

**AMENDMENT TO H.R. 3534, AS REPORTED
OFFERED BY MR. RAHALL OF WEST VIRGINIA**

Strike all after the enacting clause and insert the
following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Consolidated Land, Energy, and Aquatic Resources Act
4 of 2010”.

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

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

**TITLE I—CREATION OF NEW DEPARTMENT OF THE INTERIOR
AGENCIES**

Sec. 101. Bureau of Energy and Resource Management.
Sec. 102. Bureau of Safety and Environmental Enforcement.
Sec. 103. Office of Natural Resources Revenue.
Sec. 104. Ethics.
Sec. 105. References.
Sec. 106. Abolishment of Minerals Management Service.
Sec. 107. Conforming amendment.
Sec. 108. Outer Continental Shelf Safety and Environmental Advisory Board.

TITLE II—FEDERAL OIL AND GAS DEVELOPMENT

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

Sec. 201. Short title.
Sec. 202. Definitions.
Sec. 203. National policy for the Outer Continental Shelf.
Sec. 204. Jurisdiction of laws on the Outer Continental Shelf.
Sec. 205. Outer Continental Shelf leasing standard.
Sec. 206. Leases, easements, and rights-of-way.
Sec. 207. Disposition of revenues.
Sec. 208. Exploration plans.
Sec. 209. Outer Continental Shelf leasing program.

- Sec. 210. Environmental studies.
- Sec. 211. Safety regulations.
- Sec. 212. Enforcement of safety and environmental regulations.
- Sec. 213. Judicial review.
- Sec. 214. Remedies and penalties.
- Sec. 215. Uniform planning for Outer Continental Shelf.
- Sec. 216. Oil and gas information program.
- Sec. 217. Limitation on royalty-in-kind program.
- Sec. 218. Restrictions on employment.
- Sec. 219. Repeal of royalty relief provisions.
- Sec. 220. Manning and buy- and build-American requirements.
- Sec. 221. National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling.
- Sec. 222. Coordination and consultation with affected State and local governments.
- Sec. 223. Implementation.

Subtitle B—Royalty Relief for American Consumers

- Sec. 241. Short title.
- Sec. 242. Eligibility for new leases and the transfer of leases.
- Sec. 243. Price thresholds for royalty suspension provisions.

TITLE III—OIL AND GAS ROYALTY REFORM

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

TITLE IV—FULL FUNDING FOR THE LAND AND WATER
CONSERVATION AND HISTORIC PRESERVATION FUNDS

Subtitle A—Land and Water Conservation Fund

- Sec. 401. Amendments to the Land and Water Conservation Fund Act of 1965.
- Sec. 402. Extension of the Land and Water Conservation Fund.
- Sec. 403. Permanent funding.

Subtitle B—National Historic Preservation Fund

Sec. 411. Permanent funding.

TITLE V—GULF OF MEXICO RESTORATION

Sec. 501. Gulf of Mexico restoration program.

Sec. 502. Gulf of Mexico long-term environmental monitoring and research program.

Sec. 503. Gulf of Mexico emergency migratory species alternative habitat program.

TITLE VI—COORDINATION AND PLANNING

Sec. 601. Regional coordination.

Sec. 602. Regional Coordination Councils.

Sec. 603. Regional strategic plans.

Sec. 604. Regulations and savings clause.

Sec. 605. Ocean Resources Conservation and Assistance Fund.

Sec. 606. Waiver.

TITLE VII—OIL SPILL ACCOUNTABILITY AND ENVIRONMENTAL PROTECTION

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Sec. 702. Repeal of and adjustments to limitation on liability.

Sec. 703. Evidence of financial responsibility for offshore facilities.

Sec. 704. Damages to human health.

Sec. 705. Clarification of liability for discharges from mobile offshore drilling units.

Sec. 706. Standard of review for damage assessment.

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Sec. 710. Safety management systems for mobile offshore drilling units.

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TITLE VIII—MISCELLANEOUS PROVISIONS

- Sec. 801. Repeal of certain taxpayer subsidized royalty relief for the oil and gas industry.
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- Sec. 805. Liability for damages to national wildlife refuges.
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- Sec. 807. Information sharing.
- Sec. 808. Limitation on use of funds.
- Sec. 809. Environmental review.
- Sec. 810. Federal response to State proposals to protect State lands and waters.

1 SEC. 2. DEFINITIONS.

2 For the purposes of this Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (A) the lessee; or

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

1 (i) approved by the Secretary, acting
2 through the Bureau of Energy and Re-
3 source Management; or

4 (ii) the holder of operating rights
5 under an assignment of operating rights
6 that is approved by the Secretary, acting
7 through the Bureau of Energy and Re-
8 source Management.

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

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

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

4 (A) Wind energy.

5 (B) Solar energy.

6 (C) Geothermal energy.

7 (D) Biomass or landfill gas.

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

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

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

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

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

4 **SEC. 101. BUREAU OF ENERGY AND RESOURCE MANAGE-**
5 **MENT.**

6 (a) ESTABLISHMENT.—There is established in the
7 Department of the Interior a Bureau of Energy and Re-
8 source Management (referred to in this section as the
9 “Bureau”) to be headed by a Director of Energy and Re-
10 source Management (referred to in this section as the “Di-
11 rector”).

12 (b) DIRECTOR.—

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

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

18 (B) capacity to—

19 (i) administer the provisions of this
20 Act; and

21 (ii) ensure that the fiduciary duties of
22 the United States Government on behalf of
23 the people of the United States, as they re-
24 late to development of nonrenewable and

1 renewable energy and mineral resources,
2 are duly met.

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

7 (c) DUTIES.—

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

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

18 (B) on Federal public lands, pursuant to
19 the Mineral Leasing Act (30 U.S.C. 181 et
20 seq.) and the Geothermal Steam Act of 1970
21 (30 U.S.C. 1001 et seq.);

22 (C) on acquired Federal lands, pursuant to
23 the Mineral Leasing Act for Acquired Lands
24 (30 U.S.C. 351 et seq.) and the Geothermal
25 Steam Act of 1970 (30 U.S.C. 1001 et seq.);

1 (D) in the National Petroleum Reserve in
2 Alaska, pursuant to the Naval Petroleum Re-
3 serves Production Act of 1976 (42 U.S.C. 6501
4 et seq.);

5 (E) on any Federal land pursuant to any
6 mineral leasing law; and

7 (F) pursuant to this Act and all other ap-
8 plicable Federal laws, including the administra-
9 tion and approval of all instruments and agree-
10 ments required to ensure orderly, safe, and en-
11 vironmentally responsible nonrenewable and re-
12 newable energy and mineral resources develop-
13 ment activities.

14 (2) SPECIFIC AUTHORITIES.—The Director
15 shall promulgate and implement regulations for the
16 proper issuance of leases for the exploration, devel-
17 opment, and production of nonrenewable and renew-
18 able energy and mineral resources, and for the
19 issuance of permits under such leases, on the Outer
20 Continental Shelf and for nonrenewable and renew-
21 able energy and mineral resources managed by the
22 Bureau of Land Management on the date of enact-
23 ment of this Act, or any other Federal land manage-
24 ment agency, including regulations relating to re-

1 source identification, access, evaluation, and utiliza-
2 tion.

3 (3) INDEPENDENT ENVIRONMENTAL
4 SCIENCE.—

5 (A) IN GENERAL.—The Secretary shall
6 create an independent office within the Bureau
7 that—

8 (i) shall report to the Director;

9 (ii) shall be programmatically separate
10 and distinct from the leasing and permit-
11 ting activities of the Bureau; and

12 (iii) shall—

13 (I) carry out the environmental
14 studies program under section 20 of
15 the Outer Continental Shelf Lands
16 Act (43 U.S.C. 1346);

17 (II) conduct any environmental
18 analyses necessary for the programs
19 administered by the Bureau; and

20 (III) carry out other functions as
21 deemed necessary by the Secretary.

22 (B) CONSULTATION.—Studies and anal-
23 yses carried out by the office created under sub-
24 paragraph (A) shall be conducted in appro-

1 appropriate and timely consultation with other rel-
2 evant Federal agencies, including—

3 (i) the Bureau of Safety and Environ-
4 mental Enforcement;

5 (ii) the United States Fish and Wild-
6 life Service;

7 (iii) the United States Geological Sur-
8 vey; and

9 (iv) the National Oceanic and Atmos-
10 pheric Administration.

11 (4) LIMITATION.—The Secretary shall not carry
12 out through the Bureau any function, power, or duty
13 that is—

14 (A) required by section 102 to be carried
15 out through Bureau of Safety and Environ-
16 mental Enforcement; or

17 (B) required by section 103 to be carried
18 out through the Office of Natural Resources
19 Revenue.

20 (d) COMPREHENSIVE DATA AND ANALYSES ON
21 OUTER CONTINENTAL SHELF RESOURCES.—

22 (1) IN GENERAL.—

23 (A) PROGRAMS.—The Director shall de-
24 velop and carry out programs for the collection,
25 evaluation, assembly, analysis, and dissemina-

1 tion of data and information that is relevant to
2 carrying out the duties of the Bureau, including
3 studies under section 20 of the Outer Conti-
4 nental Shelf Lands Act (43 U.S.C. 1346).

5 (B) USE OF DATA AND INFORMATION.—

6 The Director shall, in carrying out functions
7 pursuant to the Outer Continental Lands Act
8 (43 U.S.C. 1331 et seq.), consider data and in-
9 formation referred to in subparagraph (A)
10 which shall inform the management functions
11 of the Bureau, and shall contribute to a broader
12 coordination of development activities within
13 the contexts of the best available science and
14 marine spatial planning.

15 (2) INTERAGENCY COOPERATION.—In carrying
16 out programs under this subsection, the Bureau
17 shall—

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

21 (B) cooperate with appropriate offices in
22 the Department and in other Federal agencies;

23 (C) use existing inventories and mapping
24 of marine resources previously undertaken by
25 the Minerals Management Service, mapping un-

1 dertaken by the United States Geological Sur-
2 vey and the National Oceanographic and At-
3 mospheric Administration, and information pro-
4 vided by the Department of Defense and other
5 Federal and State agencies possessing relevant
6 data; and

7 (D) use any available data regarding re-
8 newable energy potential, navigation uses, fish-
9 eries, aquaculture uses, recreational uses, habi-
10 tat, conservation, and military uses of the
11 Outer Continental Shelf.

12 (e) **RESPONSIBILITIES OF LAND MANAGEMENT**
13 **AGENCIES.**—Nothing in this section shall affect the au-
14 thorities of the Bureau of Land Management under the
15 Federal Land Policy and Management Act of 1976 (43
16 U.S.C. 1701 et seq.) or of the Forest Service under the
17 National Forest Management Act of 1976 (Public Law
18 94–588).

19 **SEC. 102. BUREAU OF SAFETY AND ENVIRONMENTAL EN-**
20 **FORCEMENT.**

21 (a) **ESTABLISHMENT.**—There is established in the
22 Department a Bureau of Safety and Environmental En-
23 forcement (referred to in this section as the “Bureau”)
24 to be headed by a Director of Safety and Environmental

1 Enforcement (referred to in this section as the “Direc-
2 tor”).

3 (b) DIRECTOR.—

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

7 (A) professional background, demonstrated
8 competence, and ability; and

9 (B) capacity to administer the provisions
10 of this Act.

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

15 (c) DUTIES.—

16 (1) IN GENERAL.—The Secretary shall carry
17 out through the Bureau all functions, powers, and
18 duties vested in the Secretary relating to the admin-
19 istration of safety and environmental enforcement
20 activities related to nonrenewable and renewable en-
21 ergy and mineral resources—

22 (A) on the Outer Continental Shelf pursu-
23 ant to the Outer Continental Shelf Lands Act
24 (43 U.S.C. 1331 et seq.);

1 (B) on Federal public lands, pursuant to
2 the Mineral Leasing Act (30 U.S.C. 181 et
3 seq.) and the Geothermal Steam Act of 1970
4 (30 U.S.C. 1001 et seq.);

5 (C) on acquired Federal lands, pursuant to
6 the Mineral Leasing Act for Acquired Lands
7 (30 U.S.C. 351 et seq.) and the Geothermal
8 Steam Act of 1970 (30 U.S.C. 1001 et seq.);

9 (D) in the National Petroleum Reserve in
10 Alaska, pursuant to the Naval Petroleum Re-
11 serves Production Act of 1976 (42 U.S.C. 6501
12 et seq.); and

13 (E) pursuant to—

14 (i) the Federal Oil and Gas Royalty
15 Management Act of 1982 (30 U.S.C. 1701
16 et seq.);

17 (ii) the Energy Policy Act of 2005
18 (Public Law 109–58);

19 (iii) the Federal Oil and Gas Royalty
20 Simplification and Fairness Act of 1996
21 (Public Law 104–185);

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

1 (v) the Federal Land Policy and Man-
2 agement Act of 1976 (43 U.S.C. 1701 et
3 seq.);

4 (vi) this Act; and

5 (vii) all other applicable Federal laws,
6 including the authority to develop, promulgate,
7 and enforce regulations to ensure the safe and
8 environmentally sound exploration, develop-
9 ment, and production of nonrenewable and re-
10 newable energy and mineral resources on the
11 Outer Continental Shelf and onshore federally
12 managed lands.

13 (d) AUTHORITIES.—In carrying out the duties under
14 this section, the Secretary's authorities shall include—

15 (1) performing necessary oversight activities to
16 ensure the proper application of environmental re-
17 views, including those conducted pursuant to the
18 National Environmental Policy Act of 1969 (42
19 U.S.C. 4321 et seq.) by the Bureau of Energy and
20 Resource Management in the performance of its du-
21 ties under the Outer Continental Shelf Lands Act
22 (43 U.S.C. 1331 et seq.);

23 (2) suspending or prohibiting, on a temporary
24 basis, any operation or activity, including produc-
25 tion—

1 (A) on leases held on the Outer Conti-
2 nental Shelf, in accordance with section 5(a)(1)
3 of the Outer Continental Shelf Lands Act (43
4 U.S.C. 1334(a)(1)); or

5 (B) on leases or rights-of-way held on Fed-
6 eral lands under any other minerals or energy
7 leasing statute, in accordance with section
8 302(c) of the Federal Land Policy and Manage-
9 ment Act of 1976 (43 U.S.C. 1701 et seq.);

10 (3) cancelling any lease, permit, or right-of-
11 way—

12 (A) on the Outer Continental Shelf, in ac-
13 cordance with section 5(a)(2) of the Outer Con-
14 tinental Shelf Lands Act (43 U.S.C.
15 1334(a)(2)); or

16 (B) on onshore Federal lands, in accord-
17 ance with section 302(c) of the Federal Land
18 Policy and Management Act of 1976 (43 U.S.C.
19 1732(c));

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

22 (5) requiring comprehensive safety and environ-
23 mental management programs for persons engaged
24 in activities connected with the exploration, develop-

1 ment, and production of energy or mineral re-
2 sources;

3 (6) developing and implementing regulations for
4 Federal employees to carry out any inspection or in-
5 vestigation to ascertain compliance with applicable
6 regulations, including health, safety, or environ-
7 mental regulations;

8 (7) collecting, evaluating, assembling, analyzing,
9 and publicly disseminating electronically data and
10 information that is relevant to inspections, failures,
11 or accidents involving equipment and systems used
12 for exploration and production of energy and min-
13 eral resources, including human factors associated
14 therewith;

15 (8) implementing the Offshore Technology Re-
16 search and Risk Assessment Program under section
17 21 of the Outer Continental Shelf Lands Act (43
18 U.S.C. 1347);

19 (9) summoning witnesses and directing the pro-
20 duction of evidence;

21 (10) levying fines and penalties and disquali-
22 fying operators; and

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

25 (e) EMPLOYEES.—

1 (1) IN GENERAL.—The Secretary shall ensure
2 that the inspection force of the Bureau consists of
3 qualified, trained employees who meet qualification
4 requirements and adhere to the highest professional
5 and ethical standards.

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

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

10 (B) shall include—

11 (i) three years of practical experience
12 in oil and gas exploration, development, or
13 production; or

14 (ii) a degree in an appropriate field of
15 engineering from an accredited institution
16 of higher learning.

17 (3) ASSIGNMENT.—In assigning oil and gas in-
18 spectors to the inspection and investigation of indi-
19 vidual operations, the Secretary shall give due con-
20 sideration to the extent possible to their previous ex-
21 perience in the particular type of oil and gas oper-
22 ation in which such inspections are to be made.

23 (4) TRAINING ACADEMY.—

24 (A) IN GENERAL.—The Secretary shall es-
25 tablish and maintain a National Oil and Gas

1 Health and Safety Academy (referred to in this
2 paragraph as the “Academy”) as an agency of
3 the Department of the Interior.

4 (B) FUNCTIONS OF ACADEMY.—The Sec-
5 retary, through the Academy, shall be respon-
6 sible for—

7 (i) the initial and continued training
8 of both newly hired and experienced oil
9 and gas inspectors in all aspects of health,
10 safety, environmental, and operational in-
11 spections;

12 (ii) the training of technical support
13 personnel of the Bureau;

14 (iii) any other training programs for
15 oil and gas inspectors, Bureau personnel,
16 Department personnel, or other persons as
17 the Secretary shall designate; and

18 (iv) certification of the successful
19 completion of training programs for newly
20 hired and experienced oil and gas inspec-
21 tors.

22 (C) COOPERATIVE AGREEMENTS.—

23 (i) IN GENERAL.—In performing func-
24 tions under this paragraph, and subject to
25 clause (ii), the Secretary may enter into

1 cooperative educational and training agree-
2 ments with educational institutions, related
3 Federal academies, other Federal agencies,
4 State governments, labor organizations,
5 and oil and gas operators and related in-
6 dustries.

7 (ii) TRAINING REQUIREMENT.—Such
8 training shall be conducted by the Acad-
9 emy in accordance with curriculum needs
10 and assignment of instructional personnel
11 established by the Secretary.

12 (D) USE OF DEPARTMENTAL PER-
13 SONNEL.—In performing functions under this
14 subsection, the Secretary shall use, to the ex-
15 tent practicable, the facilities and personnel of
16 the Department of the Interior. The Secretary
17 may appoint or assign to the Academy such of-
18 ficers and employees as the Secretary considers
19 necessary for the performance of the duties and
20 functions of the Academy.

21 (5) ADDITIONAL TRAINING PROGRAMS.—

22 (A) IN GENERAL.—The Secretary shall
23 work with appropriate educational institutions,
24 operators, and representatives of oil and gas
25 workers to develop and maintain adequate pro-

1 grams with educational institutions and oil and
2 gas operators, that are designed—

3 (i) to enable persons to qualify for po-
4 sitions in the administration of this Act;
5 and

6 (ii) to provide for the continuing edu-
7 cation of inspectors or other appropriate
8 Departmental personnel.

9 (B) FINANCIAL AND TECHNICAL ASSIST-
10 ANCE.—The Secretary may provide financial
11 and technical assistance to educational institu-
12 tions in carrying out this paragraph.

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

14 (a) ESTABLISHMENT.—There is established in the
15 Department an Office of Natural Resources Revenue (re-
16 ferred to in this section as the “Office”) to be headed by
17 a Director of Natural Resources Revenue (referred to in
18 this section as the “Director”).

19 (b) APPOINTMENT AND COMPENSATION.—

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

23 (A) professional competence; and

24 (B) capacity to—

1 (i) administer the provisions of this
2 Act; and

3 (ii) ensure that the fiduciary duties of
4 the United States Government on behalf of
5 the American people, as they relate to de-
6 velopment of nonrenewable and renewable
7 energy and mineral resources, are duly
8 met.

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

13 (c) DUTIES.—

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

16 (A) all functions, powers, and duties vested
17 in the Secretary and relating to the administra-
18 tion of the royalty and revenue management
19 functions pursuant to—

20 (i) the Outer Continental Shelf Lands
21 Act (43 U.S.C. 1331 et seq.);

22 (ii) the Mineral Leasing Act (30
23 U.S.C. 181 et seq.);

24 (iii) the Mineral Leasing Act for Ac-
25 quired Lands (30 U.S.C. 351 et seq.);

1 (iv) the Geothermal Steam Act of
2 1970 (30 U.S.C. 1001 et seq.);

3 (v) the Naval Petroleum Reserves
4 Production Act of 1976 (42 U.S.C. 6501
5 et seq.);

6 (vi) the Federal Oil and Gas Royalty
7 Management Act of 1982 (30 U.S.C. 1701
8 et seq.);

9 (vii) the Federal Oil and Gas Royalty
10 Simplification and Fairness Act of 1996
11 (Public Law 104–185);

12 (viii) the Energy Policy Act of 2005
13 (Public Law 109–58);

14 (ix) the Forest and Rangeland Renew-
15 able Resources Planning Act of 1974 (16
16 U.S.C. 1600 et seq.);

17 (x) the Federal Land Policy and Man-
18 agement Act of 1976 (43 U.S.C. 1701 et
19 seq.); and

20 (xi) this Act and all other applicable
21 Federal laws; and

22 (B) all functions, powers, and duties pre-
23 viously assigned to the Minerals Management
24 Service (including the authority to develop, pro-
25 mulgate, and enforce regulations) regarding—

- 1 (i) royalty and revenue collection;
- 2 (ii) royalty and revenue distribution;
- 3 (iii) auditing and compliance;
- 4 (iv) investigation and enforcement of
- 5 royalty and revenue regulations; and
- 6 (v) asset management for onshore and
- 7 offshore activities.

8 (d) OVERSIGHT.—In order to provide transparency
9 and ensure strong oversight over the revenue program, the
10 Secretary shall—

11 (1) create within the Office an independent
12 audit and oversight program responsible for moni-
13 toring the performance of the Office with respect to
14 the duties and functions under subsection (c), and
15 conducting internal control audits of the operations
16 of the Office;

17 (2) facilitate the participation of those Indian
18 tribes and States operating pursuant to cooperative
19 agreements or delegations under the Federal Oil and
20 Gas Royalty Management Act of 1982 (30 U.S.C.
21 1701 et seq.) on all of the management teams, com-
22 mittees, councils, and other entities created by the
23 Office; and

24 (3) assure prior consultation with those Indian
25 tribes and States referred to in paragraph (2) in the

1 formulation all policies, procedures, guidance, stand-
2 ards, and rules relating to the functions referred to
3 in subsection (c).

4 **SEC. 104. ETHICS.**

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

13 (b) GUIDANCE.—Not later than 90 days after the
14 date of enactment of this Act, the Secretary shall issue
15 supplementary ethics guidance for the employees for which
16 certification is required under subsection (a).

17 **SEC. 105. REFERENCES.**

18 (a) BUREAU OF ENERGY AND RESOURCE MANAGE-
19 MENT.—Any reference in any law, rule, regulation, direc-
20 tive, instruction, certificate, or other official document, in
21 force immediately before the enactment of this Act—

22 (1) to the Minerals Management Service that
23 pertains to any of the duties and authorities referred
24 to in section 101 is deemed to refer and apply to the

1 Bureau of Energy and Resource Management estab-
2 lished by section 101;

3 (2) to the Director of the Minerals Management
4 Service that pertains to any of the duties and au-
5 thorities referred to in section 101 is deemed to
6 refer and apply to the Director of the Bureau of En-
7 ergy and Resource Management;

8 (3) to any other position in the Minerals Man-
9 agement Service that pertains to any of the duties
10 and authorities referred to in section 101 is deemed
11 to refer and apply to that same or equivalent posi-
12 tion in the Bureau of Energy and Resource Manage-
13 ment;

14 (4) to the Bureau of Land Management that
15 pertains to any of the duties and authorities referred
16 to in section 101 is deemed to refer and apply to the
17 Bureau of Energy and Resource Management;

18 (5) to the Director of the Bureau of Land Man-
19 agement that pertains to any of the duties and au-
20 thorities referred to in section 101 is deemed to
21 refer and apply to the Director of the Bureau of En-
22 ergy and Resource Management; and

23 (6) to any other position in the Bureau of Land
24 Management that pertains to any of the duties and
25 authorities referred to in section 101 is deemed to

1 refer and apply to that same or equivalent position
2 in the Bureau of Energy and Resource Management.

3 (b) BUREAU OF SAFETY AND ENVIRONMENTAL EN-
4 FORCEMENT.—Any reference in any law, rule, regulation,
5 directive, instruction, certificate, or other official docu-
6 ment in force immediately before the enactment of this
7 Act—

8 (1) to the Minerals Management Service that
9 pertains to any of the duties and authorities referred
10 to in section 102 is deemed to refer and apply to the
11 Bureau of Safety and Environmental Enforcement
12 established by section 102;

13 (2) to the Director of the Minerals Management
14 Service that pertains to any of the duties and au-
15 thorities referred to in section 102 is deemed to
16 refer and apply to the Director of the Bureau of
17 Safety and Environmental Enforcement;

18 (3) to any other position in the Minerals Man-
19 agement Service that pertains to any of the duties
20 and authorities referred to in section 102 is deemed
21 to refer and apply to that same or equivalent posi-
22 tion in the Bureau of Safety and Environmental En-
23 forcement;

24 (4) to the Bureau of Land Management that
25 pertains to any of the duties and authorities referred

1 to in section 102 is deemed to refer and apply to the
2 Bureau of Safety and Environmental Enforcement;

3 (5) to the Director of the Bureau of Land Man-
4 agement that pertains to any of the duties and au-
5 thorities referred to in section 102 is deemed to
6 refer and apply to the Director of the Bureau of
7 Safety and Environmental Enforcement; and

8 (6) to any other position in the Bureau of Land
9 Management that pertains to any of the duties and
10 authorities referred to in section 102 is deemed to
11 refer and apply to that same or equivalent position
12 in the Bureau of Safety and Environmental Enforce-
13 ment.

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

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

23 (2) to the Director of the Minerals Management
24 Service that pertains to any of the duties and au-
25 thorities referred to in section 103 is deemed to

1 refer and apply to the Director of Natural Resources
2 Revenue; and

3 (3) to any other position in the Minerals Man-
4 agement Service that pertains to any of the duties
5 and authorities referred to in section 103 is deemed
6 to refer and apply to that same or equivalent posi-
7 tion in the Office of Natural Resources Revenue.

8 **SEC. 106. ABOLISHMENT OF MINERALS MANAGEMENT**
9 **SERVICE.**

10 (a) **ABOLISHMENT.**—The Minerals Management
11 Service (in this section referred to as the “Service”) is
12 abolished.

