'(b) Regional Subcommittees-

'(1) IN GENERAL- The Committee shall establish--

'(A) a regional subcommittee for each of the Gulf of Mexico and Arctic regions of the United States; and

'(B) such other regional subcommittees as the Committee determines to be necessary.

'(2) COORDINATION- In accordance with the program, each regional subcommittee established under this subsection shall coordinate with the Committee and other relevant State, national, and international bodies with expertise in the region to research and develop technologies for use in the prevention, detection, recovery, mitigation, and evaluation of effects of incidents in the regional environment.'; and

(4) by inserting after section 7001 (33 U.S.C. 2761) the following:

SEC. 7002. FUNCTIONS OF THE COMMITTEE.

The Committee shall--

(1) coordinate a comprehensive Federal oil spill research and development program in accordance with section 7003 to coordinate oil pollution research, technology development, and demonstration among the Federal agencies, in cooperation and coordination with industry, institutions of higher education, research institutions, State and tribal governments, and other relevant stakeholders;

(2) conduct a research assessment on the status of the oil spill prevention and response capabilities in accordance with section 7004; and

(3) develop a Federal oil spill research plan in accordance with section 7005.

SEC. 7003. FEDERAL OIL SPILL RESEARCH PROGRAM.

(a) In General- The Committee shall establish a program for conducting oil pollution research, development, and demonstration.

(b) Program Elements- The program established under subsection (a) shall provide for research, development, and demonstration technologies, practices, and procedures that provide for effective and direct response to prevent, detect, recover, or mitigate oil discharges, including--

(1) new technologies to detect accidental or intentional overboard oil discharges;

(2) models and monitoring capabilities to predict the transport and fate of oil, including trajectory and behavior predictions due to location, weather patterns, hydrographic data, and water conditions, including Arctic sea ice environments;

(3) containment and well-control capabilities, including drilling of relief wells, containment structures, and injection technologies;

(4) response capabilities, such as improved dispersants, biological treatment methods, booms, oil skimmers, containment vessels, and offshore and onshore storage capacity;

(5) research and training, in coordination with the National Response Team, to improve the removal of oil discharge quickly and effectively;

(6) decision support systems for contingency planning and response;

(7) improvement of options for oily or oiled waste dispersal;

(8) technologies, methods, and standards for use in protecting personnel and for volunteers that may participate in incident responses, including--

(A) training;

(B) adequate supervision;

`(C) protective equipment;

`(D) maximum exposure limits; and

`(E) decontamination procedures; and

`(9) technologies and methods to prevent, detect, recover, and mitigate oil discharges in polar environments.

`(c) Study of Environmental Effects of Response Techniques- Notwithstanding any other provision of law, the Coast Guard shall conduct reasonable environmental studies of oil discharge prevention or mitigation technologies, including the use of small quantities of oil for testing of in situ burning, chemical dispersants, and herding agents, upon and within navigable waters of the United States, if the Coast Guard, in consultation with the Committee, determines that the information to be obtained cannot be adequately obtained through a laboratory or simulated experiment.

`SEC. 7004. FEDERAL RESEARCH ASSESSMENT.

`Not later than 1 year after the date of enactment of Oil Spill Response Improvement Act of 2010, the Committee shall submit to Congress an assessment of the status of oil spill prevention and response capabilities that--

`(1) identifies research programs conducted and technologies developed by governments, institutions of higher education, and industry;

`(2) assesses the status of knowledge on oil pollution prevention, response, and mitigation technologies;

`(3) identifies regional oil pollution research needs and priorities for a coordinated program of research at the regional level developed in consultation with State, local, and tribal governments;

`(4) assesses the status of spill response equipment and determines areas in need of improvement, including quantity, age, quality, effectiveness, or necessary technological improvements;

`(5) assesses the status of real-time data available to mariners, researchers, and responders, including weather, hydrographic, and water condition data, and the impact of incomplete and inaccessible data on preventing, detecting, or mitigating oil discharges; and

`(6) is subject to a 90-day public comment period and addresses suggestions received and incorporates public input received, as appropriate.

