

TO ESTABLISH IN THE DEPARTMENT OF THE INTERIOR AN UNDER SECRETARY FOR ENERGY, LANDS, AND MINERALS AND A BUREAU OF OCEAN ENERGY, AN OCEAN ENERGY SAFETY SERVICE, AND AN OFFICE OF NATURAL RESOURCES REVENUE, AND FOR OTHER PURPOSES

JULY 17, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3404]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3404) to establish in the Department of the Interior an Under Secretary for Energy, Lands, and Minerals and a Bureau of Ocean Energy, an Ocean Energy Safety Service, and an Office of Natural Resources Revenue, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. ESTABLISHMENT OF UNDER SECRETARY FOR ENERGY, LANDS, AND MINERALS AND ASSISTANT SECRETARY OF OCEAN ENERGY AND SAFETY.

There shall be in the Department of the Interior—

(1) an Under Secretary for Energy, Lands, and Minerals, who shall—

(A) be appointed by the President, by and with the advise and consent of the Senate;

(B) report to the Secretary of the Interior, or to the Deputy Secretary of the Interior if ordered by the Secretary;

(C) be paid at the rate payable for level III of the Executive Schedule; and

(D) be responsible for—

(i) the safe and responsible development of our energy and mineral resources on Federal lands in appropriate accordance with United States energy demands, including administration of the Office of Surface Mining and the Bureau of Land Management as separate, inde-

- pendent agencies of the Department under the Assistant Secretary of Land and Minerals Management; and
 - (ii) ensuring multiple-use missions of the Department of the Interior that promote the safe and sustained development of energy and minerals resources on public lands (as that term is defined in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.));
- (2) an Assistant Secretary of Ocean Energy and Safety, who shall—
 - (A) be appointed by the President, by and with the advise and consent of the Senate;
 - (B) report to the Under Secretary for Energy, Lands, and Minerals;
 - (C) be paid at the rate payable for level IV of the Executive Schedule; and
 - (D) be responsible for ensuring safe and efficient development of energy and minerals on the Outer Continental Shelf of the United States; and
- (3) an Assistant Secretary of Land and Minerals Management, who shall—
 - (A) be appointed by the President, by and with the advise and consent of the Senate;
 - (B) report to the Under Secretary for Energy, Lands, and Minerals;
 - (C) be paid at the rate payable for level IV of the Executive Schedule; and
 - (D) be responsible for ensuring safe and efficient development of energy and minerals on public lands and other Federal onshore lands under the jurisdiction of the Department of the Interior, including implementation of the Mineral Leasing Act (30 U.S.C. 181 et seq.) and the Surface Mining Control and Reclamation Act (30 U.S.C. 1201 et seq.) and administration of the Office of Surface Mining.

SEC. 2. BUREAU OF OCEAN ENERGY.

- (a) **ESTABLISHMENT.**—There is established in the Department of the Interior a Bureau of Ocean Energy (referred to in this section as the “Bureau”), which shall—
 - (1) be headed by a Director of Ocean Energy (referred to in this section as the “Director”); and
 - (2) be administered under the direction of the Assistant Secretary of Ocean Energy and Safety.
- (b) **DIRECTOR.**—
 - (1) **APPOINTMENT.**—The Director shall be appointed by the Secretary of the Interior.
 - (2) **COMPENSATION.**—The Director shall be compensated at the rate provided for Level V of the Executive Schedule under section 5316 of title 5, United States Code.
- (c) **DUTIES.**—
 - (1) **IN GENERAL.**—The Secretary of the Interior shall carry out through the Bureau all functions, powers, and duties vested in the Secretary relating to the administration of a comprehensive program of offshore mineral and renewable energy resources management.
 - (2) **SPECIFIC AUTHORITIES.**—The Director shall promulgate and implement regulations—
 - (A) for the proper issuance of leases for the exploration, development, and production of nonrenewable and renewable energy and mineral resources on the Outer Continental Shelf;
 - (B) relating to resource identification, access, evaluation, and utilization;
 - (C) for development of leasing plans, lease sales, and issuance of leases for such resources;
 - (D) regarding issuance of environmental impact statements related to leasing and post leasing activities including exploration, development, and production, and the use of third party contracting for necessary environmental analysis for the development of such resources; and
 - (E) for the processing of exploration plans and development plans.
 - (3) **LIMITATION.**—The Secretary shall not carry out through the Bureau any function, power, or duty that is—
 - (A) required by section 3 to be carried out through the Ocean Energy Safety Service; or
 - (B) required by section 4 to be carried out through the Office of Natural Resources Revenue.
- (d) **RESPONSIBILITIES OF LAND MANAGEMENT AGENCIES.**—Nothing in this section shall affect the authorities of the Bureau of Land Management under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) or of the Forest Service under the National Forest Management Act of 1976 (Public Law 94–588).

SEC. 3. OCEAN ENERGY SAFETY SERVICE.

(a) **ESTABLISHMENT.**—There is established in the Department of the Interior an Ocean Energy Safety Service (referred to in this section as the “Service”), which shall—

(1) be headed by a Director of Energy Safety (referred to in this section as the “Director”); and

(2) be administered under the direction of the Assistant Secretary of Ocean Energy and Safety.