13 (b) **COMPLETED ADMINISTRATIVE ACTIONS.**—

14 (1) **IN GENERAL.**—Completed administrative
15 actions of the Service shall not be affected by the
16 enactment of this Act, but shall continue in effect
17 according to their terms until amended, modified,
18 superseded, terminated, set aside, or revoked in ac-
19 cordance with law by an officer of the United States
20 or a court of competent jurisdiction, or by operation
21 of law.

22 (2) **COMPLETED ADMINISTRATIVE ACTION DE-**
23 **FINED.**—For purposes of paragraph (1), the term
24 “completed administrative action” includes orders,
25 determinations, rules, regulations, personnel actions,

1 permits, agreements, grants, contracts, certificates,
2 licenses, registrations, and privileges.

3 (c) PENDING PROCEEDINGS.—Subject to the author-
4 ity of the Secretary of the Interior and the officers of the
5 Department of the Interior under this Act—

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

16 (2) orders issued in such proceedings, and ap-
17 peals therefrom, and payments made pursuant to
18 such orders, shall issue in the same manner and on
19 the same terms as if this Act had not been enacted,
20 and any such orders shall continue in effect until
21 amended, modified, superseded, terminated, set
22 aside, or revoked by an officer of the United States
23 or a court of competent jurisdiction, or by operation
24 of law.

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

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

18 **SEC. 107. CONFORMING AMENDMENT.**

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

23 “Director, Bureau of Energy and Resource
24 Management, Department of the Interior.

1 “Director, Bureau of Safety and Environmental
2 Enforcement, Department of the Interior.

3 “Director, Office of Natural Resources Rev-
4 enue, Department of the Interior.”.

5 **SEC. 108. OUTER CONTINENTAL SHELF SAFETY AND ENVI-**
6 **RONMENTAL ADVISORY BOARD.**

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

16 (b) MEMBERSHIP.—

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

1 the National Academy of Engineering to identify po-
2 tential candidates for the Board.

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

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

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

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

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

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

4 (2) assesses whether existing well control regu-
5 lations issued by the Secretary under the Outer Con-
6 tinental Shelf Lands Act (43 U.S.C. 1331 et seq.)
7 adequately protect public health and safety and the
8 environment; and

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

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

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

1 **TITLE II—FEDERAL OIL AND GAS**
2 **DEVELOPMENT**
3 **Subtitle A—Safety, Environmental,**
4 **and Financial Reform of the**
5 **Outer Continental Shelf Lands**
6 **Act**

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

8 This subtitle may be cited as the “Outer Continental
9 Shelf Lands Act Amendments of 2010”.

10 **SEC. 202. DEFINITIONS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “(6) exploration, development, and production
2 of energy and minerals on the outer Continental
3 Shelf should be allowed only when those activities
4 can be accomplished in a manner that minimizes—

5 “(A) harmful impacts to life (including fish
6 and other aquatic life) and health;

7 “(B) damage to the marine, coastal, and
8 human environments and to property; and

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

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

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

14 (B) inserting “best available” after
15 “using”; and

16 (C) striking “or minimize”.

17 **SEC. 204. JURISDICTION OF LAWS ON THE OUTER CONTI-**
18 **NENTAL SHELF.**

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

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

24 (2) inserting “or transmitting such energy”
25 after “transporting such resources”; and

1 (3) inserting “and other energy” after “That
2 mineral”.

3 **SEC. 205. OUTER CONTINENTAL SHELF LEASING STAND-**
4 **ARD.**

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

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

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

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

18 (4) in clause (ii) of subsection (a)(2)(A), by
19 striking “a reasonable period of time” and inserting
20 “30 days”;

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

24 (6) in subsection (a), by striking “and” after
25 the semicolon at the end of paragraph (7), redesignig-

1 nating paragraph (8) as paragraph (13), and insert-
2 ing after paragraph (7) the following:

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

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

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

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

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

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

23 “(14) ensuring compliance with other applicable
24 environmental and natural resource conservation
25 laws.”; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 “(5) INDEPENDENT THIRD-PARTY CER-
19 TIFIERS.—The Secretary shall establish appropriate
20 standards for the approval of independent third-
21 party certifiers capable of exercising certification
22 functions for blowout preventers, well design, and ce-
23 menting. For any certification required for regula-
24 tions related to blowout preventers, well design, or
25 cementing, the operator shall use a qualified inde-

1 pendent third-party certifier chosen by the Sec-
2 retary. The costs of any certification shall be borne
3 by the operator.

4 “(6) APPLICATION TO INSHORE WATERS; STATE
5 IMPLEMENTATION.—

6 “(A) IN GENERAL.—Requirements estab-
7 lished under this subsection shall apply, as pro-
8 vided in subparagraph (B), to offshore drilling
9 operations that take place on lands that are
10 landward of the outer Continental Shelf and
11 seaward of the line of mean high tide, and that
12 the Secretary determines, based on criteria es-
13 tablished by rule, could, in the event of a blow-
14 out, lead to extensive and widespread harm to
15 public health and safety or the environment.

16 “(B) SUBMISSION OF STATE REGULATORY
17 REGIME.—Any State may submit to the Sec-
18 retary a plan demonstrating that the State’s
19 regulatory regime for wells identified in sub-
20 paragraph (A) establishes requirements for
21 such wells that are comparable to, or alter-
22 native requirements providing an equal or
23 greater level of safety than, those established
24 under this section for wells on the outer Conti-
25 nental Shelf. The Secretary shall promptly de-

1 termine, after notice and an opportunity for
2 public comment, whether a State’s regulatory
3 regime meets the standard set forth in the pre-
4 ceding sentence. If the Secretary determines
5 that a State’s regulatory regime does not meet
6 such standard, the Secretary shall identify the
7 deficiencies that are the basis for such deter-
8 mination and provide a reasonable period of
9 time for the State to remedy the deficiencies. If
10 the State does not do so within such reasonable
11 period of time, the Secretary shall apply the re-
12 quirements established under this section to off-
13 shore drilling operations described in subpara-
14 graph (A) that are located in such State, until
15 such time as the Secretary determines that the
16 deficiencies have been remedied.

17 “(m) RULEMAKING DOCKETS.—

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

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

24 “(A) all written comments and documen-
25 tary information on the proposed rule received

1 from any person in the comment period for the
2 rulemaking, promptly upon receipt by the Sec-
3 retary;

4 “(B) the transcript of each public hearing,
5 if any, on the proposed rule, promptly upon re-
6 ceipt from the person who transcribed such
7 hearing; and

8 “(C) all documents that become available
9 after the proposed rule is published and that
10 the Secretary determines are of central rel-
11 evance to the rulemaking, by as soon as pos-
12 sible after their availability.

13 “(3) PROPOSED AND DRAFT FINAL RULE AND
14 ASSOCIATED MATERIAL.—The Secretary shall in-
15 clude in the docket—

16 “(A) each draft proposed rule submitted by
17 the Secretary to the Office of Management and
18 Budget for any interagency review process prior
19 to proposal of such rule, all documents accom-
20 panying such draft, all written comments there-
21 on by other agencies, and all written responses
22 to such written comments by the Secretary, by
23 no later than the date of proposal of the rule;
24 and

1 “(B) each draft final rule submitted by the
2 Secretary for such review process before
3 issuance of the final rule, all such written com-
4 ments thereon, all documents accompanying
5 such draft, and all written responses thereto, by
6 no later than the date of issuance of the final
7 rule.”.

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

14 **SEC. 206. LEASES, EASEMENTS, AND RIGHTS-OF-WAY.**

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

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

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

2 “(1) IN GENERAL.—Not later than 1 year after
3 the date of enactment of this subsection and every
4 3 years thereafter, the Secretary shall carry out a
5 review and prepare a report setting forth—

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

8 “(ii) the rationale for the rates;

9 “(B) whether, in the view of the Secretary,
10 the royalty and rental rates described in sub-
11 paragraph (A) will yield a fair return to the
12 public while promoting the production of oil and
13 gas resources in a timely manner;

14 “(C)(i) the minimum bond or surety
15 amounts required pursuant to offshore oil and
16 gas leases; and

17 “(ii) the rationale for the minimum
18 amounts;

19 “(D) whether the bond or surety amounts
20 described in subparagraph (C) are adequate to
21 comply with subsection (q); and

22 “(E) whether the Secretary intends to
23 modify the royalty or rental rates, or bond or
24 surety amounts, based on the review.

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

5 “(3) REPORT DEADLINE.—Not later than 30
6 days after the date on which the Secretary completes
7 a report under paragraph (1), the Secretary shall
8 transmit copies of the report to—

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

11 “(B) the Committee on Natural Resources
12 of the House of Representatives.

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

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

20 “(A) bonus bids;

21 “(B) rental rates; and

22 “(C) royalties.

23 “(2) REQUIREMENTS.—

24 “(A) CONTENTS; SCOPE.—A review under
25 paragraph (1) shall include—

1 “(i) the information and analyses nec-
2 essary to compare the offshore bonus bids,
3 rents, and royalties of the Federal Govern-
4 ment to the offshore bonus bids, rents, and
5 royalties of other resource owners, includ-
6 ing States and foreign countries; and

7 “(ii) an assessment of the overall off-
8 shore oil and gas fiscal system in the
9 United States, as compared to foreign
10 countries.

11 “(B) INDEPENDENT ADVISORY COM-
12 MITTEE.—In carrying out a review under para-
13 graph (1), the Secretary shall convene and seek
14 the advice of an independent advisory com-
15 mittee comprised of oil and gas and fiscal ex-
16 perts from States, Indian tribes, academia, the
17 energy industry, and appropriate nongovern-
18 mental organizations.

19 “(3) REPORT.—

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

22 “(i) the contents and results of the re-
23 view carried out under paragraph (1) for
24 the period covered by the report; and

1 “(ii) any recommendations of the Sec-
2 retary based on the contents and results of
3 the review.

4 “(B) REPORT DEADLINE.—Not later than
5 30 days after the date on which the Secretary
6 completes a report under paragraph (1), the
7 Secretary shall transmit copies of the report to
8 the Committee on Natural Resources of the
9 House of Representatives and the Committee
10 on Energy and Natural Resources of the Sen-
11 ate.”.

12 (b) ENVIRONMENTAL DILIGENCE.—Section 8 of the
13 Outer Continental Shelf Lands Act (43 U.S.C. 1337) is
14 amended by striking subsection (d) and inserting the fol-
15 lowing:

16 “(d) REQUIREMENT FOR CERTIFICATION OF RE-
17 SPONSIBLE STEWARDSHIP.—

18 “(1) CERTIFICATION REQUIREMENT.—No bid
19 or request for a lease, easement, or right-of-way
20 under this section, or for a permit to drill under sec-
21 tion 11(d), may be submitted by any person unless
22 the person certifies to the Secretary that the person
23 (including any related person and any predecessor of
24 such person or related person) meets each of the fol-
25 lowing requirements:

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

4 “(B) In the case of a person that is a re-
5 sponsible party for a vessel or a facility from
6 which oil is discharged, for purposes of section
7 1002 of the Oil Pollution Act of 1990 (33
8 U.S.C. 2702), the person has met all of its obli-
9 gations under that Act to provide compensation
10 for covered removal costs and damages.

11 “(C) In the 7-year period ending on the
12 date of certification, the person, in connection
13 with activities in the oil industry (including ex-
14 ploration, development, production, transpor-
15 tation by pipeline, and refining)—

16 “(i) was not found to have committed
17 willful or repeated violations under the Oc-
18 cupational Safety and Health Act of 1970
19 (29 U.S.C. 651 et seq.) (including State
20 plans approved under section 18(e) of such
21 Act (29 U.S.C. 667(e))) at a rate that is
22 higher than five times the rate determined
23 by the Secretary to be the oil industry av-
24 erage for such violations for such period;

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

3 “(iii) did not have more than 10 fa-
4 talities at its exploration, development, and
5 production facilities and refineries as a re-
6 sult of violations of Federal or State
7 health, safety, or environmental laws;

8 “(iv) was not assessed, did not enter
9 into an agreement to pay, and was not oth-
10 erwise required to pay, civil penalties and
11 criminal fines for violations the person was
12 found to have committed under the Fed-
13 eral Water Pollution Control Act (33
14 U.S.C. 1251 et seq.) (including State pro-
15 grams approved under sections 402 and
16 404 of such Act (33 U.S.C. 1342 and
17 1344)) in a total amount that is equal to
18 more than \$10,000,000; and

19 “(v) was not assessed, did not enter
20 into an agreement to pay, and was not oth-
21 erwise required to pay, civil penalties and
22 criminal fines for violations the person was
23 found to have committed under the Clean
24 Air Act (42 U.S.C. 7401 et seq.) (includ-
25 ing State plans approved under section

1 110 of such Act (42 U.S.C. 7410)) in a
2 total amount that is equal to more than
3 \$10,000,000.

4 “(2) ENFORCEMENT.—If the Secretary deter-
5 mines that a certification made under paragraph (1)
6 is false, the Secretary shall cancel any lease, ease-
7 ment, or right of way and shall revoke any permit
8 with respect to which the certification was required
9 under such paragraph.

10 “(3) DEFINITION OF RELATED PERSON.—For
11 purposes of this subsection, the term ‘related person’
12 includes a parent, subsidiary, affiliate, member of
13 the same controlled group, contractor, subcontractor,
14 a person holding a controlling interest or in which
15 a controlling interest is held, and a person with sub-
16 stantially the same board members, senior officers,
17 or investors.”.

18 (c) ALTERNATIVE ENERGY DEVELOPMENT.—

19 (1) CLARIFICATION RELATING TO ALTERNATIVE
20 ENERGY DEVELOPMENT.—Section 8(p) of the Outer
21 Continental Shelf Lands Act (43 U.S.C. 1337(p)) is
22 amended—

23 (A) in paragraph (1)—

24 (i) in the matter preceding subpara-
25 graph (A), by inserting “or” after “1501

1 et seq.),”, and by striking “or other appli-
2 cable law,”; and

3 (ii) by amending subparagraph (D) to
4 read as follows:

5 “(D) use, for energy-related purposes, fa-
6 cilities currently or previously used for activities
7 authorized under this Act, except that any oil
8 and gas energy-related uses shall not be author-
9 ized in areas in which oil and gas preleasing,
10 leasing, and related activities are prohibited by
11 a moratorium.”; and

12 (B) in paragraph (4)—

13 (i) in subparagraph (E), by striking
14 “coordination” and inserting “in consulta-
15 tion”; and

16 (ii) in subparagraph (J)(ii), by insert-
17 ing “a potential site for an alternative en-
18 ergy facility,” after “deepwater port,”.

19 (2) NONCOMPETITIVE ALTERNATIVE ENERGY
20 LEASE OPTIONS.—Section 8(p)(3) of such Act (43
21 U.S.C. 1337(p)(3)) is amended to read as follows:

22 “(3) COMPETITIVE OR NONCOMPETITIVE
23 BASIS.—Any lease, easement, right-of-way, or other
24 authorization granted under paragraph (1) shall be
25 issued on a competitive basis, unless—

1 “(A) the lease, easement, right-of-way, or
2 other authorization relates to a project that
3 meets the criteria established under section
4 388(d) of the Energy Policy Act of 2005 (43
5 U.S.C. 1337 note; Public Law 109–58);

6 “(B) the lease, easement, right-of-way, or
7 other authorization—

8 “(i) is for the placement and oper-
9 ation of a meteorological or marine data
10 collection facility; and

11 “(ii) has a term of not more than 5
12 years; or

13 “(C) the Secretary determines, after pro-
14 viding public notice of a proposed lease, ease-
15 ment, right-of-way, or other authorization, that
16 no competitive interest exists.”.

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

22 “(9) At least 60 days prior to any lease sale,
23 the Secretary shall request a review by the Secretary
24 of Commerce of the proposed sale with respect to
25 impacts on the marine and coastal environment. The

1 Secretary of Commerce shall complete and submit in
2 writing the results of that review within 60 days
3 after receipt of the Secretary of the Interior's re-
4 quest. If the Secretary of Commerce makes specific
5 recommendations related to a proposed lease sale to
6 reduce impacts on the marine and coastal environ-
7 ment, and the Secretary rejects or modifies such rec-
8 ommendations, the Secretary shall provide in writing
9 justification for rejecting or modifying such rec-
10 ommendations.”.

11 (e) LIMITATION ON LEASE TRACT SIZE.—Section
12 8(b)(1) of the Outer Continental Shelf Lands Act (43
13 U.S.C. 1337(b)(1)) is amended by striking “, unless the
14 Secretary finds that a larger area is necessary to comprise
15 a reasonable economic production unit”.

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

20 (g) TERMS AND PROVISIONS.—Section 8(b) of the
21 Outer Continental Shelf Lands Act (43 U.S.C. 1337(b))
22 is amended by striking “An oil and gas lease issued pursu-
23 ant to this section shall” and inserting “An oil and gas
24 lease may be issued pursuant to this section only if the
25 Secretary determines that activities under the lease are

1 not likely to result in any condition described in section
2 5(a)(2)(A)(i), and shall”.

3 **SEC. 207. DISPOSITION OF REVENUES.**

4 Section 9 of the Outer Continental Shelf Lands Act
5 (43 U.S.C. 1338) is amended to read as follows:

6 **“SEC. 9. DISPOSITION OF REVENUES.**

7 “(a) GENERAL.—Except as provided in subsections
8 (b), (c), and (d), all rentals, royalties, and other sums paid
9 to the Secretary or the Secretary of the Navy under any
10 lease on the outer Continental Shelf for the period from
11 June 5, 1950, to date, and thereafter shall be deposited
12 in the Treasury of the United States and credited to mis-
13 cellaneous receipts.

14 “(b) LAND AND WATER CONSERVATION FUND.—Ef-
15 fective for fiscal year 2011 and each fiscal year thereafter,
16 \$900,000,000 of the amounts referred to in subsection (a)
17 shall be deposited in the Treasury of the United States
18 and credited to the Land and Water Conservation Fund.
19 These sums shall be available to the Secretary, without
20 further appropriation or fiscal year limitation, for carrying
21 out the purposes of the Land and Water Conservation
22 Fund Act of 1965 (16 U.S.C. 460l–4 et seq.).

23 “(c) HISTORIC PRESERVATION FUND.—Effective for
24 fiscal year 2011 and each fiscal year thereafter,
25 \$150,000,000 of the amounts referred to in subsection (a)

1 shall be deposited in the Treasury of the United States
2 and credited to the Historic Preservation Fund. These
3 sums shall be available to the Secretary, without further
4 appropriation or fiscal year limitation, for carrying out the
5 purposes of the National Historic Preservation Fund Act
6 of 1966 (16 U.S.C. 470 et seq.).

7 “(d) OCEAN RESOURCES CONSERVATION AND AS-
8 SISTANCE FUND.—Effective for each fiscal year 2011 and
9 thereafter, 10 percent of the amounts referred to in sub-
10 section (a) shall be deposited in the Treasury of the
11 United States and credited to the Ocean Resources Con-
12 servation and Assistance Fund established by the Consoli-
13 dated Land, Energy, and Aquatic Resources Act of 2010.
14 These sums shall be available to the Secretary, subject to
15 appropriation, for carrying out the purposes of section 605
16 of the Consolidated Land, Energy, and Aquatic Resources
17 Act of 2010.

18 “(e) SAVINGS PROVISION.—Nothing in this section
19 shall decrease the amount any State shall receive pursuant
20 to section 8(g) of this Act or section 105 of the Gulf of
21 Mexico Energy Security Act (43 U.S.C. 1331 note).”.

22 **SEC. 208. EXPLORATION PLANS.**

23 (a) LIMITATION ON HARM FROM AGENCY EXPLO-
24 RATION.—Section 11(a)(1) of the Outer Continental Shelf
25 Lands Act (43 U.S.C. 1340(a)(1)) is amended by striking

1 “, which do not interfere with or endanger actual oper-
2 ations under any lease maintained or granted pursuant to
3 this Act, and which are not unduly harmful to aquatic life
4 in such area” and inserting “if a permit authorizing such
5 activity is issued by the Secretary under subsection (g)”.

6 (b) EXPLORATION PLAN REVIEW.—Section 11(c) of
7 the Outer Continental Shelf Lands Act (43 U.S.C.
8 1340(c)), is amended—

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

10 (2) in paragraph (1)(A), as designated by the
11 amendment made by paragraph (1) of this sub-
12 section—

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

17 (B) by striking the fourth sentence and in-
18 serting the following:

19 “(B) The Secretary shall approve such
20 plan, as submitted or modified, within 90 days
21 after its submission and it is made publicly ac-
22 cessible by the Secretary, or within such addi-
23 tional time as the Secretary determines is nec-
24 essary to complete any environmental, safety, or

1 other reviews, if the Secretary determines
2 that—

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

6 “(ii) the plan complies with other ap-
7 plicable environmental or natural resource
8 conservation laws;

9 “(iii) in the case of geophysical sur-
10 veys, the applicant will use the best avail-
11 able technologies and methods to minimize
12 impacts on marine life; and

13 “(iv) the applicant has demonstrated
14 the capability and technology to respond
15 immediately and effectively to a worst-case
16 oil spill in real-world conditions in the area
17 of the proposed activity.”; and

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

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

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

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

7 “(A) a schedule of anticipated exploration
8 activities to be undertaken;

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

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

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

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

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

21 “(D) a scenario for the potential blowout
22 of the well involving the highest potential vol-
23 ume of liquid hydrocarbons, along with a com-
24 plete description of a response plan to both con-
25 trol the blowout and manage the accompanying

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

13 “(E) an analysis of the potential impacts
14 of the worst-case-scenario discharge of hydro-
15 carbons on the marine, coastal, and human en-
16 vironments for activities conducted pursuant to
17 the proposed exploration plan; and

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

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

23 “(d) DRILLING PERMITS.—

24 “(1) IN GENERAL.—The Secretary shall, by
25 regulation, require that any lessee operating under

1 an approved exploration plan obtain a permit prior
2 to drilling any well in accordance with such plan,
3 and prior to any significant modification of the well
4 design as originally approved by the Secretary.

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

13 “(3) OPERATOR SAFETY AND ENVIRONMENTAL
14 MANAGEMENT REQUIRED.—The Secretary shall not
15 grant any drilling permit or modification of the per-
16 mit prior to completion of a safety and environ-
17 mental management plan to be utilized by the oper-
18 ator during all well operations.”.

19 (e) EXPLORATION PERMIT REQUIREMENTS.—Sec-
20 tion 11(g) of the Outer Continental Shelf Lands Act (43
21 U.S.C. 1340(g)) is amended by—

22 (1) striking “shall be issued” and inserting
23 “may be issued”;

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

4 (3) striking the “and” at the end of paragraph
5 (2);

6 (4) in paragraph (3) striking “will not be un-
7 duly harmful to” and inserting “is not likely to
8 harm”;

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

11 (6) adding at the end the following:

12 “(4) the exploration will be conducted in ac-
13 cordance with other applicable environmental and
14 natural resource conservation laws;

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

18 “(6) in the case of drilling operations, the appli-
19 cant has available oil spill response and clean-up
20 equipment and technology that has been dem-
21 onstrated to be capable of effectively remediating a
22 worst-case release of oil.”.

23 (f) ENVIRONMENTAL REVIEW OF PLANS; DEEP-
24 WATER PLAN; PLAN DISAPPROVAL.—Section 11 of the

1 Outer Continental Shelf Lands Act (43 U.S.C. 1340) is
2 amended by adding at the end the following:

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

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

13 “(2) contain a technical systems analysis of the
14 safety of the proposed activity, the blowout preven-
15 tion technology, and the blowout and spill response
16 plans.

17 “(j) DISAPPROVAL OF PLAN.—

18 “(1) IN GENERAL.—The Secretary shall dis-
19 approve the plan if the Secretary determines, be-
20 cause of exceptional geological conditions in the
21 lease areas, exceptional resource values in the ma-
22 rine or coastal environment, or other exceptional cir-
23 cumstances, that—

24 “(A) implementation of the plan would
25 probably cause serious harm or damage to life

1 (including fish and other aquatic life), to prop-
2 erty, to any mineral deposits (in areas leased or
3 not leased), to the national security or defense,
4 or to the marine, coastal, or human environ-
5 ments;

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

9 “(C) the advantages of disapproving the
10 plan outweigh the advantages of exploration.

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

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

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

19 (1) in subsection (a) in the second sentence by
20 striking “meet national energy needs” and inserting
21 “balance national energy needs and the protection of
22 the marine and coastal environment and all the re-
23 sources in that environment,”;

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

1 (3) in subsection (a)(2)(A)—

2 (A) by striking “existing” and inserting
3 “the best available scientific”; and

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

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

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

12 (6) in subsection (a)(3), by—

13 (A) striking “to the maximum extent prac-
14 ticable,”;

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

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

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

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

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

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

5 (11) by adding at the end of subsection (b) the
6 following:

7 “(5) provide technical review and oversight of
8 exploration plans and a systems review of the safety
9 of well designs and other operational decisions;

10 “(6) conduct regular and thorough safety re-
11 views and inspections; and

12 “(7) enforce all applicable laws and regula-
13 tions.”;

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

17 (13) in subsection (c)(2)—

18 (A) by inserting after the first sentence the
19 following: “The Secretary shall also submit a
20 copy of such proposed program to the head of
21 each Federal agency referred to in, or that oth-
22 erwise provided suggestions under, paragraph
23 (1).”;

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

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

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

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

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

24 (16) in subsection (g), by inserting after the
25 first sentence the following: “Such information may

1 include existing inventories and mapping of marine
2 resources previously undertaken by the Department
3 of the Interior and the National Oceanic and Atmos-
4 pheric Administration, information provided by the
5 Department of Defense, and other available data re-
6 garding energy or mineral resource potential, navi-
7 gation uses, fisheries, aquaculture uses, recreational
8 uses, habitat, conservation, and military uses on the
9 outer Continental Shelf.”; and

10 (17) by adding at the end the following new
11 subsection:

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

1 **SEC. 210. ENVIRONMENTAL STUDIES.**

2 (a) INFORMATION NEEDED FOR ASSESSMENT AND
3 MANAGEMENT OF ENVIRONMENTAL IMPACTS.—Section
4 20 of the Outer Continental Shelf Lands Act (43 U.S.C.
5 1346) is amended by striking so much as precedes “of
6 any area” in subsection (a)(1) and inserting the following:

7 **“SEC. 20. ENVIRONMENTAL STUDIES.**

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

11 (b) IMPACTS OF DEEP WATER SPILLS.—Section 20
12 of the Outer Continental Shelf Lands Act (43 U.S.C.
13 1346) is amended by—

14 (1) redesignating subsections (c) through (f) as
15 (d) through (g); and

16 (2) inserting after subsection (b) the following
17 new subsection:

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

21 “(1) effects to benthic substrate communities
22 and species;

23 “(2) water column habitats and species;

24 “(3) surface and coastal impacts from spills
25 originating in deep waters; and

26 “(4) the use of dispersants.”.