`SEC. 7005. FEDERAL INTERAGENCY RESEARCH PLAN.

`(a) In General-

`(1) PLAN- Not later than 60 days after the date on which the President submits to Congress, pursuant to section 1105 of title 31, United States Code, a budget for fiscal year 2012, and for each fiscal year thereafter, the Committee shall submit to Congress a plan that establishes the priorities for Federal oil spill research and development.

`(2) RECOMMENDATIONS- In the development of the plan, the Committee shall consider recommendations by the National Academy of Sciences and information from State, local, and tribal governments.

`(b) Plan Requirements- The plan shall--

`(1) make recommendations to improve technologies and practices to prevent oil spills;

`(2) suggest changes to the program to improve the rates of oil recovery and spill mitigation;

`(3) make recommendations to improve technologies, practices, and procedures to provide for effective and direct response to oil spills;

`(4) make recommendations to improve the quality of real-time data available to mariners, researchers, and responders; and

`(5) be subject to a 90-day public comment period and address suggestions received and incorporate public input received, as appropriate.

`SEC. 7006. EXTRAMURAL GRANTS.

`(a) In General- In carrying out the program, the Committee shall--

`(1) award competitive grants to institutions of higher education or other research institutions to carry out projects--

`(A) to advance research and development; and

`(B) to demonstrate technologies for preventing, detecting, or mitigating oil discharges that are relevant to the goals and priorities of the plan; and

`(2) incorporate a competitive, merit-based process for awarding grants that may be conducted jointly with other participating agencies.

`(b) Regional Research Program-

`(1) DEFINITION OF REGION- In this subsection, the term `region' means a Coast Guard district as described in part 3 of subchapter A of chapter I of title 33, Code of Federal Regulations (1989).

`(2) PROGRAM- Consistent with the program, the Committee shall coordinate the provision of competitive grants to institutions of higher education or other research institutions (or groups of those institutions) for the purpose of conducting a coordinated research program relating to the aspects of oil pollution with respect to each region, including research on such matters as--

`(A) prevention;

`(B) removal mitigation; and

`(C) the effects of discharged oil on regional environments.

`(3) PUBLICATION-

`(A) IN GENERAL- The Committee shall coordinate the publication by the agencies represented on the Committee of a solicitation for grants under this subsection.

`(B) FORM AND CONTENT- The application for a grant under this subsection shall be in such form and contain such information as shall be required in the published solicitation.

`(C) REVIEW OF APPLICATIONS- Each application for a grant under this subsection shall be--

`(i) reviewed by the Committee; and

`(ii) at the option of the Committee, included among applications recommended by the Committee for approval in accordance with paragraph (5).

`(D) PROVISION OF GRANTS-

`(i) IN GENERAL- A granting agency represented on the Committee shall provide the grants recommended by the Committee unless the granting agency--

`(I) decides not to provide the grant due to budgetary or other compelling considerations; and

`(II) publishes in the Federal Register the reasons for such a determination.

`(ii) FUNDS FOR GRANTS- No grants may be provided by any agency under this subsection from any funds authorized to carry out this paragraph unless the grant award has first been recommended by the Committee under subparagraph (C)(ii).

`(4) ELIGIBLE APPLICANTS-

`(A) IN GENERAL- Any institution of higher education or other research institution (or a group of those institutions) may apply for a grant for the regional research program established under this subsection.

`(B) LOCATION OF APPLICANT- An applicant described in subparagraph (A) shall be located in the region, or in a State a part of which is in the region, for which the project covered by the grant application is proposed to be carried out as part of the regional research program.

`(C) GROUP APPLICATIONS- With respect to an application described in subparagraph (A) from a group of institutions referred to in that subparagraph, the 1 or more entities that will carry out the substantial portion of the proposed project covered by the grant shall be located in the region, or in a State a part of which is in the region, for which the project is proposed as part of the regional research program.

`(5) RECOMMENDATIONS-

`(A) IN GENERAL- The Committee shall make recommendations on grants in such a manner as to ensure an appropriate balance within a region among the various aspects of oil pollution research, including--

`(i) prevention;

`(ii) removal;

`(iii) mitigation; and

`(iv) the effects of discharged oil on regional environments.