1 **SEC. 211. SAFETY REGULATIONS.**

2 Section 21 of the Outer Continental Shelf Lands Act
3 (43 U.S.C. 1347) is amended—

4 (1) in subsection (a), by striking “Upon the
5 date of enactment of this section,” and inserting
6 “Within 6 months after the date of enactment of the
7 Outer Continental Shelf Lands Act Amendments of
8 2010 and every three years thereafter,”;

9 (2) in subsection (b) by—

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

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

15 (C) adding at the end “Not later than 6
16 months after the date of enactment of the
17 Outer Continental Shelf Lands Act Amend-
18 ments of 2010 and every 3 years thereafter, the
19 Secretary shall, in consultation with the Outer
20 Continental Shelf Safety and Environmental
21 Advisory Board established under title I of the
22 Consolidated Land, Energy, and Aquatic Re-
23 sources Act of 2010, identify and publish an
24 updated list of (1) the best available tech-
25 nologies for key areas of well design and oper-
26 ation, including blowout prevention and blowout

1 and oil spill response and (2) technology needs
2 for which the Secretary intends to identify best
3 available technologies in the future.”; and
4 (3) by adding at the end the following:

5 “(g) SAFETY CASE.—Not later than 6 months after
6 the date of enactment of the Outer Continental Shelf
7 Lands Act Amendments of 2010, the Secretary shall pro-
8 mulgate regulations requiring a safety case be submitted
9 along with each new application for a permit to drill on
10 the outer Continental Shelf. Not later than 5 years after
11 the date final regulations promulgated under this sub-
12 section go into effect, and not less than every 5 years
13 thereafter, the Secretary shall enter into an arrangement
14 with the National Academy of Engineering to conduct a
15 study to assess the effectiveness of these regulations and
16 to recommend improvements in their administration.

17 “(h) OFFSHORE TECHNOLOGY RESEARCH AND RISK
18 ASSESSMENT PROGRAM.—

19 “(1) IN GENERAL.—The Secretary shall carry
20 out a program of research, development, and risk as-
21 sessment to address technology and development
22 issues associated with exploration for, and develop-
23 ment and production of, energy and mineral re-
24 sources on the outer Continental Shelf, with the pri-

1 mary purpose of informing its role relating to safety,
2 environmental protection, and spill response.

3 “(2) SPECIFIC FOCUS AREAS.—The program
4 under this subsection shall include research and de-
5 velopment related to—

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

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

11 “(C) reviews of best available technologies,
12 including those associated with pipelines, blow-
13 out preventer mechanisms, casing, well design,
14 and other associated infrastructure related to
15 offshore energy development;

16 “(D) oil spill response and mitigation;

17 “(E) risk associated with human factors;

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

21 “(G) renewable energy operations.”.

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

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

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

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

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

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

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

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

12 (2) in subsection (d)(1)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 “(i) CEO STATEMENT.—The Secretary shall not ap-
25 prove any application for a permit to drill a well under

1 this Act unless such application is accompanied by a state-
2 ment in which the chief executive officer of the applicant
3 attests, in writing, that—

4 “(1) the applicant is in compliance with all ap-
5 plicable environmental and natural resource con-
6 servation laws;

7 “(2) the applicant has the capability and tech-
8 nology to respond immediately and effectively to a
9 worst-case oil spill in real-world conditions in the
10 area of the proposed activity under the permit;

11 “(3) the applicant has an oil spill response plan
12 that ensures that the applicant has the capacity to
13 promptly control and stop a blowout in the event
14 that well control measures fail;

15 “(4) the blowout preventer to be used during
16 the drilling of the well has redundant systems to
17 prevent or stop a blowout for all foreseeable blowout
18 scenarios and failure modes;

19 “(5) the well design is safe; and

20 “(6) the applicant has the capability to expedi-
21 tiously begin and complete a relief well if necessary
22 in the event of a blowout.

23 “(j) THIRD PARTY CERTIFICATION.—All operators
24 that modify or upgrade any emergency equipment placed
25 on any operation to prevent blow-outs or other well control

1 events, shall have an independent third party conduct a
2 detailed physical inspection and design review of such
3 equipment within 30 days of its installation. The inde-
4 pendent third party shall certify that the equipment will
5 operate as originally designed and any modifications or
6 upgrades conducted after delivery have not compromised
7 the design, performance, or functionality of the equip-
8 ment. Failure to comply with this subsection shall result
9 in suspension of the lease.”.

10 (b) APPLICATION.—Section 22(i) of the Outer Conti-
11 nental Shelf Lands Act, as added by the amendments
12 made by subsection (a), shall apply to approvals of appli-
13 cations for a permit to drill that are submitted after the
14 end of the 6-month period beginning on the date of enact-
15 ment of this Act.

16 **SEC. 213. JUDICIAL REVIEW.**

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

20 **SEC. 214. REMEDIES AND PENALTIES.**

21 (a) CIVIL PENALTY, GENERALLY.—Section 24(b) of
22 the Outer Continental Shelf Lands Act (43 U.S.C.
23 1350(b)) is amended to read as follows:

24 “(b)(1) Except as provided in paragraph (2), any per-
25 son who fails to comply with any provision of this Act,

1 or any term of a lease, license, or permit issued pursuant
2 to this Act, or any regulation or order issued under this
3 Act, shall be liable for a civil administrative penalty of not
4 more than \$75,000 for each day of the continuance of
5 such failure. The Secretary may assess, collect, and com-
6 promise any such penalty. No penalty shall be assessed
7 until the person charged with a violation has been given
8 an opportunity for a hearing. The Secretary shall, by regu-
9 lation at least every 3 years, adjust the penalty specified
10 in this paragraph to reflect any increases in the Consumer
11 Price Index (all items, United States city average) as pre-
12 pared by the Department of Labor.

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

19 (b) KNOWING AND WILLFUL VIOLATIONS.—Section
20 24(c) of the Outer Continental Shelf Lands Act (43
21 U.S.C. 1350(c)) is amended in paragraph (4) by striking
22 “\$100,000” and inserting “\$10,000,000”.

23 (c) OFFICERS AND AGENTS OF CORPORATIONS.—
24 Section 24(d) of the Outer Continental Shelf Lands Act

1 (43 U.S.C. 1350(d)) is amended by inserting “, or with
2 willful disregard,” after “knowingly and willfully”.

3 **SEC. 215. UNIFORM PLANNING FOR OUTER CONTINENTAL**
4 **SHELF.**

5 Section 25 of the Outer Continental Shelf Lands Act
6 (43 U.S.C. 1351) is amended—

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

9 (2) in subsection (c), by striking “and” after
10 the semicolon at the end of paragraph (5), redesignig-
11 nating paragraph (6) as paragraph (11), and insert-
12 ing after paragraph (5) the following new para-
13 graphs:

14 “(6) a detailed and accurate description of
15 equipment to be used for the drilling of wells pursu-
16 ant to activities included in the development and
17 production plan, including—

18 “(A) a description of the drilling unit or
19 units;

20 “(B) a statement of the design and condi-
21 tion of major safety-related pieces of equip-
22 ment, including independent third-party certifi-
23 cation of such equipment; and

24 “(C) a description of any new technology
25 to be used;

1 “(7) a scenario for the potential blowout of
2 each well to be drilled as part of the plan involving
3 the highest potential volume of liquid hydrocarbons,
4 along with a complete description of a response plan
5 to both control the blowout and manage the accom-
6 panying discharge of hydrocarbons, including the
7 likelihood for surface intervention to stop the blow-
8 out, the availability of a rig to drill a relief well, an
9 estimate of the time it would take to drill a relief
10 well, a description of other technology that may be
11 used to regain control of the well or capture escap-
12 ing hydrocarbons and the potential timeline for
13 using that technology for its intended purpose, and
14 the strategy, organization, and resources necessary
15 to avoid harm to the environment and human health
16 from hydrocarbons;

17 “(8) an analysis of the potential impacts of the
18 worst-case-scenario discharge on the marine and
19 coastal environments for activities conducted pursu-
20 ant to the proposed development and production
21 plan;

22 “(9) a comprehensive survey and characteriza-
23 tion of the coastal or marine environment within the
24 area of operation, including bathymetry, currents
25 and circulation patterns within the water column,

1 and descriptions of benthic and pelagic environ-
2 ments;

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

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

13 “(e)(1) The Secretary shall treat the approval of a
14 development and production plan, or a significant revision
15 of a development and production plan, as an agency action
16 requiring preparation of an environmental assessment or
17 environmental impact statement, in accordance with the
18 National Environmental Policy Act of 1969 (42 U.S.C.
19 4321 et seq.).”;

20 (4) by striking subsections (g) and (l), and re-
21 designating subsections (h) through (k) as sub-
22 sections (g) through and (j); and

23 (5) in subsection (g), as so redesignated, by re-
24 designating paragraphs (2) and (3) as paragraphs

1 (3) and (4), respectively, and inserting after para-
2 graph (1) the following:

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

6 “(A) the plan is in compliance with all
7 other applicable environmental and natural re-
8 source conservation laws; and

9 “(B) the applicant has available oil spill re-
10 sponse and clean-up equipment and technology
11 that has been demonstrated to be capable of ef-
12 fectively remediating the projected worst-case
13 release of oil from activities conducted pursuant
14 to the development and production plan.”.

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

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

18 (1) striking the period at the end of subpara-
19 graph (A) and inserting, “, provided that such data
20 shall be transmitted in electronic format either in
21 real-time or as quickly as practicable following the
22 generation of such data.”; and

23 (2) striking subparagraph (C) and inserting the
24 following:

1 “(C) Lessees engaged in drilling operations
2 shall provide to the Secretary—

3 “(i) all daily reports generated by the
4 lessee, or any daily reports generated by
5 contractors or subcontractors engaged in
6 or supporting drilling operations on the
7 lessee’s lease, no more than 24 hours after
8 the end of the day for which they should
9 have been generated;

10 “(ii) documentation of blowout pre-
11 venter maintenance and repair, and any
12 changes to design specifications of the
13 blowout preventer, within 24 hours after
14 such activity; and

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

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

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

1 **SEC. 218. RESTRICTIONS ON EMPLOYMENT.**

2 Section 29 of the Outer Continental Shelf Lands Act
3 (43 U.S.C. 1355) is amended—

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

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

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

9 “(a) IN GENERAL.—No full-time”; and

10 (B) by striking “, and who was at any
11 time during the twelve months preceding the
12 termination of his employment with the Depart-
13 ment compensated under the Executive Sched-
14 ule or compensated at or above the annual rate
15 of basic pay for grade GS–16 of the General
16 Schedule”;

17 (2) in paragraph (1)—

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

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

24 (C) in the matter following subparagraph
25 (C)—

1 (i) by inserting “inspection or enforce-
2 ment action,” before “or other particular
3 matter”; and

4 (ii) by striking “or” at the end;

5 (3) in paragraph (2)—

6 (A) in subparagraph (A), by inserting “or
7 advise” after “represent”;

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

12 (C) by striking the period at the end and
13 inserting “; or”; and

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

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

20 “(A) that was pending under the official
21 responsibility of the officer or employee as an
22 officer at any point during the 2-year period
23 preceding the date of termination of the respon-
24 sibility; or

1 “(B) in which the officer or employee par-
2 ticipated personally and substantially as an offi-
3 cer or employee of the Department.

4 “(b) PRIOR DEALINGS.—No full-time officer or em-
5 ployee of the Department of the Interior who directly or
6 indirectly discharged duties or responsibilities under this
7 Act shall participate personally and substantially as a
8 Federal officer or employee, through decision, approval,
9 disapproval, recommendation, the rendering of advice, in-
10 vestigation, or otherwise, in a proceeding, application, re-
11 quest for a ruling or other determination, contract, claim,
12 controversy, charge, accusation, inspection, enforcement
13 action, or other particular matter in which, to the knowl-
14 edge of the officer or employee—

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

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

21 “(3) any person or organization with whom the
22 officer or employee is negotiating or has any ar-
23 rangement concerning prospective employment has a
24 financial interest; or

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

6 “(c) GIFTS FROM OUTSIDE SOURCES.—No full-time
7 officer or employee of the Department of the Interior who
8 directly or indirectly discharges duties or responsibilities
9 under this Act shall, directly or indirectly, solicit or accept
10 any gift in violation of subpart B of part 2635 of title
11 5, Code of Federal Regulations (or successor regulations).

12 “(d) PENALTY.—Any person that violates subsection
13 (a) or (b) shall be punished in accordance with section
14 216 of title 18, United States Code.”.

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

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

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

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

1 (b) REPEAL OF PROVISIONS RELATING TO PLAN-
2 NING AREAS OFFSHORE ALASKA.—Section 8(a)(3)(B) of
3 the Outer Continental Shelf Lands Act (43 U.S.C.
4 1337(a)(3)(B)) is amended by striking “and in the Plan-
5 ning Areas offshore Alaska”.

6 **SEC. 220. MANNING AND BUY- AND BUILD-AMERICAN RE-**
7 **QUIREMENTS.**

8 Section 30 of the Outer Continental Shelf Lands Act
9 (43 U.S.C. 1356) is amended—

10 (1) in subsection (a), by striking “shall issue
11 regulations which” and inserting “shall issue regula-
12 tions that shall be supplemental to and complemen-
13 tary with and under no circumstances a substitution
14 for the provisions of the Constitution and laws of the
15 United States extended to the subsoil and seabed of
16 the outer Continental Shelf pursuant to section
17 4(a)(1) of this Act, except insofar as such laws
18 would otherwise apply to individuals who have ex-
19 traordinary ability in the sciences, arts, education,
20 or business, which has been demonstrated by sus-
21 tained national or international acclaim, and that”;
22 and

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

24 “(d) BUY AND BUILD AMERICAN.—It is the intention
25 of the Congress that this Act, among other things, result

1 in a healthy and growing American industrial, manufac-
2 turing, transportation, and service sector employing the
3 vast talents of America's workforce to assist in the devel-
4 opment of energy from the outer Continental Shelf. More-
5 over, the Congress intends to monitor the deployment of
6 personnel and material on the outer Continental Shelf to
7 encourage the development of American technology and
8 manufacturing to enable United States workers to benefit
9 from this Act by good jobs and careers, as well as the
10 establishment of important industrial facilities to support
11 expanded access to American resources.”.

12 **SEC. 221. NATIONAL COMMISSION ON THE BP DEEPWATER**
13 **HORIZON OIL SPILL AND OFFSHORE DRILL-**
14 **ING.**

15 (a) TECHNICAL EXPERTISE.—

16 (1) NATIONAL ACADEMY OF ENGINEERING AND
17 NATIONAL RESEARCH COUNCIL.—The National
18 Commission on the BP Deepwater Horizon Oil Spill
19 and Offshore Drilling established under Executive
20 Order No. 13543 of May 21, 2010 (referred to in
21 this section as the “Commission”) shall consult reg-
22 ularly, and in any event no less frequently than once
23 per month, with the engineering and technology ex-
24 perts who are conducting the “Analysis of Causes of
25 the Deepwater Horizon Explosion, Fire, and Oil

1 Spill to Identify Measures to Prevent Similar Acci-
2 dents in the Future” for the National Academy of
3 Engineering and the National Research Council.

4 (2) OTHER TECHNICAL EXPERTS.—The Com-
5 mission also shall consult with other United States
6 citizens with experience and expertise in such areas
7 as—

8 (A) engineering;

9 (B) environmental compliance;

10 (C) health and safety law (particularly oil
11 spill legislation);

12 (D) oil spill insurance policies;

13 (E) public administration;

14 (F) oil and gas exploration and production;

15 (G) environmental cleanup;

16 (H) fisheries and wildlife management;

17 (I) marine safety; and

18 (J) human factors affecting safety.

19 (3) COMMISSION STAFF AND TECHNICAL EX-
20 PERTISE.—The Commission shall retain, as either a
21 full-time employee or a contractor, one or more
22 science and technology expert-advisors with experi-
23 ence and expertise in petroleum engineering, rig
24 safety, or drilling.

25 (b) SUBPOENAS.—

1 (1) SUBPOENA POWER.—The Commission may
2 issue subpoenas in accordance with this subsection
3 to compel the attendance and testimony of witnesses
4 and the production of books, records, correspond-
5 ence, memoranda, and other documents.

6 (2) ISSUANCE.—

7 (A) AUTHORIZATION.—A subpoena may be
8 issued under this subsection only by__

9 (i) agreement of the Co-Chairs of the
10 Commission; or

11 (ii) the affirmative vote of a majority
12 of the members of the Commission.

13 (B) JUSTICE DEPARTMENT COORDINA-
14 TION.—

15 (i) NOTIFICATION.—The Commission
16 shall notify the Attorney General or the
17 Attorney General's designee of the Com-
18 mission's intent to issue a subpoena under
19 this subsection, the identity of the recipi-
20 ent, and the nature of the testimony, docu-
21 ments, or other evidence (described in sub-
22 paragraph (A)) sought before issuing such
23 a subpoena. The form and content of such
24 notice shall be set forth in the guidelines
25 issued under clause (iv).

1 (ii) CONDITIONS FOR OBJECTION TO
2 ISSUANCE.—The Commission may not
3 issue a subpoena under authority of this
4 Act if the Attorney General objects to the
5 issuance of the subpoena on the basis that
6 the subpoena is likely to interfere with
7 any—

8 (I) Federal or State criminal in-
9 vestigation or prosecution;

10 (II) pending investigation under
11 sections 3729 through 3732 of title
12 31, United States Code (commonly
13 known as the “Civil False Claims
14 Act”);

15 (III) pending investigation under
16 any other Federal statute providing
17 for civil remedies; or

18 (IV) civil litigation to which the
19 United States or any of its agencies is
20 or is likely to be a party.

21 (iii) NOTIFICATION OF OBJECTION.—
22 The Attorney General or relevant United
23 States Attorney shall notify the Commis-
24 sion of an objection raised under this sub-
25 paragraph without unnecessary delay and

1 as set forth in the guidelines issued under
2 clause (iv).

3 (iv) GUIDELINES.—As soon as prac-
4 ticable, but no later than 30 days after the
5 date of the enactment of this Act, the At-
6 torney General, after consultation with the
7 Commission, shall issue guidelines to carry
8 out this paragraph.

9 (C) SIGNATURE AND SERVICE.—A sub-
10 poena issued under this subsection may be__

11 (i) issued under the signature of ei-
12 ther Co-Chair of the Commission or any
13 member designated by a majority of the
14 Commission; and

15 (ii) served by any person designated
16 by the Co-Chairs or a member designated
17 by a majority of the Commission.

18 (3) ENFORCEMENT.—

19 (A) REQUIRED PROCEDURES.—In the case
20 of contumacy of any person issued a subpoena
21 under this subsection or refusal by such person
22 to comply with the subpoena, the Commission
23 may request the Attorney General to seek en-
24 forcement of the subpoena. Upon such request,
25 the Attorney General may seek enforcement of

1 the subpoena in a court described in subpara-
2 graph (B). The court in which the Attorney
3 General seeks enforcement of the subpoena may
4 issue an order requiring the subpoenaed person
5 to appear at any designated place to testify or
6 to produce documentary or other evidence de-
7 scribed in subparagraph (A) of paragraph (2),
8 and may punish any failure to obey the order
9 as a contempt of that court.

10 (B) JURISDICTION FOR ENFORCEMENT.—
11 Any United States district court for a judicial
12 district in which a person issued a subpoena
13 under this subsection resides, is served, or may
14 be found, or where the subpoena is returnable,
15 upon application of the Attorney General, shall
16 have jurisdiction to enforce the subpoena as
17 provided in subparagraph (A).

18 (c) RECOMMENDATIONS AND PURPOSES.—

19 (1) IN GENERAL.—The Commission shall de-
20 velop recommendations for—

21 (A) improvements to Federal laws, regula-
22 tions, and industry practices applicable to off-
23 shore drilling that would—

1 (i) ensure the effective oversight, in-
2 spection, monitoring, and response capa-
3 bilities; and

4 (ii) protect the environment and nat-
5 ural resources; and

6 (B) organizational or other reforms of
7 Federal agencies or processes, including the
8 creation of new agencies, as necessary, to en-
9 sure that the improvements described in para-
10 graph (1) are implemented and maintained.

11 (2) GOALS.—In developing recommendations
12 under paragraph (1), the Commission shall ensure
13 that the following goals are met:

14 (A) Ensuring the safe operation and main-
15 tenance of offshore drilling platforms or vessels.

16 (B) Protecting the overall environment and
17 natural resources surrounding ongoing and po-
18 tential offshore drilling sites.

19 (C) Developing and maintaining Federal
20 agency expertise on the safe and effective use of
21 offshore drilling technologies, including tech-
22 nologies to minimize the risk of release of oil
23 from offshore drilling platforms or vessels.

24 (D) Encouraging the development and im-
25 plementation of efficient and effective oil spill

1 response techniques and technologies that mini-
2 mize or eliminate any adverse effects on natural
3 resources or the environment that result from
4 response activities.

5 (E) Ensuring that the Federal agencies
6 regulating offshore drilling are staffed with, and
7 managed by, career professionals, who are—

8 (i) permitted to exercise independent
9 professional judgments and make safety
10 the highest priority in carrying out their
11 responsibilities;

12 (ii) not subject to undue influence
13 from regulated interests or political ap-
14 pointees; and

15 (iii) subject to strict regulation to pre-
16 vent improper relationships with regulated
17 interests and to eliminate real or perceived
18 conflicts of interests.

19 (3) REPORT TO CONGRESS.—In coordination
20 with its final public report to the President, the
21 Commission shall submit to Congress a report con-
22 taining the recommendations developed under para-
23 graph (1).

1 **SEC. 222. COORDINATION AND CONSULTATION WITH AF-**
2 **FECTED STATE AND LOCAL GOVERNMENTS.**

3 Section 19 of the Outer Continental Shelf Lands Act
4 (43 U.S.C. 1345) is amended—

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

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

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

1 **SEC. 223. IMPLEMENTATION.**

2 (a) NEW LEASES.—The provisions of this title and
3 title VII shall apply to any lease that is issued under the
4 Outer Continental Shelf Lands Act (43 U.S.C. 1331 et
5 seq.) after the effective date of this Act.

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

17 **Subtitle B—Royalty Relief for**
18 **American Consumers**

19 **SEC. 241. SHORT TITLE.**

20 This subtitle may be cited as the “Royalty Relief for
21 American Consumers Act of 2010”.

22 **SEC. 242. ELIGIBILITY FOR NEW LEASES AND THE TRANS-**
23 **FER OF LEASES.**

24 (a) ISSUANCE OF NEW LEASES.—

25 (1) IN GENERAL.—The Secretary shall not
26 issue any new lease that authorizes the production

1 of oil or natural gas under the Outer Continental
2 Shelf Lands Act (43 U.S.C. 1331 et seq.) to a per-
3 son described in paragraph (2) unless the person has
4 renegotiated each covered lease with respect to which
5 the person is a lessee, to modify the payment re-
6 sponsibilities of the person to require the payment of
7 royalties if the price of oil and natural gas is greater
8 than or equal to the price thresholds described in
9 clauses (v) through (vii) of section 8(a)(3)(C) of the
10 Outer Continental Shelf Lands Act (43 U.S.C.
11 1337(a)(3)(C)).

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

14 (A) is a lessee that—

15 (i) holds a covered lease on the date
16 on which the Secretary considers the
17 issuance of the new lease; or

18 (ii) was issued a covered lease before
19 the date of enactment of this Act, but
20 transferred the covered lease to another
21 person or entity (including a subsidiary or
22 affiliate of the lessee) after the date of en-
23 actment of this Act; or

1 (B) any other person that has any direct
2 or indirect interest in, or that derives any ben-
3 efit from, a covered lease.

4 (3) MULTIPLE LESSEES.—

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

16 (B) TREATMENT OF SHARE AS COVERED
17 LEASE.—Beginning on the effective date of an
18 agreement under subparagraph (A), any share
19 subject to the agreement shall not constitute a
20 covered lease with respect to any lessees that
21 entered into the agreement.

22 (b) TRANSFERS.—A lessee or any other person who
23 has any direct or indirect interest in, or who derives a
24 benefit from, a lease shall not be eligible to obtain by sale
25 or other transfer (including through a swap, spinoff, serv-

1 icing, or other agreement) any covered lease, the economic
2 benefit of any covered lease, or any other lease for the
3 production of oil or natural gas in the Gulf of Mexico
4 under the Outer Continental Shelf Lands Act (43 U.S.C.
5 1331 et seq.), unless the lessee or other person has—

6 (1) renegotiated each covered lease with respect
7 to which the lessee or person is a lessee, to modify
8 the payment responsibilities of the lessee or person
9 to include price thresholds that are equal to or less
10 than the price thresholds described in clauses (v)
11 through (vii) of section 8(a)(3)(C) of the Outer Con-
12 tinental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C));
13 or

14 (2) entered into an agreement with the Sec-
15 retary to modify the terms of all covered leases of
16 the lessee or other person to include limitations on
17 royalty relief based on market prices that are equal
18 to or less than the price thresholds described in
19 clauses (v) through (vii) of section 8(a)(3)(C) of the
20 Outer Continental Shelf Lands Act (43 U.S.C.
21 1337(a)(3)(C)).

22 (c) USE OF AMOUNTS FOR DEFICIT REDUCTION.—
23 Notwithstanding any other provision of law, any amounts
24 received by the United States as rentals or royalties under
25 covered leases shall be deposited in the Treasury and used

1 for Federal budget deficit reduction or, if there is no Fed-
2 eral budget deficit, for reducing the Federal debt in such
3 manner as the Secretary of the Treasury considers appro-
4 priate.

5 (d) DEFINITIONS.—In this section—

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

9 (A) in existence on the date of enactment
10 of this Act;

11 (B) issued by the Department of the Inte-
12 rior under section 304 of the Outer Continental
13 Shelf Deep Water Royalty Relief Act (43
14 U.S.C. 1337 note; Public Law 104-58); and

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

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

24 (3) SECRETARY.—The term “Secretary” means
25 the Secretary of the Interior.

1 **SEC. 243. PRICE THRESHOLDS FOR ROYALTY SUSPENSION**
2 **PROVISIONS.**

3 The Secretary of the Interior shall agree to a request
4 by any lessee to amend any lease issued for any Central
5 and Western Gulf of Mexico tract in the period of January
6 1, 1996, through November 28, 2000, to incorporate price
7 thresholds applicable to royalty suspension provisions, that
8 are equal to or less than the price thresholds described
9 in clauses (v) through (vii) of section 8(a)(3)(C) of the
10 Outer Continental Shelf Lands Act (43 U.S.C.
11 1337(a)(3)(C)). Any amended lease shall impose the new
12 or revised price thresholds effective October 1, 2010. Ex-
13 isting lease provisions shall prevail through September 30,
14 2010.

15 **TITLE III—OIL AND GAS**
16 **ROYALTY REFORM**

17 **SEC. 301. AMENDMENTS TO DEFINITIONS.**

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

20 (1) in paragraph (8), by striking the semicolon
21 and inserting “including but not limited to the Act
22 of October 20, 1914 (38 Stat. 741); the Act of Feb-
23 ruary 25, 1920 (41 Stat. 437); the Act of April 17,
24 1926 (44 Stat. 301); the Act of February 7, 1927
25 (44 Stat. 1057); and all Acts heretofore or hereafter

1 enacted that are amendatory of or supplementary to
2 any of the foregoing Acts;”;

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

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

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

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

14 “(24) ‘designee’ means a person who pays, off-
15 sets, or credits monies, makes adjustments, requests
16 and receives refunds, or submits reports with respect
17 to payments a lessee must make pursuant to section
18 102(a);”;

19 (6) in paragraph (25)(B)—

20 (A) by striking “(subject to the provisions
21 of section 102(a) of this Act)”;

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

24 “that arises from or relates to any lease, easement, right-
25 of-way, permit, or other agreement regardless of form ad-

1 ministered by the Secretary for, or any mineral leasing
2 law related to, the exploration, production, and develop-
3 ment of oil and gas or other energy resource on Federal
4 lands or the Outer Continental Shelf;”.

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

7 (8) by striking “and” after the semicolon at the
8 end of paragraph (32), by striking the period at the
9 end of paragraph (33) and inserting a semicolon,
10 and by adding at the end the following new para-
11 graphs:

12 “(34) ‘compliance review’ means a full-scope or
13 a limited-scope examination of a lessee’s lease ac-
14 counts to compare one or all elements of the royalty
15 equation (volume, value, royalty rate, and allow-
16 ances) against anticipated elements of the royalty
17 equation to test for variances; and

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

21 **SEC. 302. COMPLIANCE REVIEWS.**

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

1 “(d) The Secretary may, as an adjunct to audits of
2 accounts for leases, utilize compliance reviews of accounts.
3 Such reviews shall not constitute nor substitute for audits
4 of lease accounts. Any disparity uncovered in such a com-
5 pliance review shall be immediately referred to a program
6 auditor. The Secretary shall, before completion of a com-
7 pliance review, provide notice of the review to designees
8 whose obligations are the subject of the review.”.

9 **SEC. 303. CLARIFICATION OF LIABILITY FOR ROYALTY PAY-**
10 **MENTS.**

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

14 “(a) In order to increase receipts and achieve effec-
15 tive collections of royalty and other payments, a lessee who
16 is required to make any royalty or other payment under
17 a lease, easement, right-of-way, permit, or other agree-
18 ment, regardless of form, or under the mineral leasing
19 laws, shall make such payment in the time and manner
20 as may be specified by the Secretary or the applicable dele-
21 gated State. Any person who pays, offsets, or credits mon-
22 ies, makes adjustments, requests and receives refunds, or
23 submits reports with respect to payments the lessee must
24 make is the lessee’s designee under this Act. Notwith-
25 standing any other provision of this Act to the contrary,

1 a designee shall be liable for any payment obligation of
2 any lessee on whose behalf the designee pays royalty under
3 the lease. The person owning operating rights in a lease
4 and a person owning legal record title in a lease shall be
5 liable for that person's pro rata share of payment obliga-
6 tions under the lease.”.

7 **SEC. 304. REQUIRED RECORDKEEPING.**

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

11 **SEC. 305. FINES AND PENALTIES.**

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

14 (1) in subsection (a) in the matter following
15 paragraph (2), by striking “\$500” and inserting
16 “\$1,000”;

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

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

24 (4) in subsection (c)—

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

4 (B) in the text following paragraph (3)—
5 (i) by striking “\$10,000” and insert-
6 ing “\$20,000”; and

7 (ii) by striking the comma at the end
8 and inserting a semicolon; and

9 (C) by adding at the end the following new
10 paragraphs:

11 “(4) knowingly or willfully fails to make any
12 royalty payment in the amount or value as specified
13 by statute, regulation, order, or terms of the lease;
14 or

15 “(5) fails to correctly report and timely provide
16 operations or financial records necessary for the Sec-
17 retary or any authorized designee of the Secretary to
18 accomplish lease management responsibilities;”;

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

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

24 (7) by adding at the end the following sub-
25 section:

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

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

10 “(B) the date a final, nonappealable order has
11 been issued by the Secretary or a court of competent
12 jurisdiction.

13 “(2) A person determined by the Secretary or a des-
14 ignee of the Secretary to have violated subsection (a), (c),
15 or (d)(1) shall maintain all records with respect to the per-
16 son’s oil and gas leases until the later of—

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

19 “(B) the expiration of the period during which
20 the records must be maintained under section
21 103(b).”.

22 **SEC. 306. INTEREST ON OVERPAYMENTS.**

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

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

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

6 “(i) A lessee or its designee may make a payment
7 for the approximate amount of royalties (hereinafter in
8 this subsection referred to as the ‘estimated payment’)
9 that would otherwise be due for such lease by the date
10 royalties are due for that lease. When an estimated pay-
11 ment is made, actual royalties are payable at the end of
12 the month following the month in which the estimated
13 payment is made. If the estimated payment was less than
14 the amount of actual royalties due, interest is owed on
15 the underpaid amount. If the lessee or its designee makes
16 a payment for such actual royalties, the lessee or its des-
17 ignee may apply the estimated payment to future royal-
18 ties. Any estimated payment may be adjusted, recouped,
19 or reinstated by the lessee or its designee provided such
20 adjustment, recoupment, or reinstatement is made within
21 the limitation period for which the date royalties were due
22 for that lease.”;

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

24 (3) in subsection (k)(4)—

1 (A) by striking “or overpaid royalties and
2 associated interest”; and

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

4 **SEC. 307. ADJUSTMENTS AND REFUNDS.**

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

8 (1) in subsection (a)(3), by inserting “(A)”
9 after “(3)”, and by striking the last sentence and in-
10 serting the following:

11 “(B) Except as provided in subparagraph
12 (C), no adjustment may be made with respect
13 to an obligation that is the subject of an audit
14 or compliance review after completion of the
15 audit or compliance review, respectively, unless
16 such adjustment is approved by the Secretary
17 or the applicable delegated State, as appro-
18 priate.

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

22 (2) in subsection (a)(4)—

23 (A) by striking “six” and inserting “four”;
24 and

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

3 (3) in subsection (b)(1) by striking “and” after
4 the semicolon at the end of subparagraph (C), by
5 striking the period at the end of subparagraph (D)
6 and inserting “; and”, and by adding at the end the
7 following:

8 “(E) is made within the adjustment period
9 for that obligation.”.

10 **SEC. 308. CONFORMING AMENDMENT.**

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

13 **SEC. 309. OBLIGATION PERIOD.**

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

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

1 **SEC. 310. NOTICE REGARDING TOLLING AGREEMENTS AND**
2 **SUBPOENAS.**

3 (a) TOLLING AGREEMENTS.—Section 115(d)(1) of
4 the Federal Oil and Gas Royalty Management Act of 1982
5 (30 U.S.C. 1724(d)(1)) is amended by striking “(with no-
6 tice to the lessee who designated the designee)”.

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

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

13 Paragraphs (1) and (2) of section 115(h) the Federal
14 Oil and Gas Royalty Management Act of 1982 (30 U.S.C.
15 1724(h)) are amended by striking “33” each place it ap-
16 pears and inserting “48”.

17 **SEC. 312. ASSESSMENTS.**

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

20 **SEC. 313. COLLECTION AND PRODUCTION ACCOUNT-**
21 **ABILITY.**

22 (a) PILOT PROJECT.—Within two years after the
23 date of enactment of this Act, the Secretary shall complete
24 a pilot project with willing operators of oil and gas leases
25 on the Outer Continental Shelf that assesses the costs and
26 benefits of automatic transmission of oil and gas volume

1 and quality data produced under Federal leases on the
2 Outer Continental Shelf in order to improve the produc-
3 tion verification systems used to ensure accurate royalty
4 collection and audit.

5 (b) REPORT.—The Secretary shall submit to Con-
6 gress a report on findings and recommendations of the
7 pilot project within 3 years after the date of enactment
8 of this Act.

9 **SEC. 314. NATURAL GAS REPORTING.**

10 The Secretary shall, within 180 days after the date
11 of enactment of this Act, implement the steps necessary
12 to ensure accurate determination and reporting of BTU
13 values of natural gas from all Federal oil and gas leases
14 to ensure accurate royalty payments to the United States.
15 Such steps shall include, but not be limited to—

16 (1) establishment of consistent guidelines for
17 onshore and offshore BTU information from gas
18 producers;

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

22 (3) development of a procedure to adjust BTU
23 frequency requirements for sampling and reporting
24 on a case-by-case basis;

1 (4) systematic and regular verification of BTU
2 information; and

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

7 **SEC. 315. PENALTY FOR LATE OR INCORRECT REPORTING**
8 **OF DATA.**

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

14 (b) AMOUNT.—The amount of the civil penalty shall
15 be—

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

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

21 (c) CONTENT OF REGULATIONS.—Except as provided
22 in subsection (b), the regulations issued under this section
23 shall be substantially similar to part 216.40 of title 30,
24 Code of Federal Regulations, as most recently in effect
25 before the date of enactment of this Act.

1 **SEC. 316. REQUIRED RECORDKEEPING.**

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

12 **SEC. 317. SHARED CIVIL PENALTIES.**

13 Section 206 of the Federal Oil and Gas Royalty Man-
14 agement Act of 1982 (30 U.S.C. 1736) is amended by
15 striking “Such amount shall be deducted from any com-
16 pensation due such State or Indian Tribe under section
17 202 or section 205 or such State under section 205.”.

18 **SEC. 318. APPLICABILITY TO OTHER MINERALS.**

19 Section 304 of the Federal Oil and Gas Royalty Man-
20 agement Act of 1982 (30 U.S.C. 1753) is amended by
21 adding at the end the following new subsection:

22 “(e) APPLICABILITY TO OTHER MINERALS.—

23 “(1) Notwithstanding any other provision of
24 law, sections 107, 109, and 110 of this Act and the
25 regulations duly promulgated with respect thereto
26 shall apply to any lease authorizing the development

1 of coal or any other solid mineral on any Federal
2 lands or Indian lands, to the same extent as if such
3 lease were an oil and gas lease, on the same terms
4 and conditions as those authorized for oil and gas
5 leases.

6 “(2) Notwithstanding any other provision of
7 law, sections 107, 109, and 110 of this Act and the
8 regulations duly promulgated with respect thereto
9 shall apply with respect to any lease, easement,
10 right-of-way, or other agreement, regardless of form
11 (including any royalty, rent, or other payment due
12 thereunder)—

13 “(A) under section 8(k) or 8(p) of the
14 Outer Continental Shelf Lands Act (43 U.S.C.
15 1337(k) and 1337(p)); or

16 “(B) under the Geothermal Steam Act (30
17 U.S.C. 1001 et seq.), to the same extent as if
18 such lease, easement, right-of-way, or other
19 agreement were an oil and gas lease on the
20 same terms and conditions as those authorized
21 for oil and gas leases.

22 “(3) For the purposes of this subsection, the
23 term ‘solid mineral’ means any mineral other than
24 oil, gas, and geo-pressured-geothermal resources,
25 that is authorized by an Act of Congress to be pro-

1 duced from public lands (as that term is defined in
2 section 103 of the Federal Land Policy and Manage-
3 ment Act of 1976 (43 U.S.C. 1702)).”.

4 **SEC. 319. ENTITLEMENTS.**

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

14 **SEC. 320. LIMITATION ON ROYALTY IN-KIND PROGRAM.**

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

1 **TITLE IV—FULL FUNDING FOR**
2 **THE LAND AND WATER CON-**
3 **SERVATION AND HISTORIC**
4 **PRESERVATION FUNDS**
5 **Subtitle A—Land and Water**
6 **Conservation Fund**

7 **SEC. 401. AMENDMENTS TO THE LAND AND WATER CON-**
8 **SERVATION FUND ACT OF 1965.**

9 Except as otherwise expressly provided, whenever in
10 this subtitle an amendment or repeal is expressed in terms
11 of an amendment to, or repeal of, a section or other provi-
12 sion, the reference shall be considered to be made to a
13 section or other provision of the Land and Water Con-
14 servation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.).

15 **SEC. 402. EXTENSION OF THE LAND AND WATER CON-**
16 **SERVATION FUND.**

17 Section 2 (16 U.S.C. 460l–5) is amended by striking
18 “September 30, 2015” both places it appears and insert-
19 ing “September 30, 2040”.

20 **SEC. 403. PERMANENT FUNDING.**

21 (a) **IN GENERAL.**—The text of section 3 (16 U.S.C.
22 460l–6) is amended to read as follows:

23 “(a) **PERMANENT FUNDING.**—Of the moneys covered
24 into the fund, \$900,000,000 shall be available each fiscal

1 year for expenditure for the purposes of this Act without
2 further appropriation.

3 “(b) ALLOCATION AUTHORITY.—The Committees on
4 Appropriations of the House of Representatives and the
5 Senate may provide by law for the allocation of moneys
6 in the fund to eligible activities under this Act.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 2(c)(2) (16 U.S.C. 4601–5(c)(2)) is
9 amended by striking “: *Provided*” and all that fol-
10 lows through the end of the sentence and inserting
11 a period.

12 (2) Section 7(a) (16 U.S.C. 4601–9) is amended
13 to read as follows: “Moneys from the fund for Fed-
14 eral purposes shall, unless allocated pursuant to sec-
15 tion 3(b) of this Act, be allotted by the President to
16 the following purposes and subpurposes:”.

17 **Subtitle B—National Historic**
18 **Preservation Fund**

19 **SEC. 411. PERMANENT FUNDING.**

20 The text of section 108 of the National Historic Pres-
21 ervation Act (16 U.S.C. 470h) is amended to read as fol-
22 lows:

23 “(a) PERMANENT FUNDING.—To carry out the provi-
24 sions of this Act, there is hereby established the Historic
25 Preservation Fund (hereinafter referred to as the ‘fund’)

1 in the Treasury of the United States. There shall be cov-
2 ered into the fund \$150,000,000 for each of fiscal years
3 1982 through 2040 from revenues due and payable to the
4 United States under the Outer Continental Shelf Lands
5 Act (67 Stat. 462, 469), as amended (43 U.S.C. 1338)
6 and/or under the Act of June 4, 1920 (41 Stat. 813), as
7 amended (30 U.S.C.191), notwithstanding any provision
8 of law that such proceeds shall be credited to miscella-
9 neous receipts of the Treasury. Such moneys shall be used
10 only to carry out the purposes of this Act and shall be
11 available for expenditure without further appropriation.

12 “(b) ALLOCATION AUTHORITY.—The Committees on
13 Appropriations of the House of Representatives and the
14 Senate may provide by law for the allocation of moneys
15 in the fund to eligible activities under this Act.”

16 **TITLE V—GULF OF MEXICO**
17 **RESTORATION**

18 **SEC. 501. GULF OF MEXICO RESTORATION PROGRAM.**

19 (a) PROGRAM.—There is established a Gulf of Mexico
20 Restoration Program for the purposes of coordinating
21 Federal, State, and local restoration programs and
22 projects to maximize efforts in restoring biological integ-
23 rity, productivity and ecosystem functions in the Gulf of
24 Mexico.

25 (b) GULF OF MEXICO RESTORATION TASK FORCE.—

1 (1) ESTABLISHMENT.—There is established a
2 task force to be known as the Gulf of Mexico Res-
3 toration Task Force (in this section referred to as
4 the “Restoration Task Force”).

5 (2) MEMBERSHIP.—The Restoration Task
6 Force shall consist of the Governors of each of the
7 Gulf Coast States and the heads of appropriate Fed-
8 eral agencies selected by the President. The chair-
9 person of the Restoration Task Force (in this sub-
10 section referred to as the “Chair”) shall be ap-
11 pointed by the President. The Chair shall be a per-
12 son who, as the result of experience and training, is
13 exceptionally well-qualified to manage the work of
14 the Restoration Task Force. The Chair shall serve
15 in the Executive Office of the President.

16 (3) ADVISORY COMMITTEES.—The Restoration
17 Task Force may establish advisory committees and
18 working groups as necessary to carry out its du-
19 ties under this Act.

20 (c) GULF OF MEXICO RESTORATION PLAN.—

21 (1) IN GENERAL.—Not later than nine months
22 after the date of enactment of this Act, the Restora-
23 tion Task Force shall issue a proposed comprehen-
24 sive, multi-jurisdictional plan for long-term restora-
25 tion of the Gulf of Mexico that incorporates, to the

1 greatest extent possible, existing restoration plans.
2 Not later than 12 months after the date of enact-
3 ment and after notice and opportunity for public
4 comment, the Restoration Task Force shall publish
5 a final plan. The Plan shall be updated every five
6 years in the same manner.

7 (2) ELEMENTS OF RESTORATION PLAN.—The
8 Plan shall—

9 (A) identify processes and strategies for
10 coordinating Federal, State, and local restora-
11 tion programs and projects to maximize efforts
12 in restoring biological integrity, productivity
13 and ecosystem functions in the Gulf of Mexico
14 region;

15 (B) identify mechanisms for scientific re-
16 view and input to evaluate the benefits and
17 long-term effectiveness of restoration programs
18 and projects;

19 (C) identify, using the best science avail-
20 able, strategies for implementing restoration
21 programs and projects for natural resources in-
22 cluding—

23 (i) restoring species population and
24 habitat including oyster reefs, sea grass
25 beds, coral reefs, tidal marshes and other

1 coastal wetlands and barrier islands and
2 beaches;

3 (ii) restoring fish passage and improv-
4 ing migratory pathways for wildlife;

5 (iii) research that directly supports
6 restoration programs and projects;

7 (iv) restoring the biological produc-
8 tivity and ecosystem function in the Gulf
9 of Mexico region;

10 (v) improving the resilience of natural
11 resources to withstand the impacts of cli-
12 mate change and ocean acidification to en-
13 sure the long-term effectiveness of the res-
14 toration program; and

15 (vi) restoring fisheries resources in
16 the Gulf of Mexico that benefit the com-
17 mercial and recreational fishing industries
18 and seafood processing industries through-
19 out the United States.

20 (3) REPORT.—The Task Force shall annually
21 provide a report to Congress about the progress in
22 implementing the Plan.

23 (d) DEFINITIONS.—For purposes of this section, the
24 term—

1 toring and research program for the marine and coastal
2 environment of the Gulf of Mexico. The program shall re-
3 main in effect for a minimum of 10 years, and the Sec-
4 retary may extend the program beyond this initial period
5 based upon a determination that additional monitoring
6 and research is warranted.

7 (b) SCOPE OF PROGRAM.—The program established
8 under subsection (a) shall at a minimum include moni-
9 toring and research of the physical, chemical, and biologi-
10 cal characteristics of the affected marine, coastal, and es-
11 tuarine areas of the Gulf of Mexico and other regions of
12 the exclusive economic zone of the United States affected
13 by the *Deepwater Horizon* oil spill, and shall include spe-
14 cifically the following elements:

15 (1) The fate, transport, and persistence of oil
16 released during the spill and spatial distribution
17 throughout the water column.

18 (2) The fate, transport, and persistence of
19 chemical dispersants applied in-situ or on surface
20 waters.

21 (3) Identification of lethal and sub-lethal im-
22 pacts to fish and wildlife resources that utilize habi-
23 tats located within the affected region.

24 (4) Impacts to regional, State, and local econo-
25 mies that depend on the natural resources of the af-

1 fected area, including commercial and recreational
2 fisheries, and other wildlife-dependent recreation.

3 (5) Other elements considered necessary by the
4 Secretary to ensure a comprehensive marine re-
5 search and monitoring program to comprehend and
6 understand the implications to trust resources
7 caused by the *Deepwater Horizon* oil spill.

8 (c) COOPERATION AND CONSULTATION.—In devel-
9 oping the research and monitoring program established
10 under subsection (a), the Secretary shall cooperate with
11 the United States Geological Survey, and shall consult
12 with—

13 (1) the Council authorized under subtitle E of
14 title II of Public Law 104–201;

15 (2) appropriate representatives from the Gulf
16 Coast States;

17 (3) academic institutions and other research or-
18 ganizations; and

19 (4) other experts with expertise in long-term
20 environmental monitoring and research of the ma-
21 rine environment.

22 (d) AVAILABILITY OF DATA.—Data and information
23 generated through the program established under sub-
24 section (a) shall be managed and archived to ensure that
25 it is accessible and available to governmental and non-

1 governmental personnel and to the general public for their
2 use and information.

3 (e) REPORT.—No later than one year after the estab-
4 lishment of the program under subsection (a), and bienni-
5 ally thereafter, the Secretary shall forward to the Con-
6 gress a comprehensive report summarizing the activities
7 and findings of the program and detailing areas and issues
8 requiring future monitoring and research.

9 (f) DEFINITIONS.—For the purposes of this section,
10 the term—

11 (1) “trust resources” means the living and non-
12 living natural resources belonging to, managed by,
13 held in trust by, appertaining to, or otherwise con-
14 trolled by the United States, any State, an Indian
15 tribe, or a local government;

16 (2) “Gulf coast State” means each of the states
17 of Texas, Louisiana, Mississippi, Alabama and Flor-
18 ida; and

19 (3) “Secretary” means the Secretary of Com-
20 merce.

21 **SEC. 503. GULF OF MEXICO EMERGENCY MIGRATORY SPE-**
22 **CIES ALTERNATIVE HABITAT PROGRAM.**

23 (a) IN GENERAL.—In order to reduce the injury or
24 death of many populations of migratory species of fish and
25 wildlife, including threatened and endangered species and

1 other species of critical conservation concern, that utilize
2 estuarine, coastal, and marine habitats of the Gulf of Mex-
3 ico that have been impacted, or are likely to be impacted,
4 by the *Deepwater Horizon* oil spill, and to ensure that mi-
5 gratory species upon their annual return to the Gulf of
6 Mexico find viable, healthy, and environmentally-safe habi-
7 tats to utilize for resting, feeding, nesting and roosting,
8 and breeding, the Secretary of the Interior shall establish
9 as soon as practicable after date of enactment of this Act,
10 an emergency migratory species alternative habitat pro-
11 gram.

12 (b) SCOPE OF PROGRAM.—The program established
13 under subsection (a) shall at a minimum support projects
14 along the Northern coast of the Gulf of Mexico to—

15 (1) improve wetland water quality and forage;

16 (2) restore and refurbish diked impoundments;

17 (3) improve riparian habitats to increase fish
18 passage and breeding habitat;

19 (4) encourage conversion of agricultural lands
20 to provide alternative migratory habitat for water
21 fowl and other migratory birds;

22 (5) transplant, relocate, or rehabilitate fish and
23 wildlife; and

24 (6) conduct other activities considered nec-
25 essary by the Secretary to ensure that migratory

1 species have alternative habitat available for their
2 use outside of habitat impacted by the oil spill.

3 (c) NATIONAL FISH AND WILDLIFE FOUNDATION.—

4 In implementing this section the Secretary may enter into
5 an agreement with the National Fish and Wildlife Foun-
6 dation to administer the program.

7 **TITLE VI—COORDINATION AND** 8 **PLANNING**

9 **SEC. 601. REGIONAL COORDINATION.**

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

12 (1) better coordination, communication, and
13 collaboration between Federal agencies with authori-
14 ties for ocean, coastal, and Great Lakes manage-
15 ment; and

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

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

3 (1) Greater systematic communication and co-
4 ordination among Federal, coastal State, and af-
5 fected tribal governments concerned with the con-
6 servation of and the sustainable development and
7 use of Federal renewable and nonrenewable re-
8 sources of the oceans, coasts, and Great Lakes.

9 (2) Greater reliance on a multiobjective,
10 science- and ecosystem-based, spatially explicit man-
11 agement approach that integrates regional economic,
12 ecological, affected tribal, and social objectives into
13 ocean, coastal, and Great Lakes management deci-
14 sions.

15 (3) Identification and prioritization of shared
16 State and Federal ocean, coastal, and Great Lakes
17 management issues.

18 (4) Identification of data and information need-
19 ed by the Regional Coordination Councils established
20 under section 602.

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

23 (1) PACIFIC REGION.—The Pacific Coordination
24 Region, which shall consist of the coastal waters and

1 Exclusive Economic Zone adjacent to the States of
2 Washington, Oregon, and California.

3 (2) GULF OF MEXICO REGION.—The Gulf of
4 Mexico Coordination Region, which shall consist of
5 the coastal waters and Exclusive Economic Zone ad-
6 jacent to the States of Texas, Louisiana, Mississippi,
7 and Alabama, and the west coast of Florida.

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

13 (4) MID ATLANTIC REGION.—The Mid Atlantic
14 Coordination Region, which shall consist of the
15 coastal waters and Exclusive Economic Zone adja-
16 cent to the States of New York, New Jersey, Penn-
17 sylvania, Delaware, Maryland, and Virginia.

18 (5) SOUTH ATLANTIC REGION.—The South At-
19 lantic Coordination Region, which shall consist of
20 the coastal waters and Exclusive Economic Zone ad-
21 jacent to the States of North Carolina, South Caro-
22 lina, Georgia, the east coast of Florida, and the
23 Straits of Florida Planning Area.

24 (6) ALASKA REGION.—The Alaska Coordination
25 Region, which shall consist of the coastal waters and

1 Exclusive Economic Zone adjacent to the State of
2 Alaska.

3 (7) PACIFIC ISLANDS REGION.—The Pacific Is-
4 lands Coordination Region, which shall consist of the
5 coastal waters and Exclusive Economic Zone adja-
6 cent to the State of Hawaii, the Commonwealth of
7 the Northern Mariana Islands, American Samoa,
8 and Guam.