`(B) ADDITIONAL CRITERIA- In addition to the requirements described in subparagraph (A), the Committee shall make recommendations for the approval of grants based on whether--

`(i) there are available to the applicant for use in carrying out this paragraph demonstrated research resources;

`(ii) the applicant demonstrates the capability of making a significant contribution to regional research needs; and

`(iii) the projects that the applicant proposes to carry out under the grant--

`(I) are consistent with the plan under section 7005; and

`(II) would further the objectives of the program established under section 7003.

`(6) TERM OF GRANTS; REVIEW; COST-SHARING- A grant provided under this subsection shall--

`(A) be for a period of up to 3 years;

`(B) be subject to annual review by the granting agency; and

`(C) provide not more than 80 percent of the costs of the research activities carried out in connection with the grant.

`(7) PROHIBITION ON USE OF GRANT FUNDS- No funds made available to carry out this subsection may be used for--

`(A) the acquisition of real property (including buildings); or

`(B) the construction of any building.

`(8) EFFECT ON OTHER AUTHORITY- Nothing in this paragraph alters or abridges the authority under existing law of any Federal agency to provide grants, or enter into contracts or cooperative agreements, using funds other than those authorized in this Act for the purpose of carrying out this subsection.

`(9) FUNDING-

`(A) IN GENERAL- Except as provided in subparagraph (B), for each of fiscal years 2011 through 2015, not less than \$32,000,000 of amounts in the Fund shall be available to carry out the regional research program under this subsection, to be available in equal amounts for the regional research

program in each region.

`(B) ADDITIONAL GRANTS- If the agencies represented on the Committee determine that regional research needs exist that cannot be addressed by the amount of funds made available under subparagraph (A), the agencies may use authority under subsection (a) to make additional grants to meet those needs.

`SEC. 7007. ANNUAL REPORT.

`Concurrent with the submission of the Federal interagency research plan pursuant to section 7005, the Committee shall submit to Congress an annual report that describes the activities and results of the program during the previous fiscal year and described the objectives of the program for the next fiscal year.

`SEC. 7008. FUNDING.

`(a) In General- Of the amounts in the Fund for each fiscal year, not more than \$50,000,000 shall be available to carry out this section (other than section 7006(b)) for the fiscal year.

`(b) Appropriations- All activities authorized under this title, including under section 7006(b), shall be subject to the availability of appropriations.'

SEC. 223. NATIONAL ACADEMY OF SCIENCE PARTICIPATION.

The Commandant shall enter into an arrangement with the National Academy of Sciences under which the Academy shall--

(1) not later than 1 year after the date of enactment of this Act, assess and evaluate the status of Federal oil spill research and development as of the day before the date of enactment of this Act;

(2) submit to Congress and the Federal Oil Spill Research Committee established under section 7002 of the Oil Pollution Act of 1990 a report evaluating the conclusions and recommendations from the Federal research assessment under section 7004 of that Act to be used in the development of the Federal oil spill research plan under section 7005 of that Act; and

(3) not later than 1 year after the Federal interagency research plan is submitted to Congress under section 7005 of that Act, evaluate, and report to Congress on, the plan.

SEC. 224. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Use of Funds- Section 1012(a)(5)(A) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)(A)) is amended by striking '\$25,000,000' and inserting '\$50,000,000'.

(b) Table of Contents- The table of contents in section 2 of the Oil Pollution Act of 1990 (33 U.S.C. prec. 2701) is amended by striking the items relating to sections 7001 and 7002 and inserting the following:

`Sec. 7000. Definitions.

`Sec. 7001. Oil pollution research and development program.

`Sec. 7002. Functions of the Committee.

`Sec. 7003. Federal oil spill research program.

`Sec. 7004. Federal research assessment.

`Sec. 7005. Federal interagency research plan.

`Sec. 7006. Extramural grants.

`Sec. 7007. Annual report.

`Sec. 7008. Funding.

`Sec. 7009. Submerged oil program.'

SEC. 225. OIL SPILL RESPONSE AUTHORITY.

Notwithstanding any other provision of law, the Incident Commander of the Coast Guard may authorize the use of dispersants in response to a spill of oil from--

- (1) any facility or vessel located in, on, or under any of the navigable waters of the United States; and
- (2) any facility of any kind that is subject to the jurisdiction of the United States and that is located in, on, or under any other waters.

SEC. 226. MARITIME CENTER OF EXPERTISE.

(a) In General- The Commandant shall establish a Maritime Center of Expertise for Maritime Oil Spill and Hazardous Substance Release Response.

(b) Duties- The Center shall--

- (1) serve as the primary Federal facility for Coast Guard personnel to obtain qualifications to perform the duties of a regional response team cochair, a Federal on-scene coordinator, or a Federal on-scene coordinator representative;
- (2) train Federal, State, and local first responders in the incident command system structure, maritime oil spill and hazardous substance release response techniques and strategies, and public affairs;
- (3) work with academic and private sector response training centers to develop and standardize maritime oil spill and hazardous substance release response training and techniques;
- (4) conduct research, development, testing, and demonstration for maritime oil spill and hazardous substance release response equipment, technologies, and techniques to prevent or mitigate maritime oil discharges and hazardous substance releases;

- (5) maintain not less than 2 incident management and assistance teams, 1 of which shall be ready to deploy anywhere in the continental United States within 24 hours after an incident or event;
- (6) conduct marine environmental response standardization visits with Coast Guard Federal on-scene coordinators;
- (7) administer and coordinate Coast Guard participation in the National Preparedness for Response Exercise Program; and
- (8) establish and maintain Coast Guard marine environmental response doctrine.

SEC. 227. NATIONAL STRIKE FORCE.

(a) In General- The Commandant shall maintain a National Strike Force to facilitate preparedness for and response to maritime oil spill and hazardous substance release incidents.

(b) Composition- The National Strike Force--

(1) shall consist of--

(A) a National Strike Force Coordination Center;

(B) strike force teams, including--

(i) 1 team for the Atlantic Ocean;

(ii) 1 team for the Pacific Ocean; and

(iii) 1 team for the Gulf of Mexico; and

(C) a public information assist team; and

(2) may include, on the direction of the Commandant, 1 or more teams for the northwest Pacific Ocean and the Arctic Ocean.

(c) National Strike Force Coordination Center Duties- The National Strike Force Coordination Center shall--

(1) provide support and standardization guidance to the regional strike teams;

(2) maintain a response resource inventory of maritime oil spill and hazardous substance release response, marine salvage, and marine firefighting equipment maintained by certified oil spill response organizations as well as equipment listed in a vessel or facility oil spill response plan, as required by section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j));

(3) oversee the maintenance and adequacy of Coast Guard environmental response equipment;

(4) certify and inspect maritime oil spill response organizations; and

(5) maintain the National Area Contingency Plan library.

(d) Strike Force Team Duties- The Strike Force Response Teams shall--

(1) provide rapid response support in incident management, site safety, contractor performance monitoring, resource documentation, response strategies, hazard assessment, oil spill dispersant, in situ burn and other technologies, prefabrication of containment technology, operational effectiveness monitoring, and high-capacity lightering and offshore skimming capabilities;

(2) train Coast Guard units in environmental pollution response and incident command systems, test and evaluate pollution response equipment, and operate as liaisons with response agencies within the areas of responsibility of the respective units;

(3) maintain sufficient maritime oil spill and hazardous substance release assets to ensure the protection of human health and the environment in the event of an oil spill or hazardous substance release, including the prefabrication of oil spill containment equipment; and

(4) maintain the capability to mobilize personnel and equipment to respond to an oil spill or hazardous substance release anywhere in the continental United States within 24 hours of such an event.

(e) Public Information Assist Team Duties- The Public Information Assist Team shall maintain the capability--

(1) to provide crisis communication during oil spills, hazardous material releases, marine accidents, and other disasters, including staffing and managing public affairs and intergovernmental communication;

(2) provide public information and communications training to Federal, State, and local agencies and industry personnel; and

(3) maintain the capability to mobilize personnel and equipment to respond to an oil spill or hazardous substance release anywhere in the continental United States within 24 hours after such an event.