9 (8) CARIBBEAN REGION.—The Caribbean Co-
10 ordination Region, which shall consist of the coastal
11 waters and Exclusive Economic Zone adjacent to
12 Puerto Rico and the United States Virgin Islands.

13 (9) GREAT LAKES REGION.—The Great Lakes
14 Coordination Region, which shall consist of waters of
15 the Great Lakes in the States of Illinois, Indiana,
16 Michigan, Minnesota, New York, Ohio, Pennsyl-
17 vania, and Wisconsin.

18 **SEC. 602. REGIONAL COORDINATION COUNCILS.**

19 (a) IN GENERAL.—Within 180 days after the date
20 of enactment of this Act, the Chairman of the Council on
21 Environmental Quality, in consultation with the affected
22 coastal States and affected Indian tribes, shall establish
23 or designate a Regional Coordination Council for each of
24 the Coordination Regions designated by section 601(c).

25 (b) MEMBERSHIP.—

1 (1) FEDERAL REPRESENTATIVES.—Within 90
2 days after the date of enactment of this Act, the
3 Chairman of the Council on Environmental Quality
4 shall publish the titles of the officials of each Fed-
5 eral agency and department that shall participate in
6 each Council. The Councils shall include representa-
7 tives of each Federal agency and department that
8 has authorities related to the development of ocean,
9 coastal, or Great Lakes policies or engages in plan-
10 ning, management, or scientific activities that sig-
11 nificantly affect or inform the use of ocean, coastal,
12 or Great Lakes resources. The Chairman of the
13 Council on Environmental Quality shall determine
14 which Federal agency representative shall serve as
15 the chairperson of each Council.

16 (2) COASTAL STATE REPRESENTATIVES.—

17 (A) NOTICE OF INTENT TO PARTICI-
18 PATE.—The Governor of each coastal State
19 within each Coordination Region designated by
20 section 601(c) shall within 3 months after the
21 date of enactment of this Act, inform the Chair-
22 man of the Council on Environmental Quality
23 whether or not the State intends to participate
24 in the Regional Coordination Council for the
25 Region.

1 (B) APPOINTMENT OF RESPONSIBLE
2 STATE OFFICIAL.—If a coastal State intends to
3 participate in such Council, the Governor of the
4 coastal State shall appoint an officer or em-
5 ployee of the coastal State agency with primary
6 responsibility for overseeing ocean and coastal
7 policy or resource management to that Council.

8 (C) ALASKA REGIONAL COORDINATION
9 COUNCIL.—The Regional Coordination Council
10 for the Alaska Coordination Region shall in-
11 clude representation from each of the States of
12 Alaska, Washington, and Oregon, if appointed
13 by the Governor of that State in accordance
14 with this paragraph.

15 (3) REGIONAL FISHERY MANAGEMENT COUNCIL
16 REPRESENTATION.—A representative of each Re-
17 gional Fishery Management Council with jurisdiction
18 in the Coordination Region of a Regional Coordina-
19 tion Council (who is selected by the Regional Fish-
20 ery Management Council) and the executive director
21 of the interstate marine fisheries commission with
22 jurisdiction in the Coordination Region of a Regional
23 Coordination Council shall each serve as a member
24 of the Council.

1 (4) REGIONAL OCEAN PARTNERSHIP REP-
2 RESENTATION.—A representative of any Regional
3 Ocean Partnership that has been established for any
4 part of the Coordination Region of a Regional Co-
5 ordination Council may appoint a representative to
6 serve on the Council in addition to any Federal or
7 State appointments.

8 (5) TRIBAL REPRESENTATION.—An appropriate
9 tribal official selected by affected Indian tribes situ-
10 ated in the affected Coordination Region may elect
11 to appoint a representative of such tribes collectively
12 to serve as a member of the Regional Coordination
13 Council for that Region.

14 (6) LOCAL REPRESENTATION.—The Chairman
15 of the Council on Environmental Quality shall, in
16 consultation with the Governors of the coastal States
17 within each Coordination Region, identify and ap-
18 point representatives of county and local govern-
19 ments, as appropriate, to serve as members of the
20 Regional Coordination Council for that Region.

21 (c) ADVISORY COMMITTEE.—Each Regional Coordi-
22 nation Council shall establish advisory committees for the
23 purposes of public and stakeholder input and scientific ad-
24 vice, made up of a balanced representation from the en-
25 ergy, shipping, transportation, commercial and rec-

1 reational fishing, and recreation industries, from marine
2 environmental nongovernmental organizations, and from
3 scientific and educational authorities with expertise in the
4 conservation and management of ocean, coastal, and
5 Great Lakes resources to advise the Council during the
6 development of Regional Assessments and Regional Stra-
7 tegic Plans and in its other activities.

8 (d) COORDINATION WITH EXISTING PROGRAMS.—
9 Each Regional Coordination Council shall build upon and
10 complement current State, multistate, and regional capac-
11 ity and governance and institutional mechanisms to man-
12 age and protect ocean waters, coastal waters, and ocean
13 resources.

14 **SEC. 603. REGIONAL STRATEGIC PLANS.**

15 (a) INITIAL REGIONAL ASSESSMENT.—

16 (1) IN GENERAL.—Each Regional Coordination
17 Council, shall, within one year after the date of en-
18 actment of this Act, prepare an initial assessment of
19 its Coordination Region that shall identify defi-
20 ciencies in data and information necessary to in-
21 formed decisionmaking by Federal, State, and af-
22 fected tribal governments concerned with the con-
23 servation of and management of the oceans, coasts,
24 and Great Lakes. Each initial assessment shall to
25 the extent feasible—

1 (A) identify the Coordination Region's re-
2 newable and non renewable resources, including
3 current and potential energy resources;

4 (B) identify and include a spatially and
5 temporally explicit inventory of existing and po-
6 tential uses of the Coordination Region, includ-
7 ing fishing and fish habitat, recreation, and en-
8 ergy development;

9 (C) document the health and relative envi-
10 ronmental sensitivity of the marine ecosystem
11 within the Coordination Region, including a
12 comprehensive survey and status assessment of
13 species, habitats, and indicators of ecosystem
14 health;

15 (D) identify marine habitat types and im-
16 portant ecological areas within the Coordination
17 Region;

18 (E) assess the Coordination Region's ma-
19 rine economy and cultural attributes and in-
20 clude regionally-specific ecological and socio-
21 economic baseline data;

22 (F) identify and prioritize additional sci-
23 entific and economic data necessary to inform
24 the development of Strategic Plans; and

1 (G) include other information to improve
2 decision making as determined by the Regional
3 Coordination Council.

4 (2) DATA.—Each initial assessment shall—

5 (A) use the best available data;

6 (B) collect and provide data in a spatially
7 explicit manner wherever practicable and pro-
8 vide such data to the interagency comprehensive
9 digital mapping initiative as described in section
10 2 of Public Law 109–58 (42 U.S.C. 15801);
11 and

12 (C) make publicly available any such data
13 that is not classified information.

14 (3) PUBLIC PARTICIPATION.—Each Regional
15 Coordination Council shall provide adequate oppor-
16 tunity for review and input by stakeholders and the
17 general public during the preparation of the initial
18 assessment and any revised assessments.

19 (b) REGIONAL STRATEGIC PLANS.—

20 (1) REQUIREMENT.—Each Regional Coordina-
21 tion Council shall, within 3 years after the comple-
22 tion of the initial regional assessment, prepare and
23 submit to the Chairman of the Council on Environ-
24 mental Quality a multiobjective, science- and eco-
25 system-based, spatially explicit, integrated Strategic

1 Plan in accordance with this subsection for the
2 Council's Coordination Region.

3 (2) OBJECTIVE AND GOALS.—The objective of
4 the Strategic Plans under this subsection shall be to
5 foster comprehensive, integrated, and sustainable de-
6 velopment and use of ocean, coastal, and Great
7 Lakes resources, while protecting marine ecosystem
8 health and sustaining the long-term economic and
9 ecosystem values of the oceans, coasts, and Great
10 Lakes.

11 (3) CONTENTS.—Each Strategic Plan prepared
12 by a Regional Coordination Council shall—

13 (A) be based on the initial regional assess-
14 ment and updates for the Coordination Region
15 under subsections (a) and (c), respectively;

16 (B) foster the sustainable and integrated
17 development and use of ocean, coastal, and
18 Great Lakes resources in a manner that pro-
19 tects the health of marine ecosystems;

20 (C) identify areas with potential for siting
21 and developing renewable and nonrenewable en-
22 ergy resources in the Coordination Region cov-
23 ered by the Strategic Plan;

1 (D) identify other current and potential
2 uses of the ocean and coastal resources in the
3 Coordination Region;

4 (E) identify and recommend long-term
5 monitoring needs for ecosystem health and so-
6 cioeconomic variables within the Coordination
7 Region covered by the Strategic Plan;

8 (F) identify existing State and Federal
9 regulating authorities within the Coordination
10 Region covered by the Strategic Plan and meas-
11 ures to assist those authorities in carrying out
12 their responsibilities;

13 (G) identify best available technologies to
14 minimize adverse environmental impacts and
15 use conflicts in the development of ocean and
16 coastal resources in the Coordination Region;

17 (H) identify additional research, informa-
18 tion, and data needed to carry out the Strategic
19 Plan;

20 (I) identify performance measures and
21 benchmarks for purposes of fulfilling the re-
22 sponsibilities under this section to be used to
23 evaluate the Strategic Plan's effectiveness;

24 (J) define responsibilities and include an
25 analysis of the gaps in authority, coordination,

1 and resources, including funding, that must be
2 filled in order to fully achieve those perform-
3 ance measures and benchmarks; and

4 (K) include such other information at the
5 Chairman of the Council on Environmental
6 Quality determines is appropriate.

7 (4) PUBLIC PARTICIPATION.—Each Regional
8 Coordination Council shall provide adequate oppor-
9 tunities for review and input by stakeholders and the
10 general public during the development of the Stra-
11 tegic Plan and any Strategic Plan revisions.

12 (c) UPDATED REGIONAL ASSESSMENTS.—Each Re-
13 gional Coordination Council shall update the initial re-
14 gional assessment prepared under subsection (a) in coordi-
15 nation with each Strategic Plan revision under subsection
16 (e), to provide more detailed information regarding the re-
17 quired elements of the assessment and to include any rel-
18 evant new information that has become available in the
19 interim.

20 (d) REVIEW AND APPROVAL.—

21 (1) COMMENCEMENT OF REVIEW.—Within 10
22 days after receipt of a Strategic Plan under this sec-
23 tion, or any revision to such a Strategic Plan, from
24 a Regional Coordination Council, the Chairman of
25 the Council of Environmental Quality shall com-

1 mence a review of the Strategic Plan or the revised
2 Strategic Plan, respectively.

3 (2) PUBLIC NOTICE AND COMMENT.—Imme-
4 diately after receipt of such a Strategic Plan or revi-
5 sion, the Chairman of the Council of Environmental
6 Quality shall publish the Strategic Plan or revision
7 in the Federal Register and provide an opportunity
8 for the submission of public comment for a 90-day
9 period beginning on the date of such publication.

10 (3) REQUIREMENTS FOR APPROVAL.—Before
11 approving a Strategic Plan, or any revision to a
12 Strategic Plan, the Chairman of the Council on En-
13 vironmental Quality must find that the Strategic
14 Plan or revision—

15 (A) is consistent with the Outer Conti-
16 nental Shelf Lands Act;

17 (B) complies with subsection (b); and

18 (C) complies with the purposes of this title
19 as identified in section 601(a) and the objec-
20 tives identified in section 601(b).

21 (4) DEADLINE FOR COMPLETION.—Within 180
22 days after the receipt of a Strategic Plan, or a revi-
23 sion to a Strategic Plan, the Chairman of the Coun-
24 cil of Environmental Quality shall approve or dis-
25 approve the Strategic Plan or revision. If the Chair-

1 man disapproves the Strategic Plan or revision, the
2 Chairman shall transmit to the Regional Coordina-
3 tion Council that submitted the Strategic Plan or re-
4 vision, an identification of the deficiencies and rec-
5 ommendations to improve it. The Council shall sub-
6 mit a revised Strategic Plan or revision to such plan
7 with 180 days after receiving the recommendations
8 from the Chairman.

9 (e) PLAN REVISION.—Each Strategic Plan shall be
10 reviewed and revised by the relevant Regional Coordina-
11 tion Council at least once every 5 years. Such review and
12 revision shall be based on the most recently updated re-
13 gional assessment. Any proposed revisions to the Strategic
14 Plan shall be submitted to the Chairman of the Council
15 on Environmental Quality for review and approval pursu-
16 ant to this section.

17 **SEC. 604. REGULATIONS AND SAVINGS CLAUSE.**

18 (a) REGULATIONS.—The Chairman of the Council on
19 Environmental Quality may issue such regulations as the
20 Chairman considers necessary to implement sections 601
21 through 603.

22 (b) SAVINGS CLAUSE.—Nothing in this title shall be
23 construed to affect existing authorities under Federal law.

1 **SEC. 605. OCEAN RESOURCES CONSERVATION AND ASSIST-**
2 **ANCE FUND.**

3 (a) ESTABLISHMENT.—

4 (1) IN GENERAL.—There is established in the
5 Treasury of the United States a separate account to
6 be known as the Ocean Resources Conservation and
7 Assistance Fund.

8 (2) CREDITS.—The ORCA Fund shall be cred-
9 ited with amounts as specified in section 9 of the
10 Outer Continental Shelf Lands Act (43 U.S.C.
11 1338), as amended by section 207 of this Act.

12 (3) ALLOCATION OF THE ORCA FUND.—Of the
13 amounts appropriated from the ORCA Fund each
14 fiscal year—

15 (A) 70 percent shall be allocated to the
16 Secretary, of which—

17 (i) 1/2 shall be used to make grants
18 to coastal States and affected Indian tribes
19 under subsection (b); and

20 (ii) 1/2 shall be used for the ocean,
21 coastal, and Great Lakes grants program
22 established by subsection (c);

23 (B) 20 percent shall be allocated to the
24 Secretary to carry out the purposes of sub-
25 section (e); and

1 (C) 10 percent shall be allocated to the
2 Secretary to make grants to Regional Ocean
3 Partnerships under subsection (d) and the Re-
4 gional Coordination Councils established under
5 section 602.

6 (4) PROCEDURES.—The Secretary shall estab-
7 lish application, review, oversight, financial account-
8 ability, and performance accountability procedures
9 for each grant program for which funds are allo-
10 cated under this subsection.

11 (b) GRANTS TO COASTAL STATES.—

12 (1) GRANT AUTHORITY.—The Secretary may
13 use amounts allocated under subsection
14 (a)(3)(A)(I)(I) to make grants to—

15 (A) coastal States pursuant to the formula
16 established under section 306(c) of the Coastal
17 Zone Management Act of 1972 (16 U.S.C.
18 1455(c)); and

19 (B) affected Indian tribes based on and
20 proportional to any specific coastal and ocean
21 management authority granted to an affected
22 tribe pursuant to affirmation of a Federal re-
23 served right.

24 (2) ELIGIBILITY.—To be eligible to receive a
25 grant under this subsection, a coastal State or af-

1 affected Indian tribe must prepare and revise a 5-year
2 plan and annual work plans that—

3 (A) demonstrate that activities for which
4 the coastal State or affected Indian tribe will
5 use the funds are consistent with the eligible
6 uses of the Fund described in subsection (f);
7 and

8 (B) provide mechanisms to ensure that
9 funding is made available to government, non-
10 government, and academic entities to carry out
11 eligible activities at the county and local level.

12 (3) APPROVAL OF STATE AND AFFECTED TRIB-
13 AL PLANS.—

14 (A) IN GENERAL.—Plans required under
15 paragraph (2) must be submitted to and ap-
16 proved by the Secretary.

17 (B) PUBLIC INPUT AND COMMENT.—In de-
18 termining whether to approve such plans, the
19 Secretary shall provide opportunity for, and
20 take into consideration, public input and com-
21 ment on the plans from stakeholders and the
22 general public.

23 (5) ENERGY PLANNING GRANTS.—For each of
24 the fiscal years 2011 through 2015, the Secretary
25 may use funds allocated for grants under this sub-

1 section to make grants to coastal States and affected
2 tribes under section 320 of the Coastal Zone Man-
3 agement Act of 1972 (16 U.S.C. 1451 et seq.), as
4 amended by this Act.

5 (6) USE OF FUNDS.—Any amounts provided as
6 a grant under this subsection, other than as a
7 grants under paragraph (5), may only be used for
8 activities described in subsection (f).

9 (c) OCEAN AND COASTAL COMPETITIVE GRANTS
10 PROGRAM.—

11 (1) ESTABLISHMENT.—The Secretary shall use
12 amounts allocated under subsection (a)(3)(A)(I)(II)
13 to make competitive grants for conservation and
14 management of ocean, coastal, and Great Lakes eco-
15 systems and marine resources.

16 (2) OCEAN, COASTAL, AND GREAT LAKES RE-
17 VIEW PANEL.—

18 (A) IN GENERAL.—The Secretary shall es-
19 tablish an Ocean, Coastal, and Great Lakes Re-
20 view Panel (in this subsection referred to as the
21 “Panel”), which shall consist of 12 members
22 appointed by the Secretary with expertise in the
23 conservation and management of ocean, coastal,
24 and Great Lakes ecosystems and marine re-
25 sources. In appointing members to the Council,

1 the Secretary shall include a balanced diversity
2 of representatives of relevant Federal agencies,
3 the private sector, nonprofit organizations, and
4 academia.

5 (B) FUNCTIONS.—The Panel shall—

6 (i) review, in accordance with the pro-
7 cedures and criteria established under
8 paragraph (3), grant applications under
9 this subsection;

10 (ii) make recommendations to the
11 Secretary regarding which grant applica-
12 tions should be funded and the amount of
13 each grant; and

14 (iii) establish any specific require-
15 ments, conditions, or limitations on a grant
16 application recommended for funding.

17 (3) PROCEDURES AND ELIGIBILITY CRITERIA
18 FOR GRANTS.—

19 (A) IN GENERAL.—The Secretary shall es-
20 tablish—

21 (i) procedures for applying for a grant
22 under this subsection and criteria for eval-
23 uating applications for such grants; and

1 (ii) criteria, in consultation with the
2 Panel, to determine what persons are eligi-
3 ble for grants under the program.

4 (B) ELIGIBLE PERSONS.—Persons eligible
5 under the criteria under subparagraph (A)(ii)
6 shall include Federal, State, affected tribal, and
7 local agencies, fishery or wildlife management
8 organizations, nonprofit organizations, and aca-
9 demic institutions.

10 (4) APPROVAL OF GRANTS.—In making grants
11 under this subsection the Secretary shall give the
12 highest priority to the recommendations of the
13 Panel. If the Secretary disapproves a grant rec-
14 ommended by the Panel, the Secretary shall explain
15 that disapproval in writing.

16 (5) USE OF GRANT FUNDS.—Any amounts pro-
17 vided as a grant under this subsection may only be
18 used for activities described in subsection (f).

19 (d) GRANTS TO REGIONAL OCEAN PARTNERSHIPS.—

20 (1) GRANT AUTHORITY.—The Secretary may
21 use amounts allocated under subsection (a)(3)(A)(iii)
22 to make grants to Regional Ocean Partnerships.

23 (2) ELIGIBILITY.—In order to be eligible to re-
24 ceive a grant, a Regional Ocean Partnership must
25 prepare and annually revise a plan that—

1 (A) identifies regional science and informa-
2 tion needs, regional goals and priorities, and
3 mechanisms for facilitating coordinated and col-
4 laborative responses to regional issues;

5 (B) establishes a process for coordinating
6 and collaborating with the Regional Coordina-
7 tion Councils established under section 602 to
8 address regional issues and information needs
9 and achieve regional goals and priorities; and

10 (C) demonstrates that activities to be car-
11 ried out with such funds are eligible uses of the
12 funds identified in subsection (f).

13 (3) APPROVAL BY SECRETARY.—Such plans
14 must be submitted to and approved by the Sec-
15 retary.

16 (4) PUBLIC INPUT AND COMMENT.—In deter-
17 mining whether to approve such plans, the Secretary
18 shall provide opportunity for, and take into consider-
19 ation, input and comment on the plans from stake-
20 holders and the general public.

21 (5) USE OF FUNDS.—Any amounts provided as
22 a grant under this subsection may only be used for
23 activities described in subsection (f).

24 (e) LONG-TERM OCEAN AND COASTAL OBSERVA-
25 TIONS.—

1 (1) IN GENERAL.—The Secretary shall use the
2 amounts allocated under subsection (a)(3)(A)(ii) to
3 build, operate, and maintain the system established
4 under section 12304 of Public Law 111–11 (33
5 U.S.C. 3603), in accordance with the purposes and
6 policies for which the system was established.

7 (2) ADMINISTRATION OF FUNDS.—The Sec-
8 retary shall administer and distribute funds under
9 this subsection based upon comprehensive system
10 budgets adopted by the Council referred to in section
11 12304(c)(1)(A) of the Integrated Coastal and Ocean
12 Observation System Act of 2009 (33 U.S.C.
13 3603(c)(1)(A)).

14 (f) ELIGIBLE USE OF FUNDS.—Any funds made
15 available under this section may only be used for activities
16 that contribute to the conservation, protection, mainte-
17 nance, and restoration of ocean, coastal, and Great Lakes
18 ecosystems in a manner that is consistent with Federal
19 environmental laws and that avoids environmental deg-
20 radation, including—

21 (1) activities to conserve, protect, maintain, and
22 restore coastal, marine, and Great Lakes ecosystem
23 health;

1 (2) activities to protect marine biodiversity and
2 living marine and coastal resources and their habi-
3 tats, including fish populations;

4 (3) the development and implementation of
5 multiobjective, science- and ecosystem-based plans
6 for monitoring and managing the wide variety of
7 uses affecting ocean, coastal, and Great Lakes eco-
8 systems and resources that consider cumulative im-
9 pacts and are spatially explicit where appropriate;

10 (4) activities to improve the resiliency of those
11 ecosystems;

12 (5) activities to improve the ability of those eco-
13 systems to become more resilient, and to adapt to
14 and withstand the impacts of climate change and
15 ocean acidification;

16 (6) planning for and managing coastal develop-
17 ment to minimize the loss of life and property asso-
18 ciated with sea level rise and the coastal hazards re-
19 sulting from it;

20 (7) research, education, assessment, monitoring,
21 and dissemination of information that contributes to
22 the achievement of these purposes;

23 (8) research of, protection of, enhancement to,
24 and activities to improve the resiliency of culturally
25 significant areas and resources; and

1 (9) activities designed to rescue, rehabilitate,
2 and recover injured marine mammals, marine birds,
3 and sea turtles.

4 (g) DEFINITIONS.—In this section:

5 (1) ORCA FUND.—The term “ORCA Fund”
6 means the Ocean Resources Conservation and As-
7 sistance Fund established by this section

8 (2) SECRETARY.—Notwithstanding section 3,
9 the term “Secretary” means the Secretary of Com-
10 merce.

11 **SEC. 606. WAIVER.**

12 The Federal Advisory Committee Act (5 U.S.C. App.)
13 shall not apply to the Regional Coordination Councils es-
14 tablished under section 602.

15 **TITLE VII—OIL SPILL ACCOUNT-**
16 **ABILITY AND ENVIRON-**
17 **MENTAL PROTECTION**

18 **SEC. 701. SHORT TITLE.**

19 This title may be cited as the “Oil Spill Account-
20 ability and Environmental Protection Act of 2010”.

21 **SEC. 702. REPEAL OF AND ADJUSTMENTS TO LIMITATION**
22 **ON LIABILITY.**

23 (a) IN GENERAL.—Section 1004 of the Oil Pollution
24 Act of 1990 (33 U.S.C. 2704) is amended—

25 (1) in subsection (a)—

- 1 (A) in paragraph (2)—
- 2 (i) by striking “\$800,000,,” and in-
- 3 serting “\$800,000,”; and
- 4 (ii) by adding “and” after the semi-
- 5 colon at the end;
- 6 (B) by striking paragraph (3); and
- 7 (C) by redesignating paragraph (4) as
- 8 paragraph (3);
- 9 (2) in subsection (b)(2) by striking the second
- 10 sentence; and
- 11 (3) by striking subsection (d)(4) and inserting
- 12 the following:
- 13 “(4) ADJUSTMENT OF LIMITS ON LIABILITY.—
- 14 Not later than 3 years after the date of enactment
- 15 of the Oil Spill Accountability and Environmental
- 16 Protection Act of 2010, and at least once every 3
- 17 years thereafter, the President shall review the limits
- 18 on liability specified in subsection (a) and shall by
- 19 regulation revise such limits upward to reflect either
- 20 the amount of liability that the President determines
- 21 is commensurate with the risk of discharge of oil
- 22 presented by a particular category of vessel, facility,
- 23 or port or any increase in the Consumer Price Index,
- 24 whichever is greater.”.

1 (b) APPLICABILITY.—The amendments made by this
2 section apply to—

3 (1) any claim arising from an event occurring
4 after the date of enactment of this Act; and

5 (2) any claim arising from an event occurring
6 before such date of enactment, if the claim is
7 brought within the limitations period applicable to
8 the claim.

9 **SEC. 703. EVIDENCE OF FINANCIAL RESPONSIBILITY FOR**
10 **OFFSHORE FACILITIES.**

11 Section 1016 of the Oil Pollution Act of 1990 (33
12 U.S.C. 2716) is amended—

13 (1) in subsection (c)(1)—

14 (A) in subparagraph (B) by striking “sub-
15 paragraph (A) is” and all that follows before
16 the period and inserting “subparagraph (A) is
17 \$300,000,000”; and

18 (B) by striking subparagraph (C) and in-
19 serting the following:

20 “(C) ALTERNATE AMOUNT.—

21 “(i) SPECIFIC FACILITIES.—

22 “(I) IN GENERAL.—If the Presi-
23 dent determines that an amount of fi-
24 nancial responsibility for a responsible
25 party that is less than the amount re-

1 required by subparagraph (B) is justi-
2 fied based on the criteria established
3 under clause (ii), the evidence of fi-
4 nancial responsibility required shall be
5 for an amount determined by the
6 President.

7 “(II) MINIMUM AMOUNTS.—In
8 no case shall the evidence of financial
9 responsibility required under this sec-
10 tion be less than—

11 “(aa) \$105,000,000 for an
12 offshore facility located seaward
13 of the seaward boundary of a
14 State; or

15 “(bb) \$30,000,000 for an
16 offshore facility located landward
17 of the seaward boundary of a
18 State.