SEC. 228. DISTRICT PREPAREDNESS AND RESPONSE TEAMS.

The Commandant shall maintain district preparedness response teams--

(1) to maintain Coast Guard environmental response equipment;

(2) to administer area contingency plans;

(3) to administer the National Preparedness for Response Exercise Program;

(4) to conduct responder incident command system training and health and safety training;

(5) to provide Federal on-scene coordinator technical advice;

(6) to coordinate district pollution response operations;

(7) to support regional response team cochairs;

(8) to coordinate district participation with the regional interagency steering committee of the Federal Emergency Management Agency; and

(9) to conduct response public affairs and joint information center training.

SEC. 229. OIL SPILL RESPONSE ORGANIZATIONS.

(a) Requirement- Each maritime oil spill response organization that is listed under an oil spill response plan of a vessel or facility regulated by the Coast Guard, as required by section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) shall be--

(1) certified by the Coast Guard; and

(2) inspected at least once each year to ensure that the organization has the capabilities to meet the requirements delegated to the organization under applicable oil spill response plans.

(b) Certification Criteria and Requirements- Not later than 180 days after the date of enactment of this Act, the Commandant shall develop criteria and requirements for certifying and classifying maritime oil spill response organizations.

(c) Inventory of Maritime Oil Spill Response Equipment- Each certified maritime oil spill response organization and any facility regulated by the Coast Guard that is not using a maritime oil spill response organization to meet the facility oil spill response plan requirements of section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) shall--

(1) maintain a current list of the maritime oil spill response equipment of the organization or facility; and

(2) submit a copy of that list to the National Strike Force Coordination Center.

(d) Decreased Capacity Reports- If a maritime oil spill response organization experiences a decrease in the maritime oil spill response assets of the organization, the organization shall report the decrease to the National Strike Force Coordination Center and the Captain of the Port in which that organization operates.

SEC. 230. PROGRAM FOR OIL SPILL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE.

(a) Requirement to Establish Program- The Commandant shall establish a program for oil spill and hazardous substance release response, within the Maritime Center of Expertise for Oil Spill Response, to conduct research, development, testing, and demonstration for oil spill and hazardous substance release response equipment, technologies, and techniques to prevent or mitigate oil discharges and hazardous substance releases.

(b) Program Elements- The program under subsection (a) shall include--

(1) research, development, testing, and demonstration of new or improved methods (including the use of dispersants and biological treatment methods) for the containment, recovery, removal, and disposal of oil and hazardous substances;

(2) assistance for--

(A) the development of improved designs for vessel operations (including vessel operations in Arctic waters) and facilities that are regulated by the Coast Guard; and

(B) improved operational practices;

(3) research and training, in consultation with the National Response Team, to improve the ability of private industry and the Federal Government to respond to an oil discharge or a hazardous substance release;

(4) a list of oil spill and hazardous substance containment, recovery, removal, and disposal technology that is approved for use by the Commandant and is made publicly available, in such manner as is determined to be appropriate by the Commandant; and

(5) a process for the Federal Government, State and local governments, private industry, academic institutions, and nongovernmental organizations to submit systems, equipment, and technologies for testing and evaluation.

(c) Grants for Oil Spill Response- The Commandant shall have the authority to make grants to or enter into cooperative agreements with academic institutions to conduct research and development for oil spill response equipment, technology, and techniques.

(d) Coordination- The Commandant shall carry out the program in coordination with the Interagency Coordinating Committee on Oil Pollution Research established pursuant to section 7001(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(a)).

(e) Funding- The Commandant shall use such sums as are necessary to carry out this section for fiscal years 2010 through 2015 from funds appropriated to the research, development, and testing program account of the Coast Guard for those years.

SEC. 230a. OIL AND HAZARDOUS SUBSTANCE LIABILITY.