19 “(ii) CRITERIA FOR DETERMINATION
20 OF FINANCIAL RESPONSIBILITY.—The
21 President shall prescribe the amount of fi-
22 nancial responsibility required under clause
23 (i)(I) based on the following:

1 “(I) The market capacity of the
2 insurance industry to issue such in-
3 struments.

4 “(II) The operational risk of a
5 discharge and the effects of that dis-
6 charge on the environment and the re-
7 gion.

8 “(III) The quantity and location
9 of the oil and gas that is explored for,
10 drilled for, produced, or transported
11 by the responsible party.

12 “(IV) The asset value of the
13 owner of the offshore facility, includ-
14 ing the combined asset value of all
15 partners that own the facility.

16 “(V) The cost of all removal
17 costs and damages for which the
18 owner may be liable under this Act
19 based on a worst-case-scenario.

20 “(VI) The safety history of the
21 owner of the offshore facility.

22 “(VII) Any other factors that the
23 President considers appropriate.

24 “(iii) ADJUSTMENT FOR ALL OFF-
25 SHORE FACILITIES.—

1 “(I) IN GENERAL.—Not later
2 than 3 years after the date of enact-
3 ment of the Oil Spill Accountability
4 and Environmental Protection Act of
5 2010, and at least once every 3 years
6 thereafter, the President shall review
7 the levels of financial responsibility
8 specified in this subsection and the
9 limit on liability specified in sub-
10 section (f)(4) and may by regulation
11 revise such levels and limit upward to
12 the levels and limit that the President
13 determines are justified based on the
14 relative operational, environmental,
15 and other risks posed by the quantity,
16 quality, or location of oil that is ex-
17 plored for, drilled for, produced, or
18 transported by the responsible party.

19 “(II) NOTICE TO CONGRESS.—
20 Upon completion of a review specified
21 in subclause (I), the President shall
22 notify Congress as to whether the
23 President will revise the levels of fi-
24 nancial responsibility and limit on li-
25 ability referred to in subclause (I) and

1 the factors used in making such deter-
2 mination.”; and

3 (2) in subsection (f)—

4 (A) in paragraph (1) by striking “Subject”
5 and inserting “Except as provided in paragraph
6 (4) and subject”; and

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

8 “(4) MAXIMUM LIABILITY.—The maximum li-
9 ability of a guarantor of an offshore facility under
10 this subsection is \$300,000,000.”.

11 **SEC. 704. DAMAGES TO HUMAN HEALTH.**

12 (a) IN GENERAL.—Section 1002(b)(2) of the Oil Pol-
13 lution Act of 1990 (33 U.S.C. 2702(b)(2)) is amended by
14 adding at the end the following:

15 “(G) HUMAN HEALTH.—

16 “(i) IN GENERAL.—Damages to
17 human health, including fatal injuries,
18 which shall be recoverable by any claimant
19 who has a demonstrable, adverse impact to
20 human health or, in the case of a fatal in-
21 jury to an individual, a claimant filing a
22 claim on behalf of such individual.

23 “(ii) INCLUSION.—For purposes of
24 clause (i), the term ‘human health’ in-
25 cludes mental health.”.

1 (b) APPLICABILITY.—The amendments made by this
2 section apply to—

3 (1) any claim arising from an event occurring
4 after the date of enactment of this Act; and

5 (2) any claim arising from an event occurring
6 before such date of enactment, if the claim is
7 brought within the limitations period applicable to
8 the claim.

9 **SEC. 705. CLARIFICATION OF LIABILITY FOR DISCHARGES**
10 **FROM MOBILE OFFSHORE DRILLING UNITS.**

11 (a) IN GENERAL.—Section 1004(b)(2) of the Oil Pol-
12 lution Act of 1990 (33 U.S.C. 2704(b)(2)) is amended—

13 (1) by striking “from any incident described in
14 paragraph (1)” and inserting “from any discharge of
15 oil, or substantial threat of a discharge of oil, into
16 or upon the water”; and

17 (2) by striking “liable” and inserting “liable as
18 described in paragraph (1)”.

19 (b) APPLICABILITY.—The amendments made by this
20 section shall apply to—

21 (1) any claim arising from an event occurring
22 after the date of enactment of this Act; and

23 (2) any claim arising from an event occurring
24 before such date of enactment, if the claim is

1 brought within the limitations period applicable to
2 the claim.

3 **SEC. 706. STANDARD OF REVIEW FOR DAMAGE ASSESS-**
4 **MENT.**

5 Section 1006(e)(2) of the Oil Pollution Act of 1990
6 (33 U.S.C. 2706(e)(2)) is amended—

7 (1) in the heading by striking “REBUTTABLE
8 PRESUMPTION” and inserting “JUDICIAL REVIEW OF
9 ASSESSMENTS”; and

10 (2) by striking “have the force and effect” and
11 all that follows before the period and inserting the
12 following: “be subject to judicial review under sub-
13 chapter II of chapter 5 of title 5, United States
14 Code (commonly known as the Administrative Proce-
15 dure Act), on the basis of the administrative record
16 developed by the lead Federal trustee as provided in
17 such regulations”.

18 **SEC. 707. INFORMATION ON CLAIMS.**

19 (a) IN GENERAL.—Title I of the Oil Pollution Act
20 of 1990 (33 U.S.C. 2701 et seq.) is amended by inserting
21 after section 1013 the following:

22 **“SEC. 1013A. INFORMATION ON CLAIMS.**

23 “In the event of a spill of national significance, the
24 President may require a responsible party or a guarantor
25 of a source designated under section 1014(a) to provide

1 to the President any information on or related to claims,
2 either individually, in the aggregate, or both, that the
3 President requests, including—

4 “(1) the transaction date or dates of such
5 claims, including processing times; and

6 “(2) any other data pertaining to such claims
7 necessary to ensure the performance of the respon-
8 sible party or the guarantor with regard to the proc-
9 essing and adjudication of such claims.”.

10 (b) CONFORMING AMENDMENT.—The table of con-
11 tents contained in section 2 of such Act is amended by
12 inserting after the item relating to section 1013 the fol-
13 lowing:

“Sec. 1013A. Information on claims.”.

14 (c) APPLICABILITY.—The amendments made by this
15 section apply to—

16 (1) any claim arising from an event occurring
17 after the date of enactment of this Act; and

18 (2) any claim arising from an event occurring
19 before such date of enactment, if the claim is
20 brought within the limitations period applicable to
21 the claim.

22 **SEC. 708. ADDITIONAL AMENDMENTS AND CLARIFICATIONS**

23 **TO OIL POLLUTION ACT OF 1990.**

24 (a) DEFINITIONS.—

1 (1) REMOVAL COSTS.—Section 1001(31) of the
2 Oil Pollution Act of 1990 (33 U.S.C. 2701(31)) is
3 amended by inserting before the semicolon the fol-
4 lowing: “and includes all costs of Federal enforce-
5 ment activities related thereto”.

6 (2) RESPONSIBLE PARTY.—Section
7 1001(32)(B) of such Act (33 U.S.C. 2701(32)(B))
8 is amended by inserting before “, except a” the fol-
9 lowing: “any person who owns or who has a lease-
10 hold interest or other property interest in the land
11 or in the minerals beneath the land on which the fa-
12 cility is located, and any person who is the assignor
13 of a property interest in the land or in the minerals
14 beneath the land on which the facility is located,”.

15 (b) ELEMENTS OF LIABILITY.—Section
16 1002(b)(1)(A) of such Act (33 U.S.C. 2702(b)(1)(A)) is
17 amended by inserting before the semicolon the following:
18 “, including all costs of Federal enforcement activities re-
19 lated thereto”.

20 (c) SUBROGATION.—Section 1015(c) of such Act (33
21 U.S.C. 2715(c)) is amended by adding at the end the fol-
22 lowing: “In such actions, the Fund shall recover all costs
23 and damages paid from the Fund unless the decision to
24 make the payment is found to be arbitrary or capricious.”.

1 (d) FINANCIAL RESPONSIBILITY.—Section
2 1016(f)(1) of such Act (33 U.S.C. 2717(f)(1)) is amend-
3 ed—

4 (1) by inserting “and” at the end of subpara-
5 graph (A); and

6 (2) by striking “; and” at the end of subpara-
7 graph (B) and inserting a period; and

8 (3) by striking subparagraph (C).

9 (e) APPLICABILITY.—The amendments made by this
10 section apply to—

11 (1) any claim arising from an event occurring
12 after the date of enactment of this Act; and

13 (2) any claim arising from an event occurring
14 before such date of enactment, if the claim is
15 brought within the limitations period applicable to
16 the claim.

17 **SEC. 709. AMERICANIZATION OF OFFSHORE OPERATIONS**
18 **IN THE EXCLUSIVE ECONOMIC ZONE.**

19 (a) REGISTRY ENDORSEMENT REQUIRED.—

20 (1) IN GENERAL.—Section 12111 of title 46,
21 United States Code, is amended by adding at the
22 end the following:

23 “(e) RESOURCE ACTIVITIES IN THE EEZ.—Except
24 for activities requiring an endorsement under sections
25 12112 or 12113, only a vessel for which a certificate of

1 documentation with a registry endorsement is issued and
2 that is owned by a citizen of the United States (as deter-
3 mined under section 50501(d)) may engage in support of
4 exploration, development, or production of resources in,
5 on, above, or below the exclusive economic zone or any
6 other activity in the exclusive economic zone to the extent
7 that the regulation of such activity is not prohibited under
8 customary international law.”.

9 (2) APPLICABILITY.—The amendment made by
10 paragraph (1) applies only with respect to explo-
11 ration, development, production, and support activi-
12 ties that commence on or after July 1, 2011.

13 (b) LEGAL AUTHORITY.—Section 2301 of title 46,
14 United States Code, is amended—

15 (1) by striking “chapter” and inserting “title”;
16 and

17 (2) by inserting after “1988” the following:
18 “and the exclusive economic zone to the extent that
19 the regulation of such operation is not prohibited
20 under customary international law”.

21 (c) TRAINING FOR COAST GUARD PERSONNEL.—Not
22 later than 180 days after the date of enactment of this
23 Act, the Secretary of the department in which the Coast
24 Guard is operating shall establish a program to provide

1 Coast Guard personnel with the training necessary for the
2 implementation of the amendments made by this section.

3 **SEC. 710. SAFETY MANAGEMENT SYSTEMS FOR MOBILE**
4 **OFFSHORE DRILLING UNITS.**

5 Section 3203 of title 46, United States Code, is
6 amended—

7 (1) by redesignating subsection (b) as sub-
8 section (c); and

9 (2) by inserting after subsection (a) the fol-
10 lowing:

11 “(b) MOBILE OFFSHORE DRILLING UNITS.—The
12 safety management system described in subsection (a) for
13 a mobile offshore drilling unit operating in waters subject
14 to the jurisdiction of the United States (including the ex-
15 clusive economic zone) shall include processes, procedures,
16 and policies related to the safe operation and maintenance
17 of the machinery and systems on board the vessel that
18 may affect the seaworthiness of the vessel in a worst-case
19 event.”.

20 **SEC. 711. SAFETY STANDARDS FOR MOBILE OFFSHORE**
21 **DRILLING UNITS.**

22 Section 3306 of title 46, United States Code, is
23 amended by adding at the end the following:

1 “(k) In prescribing regulations for mobile offshore
2 drilling units, the Secretary shall develop standards to ad-
3 dress a worst-case event on the vessel.”.

4 **SEC. 712. OPERATIONAL CONTROL OF MOBILE OFFSHORE**

5 **DRILLING UNITS.**

6 (a) **LICENSES FOR MASTERS OF MOBILE OFFSHORE**
7 **DRILLING UNITS.—**

8 (1) **IN GENERAL.**—Chapter 71 of title 46,
9 United States Code, is amended by redesignating
10 sections 7104 through 7114 as sections 7105
11 through 7115, respectively, and by inserting after
12 section 7103 the following:

13 **“§ 7104. Licenses for masters of mobile offshore drill-**
14 **ing units**

15 “A license as master of a mobile offshore drilling unit
16 may be issued only to an applicant who has been issued
17 a license as master under section 7101(c)(1) and has dem-
18 onstrated the knowledge, understanding, proficiency, and
19 sea service for all industrial business or functions of a mo-
20 bile offshore drilling unit.”.

21 (2) **CONFORMING AMENDMENT.**—Section 7109
22 of such title, as so redesignated, is amended by
23 striking “section 7106 or 7107” and inserting “sec-
24 tion 7107 or 7108”.

1 (3) CLERICAL AMENDMENT.—The analysis at
2 the beginning of such chapter is amended by strik-
3 ing the items relating to sections 7104 through 7114
4 and inserting the following:

“7104. Licenses for masters of mobile offshore drilling units.

“7105. Certificates for medical doctors and nurses.

“7106. Oaths.

“7107. Duration of licenses.

“7108. Duration of certificates of registry.

“7109. Termination of licenses and certificates of registry.

“7110. Review of criminal records.

“7111. Exhibiting licenses.

“7112. Oral examinations for licenses.

“7113. Licenses of masters or mates as pilots.

“7114. Exemption from draft.

“7115. Fees.”.

5 (b) REQUIREMENT FOR CERTIFICATE OF INSPEC-
6 TION.—Section 8101(a)(2) of title 46, United States
7 Code, is amended by inserting before the semicolon the
8 following: “and shall at all times be under the command
9 of a master licensed under section 7104”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect 6 months after the date of
12 enactment of this Act.

13 **SEC. 713. SINGLE-HULL TANKERS.**

14 (a) APPLICATION OF TANK VESSEL CONSTRUCTION
15 STANDARDS.—Section 3703a(b) of title 46, United States
16 Code, is amended by striking paragraph (3), and redesi-
17 gnating paragraphs (4) through (6) as paragraphs (3)
18 through (5), respectively.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) takes effect on January 1, 2011.

1 **SEC. 714. REPEAL OF RESPONSE PLAN WAIVER.**

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

4 (1) by striking “a tank vessel, nontank vessel,
5 offshore facility, or onshore facility” and inserting
6 “a nontank vessel”;

7 (2) by striking “tank vessel, nontank vessel, or
8 facility” and inserting “nontank vessel”; and

9 (3) by adding at the end the following: “A mo-
10 bile offshore drilling unit, as such term is defined in
11 section 1001 of the Oil Pollution Act of 1990 (33
12 U.S.C. 2701), is not eligible to operate without a re-
13 sponse plan approved under this section.”.

14 **SEC. 715. NATIONAL CONTINGENCY PLAN.**

15 (a) GUIDELINES FOR CONTAINMENT BOOMS.—Sec-
16 tion 311(d)(2) of the Federal Water Pollution Control Act
17 (33 U.S.C. 1321(d)(2)) is amended by adding at the end
18 the following:

19 “(N) Guidelines regarding the use of con-
20 tainment booms to contain a discharge of oil or
21 a hazardous substance, including identification
22 of quantities of containment booms likely to be
23 needed, available sources of containment booms,
24 and best practices for containment boom place-
25 ment, monitoring, and maintenance.”.

1 (b) SCHEDULE, CRITERIA, AND FEES.—Section
2 311(d) of the Federal Water Pollution Control Act (33
3 U.S.C. 1321(d)) is amended by adding at the end the fol-
4 lowing:

5 “(5) SCHEDULE FOR USE OF DISPERSANTS,
6 OTHER CHEMICALS, AND OTHER SPILL MITIGATING
7 DEVICES AND SUBSTANCES.—

8 “(A) RULEMAKING.—Not later than 2
9 years after the date of enactment of this para-
10 graph, the President, acting through the Ad-
11 ministrator, after providing notice and an op-
12 portunity for public comment, shall issue a re-
13 vised regulation for the development of the
14 schedule for the use of dispersants, other
15 chemicals, and other spill mitigating devices
16 and substances developed under paragraph
17 (2)(G) in a manner that is consistent with the
18 requirements of this paragraph and shall mod-
19 ify the existing schedule to take into account
20 the requirements of the revised regulation.

21 “(B) SCHEDULE LISTING REQUIRE-
22 MENTS.—In issuing the regulation under sub-
23 paragraph (A), the Administrator shall—

24 “(i) with respect to dispersants, other
25 chemicals, and other spill mitigating sub-

1 stances included or proposed to be included
2 on the schedule under paragraph (2)(G)—

3 “(I) establish minimum toxicity
4 and efficacy testing criteria, taking
5 into account the results of the study
6 carried out under subparagraph (D);

7 “(II) provide for testing or other
8 verification (independent from the in-
9 formation provided by an applicant
10 seeking the inclusion of such dispers-
11 ant, chemical, or substance on the
12 schedule) related to the toxicity and
13 effectiveness of such dispersant, chem-
14 ical, or substance;

15 “(III) establish a framework for
16 the application of any such dispersant,
17 chemical, or substance, including—

18 “(aa) application conditions;

19 “(bb) the quantity thresh-
20 olds for which approval by the
21 Administrator is required;

22 “(cc) the criteria to be used
23 to develop the appropriate max-
24 imum quantity of any such dis-
25 persant, chemical, or substance

1 that the Administrator deter-
2 mines may be used, both on a
3 daily and cumulative basis; and

4 “(dd) a ranking, by geo-
5 graphic area, of any such dis-
6 persant, chemical, or substance
7 based on a combination of its ef-
8 fectiveness for each type of oil
9 and its level of toxicity;

10 “(IV) establish a requirement
11 that the volume of oil or hazardous
12 substance discharged, and the volume
13 and location of any such dispersant,
14 chemical, or substance used, be meas-
15 ured and made publicly available, in-
16 cluding on the Internet;

17 “(V) require the public disclosure
18 of the specific chemical identity, in-
19 cluding the chemical and common
20 name of any ingredients contained in,
21 and specific chemical formulas or mix-
22 tures of, any such dispersant, chem-
23 ical, or substance; and

24 “(VI) in addition to existing au-
25 thority, expressly provide a mecha-

1 nism for the delisting of any such dis-
2 persant, chemical, or substance that
3 the Administrator determines poses a
4 significant risk or impact to water
5 quality, the environment, or any other
6 factor the Administrator determines
7 appropriate;

8 “(ii) with respect to a dispersant,
9 other chemical, and other spill mitigating
10 substance not specifically identified on the
11 schedule, and prior to the use of such dis-
12 persant, chemical, or substance in accord-
13 ance with paragraph (2)(G)—

14 “(I) establish the minimum tox-
15 icity and efficacy levels for such dis-
16 persant, chemical, or substance;

17 “(II) require the public disclosure
18 of the specific chemical identity of (in-
19 cluding the chemical and common
20 name of any ingredients contained in
21 and the specific chemical formula or
22 mixture of) any such dispersant,
23 chemical, or substance; and

1 “(III) require the provision of
2 such additional information as the Ad-
3 ministrator determines necessary; and
4 “(iii) with respect to other spill miti-
5 gating devices included or proposed to be
6 included on the schedule under paragraph
7 (2)(G)—

8 “(I) require the manufacturer of
9 such device to carry out a study of the
10 risks and effectiveness of the device
11 according to guidelines developed and
12 published by the Administrator; and

13 “(II) in addition to existing au-
14 thority, expressly provide a mecha-
15 nism for the delisting of any such de-
16 vice based on any information made
17 available to the Administrator that
18 demonstrates that such device poses a
19 significant risk or impact to water
20 quality, the environment, or any other
21 factor the Administrator determines
22 appropriate.

23 “(C) DELISTING.—In carrying out sub-
24 paragraphs (B)(i)(VI) and (B)(iii)(II), the Ad-
25 ministrator, after posting a notice in the Fed-

1 eral Register and providing an opportunity for
2 public comment, shall initiate a formal review
3 of the potential risks and impacts associated
4 with a dispersant, chemical, substance, or de-
5 vice prior to delisting the dispersant, chemical,
6 substance, or device.

7 “(D) STUDY.—

8 “(i) IN GENERAL.—Not later than 3
9 months after the date of enactment of this
10 paragraph, the Administrator shall initiate
11 a study of the potential risks and impacts
12 to water quality, the environment, or any
13 other factor the Administrator determines
14 appropriate, including acute and chronic
15 risks, from the use of dispersants, other
16 chemicals, and other spill mitigating sub-
17 stances, if any, that may be used to carry
18 out the National Contingency Plan, includ-
19 ing an assessment of such risks and im-
20 pacts—

21 “(I) on a representative sample
22 of biota and types of oil from loca-
23 tions where such dispersants, chemi-
24 cals, or substances may potentially be
25 used; and

1 “(II) that result from any by-
2 products created from the use of such
3 dispersants, chemicals, or substances.

4 “(ii) INFORMATION FROM MANUFAC-
5 TURERS.—

6 “(I) IN GENERAL.—In conjunc-
7 tion with the study authorized by
8 clause (i), the Administrator shall de-
9 termine the requirements for manu-
10 facturers of dispersants, chemicals, or
11 substances to evaluate the potential
12 risks and impacts to water quality,
13 the environment, or any other factor
14 the Administrator determines appro-
15 priate, including acute and chronic
16 risks, associated with the use of the
17 dispersants, chemicals, or substances
18 and any byproducts generated by such
19 use and to provide the details of such
20 evaluation as a condition for listing on
21 the schedule, or approving for use
22 under this section, according to guide-
23 lines developed and published by the
24 Administrator.

1 “(II) MINIMUM REQUIREMENTS
2 FOR EVALUATION.—In carrying out
3 this clause, the Administrator shall re-
4 quire a manufacturer to include—

5 “(aa) information on the oils
6 and locations where such
7 dispersants, chemicals, or sub-
8 stances may potentially be used;
9 and

10 “(bb) if appropriate, an as-
11 sessment of application and im-
12 pacts from subsea use of the dis-
13 persant, chemical, or substance,
14 including the potential long term
15 effects of such use on water qual-
16 ity and the environment.

17 “(E) PERIODIC REVISIONS.—

18 “(i) IN GENERAL.—Not later than 5
19 years after the date of the issuance of the
20 regulation under this paragraph, and on an
21 ongoing basis thereafter (and at least once
22 every 5 years), the Administrator shall re-
23 view the schedule for the use of
24 dispersants, other chemicals, and other
25 spill mitigating devices and substances that

1 may be used to carry out the National
2 Contingency Plan and update or revise the
3 schedule, as necessary, to ensure the pro-
4 tection of water quality, the environment,
5 and any other factor the Administrator de-
6 termines appropriate.

7 “(ii) EFFECTIVENESS.—The Adminis-
8 trator shall ensure, to the maximum extent
9 practicable, that each update or revision to
10 the schedule increases the minimum effec-
11 tiveness value necessary for listing a dis-
12 persant, other chemical, or other spill miti-
13 gating device or substance on the schedule.

14 “(F) APPROVAL OF USE AND APPLICATION
15 OF DISPERSANTS.—

16 “(i) IN GENERAL.—In issuing the reg-
17 ulation under subparagraph (A), the Ad-
18 ministrator shall require the approval of
19 the Federal On-Scene Coordinator, in co-
20 ordination with the Administrator, for all
21 uses of a dispersant, other chemical, or
22 other spill mitigating substance in any re-
23 moval action, including—

24 “(I) any such dispersant, chem-
25 ical, or substance that is included on

1 the schedule developed pursuant to
2 this subsection; or

3 “(II) any dispersant, chemical, or
4 other substance that is included as
5 part an approved area contingency
6 plan or response plan developed under
7 this section.

8 “(ii) REPEAL.—Any part of section
9 300.910 of title 40, Code of Federal Regu-
10 lations, that is inconsistent with this para-
11 graph is hereby repealed.

12 “(G) TOXICITY DEFINITION.—In this sec-
13 tion, the term ‘toxicity’ is used in reference to
14 the potential impacts of a dispersant, sub-
15 stance, or device on water quality or the envi-
16 ronment.

17 “(6) REVIEW OF AND DEVELOPMENT OF CRI-
18 TERIA FOR EVALUATING RESPONSE PLANS.—

19 “(A) REVIEW.—Not later than 6 months
20 after the date of enactment of this paragraph,
21 the President shall review the procedures and
22 standards developed under paragraph (2)(J) to
23 determine their sufficiency in ceasing and re-
24 moving a worst case discharge of oil or haz-
25 ardous substances, and for mitigating or pre-

1 venting a substantial threat of such a dis-
2 charge.

3 “(B) RULEMAKING.—Not later than 2
4 years after the date of enactment of this para-
5 graph, the President, after providing notice and
6 an opportunity for public comment, shall issue
7 a final rule to—

8 “(i) revise the procedures and stand-
9 ards for ceasing and removing a worst case
10 discharge of oil or hazardous substances,
11 and for mitigating or preventing a substan-
12 tial threat of such a discharge; and

13 “(ii) develop a metric for evaluating
14 the National Contingency Plan, Area Con-
15 tingency Plans, and tank vessel, nontank
16 vessel, and facility response plans con-
17 sistent with the procedures and standards
18 developed pursuant to this paragraph.

19 “(7) FEES.—

20 “(A) GENERAL AUTHORITY AND FEES.—
21 Subject to subparagraph (B), the Administrator
22 shall establish a schedule of fees to be collected
23 from the manufacturer of a dispersant, chem-
24 ical, or spill mitigating substance or device to
25 offset the costs of the Administrator associated

1 with evaluating the use of the dispersant, chem-
2 ical, substance, or device in accordance with
3 this subsection and listing the dispersant, chem-
4 ical, substance, or device on the schedule under
5 paragraph (2)(G).

6 “(B) LIMITATION ON COLLECTION.—No
7 fee may be collected under this subsection un-
8 less the expenditure of the fee to pay the costs
9 of activities and services for which the fee is im-
10 posed is provided for in advance in an appro-
11 priations Act.

12 “(C) FEES CREDITED AS OFFSETTING
13 COLLECTIONS.—

14 “(i) IN GENERAL.—Notwithstanding
15 section 3302 of title 31, United States
16 Code, any fee authorized to be collected
17 under this paragraph shall—

18 “(I) be credited as offsetting col-
19 lections to the account that finances
20 the activities and services for which
21 the fee is imposed;

22 “(II) be available for expenditure
23 only to pay the costs of activities and
24 services for which the fee is imposed,

1 including all costs associated with col-
2 lecting such fees; and

3 “(III) remain available until ex-
4 pended.

5 “(ii) CONTINUING APPROPRIATIONS.—
6 The Administrator may continue to assess,
7 collect, and spend fees established under
8 this section during any period in which the
9 funding for the Environmental Protection
10 Agency is provided under an Act providing
11 continuing appropriations in lieu of the
12 Administration’s regular appropriations.

13 “(iii) ADJUSTMENTS.—The Adminis-
14 trator shall adjust the fees established by
15 subparagraph (A) periodically to ensure
16 that each of the fees required by subpara-
17 graph (A) is reasonably related to the Ad-
18 ministration’s costs, as determined by the
19 Administrator, of performing the activity
20 for which the fee is imposed.”.

21 (c) TEMPORARY MORATORIUM ON APPROVAL OF USE
22 OF DISPERSANTS.—

23 (1) IN GENERAL.—Subject to paragraph (2),
24 the Administrator of the Environmental Protection
25 Agency may not approve the use of a dispersant

1 under section 311(d) of the Oil Pollution Act of
2 1990 (33 U.S.C. 1321(d)), and shall withdraw any
3 approval of such use made before the date of enact-
4 ment of this Act, until the date on which the rule-
5 making and study required by subparagraphs (A)
6 and (D) of section 311(d)(5) of such Act (as added
7 by subsection (b) of this section) are complete.

8 (2) **CONDITIONAL APPROVAL.**—The Adminis-
9 trator may approve the use of a dispersant under
10 section 311(d) of such Act (33 U.S.C. 1321(d)) for
11 the period of time before the date on which the rule-
12 making and study required by subparagraphs (A)
13 and (D) of section 311(d)(5) of such Act (as added
14 by subsection (b) of this section) are complete if the
15 Administrator determines that such use will not
16 have a negative impact on water quality, the envi-
17 ronment, or any other factor the Administrator de-
18 termines appropriate.

19 (3) **INFORMATION.**—In approving the use of a
20 dispersant under paragraph (2), the Administrator
21 may require the manufacturer of the dispersant to
22 provide such information as the Administrator deter-
23 mines necessary to satisfy the requirements of that
24 paragraph.

1 (d) INCLUSION OF CONTAINMENT BOOMS IN AREA
2 CONTINGENCY PLANS.—Section 311(j)(4)(C)(iv) of such
3 Act (33 U.S.C. 1321(j)(4)(C)(iv)) is amended by striking
4 “(including firefighting equipment)” and inserting “(in-
5 cluding firefighting equipment and containment booms)”.

6 **SEC. 716. TRACKING DATABASE.**

7 Section 311(b) of the Federal Water Pollution Con-
8 trol Act (33 U.S.C. 1321(b)) is amended by adding at the
9 end the following:

10 “(13) TRACKING DATABASE.—

11 “(A) IN GENERAL.—The President shall
12 create a database to track all discharges of oil
13 or hazardous substances—

14 “(i) into the waters of the United
15 States, onto adjoining shorelines, or into or
16 upon the waters of the contiguous zone;

17 “(ii) in connection with activities
18 under the Outer Continental Shelf Lands
19 Act (43 U.S.C. 1331 et seq.) or the Deep-
20 water Port Act of 1974 (33 U.S.C. 1501
21 et seq.); or

22 “(iii) which may affect natural re-
23 sources belonging to, appertaining to, or
24 under the exclusive management authority
25 of the United States (including resources

1 under the Fishery Conservation and Man-
2 agement Act of 1976 (16 U.S.C. 1801 et
3 seq.)).

4 “(B) REQUIREMENTS.—The database
5 shall—

6 “(i) include—

7 “(I) the name of the vessel or fa-
8 cility;

9 “(II) the name of the owner, op-
10 erator, or person in charge of the ves-
11 sel or facility;

12 “(III) the date of the discharge;

13 “(IV) the volume of the dis-
14 charge;

15 “(V) the location of the dis-
16 charge, including an identification of
17 any receiving waters that are or could
18 be affected by the discharge;

19 “(VI) the type, volume, and loca-
20 tion of the use of any dispersant,
21 other chemical, or other spill miti-
22 gating substance used in any removal
23 action;

24 “(VII) a record of any deter-
25 mination of a violation of this section

1 or liability under section 1002 of the
2 Oil Pollution Act of 1990 (33 U.S.C.
3 2702);

4 “(VIII) a record of any enforce-
5 ment action taken against the owner,
6 operator, or person in charge; and

7 “(IX) any additional information
8 that the President determines nec-
9 essary;

10 “(ii) use data provided by the Envi-
11 ronmental Protection Agency, the Coast
12 Guard, and other appropriate Federal
13 agencies;

14 “(iii) use data protocols developed and
15 managed by the Environmental Protection
16 Agency; and

17 “(iv) be publicly accessible, including
18 by electronic means.”.

19 **SEC. 717. EVALUATION AND APPROVAL OF RESPONSE**
20 **PLANS; MAXIMUM PENALTIES.**

21 (a) AGENCY REVIEW OF RESPONSE PLANS.—

22 (1) LEAD FEDERAL AGENCY FOR REVIEW OF
23 RESPONSE PLANS.—Section 311(j)(5)(A) of the Fed-
24 eral Water Pollution Control Act (33 U.S.C.

1 1321(j)(5)(A)) is amended by adding at the end the
2 following:

3 “(iii) In issuing the regulations under this para-
4 graph, the President shall ensure that—

5 “(I) the owner, operator, or person in
6 charge of a tank vessel, nontank vessel, or off-
7 shore facility described in subparagraph (C) will
8 not be considered to have complied with this
9 paragraph until the owner, operator, or person
10 in charge submits a plan under clause (i) or
11 (ii), as appropriate, to the Secretary of the de-
12 partment in which the Coast Guard is oper-
13 ating, the Secretary of the Interior, or the Ad-
14 ministrator, with respect to such offshore facili-
15 ties as the President may designate, and the
16 Secretary or Administrator, as appropriate, de-
17 termines and notifies the owner, operator, or
18 person in charge that the plan, if implemented,
19 will provide an adequate response to a worst
20 case discharge of oil or a hazardous substance
21 or a substantial threat of such a discharge; and

22 “(II) the owner, operator, or person in
23 charge of an onshore facility described in sub-
24 paragraph (C)(iv) will not be considered to have
25 complied with this paragraph until the owner,

1 operator, or person in charge submits a plan
2 under clause (i) either to the Secretary of
3 Transportation, with respect to transportation-
4 related onshore facilities, or the Administrator,
5 with respect to all other onshore facilities, and
6 the Secretary or Administrator, as appropriate,
7 determines and notifies the owner, operator, or
8 person in charge that the plan, if implemented,
9 will provide an adequate response to a worst-
10 case discharge of oil or a hazardous substance
11 or a substantial threat of such a discharge.

12 “(iv)(I) The Secretary of the department in
13 which the Coast Guard is operating, the Secretary of
14 the Interior, the Secretary of Transportation, or the
15 Administrator, as appropriate, shall require that a
16 plan submitted to the Secretary or Administrator for
17 a vessel or facility under clause (iii)(I) or (iii)(II) by
18 an owner, operator, or person in charge—

19 “(aa) contain a probabilistic risk analysis
20 for all critical engineered systems of the vessel
21 or facility; and

22 “(bb) adequately address all risks identi-
23 fied in the risk analysis.

24 “(II) The Secretary or Administrator, as appro-
25 priate, shall require that a risk analysis developed

1 under subclause (I) include, at a minimum, the fol-
2 lowing:

3 “(aa) An analysis of human factors risks,
4 including both organizational and management
5 failure risks.

6 “(bb) An analysis of technical failure risks,
7 including both component technologies and inte-
8 grated systems risks.

9 “(cc) An analysis of interactions between
10 humans and critical engineered systems.

11 “(dd) Quantification of the likelihood of
12 modes of failure and potential consequences.

13 “(ee) A description of methods for reduc-
14 ing known risks.

15 “(III) The Secretary or Administrator, as ap-
16 propriate, shall require an owner, operator, or per-
17 son in charge that develops a risk analysis under
18 subclause (I) to make the risk analysis available to
19 the public.”.

20 (2) REVIEW AND APPROVAL OF RESPONSE
21 PLANS.—Section 311(j)(5)(E) of such Act (33
22 U.S.C. 1321(j)(5)(E)) is amended to read as follows:

23 “(E) With respect to any response plan sub-
24 mitted under this paragraph for an onshore facility
25 that, because of its location, could reasonably be ex-

1 pected to cause significant and substantial harm to
2 the environment by discharging into or on the navi-
3 gable waters or adjoining shorelines or the exclusive
4 economic zone, and with respect to each response
5 plan submitted under this paragraph for a tank ves-
6 sel, nontank vessel, or offshore facility, the President
7 shall—

8 “(i) promptly review the response plan;

9 “(ii) verify that the response plan complies
10 with subparagraph (A)(iv), relating to risk anal-
11 yses;

12 “(iii) with respect to a plan for an offshore
13 or onshore facility or a tank vessel that carries
14 liquefied natural gas, provide an opportunity for
15 public notice and comment on the response
16 plan;

17 “(iv) taking into consideration any public
18 comments received and other appropriate fac-
19 tors, as determined by the President, require
20 revisions to the response plan;

21 “(v) approve, approve with revisions, or
22 disapprove the response plan;

23 “(vi) review the response plan periodically
24 thereafter, and if applicable requirements are

1 not met, acting through the head of the appro-
2 priate Federal department or agency—

3 “(I) issue administrative orders di-
4 recting the owner, operator, or person in
5 charge to comply with the response plan or
6 any regulation issued under this section; or

7 “(II) assess civil penalties or conduct
8 other appropriate enforcement actions in
9 accordance with subsections (b)(6), (b)(7),
10 and (b)(8) for failure to develop, submit,
11 receive approval of, adhere to, or maintain
12 the capability to implement the response
13 plan, or failure to comply with any other
14 requirement of this section;

15 “(vii) acting through the head of the ap-
16 propriate Federal department or agency, con-
17 duct, at a minimum, biennial inspections of the
18 tank vessel, nontank vessel, or facility to ensure
19 compliance with the response plan or identify
20 deficiencies in such plan;

21 “(viii) acting through the head of the ap-
22 propriate Federal department or agency, make
23 the response plan available to the public, includ-
24 ing on the Internet; and

1 “(ix) in the case of a plan for a nontank
2 vessel, consider any applicable State-mandated
3 response plan in effect on the date of enactment
4 of the Coast Guard and Maritime Transpor-
5 tation Act of 2004 and ensure consistency to
6 the extent practicable.”.

7 (3) BIENNIAL REPORT.—Section 311(j)(5) of
8 such Act (33 U.S.C. 1321(j)(5)) is amended by add-
9 ing at the end the following:

10 “(J) Not later than 2 years after the date of
11 enactment of this subparagraph, and biennially
12 thereafter, the President, acting through the Admin-
13 istrator, the Secretary of the department in which
14 the Coast Guard is operating, and the Secretary of
15 Transportation, shall submit to Congress a report
16 containing the following information for each owner,
17 operator, or person in charge that submitted a re-
18 sponse plan for a tank vessel, nontank vessel, or fa-
19 cility under this paragraph:

20 “(i) The number of response plans ap-
21 proved, disapproved, or approved with revisions
22 under subparagraph (E) annually for tank ves-
23 sels, nontank vessels, and facilities of the
24 owner, operator, or person in charge.

1 “(ii) The number of inspections conducted
2 under subparagraph (E) annually for tank ves-
3 sels, nontank vessels, and facilities of the
4 owner, operator, or person in charge.

5 “(iii) A summary of each administrative or
6 enforcement action concluded with respect each
7 tank vessel, nontank vessel, and facility of the
8 owner, operator, or person in charge, including
9 a description of the violation, the date of viola-
10 tion, the amount of each penalty proposed, and
11 the final assessment of each penalty and an ex-
12 planation for any reduction in a penalty.”.

13 (4) ADMINISTRATIVE PROVISIONS FOR FACILI-
14 TIES.—Section 311(m)(2) of such Act (33 U.S.C.
15 1321(m)(2)) is amended in each of subparagraphs
16 (A) and (B) by inserting “, the Secretary of Trans-
17 portation,” before “or the Secretary of the depart-
18 ment in which the Coast Guard is operating”.

19 (b) PENALTIES.—

20 (1) ADMINISTRATIVE PENALTIES.—

21 (A) AUTHORITY OF SECRETARY OF TRANS-
22 PORTATION TO ASSESS PENALTIES.—Section
23 311(b)(6)(A) of such Act (33 U.S.C.
24 1321(b)(6)(A)) is amended by inserting “, the

1 Secretary of Transportation,” before “or the
2 Administrator”.

3 (B) ADMINISTRATIVE PENALTIES FOR
4 FAILURE TO PROVIDE NOTICE.—Section
5 311(b)(6)(A) of such Act (33 U.S.C.
6 1321(b)(6)(A)) is further amended—

7 (i) in clause (i) by striking “para-
8 graph (3), or” and inserting “paragraph
9 (3),”;

10 (ii) in clause (ii) by striking “any reg-
11 ulation issued under subsection (j)” and
12 inserting “any order or action required by
13 the President under subsection (c) or (e)
14 or any regulation issued under subsection
15 (d) or (j)”;

16 (iii) by redesignating clause (ii) as
17 clause (iii);

18 (iv) by inserting after clause (i) the
19 following:

20 “(ii) who fails to provide notice to the
21 appropriate Federal agency pursuant to
22 paragraph (5), or”; and

23 (v) by adding at the end the following:
24 “Whenever the President delegates the au-
25 thority to issue regulations under sub-

1 section (j), the head of the agency who
2 issues regulations pursuant to that author-
3 ity shall have the authority to assess a civil
4 penalty in accordance with this section for
5 violations of such regulations.”.

6 (C) PENALTY AMOUNTS.—Section
7 311(b)(6)(B) of such Act (33 U.S.C.
8 1321(b)(6)(B)) is amended—

9 (i) in clause (i)—

10 (I) by striking “\$10,000” and in-
11 sserting “\$100,000”; and

12 (II) by striking “\$25,000” and
13 inserting “\$250,000”; and

14 (ii) in clause (ii)—

15 (I) by striking “\$10,000” and in-
16 sserting “\$100,000”; and

17 (II) by striking “\$125,000” and
18 inserting “\$1,000,000”.

19 (2) CIVIL PENALTIES.—Section 311(b)(7) of
20 such Act (33 U.S.C. 1321(b)(7)) is amended—

21 (A) in subparagraph (A)—

22 (i) by striking “\$25,000” and insert-
23 ing “\$100,000”; and

24 (ii) by striking “\$1,000” and insert-
25 ing “\$2,500”;

1 (B) in subparagraph (B)—

2 (i) by striking “described in subpara-
3 graph (A)”;

4 (ii) in clause (i) by striking “carry out
5 removal of the discharge under an order of
6 the President pursuant to subsection (c);
7 or” and inserting “comply with any order
8 or action required by the President pursu-
9 ant to subsection (c),”;

10 (iii) in clause (ii) by striking
11 “(1)(B)”;

12 (iv) by redesignating clause (ii) as
13 clause (iii);

14 (v) by inserting after clause (i) the
15 following:

16 “(ii) fails to provide notice to the ap-
17 propriate Federal agency pursuant to para-
18 graph (5), or”;

19 (vi) by striking “\$25,000” and insert-
20 ing “\$100,000”;

21 (C) in subparagraph (C)—

22 (i) by striking “(j)” and inserting “(d)
23 or (j)”;

24 (ii) by striking “\$25,000” and insert-
25 ing “\$100,000”; and

1 (iii) by adding at the end the fol-
2 lowing: “Whenever the President delegates
3 the authority to issue regulations under
4 subsection (j), the head of the agency who
5 issues regulations pursuant to that author-
6 ity shall have the authority to seek injunc-
7 tive relief or assess a civil penalty in ac-
8 cordance with this section for violations of
9 such regulations and the authority to refer
10 the matter to the Attorney General for ac-
11 tion under subparagraph (E).”;

12 (D) in subparagraph (D)—

13 (i) by striking “\$100,000” and insert-
14 ing “\$300,000”; and

15 (ii) by striking “\$3,000” and insert-
16 ing “\$7,500”; and

17 (E) in subparagraph (E) by adding at the
18 end the following: “The court may award ap-
19 propriate relief, including a temporary or per-
20 manent injunction, civil penalties, and punitive
21 damages.”.

22 (3) APPLICABILITY.—The amendments made
23 by this subsection apply to—

1 (A) any claim arising from an event occur-
2 ring after the date of enactment of this Act;
3 and

4 (B) any claim arising from an event occur-
5 ring before such date of enactment, if the claim
6 is brought within the limitations period applica-
7 ble to the claim.

8 (c) CLARIFICATION OF FEDERAL REMOVAL AUTHOR-
9 ITY.—Section 311(c)(1)(B)(ii) of such Act (33 U.S.C.
10 1321(c)(1)(B)(ii)) is amended by striking “direct” and in-
11 serting “direct, including through the use of an adminis-
12 trative order,”.

13 **SEC. 718. OIL AND HAZARDOUS SUBSTANCE CLEANUP**
14 **TECHNOLOGIES.**

15 Section 311(j) of the Federal Water Pollution Control
16 Act (33 U.S.C. 1321(j)) is amended by adding at the end
17 the following:

18 “(9) OIL AND HAZARDOUS SUBSTANCE CLEAN-
19 UP TECHNOLOGIES.—The President, acting through
20 the Secretary of the department in which the Coast
21 Guard is operating, shall—

22 “(A) in coordination with the Secretary of
23 the Interior and the heads of other appropriate
24 Federal agencies, establish a process for—

1 “(i) quickly and effectively soliciting,
2 assessing, and deploying offshore oil and
3 hazardous substance cleanup technologies
4 in the event of a discharge or substantial
5 threat of a discharge of oil or a hazardous
6 substance; and

7 “(ii) effectively coordinating with
8 other appropriate agencies, industry, aca-
9 demia, small businesses, and others to en-
10 sure the best technology available is imple-
11 mented in the event of such a discharge or
12 threat; and

13 “(B) in coordination with the Secretary of
14 the Interior and the heads of other appropriate
15 Federal agencies, maintain a database on best
16 available oil and hazardous substance cleanup
17 technologies in the event of a discharge or sub-
18 stantial threat of a discharge of oil or a haz-
19 ardous substance.”.

20 **SEC. 719. IMPLEMENTATION OF OIL SPILL PREVENTION**
21 **AND RESPONSE AUTHORITIES.**

22 Section 311(l) of the Federal Water Pollution Control
23 Act (33 U.S.C. 1321(l)) is amended—

24 (1) by striking “(l) The President” and insert-
25 ing the following:

1 “(1) DELEGATION AND IMPLEMENTATION.—

2 “(1) DELEGATION.—The President”; and

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

4 “(2) ENVIRONMENTAL PROTECTION AGENCY.—

5 “(A) IN GENERAL.—The President shall
6 delegate the responsibilities under subparagraph
7 (B) to the Administrator.

8 “(B) RESPONSIBILITIES.—With respect to
9 onshore facilities (other than transportation-re-
10 lated facilities) and such offshore facilities as
11 the President may designate, the Administrator
12 shall ensure that Environmental Protection
13 Agency personnel develop and maintain oper-
14 ational capability—

15 “(i) for effective inspection, moni-
16 toring, prevention, preparedness, and re-
17 sponse authorities related to the discharge
18 or substantial threat of a discharge of oil
19 or a hazardous substance;

20 “(ii) to protect water quality and the
21 environment from impacts of a discharge
22 or substantial threat of a discharge of oil
23 or a hazardous substance; and

24 “(iii) to review and approve of, dis-
25 approve of, or require revisions (if nec-

1 essary) to facility response plans and to
2 carry out all other responsibilities under
3 subsection (j)(5)(E).

4 “(3) COAST GUARD.—

5 “(A) IN GENERAL.—The President shall
6 delegate the responsibilities under subparagraph
7 (B) to the Secretary of the department in which
8 the Coast Guard is operating.

9 “(B) RESPONSIBILITIES.—The Secretary
10 shall ensure that Coast Guard personnel de-
11 velop and maintain operational capability—

12 “(i) to establish and enforce regula-
13 tions and standards for procedures, meth-
14 ods, equipment, and other requirements to
15 prevent and to contain a discharge of oil or
16 a hazardous substance from a tank vessel
17 or nontank vessel or such an offshore facil-
18 ity as the President may designate;

19 “(ii) to establish and enforce regula-
20 tions, and to carry out all other respon-
21 sibilities, under subsection (j)(5) with re-
22 spect to such vessels and offshore facilities
23 as the President may designate; and

24 “(iii) to protect the environment and
25 natural resources from impacts of a dis-

1 charge or substantial threat of a discharge
2 of oil or a hazardous substance from such
3 vessels and offshore facilities as the Presi-
4 dent may designate.

5 “(C) ROLE AS FIRST RESPONDER.—

6 “(i) IN GENERAL.—The responsibil-
7 ities delegated to the Secretary under sub-
8 paragraph (B) shall be sufficient to allow
9 the Coast Guard to act as a first responder
10 to a discharge or substantial threat of a
11 discharge of oil or a hazardous substance
12 from a tank vessel, nontank vessel, or off-
13 shore facility.

14 “(ii) CAPABILITIES.—The President
15 shall ensure that the Coast Guard has suf-
16 ficient personnel and resources to act as a
17 first responder as described in clause (i),
18 including the resources necessary for on-
19 going training of personnel, acquisition of
20 equipment (including containment booms,
21 dispersants, and skimmers), and
22 prepositioning of equipment.

23 “(D) CONTRACTS.—The Secretary may
24 enter into contracts with private and nonprofit
25 organizations for personnel and equipment in

1 carrying out the responsibilities delegated to the
2 Secretary under subparagraph (B).

3 “(4) DEPARTMENT OF TRANSPORTATION.—

4 “(A) IN GENERAL.—The President shall
5 delegate the responsibilities under subparagraph
6 (B) to the Secretary of Transportation.

7 “(B) RESPONSIBILITIES.—The Secretary
8 of Transportation shall—

9 “(i) establish and enforce regulations
10 and standards for procedures, methods,
11 equipment, and other requirements to pre-
12 vent and to contain discharges of oil and
13 hazardous substances from transportation-
14 related onshore facilities;

15 “(ii) have the authority to review and
16 approve of, disapprove of, or require revi-
17 sions (if necessary) to transportation-re-
18 lated onshore facility response plans and to
19 carry out all other responsibilities under
20 subsection (j)(5)(E); and

21 “(iii) ensure that Department of
22 Transportation personnel develop and
23 maintain operational capability—

24 “(I) for effective inspection, mon-
25 itoring, prevention, preparedness, and

1 response authorities related to the dis-
2 charge or substantial threat of a dis-
3 charge of oil or a hazardous substance
4 from a transportation-related onshore
5 facility; and

6 “(II) to protect the environment
7 and natural resources from the im-
8 pacts of a discharge or substantial
9 threat of a discharge of oil or a haz-
10 ardous substance from a transpor-
11 tation-related onshore facility.

12 “(5) DEPARTMENT OF THE INTERIOR.—

13 “(A) IN GENERAL.—The President shall
14 delegate the responsibilities under subparagraph
15 (B) to the Secretary of the Interior.

16 “(B) RESPONSIBILITIES.—The Secretary
17 of the Interior shall—

18 “(i) establish and enforce regulations
19 and standards for procedures, methods,
20 equipment, and other requirements to pre-
21 vent and to contain discharges of oil and
22 hazardous substances from such offshore
23 facilities as the President may designate;

24 “(ii) establish and enforce regulations
25 to carry out all other responsibilities under

1 subsection (j)(5) for such offshore facilities
2 as the President may designate;

3 “(iii) have the authority to review and
4 approve of, disapprove of, or require revi-
5 sions (if necessary) to offshore facility re-
6 sponse plans under subsection (j)(5) for
7 such offshore facilities as the President
8 may designate; and

9 “(iv) ensure that Department of the
10 Interior personnel develop and maintain
11 operational capability for effective inspec-
12 tion, monitoring, prevention, and prepared-
13 ness authorities related to the discharge or
14 a substantial threat of a discharge of oil or
15 hazardous material from such offshore fa-
16 cilities as the President may designate.”.

17 **SEC. 720. IMPACTS TO INDIAN TRIBES AND PUBLIC SERV-**
18 **ICE DAMAGES.**

19 (a) IN GENERAL.—Section 1002(b)(2) of the Oil Pol-
20 lution Act of 1990 (33 U.S.C. 2702(b)(2)) is amended—

21 (1) in subparagraph (D) by striking “or a polit-
22 ical subdivision thereof” and inserting “a political
23 subdivision of a State, or an Indian tribe”; and

24 (2) in subparagraph (F) by striking “by a
25 State” and all that follows before the period and in-

1 serting “the United States, a State, a political sub-
2 division of a State, or an Indian tribe”.

3 (b) APPLICABILITY.—The amendments made by this
4 section apply to—

5 (1) any claim arising from an event occurring
6 after the date of enactment of this Act; and

7 (2) any claim arising from an event occurring
8 before such date of enactment, if the claim is
9 brought within the limitations period applicable to
10 the claim.

11 **SEC. 721. FEDERAL ENFORCEMENT ACTIONS.**

12 Section 309(g)(6)(A) of the Federal Water Pollution
13 Control Act (33 U.S.C. 1319(g)(6)(A)) is amended by
14 striking “or section 311(b)”.

15 **SEC. 722. TIME REQUIRED BEFORE ELECTING TO PROCEED**
16 **WITH JUDICIAL CLAIM OR AGAINST THE**
17 **FUND.**

18 Paragraph (2) of section 1013(c) of the Oil Pollution
19 Act of 1990 (33 U.S.C. 2713(c)) is amended by striking
20 “90” and inserting “45”.

21 **SEC. 723. AUTHORIZED LEVEL OF COAST GUARD PER-**
22 **SONNEL.**

23 The authorized end-of-year strength for active duty
24 personnel of the Coast Guard for fiscal year 2011 is here-
25 by increased by 300 personnel, above any other level au-

1 thorized by law, for implementing the activities of the
2 Coast Guard under this title, including the amendments
3 made by this title.

4 **SEC. 724. CLARIFICATION OF MEMORANDUMS OF UNDER-**
5 **STANDING.**

6 Not later than September 30, 2011, the President
7 (acting through the head of the appropriate Federal de-
8 partment or agency) shall implement or revise, as appro-
9 priate, memorandums of understanding to clarify the roles
10 and jurisdictional responsibilities of the Environmental
11 Protection Agency, the Coast Guard, the Department of
12 the Interior, the Department of Transportation, and other
13 Federal agencies relating to the prevention of oil dis-
14 charges from tank vessels, nontank vessels, and facilities
15 subject to the Oil Pollution Act of 1990.