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended--

(1) in subsection (c)(2)(B)--

(A) in clause (i), by striking `and' at the end;

(B) in clause (ii), by striking the period at the end and inserting `; and'; and

(C) by adding at the end the following:

`(iii) immediately deploy cleanup and mitigation assets owned by the Federal Government, or provided by private individuals or entities or foreign countries, to the location of discharge.'; and

(2) in subsection (d)(2), by adding at the end the following:

`(N) Establishment of a clear, accountable chain of command throughout the jurisdictions impacted by the discharge.

`(O) Establishment of a system and procedures that ensure coordination with, and prompt response to, State and local officials.'

Subtitle C--Oil and Gas Leasing

SEC. 231. REVENUE SHARING FROM OUTER CONTINENTAL SHELF AREAS IN CERTAIN COASTAL STATES.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended by adding at the end the following:

`(i) Revenue Sharing From Outer Continental Shelf Areas in Certain Coastal States-

`(1) DEFINITIONS- In this subsection through subsection (j):

`(A) COASTAL POLITICAL SUBDIVISION- The term `coastal political subdivision' of a coastal State means a county-equivalent subdivision of a coastal State all or part of which--

`(i) lies within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)); and

`(ii) the closest point of which is not more than 300 statute miles from the geographic center of any leased tract.

`(B) COASTAL STATE- The term `coastal State' means a State with a coastal seaward boundary within 300 statute miles distance of the geographic center of a leased tract in an outer Continental Shelf planning area that--

`(i) as of January 1, 2000, had no oil or natural gas production; and

`(ii) is not a Gulf producing State (as defined in section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109-432)).

`(C) DISTANCE- The terms `distance' and `distances' mean minimum great circle distance and distances, respectively.

`(D) LEASED TRACT- The term `leased tract' means a tract leased under this Act for the purpose of drilling for, developing, and producing oil or natural gas resources.

`(E) OUTER CONTINENTAL SHELF AREA- The term `outer Continental Shelf area' means--

`(i) any area withdrawn from disposition by leasing by the `Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition', from 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998; or

`(ii) any area of the outer Continental Shelf as to which Congress has denied the use of appropriated funds or other means for preleasing, leasing, or related activities.

`(2) POST LEASING REVENUES- If the Governor or the Legislature of a coastal State requests the Secretary to allow leasing in an outer Continental Shelf area and the Secretary allows the leasing, in addition to any bonus bids, the coastal State shall, without further appropriation or action, receive, from leasing of the area, 37.5 percent of--

`(A) any lease rental payments;

`(B) any lease royalty payments;

`(C) any royalty proceeds from a sale of royalties taken in kind by the Secretary; and

`(D) any other revenues from a bidding system under section 8.

`(3) ALLOCATION AMONG COASTAL POLITICAL SUBDIVISIONS OF STATES-

`(A) IN GENERAL- The Secretary shall pay 20 percent of the allocable share of each coastal State, as determined under this subsection, directly to certain coastal political subdivisions of the coastal State.

`(B) ALLOCATION-

`(i) IN GENERAL- For each leased tract used to calculate the allocation of a coastal State, the Secretary shall pay the coastal political subdivisions within 300 miles of the geographic center of the leased tract based on the relative distance of such coastal political subdivisions from the leased tract in accordance with this subparagraph.

`(ii) DISTANCES- For each coastal political subdivision described in clause (i), the Secretary shall determine the distance between the point on the coastal political subdivision coastline closest to the geographic center of the leased tract and the geographic center of the tract.

`(iii) PAYMENTS- The Secretary shall divide and allocate the qualified outer Continental Shelf revenues derived from the leased tract among coastal political subdivisions described in clause (i) in amounts that are inversely proportional to the applicable distances determined under clause (ii).

`(4) CONSERVATION ROYALTY- After making distributions under paragraphs (1) and (2) and section 31, the Secretary shall, without further appropriation or action, distribute a conservation royalty equal to 12.5 percent of Federal royalty revenues derived from an area leased under this section from all areas leased under this section for any year, into the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-5) to provide financial assistance to States under section 6 of that Act (16 U.S.C. 4601-8).

`(5) DEFICIT REDUCTION-

`(A) IN GENERAL- After making distributions in accordance with paragraphs (1) and (2) and in accordance with section 31, the Secretary shall, without further appropriation or action, distribute an amount equal to 50 percent of Federal royalty revenues derived from all areas leased under this section for any year, into direct Federal deficit reduction.

`(B) BUDGETARY TREATMENT- Any amounts distributed into direct Federal deficit reduction under this paragraph shall not be included for purposes determining budget levels under section 201 of S. Con. Res. 21 (110th Congress).'

SEC. 232. REVENUE SHARING FROM AREAS IN ALASKA ADJACENT ZONE.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) (as amended by section 231) is amended by adding at the end the following:

`(j) Revenue Sharing From Areas in Alaska Adjacent Zone-

`(1) IN GENERAL- Except as provided in paragraph (2), effective beginning on the date that is 5 years after the date of enactment of this subsection, revenues from production that derives from an area in the Alaska Adjacent Zone shall be distributed in the same proportion and for the same uses as provided in subsection (i).

`(2) ALLOCATION AMONG REGIONAL CORPORATIONS-

`(A) IN GENERAL- The Secretary shall pay 33 percent of any allocable share of the State of Alaska, as determined under this section, directly to certain Regional Corporations established under section 7(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(a)).

`(B) ALLOCATION-

`(i) IN GENERAL- For each leased tract used to calculate the allocation of the State of Alaska, the Secretary shall pay the Regional Corporations, after determining those Native villages within the region of the Regional Corporation which are within 300 miles of the geographic center of the leased tract based on the relative distance of such villages from the leased tract, in accordance with this paragraph.

`(ii) DISTANCES- For each such village, the Secretary shall determine the distance between the point in the village closest to the geographic center of the leased tract and the geographic center of the tract.

`(iii) PAYMENTS- The Secretary shall divide and allocate the qualified outer Continental Shelf revenues derived from the leased tract among the qualifying Regional Corporations in amounts that are inversely proportional to the distances of all of the Native villages within each qualifying region.

`(iv) REVENUES- All revenues received by each Regional Corporation shall be--

`(I) treated by the Regional Corporation as revenue subject to the distribution requirements of section 7(i)(1)(A) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)(1)(A)); and

`(II) divided annually by the Regional Corporation among all 12 Regional Corporations in accordance with section 7(i) of that Act.

`(v) FURTHER DISTRIBUTION- A Regional Corporation receiving revenues under clause (iv)(II) shall further distribute 50 percent of the revenues received in accordance with section 7(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(j)).'

SEC. 233. ACCELERATED REVENUE SHARING TO PROMOTE COASTAL RESILIENCY AMONG GULF PRODUCING STATES.

Section 105 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109-432) is amended--

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

“(b) Allocation Among Gulf Producing States for Fiscal Years 2010 and Thereafter-

“(1) IN GENERAL- Subject to the provisions of this subsection, for fiscal year 2010 and each fiscal year thereafter, the amount made available under subsection (a)(2)(A) from a covered lease described in paragraph (2) shall be allocated to each Gulf producing State in amounts that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of each historical lease site and the geographic center of the historical lease site, as determined by the Secretary.

“(2) COVERED LEASE- A covered lease referred to in paragraph (1) means a lease entered into for--

“(A) the 2002-2007 planning area;

“(B) the 181 Area; or

“(C) the 180 South Area.

“(3) MINIMUM ALLOCATION- The amount allocated to a Gulf producing State each fiscal year under paragraph (1) shall be at least 10 percent of the amounts available under subsection (a)(2)(A).

“(4) HISTORICAL LEASE SITES-

“(A) IN GENERAL- Subject to subparagraph (B), for purposes of this subsection, the historical lease sites in the 2002-2007 planning area shall include all leases entered into by the Secretary for an area in the Gulf of Mexico during the period beginning on October 1, 1982 (or an earlier date if practicable, as determined by the Secretary), and ending on December 31, 2015.

“(B) ADJUSTMENT- Effective January 1, 2022, and every 5 years thereafter, the ending date described in subparagraph (A) shall be extended for an additional 5 calendar years.