16 **SEC. 725. BUILD AMERICA REQUIREMENT FOR OFFSHORE**
17 **FACILITIES.**

18 (a) IN GENERAL.—Title VI of the Oil Pollution Act
19 of 1990 (33 U.S.C. 2751 et seq.) is amended by adding
20 at the end the following:

21 **“SEC. 6005. BUILD AMERICA REQUIREMENT FOR OFFSHORE**
22 **FACILITIES.**

23 “(a) BUILD AMERICA REQUIREMENT.—Except as
24 provided by subsection (b), a person may not use an off-
25 shore facility to engage in support of exploration, develop-

1 ment, or production of oil or natural gas in, on, above,
2 or below the exclusive economic zone unless the facility
3 was built in the United States, including construction of
4 any major component of the hull or superstructure of the
5 facility.

6 “(b) WAIVER AUTHORITY.—A person seeking to
7 charter an offshore facility in the exclusive economic zone
8 may seek a waiver of subsection (a). The Secretary may
9 waive subsection (a) if the Secretary, in consultation with
10 the Secretary of the Interior and the Secretary of Trans-
11 portation, finds that—

12 “(1) the offshore facility was built in a foreign
13 country and is under contract, on the date of enact-
14 ment of this section, in support of exploration, devel-
15 opment, or production of oil or natural gas in, on,
16 above, or below the exclusive economic zone;

17 “(2) an offshore facility built in the United
18 States is not available within a reasonable period of
19 time, as defined in subsection (e), or of sufficient
20 quality to perform drilling operations required under
21 a contract; or

22 “(3) an emergency requires the use of an off-
23 shore facility built in a foreign country.

24 “(c) WRITTEN JUSTIFICATION AND PUBLIC NOTICE
25 OF NONAVAILABILITY WAIVER.—When issuing a waiver

1 based on a determination under subsection (b)(2), the Sec-
2 retary shall issue a detailed written justification as to why
3 the waiver meets the requirement of such subsection. The
4 Secretary shall publish the justification in the Federal
5 Register and provide the public with 45 days for notice
6 and comment.

7 “(d) FINAL DECISION.—The Secretary shall approve
8 or deny any waiver request submitted under subsection (b)
9 not later than 90 days after the date of receipt of the re-
10 quest.

11 “(e) REASONABLE PERIOD OF TIME DEFINED.—For
12 purposes of subsection (b)(2), the term ‘reasonable period
13 of time’ means the time needed for a person seeking to
14 charter an offshore facility in the exclusive economic zone
15 to meet the requirements in the primary term of the per-
16 son’s lease.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 contained in section 2 of such Act is amended by inserting
19 after the item relating to section 6004 the following:

“Sec. 6005. Build America requirement for offshore facilities.”.

20 **SEC. 726. OIL SPILL RESPONSE VESSEL DATABASE.**

21 (a) REQUIREMENT.—Not later than 90 days after the
22 date of enactment of this Act, the Commandant of the
23 Coast Guard shall complete an inventory of all vessels op-
24 erating in the waters of the United States that are capable
25 of meeting oil spill response needs designated in the Na-

1 tional Contingency Plan authorized by section 311(d) of
2 the Federal Water Pollution Control Act (33 U.S.C.
3 1321(d)).

4 (b) CATEGORIZATION.—The inventory required under
5 subsection (a) shall categorize such vessels by capabilities,
6 type, function, and location.

7 (c) MAINTENANCE OF DATABASE.—The Com-
8 mandant shall maintain a database containing the results
9 of the inventory required under subsection (a) and update
10 the information in the database on no less than a quar-
11 terly basis.

12 (d) AVAILABILITY.—The Commandant may make in-
13 formation regarding the location and capabilities of oil
14 spill response vessels available to a Federal On-Scene Co-
15 ordinator designated under section 311 of such Act (33
16 U.S.C. 1321) to assist in the response to an oil spill or
17 other incident in the waters of the United States.

18 **SEC. 727. OFFSHORE SENSING AND MONITORING SYSTEMS.**

19 (a) REQUIREMENT.—Subtitle A of title IV of the Oil
20 Pollution Act of 1990 is amended by adding at the end
21 the following new section:

22 **“SEC. 4119. OFFSHORE SENSING AND MONITORING SYS-**
23 **TEMS.**

24 “(a) IN GENERAL.—The equipment required to be
25 available under section 311(j)(5)(D)(iii) of the Federal

1 Water Pollution Control Act for facilities listed in section
2 311(j)(5)(C)(iii) of such Act and located in more than 500
3 feet of water includes sensing and monitoring systems that
4 meet the requirements of this section.

5 “(b) SYSTEMS REQUIREMENTS.—Sensing and moni-
6 toring systems required under subsection (a) shall—

7 “(1) use an integrated, modular, expandable,
8 multi-sensor, open-architecture design and tech-
9 nology with interoperable capability;

10 “(2) be capable of—

11 “(A) operating for at least 25 years;

12 “(B) real-time physical, biological, geologi-
13 cal, and environmental monitoring;

14 “(C) providing alerts in the event of anom-
15 alous circumstances;

16 “(D) providing docking bases to accommo-
17 date spatial sensors for remote inspection and
18 monitoring; and

19 “(E) collecting chemical boundary condi-
20 tion data for drift and flow modeling; and

21 “(3) include—

22 “(A) an uninterruptible power source;

23 “(B) a spatial sensor;

24 “(C) secure Internet access to real-time
25 physical, biological, geological, and environ-

1 mental monitoring data gathered by the system
2 sensors; and

3 “(D) a process by which such observation
4 data and information will be made available to
5 Federal Regulators and to the system estab-
6 lished under section 12304 of Public Law 111-
7 11 (33 U.S.C. 3603).”.

8 (b) REQUEST FOR INFORMATION.—Within 60 days
9 after the date of enactment of this Act, the Secretary of
10 the department in which the Coast Guard is operating
11 shall issue a request for information to determine the most
12 capable and efficient domestic systems that meet the re-
13 quirements under section 4119 of the Oil Pollution Act
14 of 1990, as amended by this section.

15 (c) IMPLEMENTING REGULATIONS.—Within 180
16 days after the date of enactment of this Act, the Secretary
17 of the department in which the Coast Guard is operating
18 shall issue regulations to implement section 4119 of the
19 Oil Pollution Act of 1990 as amended by this section.

20 (d) CLERICAL AMENDMENT.—The table of contents
21 in section 2 of the Oil Pollution Act of 1990 is amended
22 by adding at the end of the items relating to such subtitle
23 the following new item:

 “Sec. 4119. Offshore sensing and monitoring systems.”.

1 **SEC. 728. OIL AND GAS EXPLORATION AND PRODUCTION.**

2 Section 502 of the Federal Water Pollution Control
3 Act (33 U.S.C. 1362) is amended—

4 (1) by striking paragraph (24); and

5 (2) by redesignating paragraph (25) as para-
6 graph (24).

7 **SEC. 729. LEAVE RETENTION AUTHORITY.**

8 (a) IN GENERAL.—Chapter 11 of title 14, United
9 States Code, is amended by inserting after section 425 the
10 following:

11 **“§ 426. Emergency leave retention authority**

12 “(a) IN GENERAL.—A duty assignment for an active
13 duty member of the Coast Guard in support of a declara-
14 tion of a major disaster or emergency by the President
15 under the Robert T. Stafford Disaster Relief and Emer-
16 gency Assistance Act (42 U.S.C. 5121 et seq.) or in re-
17 sponse to a spill of national significance shall be treated,
18 for the purpose of section 701(f)(2) of title 10, as a duty
19 assignment in support of a contingency operation.

20 “(b) DEFINITIONS.—In this section:

21 “(1) SPILL OF NATIONAL SIGNIFICANCE.—The
22 term ‘spill of national significance’ means a dis-
23 charge of oil or a hazardous substance that is de-
24 clared by the Commandant to be a spill of national
25 significance.

1 “(2) DISCHARGE.—The term ‘discharge’ has
2 the meaning given that term in section 1001 of the
3 Oil Pollution Act of 1990 (33 U.S.C. 2701).”.

4 (b) CLERICAL AMENDMENT.—The analysis for such
5 chapter is amended by inserting after the item relating
6 to section 425 the following:

 “426. Emergency leave retention authority.”.

7 **SEC. 730. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) COAST GUARD.—In addition to amounts made
9 available pursuant to section 1012(a)(5)(A) of the Oil Pol-
10 lution Act of 1990 (33 U.S.C. 2712(a)(5)(A)), there is au-
11 thorized to be appropriated to the Secretary of the depart-
12 ment in which the Coast Guard is operating from the Oil
13 Spill Liability Trust Fund established by section 9509 of
14 the Internal Revenue Code of 1986 (26 U.S.C. 9509) to
15 carry out the purposes of this title and the amendments
16 made by this title the following:

17 (1) For fiscal year 2011, \$30,000,000.

18 (2) For each of fiscal years 2012 through 2015,
19 \$32,000,000.

20 (b) ENVIRONMENTAL PROTECTION AGENCY.—In ad-
21 dition to amounts made available pursuant to section 1012
22 of the Oil Pollution Act of 1990 (33 U.S.C. 2712), there
23 is authorized to be appropriated to the Administrator of
24 the Environmental Protection Agency from the Oil Spill
25 Liability Trust Fund to implement this title and the

1 amendments made by this title \$10,000,000 for each of
2 fiscal years 2011 through 2015.

3 (c) DEPARTMENT OF TRANSPORTATION.—In addi-
4 tion to amounts made available pursuant to section 60125
5 of title 49, United States Code, there is authorized to be
6 appropriated to the Secretary of Transportation from the
7 Oil Spill Liability Trust Fund to carry out the purposes
8 of this title and the amendments made by this title the
9 following:

10 (1) For each of fiscal years 2011 through 2013,
11 \$7,000,000.

12 (2) For each of fiscal years 2014 and 2015,
13 \$6,000,000.

14 **TITLE VIII—MISCELLANEOUS**
15 **PROVISIONS**

16 **SEC. 801. REPEAL OF CERTAIN TAXPAYER SUBSIDIZED**
17 **ROYALTY RELIEF FOR THE OIL AND GAS IN-**
18 **DUSTRY.**

19 (a) PROVISIONS RELATING TO PLANNING AREAS
20 OFFSHORE ALASKA.—Section 8(a)(3)(B) of the Outer
21 Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B))
22 is amended by striking “and in the Planning Areas off-
23 shore Alaska” after “West longitude”.

24 (b) PROVISIONS RELATING TO NAVAL PETROLEUM
25 RESERVE IN ALASKA.—Section 107 of the Naval Petro-

1 leum Reserves Production Act of 1976 (as transferred, re-
2 designated, moved, and amended by section 347 of the En-
3 ergy Policy Act of 2005 (119 Stat. 704)) is amended—

4 (1) in subsection (i) by striking paragraphs (2)
5 through (6); and

6 (2) by striking subsection (k).

7 **SEC. 802. CONSERVATION FEE.**

8 (a) ESTABLISHMENT.—The Secretary shall, within
9 180 days after the date of enactment of this Act, issue
10 regulations to establish an annual conservation fee for all
11 oil and gas leases on Federal onshore and offshore lands.

12 (b) AMOUNT.—The amount of the fee shall be, for
13 each barrel or barrel equivalent produced from land that
14 is subject to a lease from which oil or natural gas is pro-
15 duced in a calendar year, \$2 per barrel of oil and 20 cents
16 per million BTU of natural gas in 2010 dollars.

17 (c) ASSESSMENT AND COLLECTION.—The Secretary
18 shall assess and collect the fee established under this sec-
19 tion.

20 (d) REGULATIONS.—The Secretary may issue regula-
21 tions to prevent evasion of the fee under this section.

22 (e) SUNSET.—This section and the fee established
23 under this section shall expire on December 31, 2021.

1 **SEC. 803. LEASING ON INDIAN LANDS.**

2 Nothing in this Act modifies, amends, or affects leas-
3 ing on Indian lands as currently carried out by the Bureau
4 of Indian Affairs.

5 **SEC. 804. OUTER CONTINENTAL SHELF STATE BOUND-**
6 **ARIES.**

7 (a) GENERAL.—Not later than 2 years after the date
8 of enactment of this Act, the President, acting through
9 the Secretary of the Interior, shall publish a final deter-
10 mination under section 4(a)(2) of the Outer Continental
11 Shelf Lands Act (43 U.S.C. 1333(a)(2)) of the boundaries
12 of coastal States projected seaward to the outer margin
13 of the Outer Continental Shelf.

14 (b) NOTICE AND COMMENT.—In determining the
15 projected boundaries specified in subsection (a), the Sec-
16 retary shall comply with the notice and comment require-
17 ments under chapter 5 of title 5, United States Code.

18 (c) SAVINGS CLAUSE.—The determination and publi-
19 cation of projected boundaries under subsection (a) shall
20 not be construed to alter, limit, or modify the jurisdiction,
21 control, or any other authority of the United States over
22 the Outer Continental Shelf.

1 **SEC. 805. LIABILITY FOR DAMAGES TO NATIONAL WILDLIFE**
2 **REFUGES.**

3 Section 4 of the National Wildlife Refuge System Ad-
4 ministration Act of 1966 (16 U.S.C. 668dd) is amended
5 by adding at the end the following new subsection:

6 “(p) DESTRUCTION OR LOSS OF, OR INJURY TO,
7 REFUGE RESOURCES.—

8 “(1) LIABILITY.—

9 “(A) LIABILITY TO UNITED STATES.—Any
10 person who destroys, causes the loss of, or in-
11 jures any refuge resource is liable to the United
12 States for an amount equal to the sum of—

13 “(i) the amount of the response costs
14 and damages resulting from the destruc-
15 tion, loss, or injury; and

16 “(ii) interest on that amount cal-
17 culated in the manner described under sec-
18 tion 1005 of the Oil Pollution Act of 1990
19 (33 U.S.C. 2705).

20 “(B) LIABILITY IN REM.—Any instrumen-
21 tality, including a vessel, vehicle, aircraft, or
22 other equipment, that destroys, causes the loss
23 of, or injures any refuge resource shall be liable
24 in rem to the United States for response costs
25 and damages resulting from such destruction,

1 loss, or injury to the same extent as a person
2 is liable under subparagraph (A).

3 “(C) DEFENSES.—A person is not liable
4 under this paragraph if that person establishes
5 that—

6 “(i) the destruction or loss of, or in-
7 jury to, the refuge resource was caused
8 solely by an act of God, an act of war, or
9 an act or omission of a third party, and
10 the person acted with due care;

11 “(ii) the destruction, loss, or injury
12 was caused by an activity authorized by
13 Federal or State law; or

14 “(iii) the destruction, loss, or injury
15 was negligible.

16 “(D) LIMITS TO LIABILITY.—Nothing in
17 sections 30501 to 30512 or section 30706 of
18 title 46, United States Code, shall limit the li-
19 ability of any person under this section.

20 “(2) RESPONSE ACTIONS.—The Secretary may
21 undertake or authorize all necessary actions to pre-
22 vent or minimize the destruction or loss of, or injury
23 to, refuge resources, or to minimize the imminent
24 risk of such destruction, loss, or injury.

1 “(3) CIVIL ACTIONS FOR RESPONSE COSTS AND
2 DAMAGES.—

3 “(A) IN GENERAL.—The Attorney General,
4 upon request of the Secretary, may commence
5 a civil action against any person or instrumen-
6 tality who may be liable under paragraph (1)
7 for response costs and damages. The Secretary,
8 acting as trustee for refuge resources for the
9 United States, shall submit a request for such
10 an action to the Attorney General whenever a
11 person may be liable for such costs or damages.

12 “(B) JURISDICTION AND VENUE.—An ac-
13 tion under this subsection may be brought in
14 the United States district court for any district
15 in which—

16 “(i) the defendant is located, resides,
17 or is doing business, in the case of an ac-
18 tion against a person;

19 “(ii) the instrumentality is located, in
20 the case of an action against an instru-
21 mentality; or

22 “(iii) the destruction of, loss of, or in-
23 jury to a refuge resource occurred.

24 “(4) USE OF RECOVERED AMOUNTS.—Response
25 costs and damages recovered by the Secretary under

1 this subsection shall be retained by the Secretary in
2 the manner provided for in section 107(f)(1) of the
3 Comprehensive Environmental Response, Compensa-
4 tion, and Liability Act of 1980 (42 U.S.C.
5 9607(f)(1)) and used as follows:

6 “(A) RESPONSE COSTS.—Amounts recov-
7 ered by the United States for costs of response
8 actions and damage assessments under this
9 subsection shall be used, as the Secretary con-
10 siders appropriate—

11 “(i) to reimburse the Secretary or any
12 other Federal or State agency that con-
13 ducted those activities; and

14 “(ii) after reimbursement of such
15 costs, to restore, replace, or acquire the
16 equivalent of any refuge resource.

17 “(B) OTHER AMOUNTS.—All other
18 amounts recovered shall be used, in order of
19 priority—

20 “(i) to restore, replace, or acquire the
21 equivalent of the refuge resources that
22 were the subject of the action, including
23 the costs of monitoring the refuge re-
24 sources;

1 “(ii) to restore degraded refuge re-
2 sources of the refuge that was the subject
3 of the action, giving priority to refuge re-
4 sources that are comparable to the refuge
5 resources that were the subject of the ac-
6 tion; and

7 “(iii) to restore degraded refuge re-
8 sources of other refuges.

9 “(5) DEFINITIONS.—In this subsection, the
10 term—

11 “(A) ‘damages’ includes—

12 “(i) compensation for—

13 “(I)(aa) the cost of replacing, re-
14 storing, or acquiring the equivalent of
15 a refuge resource; and

16 “(bb) the value of the lost use of
17 a refuge resource pending its restora-
18 tion or replacement or the acquisition
19 of an equivalent refuge resource; or

20 “(II) the value of a refuge re-
21 source if the refuge resource cannot
22 be restored or replaced or if the equiv-
23 alent of such resource cannot be ac-
24 quired;

1 “(ii) the cost of conducting damage
2 assessments;

3 “(iii) the reasonable cost of moni-
4 toring appropriate to the injured, restored,
5 or replaced refuge resource; and

6 “(iv) the cost of enforcement actions
7 undertaken by the Secretary in response to
8 the destruction or loss of, or injury to, a
9 refuge resource;

10 “(B) ‘response costs’ means the costs of
11 actions taken or authorized by the Secretary to
12 minimize destruction or loss of, or injury to,
13 refuge resources, or to minimize the imminent
14 risks of such destruction, loss, or injury, includ-
15 ing costs related to seizure, forfeiture, storage,
16 or disposal arising from liability, or to monitor
17 ongoing effects of incidents causing such de-
18 struction, loss, or injury under this subsection;
19 and

20 “(C) ‘refuge resource’ means any living or
21 nonliving resource of a refuge that contributes
22 to the conservation, management, and restora-
23 tion mission of the System, including living or
24 nonliving resources of a marine national monu-

1 ment that may be managed as a unit of the
2 System.”.

3 **SEC. 806. STRENGTHENING COASTAL STATE OIL SPILL**
4 **PLANNING AND RESPONSE.**

5 The Coastal Zone Management Act of 1972 (16
6 U.S.C. 1451 et seq.) is amended adding at the end the
7 following new section:

8 **“SEC. 320. STRENGTHENING COASTAL STATE OIL SPILL RE-**
9 **SPONSE AND PLANNING.**

10 “(a) GRANTS TO STATES.—The Secretary may make
11 grants to eligible coastal states—

12 “(1) to revise management programs approved
13 under section 306 (16 U.S.C. 1455) to identify and
14 implement new enforceable policies and procedures
15 to ensure sufficient response capabilities at the state
16 level to address the environmental, economic, and so-
17 cial impacts of oil spills or other accidents resulting
18 from Outer Continental Shelf energy activities with
19 the potential to affect any land or water use or nat-
20 ural resource of the coastal zone; and

21 “(2) to review and revise where necessary appli-
22 cable enforceable policies within approved state man-
23 agement programs affecting coastal energy activities
24 and energy to ensure that these policies are con-
25 sistent with—

1 “(A) other emergency response plans and
2 policies developed under Federal or State law;
3 and

4 “(B) new policies and procedures developed
5 under paragraph (1); and

6 “(3) after a State has adopted new or revised
7 enforceable policies and procedures under para-
8 graphs (1) and (2)—

9 “(A) the State shall submit the policies
10 and procedures to the Secretary; and

11 “(B) the Secretary shall notify the State
12 whether the Secretary approves or disapproves
13 the incorporation of the policies and procedures
14 into the State’s management program pursuant
15 to section 306(e).

16 “(b) ELEMENTS.—New enforceable policies and pro-
17 cedures developed by coastal states with grants awarded
18 under this section shall consider, but not be limited to—

19 “(1) other existing emergency response plans,
20 procedures and enforceable policies developed under
21 other Federal or State law that affect the coastal
22 zone;

23 “(2) identification of critical infrastructure es-
24 sential to facilitate spill or accident response activi-
25 ties;

1 “(3) identification of coordination, logistics and
2 communication networks between Federal and State
3 government agencies, and between State agencies
4 and affected local communities, to ensure the effi-
5 cient and timely dissemination of data and other in-
6 formation;

7 “(4) inventories of shore locations and infra-
8 structure and equipment necessary to respond to oil
9 spills or other accidents resulting from Outer Conti-
10 nental Shelf energy activities;

11 “(5) identification and characterization of sig-
12 nificant or sensitive marine ecosystems or other
13 areas possessing important conservation, rec-
14 reational, ecological, historic, or aesthetic values;

15 “(6) inventories and surveys of shore locations
16 and infrastructure capable of supporting alternative
17 energy development; and

18 “(7) other information or actions as may be
19 necessary.

20 “(c) GUIDELINES.—The Secretary shall, within 180
21 days after the date of enactment of this section and after
22 consultation with the coastal states, publish guidelines for
23 the application for and use of grants under this section.

24 “(d) PARTICIPATION.—A coastal state shall provide
25 opportunity for public participation in developing new en-

1 forceable policies and procedures under this section pursu-
2 ant to sections 306(d)(1) and 306(e), especially by rel-
3 evant Federal agencies, other coastal state agencies, local
4 governments, regional organizations, port authorities, and
5 other interested parties and stakeholders, public and pri-
6 vate, that are related to, or affected by Outer Continental
7 Shelf energy activities.

8 “(e) ANNUAL GRANTS.—

9 “(1) IN GENERAL.—For each of fiscal years
10 2011 through 2015, the Secretary may make a
11 grant to a coastal state to develop new enforceable
12 polices and procedures as required under this sec-
13 tion.

14 “(2) GRANT AMOUNTS AND LIMIT ON
15 AWARDS.—The amount of any grant to any one
16 coastal State under this section shall not exceed
17 \$750,000 for any fiscal year. No coastal state may
18 receive more than two grants under this section.

19 “(3) NO STATE MATCHING CONTRIBUTION RE-
20 QUIRED.—As it is in the national interest to be able
21 to respond efficiently and effectively at all levels of
22 government to oil spills and other accidents resulting
23 from Outer Continental Shelf energy activities, a
24 coastal state shall not be required to contribute any

1 portion of the cost of a grant awarded under this
2 section.

3 “(4) SECRETARIAL REVIEW AND LIMIT ON
4 AWARDS.—After an initial grant is made to a coastal
5 state under this section, no subsequent grant may be
6 made to that coastal state under this section unless
7 the Secretary finds that the coastal state is satisfac-
8 torily developing revisions to address offshore energy
9 impacts. No coastal state is eligible to receive grants
10 under this section for more than 2 fiscal years.

11 “(f) APPLICABILITY.—The requirements of this sec-
12 tion shall only apply if appropriations are provided to the
13 Secretary to make grants under this section. This section
14 shall not be construed to convey any new authority to any
15 coastal state, or repeal or supersede any existing authority
16 of any coastal state, to regulate the siting, licensing, leas-
17 ing, or permitting of energy facilities in areas of the Outer
18 Continental Shelf under the administration of the Federal
19 Government. Nothing in this section repeals or supersedes
20 any existing coastal state authority.

21 “(g) ASSISTANCE BY THE SECRETARY.—The Sec-
22 retary as authorized under section 310(a) and to the ex-
23 tent practicable, shall make available to coastal states the
24 resources and capabilities of the National Oceanic and At-
25 mospheric Administration to provide technical assistance

1 to the coastal states to prepare revisions to approved man-
2 agement programs to meet the requirements under this
3 section.”.

4 **SEC. 807. INFORMATION SHARING.**

5 Section 388(b) of the Energy Policy Act of 2005 (43
6 U.S.C. 1337 note) is amended by adding at the end the
7 following:

8 “(4) AVAILABILITY OF DATA AND INFORMA-
9 TION.—All heads of departments and agencies of the
10 Federal Government shall, upon request of the Sec-
11 retary, provide to the Secretary all data and infor-
12 mation that the Secretary deems necessary for the
13 purpose of including such data and information in
14 the mapping initiative, except that no department or
15 agency of the Federal Government shall be required
16 to provide any data or information that is privileged
17 or proprietary.”.

18 **SEC. 808. LIMITATION ON USE OF FUNDS.**

19 None of the funds authorized or made available by
20 this Act may be used to carry out any activity or pay any
21 costs for removal or damages for which a responsible party
22 (as such term is defined in section 1001 of the Oil Pollu-
23 tion Act of 1990 (33 U.S.C. 2701)) is liable under the
24 Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) or
25 other law.

1 **SEC. 809. ENVIRONMENTAL REVIEW.**

2 Section 390 of the Energy Policy Act of 2005 (Public
3 Law 109–58; 42 U.S.C. 15942) is repealed.

4 **SEC. 810. FEDERAL RESPONSE TO STATE PROPOSALS TO**
5 **PROTECT STATE LANDS AND WATERS.**

6 Any State shall be entitled to timely decisions regard-
7 ing permit applications or other approvals from any Fed-
8 eral official, including the Secretary of the Interior or the
9 Secretary of Commerce, for any State or local government
10 response activity to protect State lands and waters that
11 is directly related to the discharge of oil determined to
12 be a spill of national significance. Within 48 hours of the
13 receipt of the State application or request for approval,
14 the Federal official shall provide a clear determination on
15 the permit application or approval request to the State,
16 or provide a definite date by which the determination shall
17 be made to the State. If the Federal official fails to meet
18 either of these deadlines, the permit application is pre-
19 sumed to be approved or other approval granted.