“(5) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS-

“(A) IN GENERAL- The Secretary shall pay 20 percent of the allocable share of each Gulf producing State, as determined under paragraphs (1) and (3), to the coastal political subdivisions of the Gulf producing State.

“(B) ALLOCATION- The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B), (C), and (E) of section 31(b)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(b)(4)).’; and

(2) by striking subsection (f).

SEC. 234. COASTAL IMPACT ASSISTANCE PROGRAM AMENDMENTS.

Section 31(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(c)) is amended by adding at the end the following:

`(5) APPLICATION REQUIREMENTS; AVAILABILITY OF FUNDING- On approval of a State plan under this section, the Secretary shall--

`(A) immediately disburse payments allocated under this section to the State or political subdivision; and

`(B) other than requiring notification to the Secretary of the projects being carried out under the State plan, not subject a State or political subdivision to any additional requirements, including application requirements, to receive payments under this section.'

SEC. 235. PRODUCTION OF OIL FROM CERTAIN ARCTIC OFFSHORE LEASES.

Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended by adding at the end the following:

`(k) Oil Transportation in Arctic Waters- The Secretary shall--

`(1) require that oil produced from Federal leases in Arctic waters in the Chukchi Sea planning area, Beaufort Sea planning area, or Hope Basin planning area be transported by pipeline to the Trans-Alaska Pipeline System; and

`(2) provide for, and issue appropriate permits for, the transportation of oil from Federal leases in Arctic waters in preproduction phases (including exploration) by means other than pipeline.'

SEC. 236. USE OF STIMULUS FUNDS TO OFFSET SPENDING.

(a) In General- The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 115) (other than under title X of division A of that Act) is rescinded, on a pro rata basis, by an aggregate amount that equals the amounts necessary to offset any net increase in spending or foregone revenues resulting from this subtitle and the amendments made by this subtitle.

(b) Report- The Director of the Office of Management and Budget shall submit to each congressional committee the amounts rescinded under subsection (a) that are within the jurisdiction of the committee.

TITLE III--GUIDANCE ON MORATORIUM ON OUTER CONTINENTAL SHELF DRILLING

SEC. 301. LIMITATION OF MORATORIUM ON CERTAIN PERMITTING AND DRILLING ACTIVITIES.

(a) In General- The moratorium set forth in the decision memorandum of the Secretary of the Interior entitled `Decision memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf' and dated July 12, 2010, and any suspension of operations issued in connection with the moratorium, shall not apply to an applicant for a permit to drill if the Secretary determines that the applicant--

(1) has complied with the notice entitled `National Notice to Lessees and Operators of Federal Oil and Gas Leases, Outer Continental Shelf (OCS)' dated June 8, 2010 (NTL No. 2010-N05) and the notice entitled `National Notice to Lessees and Operators of Federal Oil and Gas Leases, Outer Continental Shelf (OCS)' dated June 18, 2010 (NTL No. 2010-N06); and

(2) has completed all required safety inspections.

(b) Determination on Permit- Not later than 30 days after the date on which the Secretary makes a determination that an applicant has complied with paragraphs (1) and (2) of subsection (a), the Secretary shall make a determination on whether to issue the permit.

(c) No Suspension of Consideration- No Federal entity shall suspend the active consideration of, or preparatory work for, permits required to resume or advance activities suspended in connection with the moratorium.

SEC. 302. DEEPWATER HORIZON INCIDENT.

Not later than 60 days after the date of enactment of this Act, the Secretary shall develop, and expeditiously begin implementation of, a plan to ensure that onshore oil and natural gas development on Federal land would provide full energy resource compensation for offshore oil and natural gas resources not being developed and Federal revenues not being generated for the benefit of the United States Treasury during such time as any offshore moratorium is in place in response to the incident involving the mobile offshore drilling unit *Deepwater Horizon*.

Calendar No. 483

111th CONGRESS

2d Session

S. 3643

A BILL

To amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, to improve oil spill compensation, to terminate the moratorium on deepwater drilling, and for other purposes.

July 26, 2010

Read the second time and place on the calendar

END