(b) **DIRECTOR.**—

(1) **APPOINTMENT.**—The Director shall be appointed by the Secretary of the Interior.

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

(c) **DUTIES.**—

(1) **IN GENERAL.**—The Secretary of the Interior shall carry out through the Service all functions, powers, and duties vested in the Secretary relating to the administration of safety and environmental enforcement activities related to offshore mineral and renewable energy resources on the Outer Continental Shelf pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) including the authority to develop, promulgate, and enforce regulations to ensure the safe and sound exploration, development, and production of mineral and renewable energy resources on the Outer Continental Shelf in a timely fashion.

(2) **SPECIFIC AUTHORITIES.**—The Director shall be responsible for all safety activities related to exploration and development of renewable and mineral resources on the Outer Continental Shelf, including—

(A) exploration, development, production, and ongoing inspections of infrastructure;

(B) the suspending or prohibiting, on a temporary basis, any operation or activity, including production under leases held on the Outer Continental Shelf, in accordance with section 5(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(1));

(C) cancelling any lease, permit, or right-of-way on the Outer Continental Shelf, in accordance with section 5(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2));

(D) compelling compliance with applicable Federal laws and regulations relating to worker safety and other matters;

(E) requiring comprehensive safety and environmental management programs for persons engaged in activities connected with the exploration, development, and production of mineral or renewable energy resources;

(F) developing and implementing regulations for Federal employees to carry out any inspection or investigation to ascertain compliance with applicable regulations, including health, safety, or environmental regulations;

(G) implementing the Offshore Technology Research and Risk Assessment Program under section 21 of the Outer Continental Shelf Lands Act (43 U.S.C. 1347);

(H) summoning witnesses and directing the production of evidence;

(I) levying fines and penalties and disqualifying operators;

(J) carrying out any safety, response, and removal preparedness functions; and

(K) the processing of permits.

(d) **EMPLOYEES.**—

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

(2) **QUALIFICATIONS.**—The qualification requirements referred to in paragraph

(1)—

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

(B) shall include—

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

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

(3) **ASSIGNMENT.**—In assigning oil and gas inspectors to the inspection and investigation of individual operations, the Secretary shall give due consideration to the extent possible to their previous experience in the particular type of oil and gas operation in which such inspections are to be made.

(4) BACKGROUND CHECKS.—The Director shall require that an individual to be hired as an inspection officer undergo an employment investigation (including a criminal history record check).

(5) LANGUAGE REQUIREMENTS.—Individuals hired as inspectors must be able to read, speak, and write English well enough to—

(A) carry out written and oral instructions regarding the proper performance of inspection duties; and

(B) write inspection reports and statements and log entries in the English language.

(6) ANNUAL PROFICIENCY REVIEW.—

(A) ANNUAL PROFICIENCY REVIEW.—The Director shall provide that an annual evaluation of each individual assigned inspection duties is conducted and documented.

(B) CONTINUATION OF EMPLOYMENT.—An individual employed as an inspector may not continue to be employed in that capacity unless the evaluation demonstrates that the individual—

(i) continues to meet all qualifications and standards;

(ii) has a satisfactory record of performance and attention to duty based on the standards and requirements in the inspection program; and

(iii) demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform Inspection functions.

(7) LIMITATION ON RIGHT TO STRIKE.—Any individual that conducts permitting or inspections under this section may not participate in a strike, or assert the right to strike.

(8) PERSONNEL AUTHORITY.—Notwithstanding any other provision of law, the Director may employ, appoint, discipline and terminate for cause, and fix the compensation, terms, and conditions of employment of Federal service for individuals as the employees of the Service in order to restore and maintain the trust of the people of the United States in the accountability of the management of our Nation's energy safety program.

(9) TRAINING ACADEMY.—

(A) IN GENERAL.—The Secretary shall establish and maintain a National Offshore Energy Health and Safety Academy (referred to in this paragraph as the "Academy") as an agency of the Ocean Energy Safety Service.

(B) FUNCTIONS OF ACADEMY.—The Secretary, through the Academy, shall be responsible for—

(i) the initial and continued training of both newly hired and experienced offshore oil and gas inspectors in all aspects of health, safety, environmental, and operational inspections;

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

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

(iv) certification of the successful completion of training programs for newly hired and experienced offshore oil and gas inspectors.

(C) COOPERATIVE AGREEMENTS.—

(i) IN GENERAL.—In performing functions under this paragraph, and subject to clause (ii), the Secretary may enter into cooperative educational and training agreements with educational institutions, related Federal academies, other Federal agencies, State governments, safety training firms, and oil and gas operators and related industries.

(ii) TRAINING REQUIREMENT.—Such training shall be conducted by the Academy in accordance with curriculum needs and assignment of instructional personnel established by the Secretary.

(10) USE OF DEPARTMENT PERSONNEL.—In performing functions under this subsection, the Secretary shall use, to the extent practicable, the facilities and personnel of the Department of the Interior. The Secretary may appoint or assign to the Academy such officers and employees as the Secretary considers necessary for the performance of the duties and functions of the Academy.

(11) ADDITIONAL TRAINING PROGRAMS.—

(A) IN GENERAL.—The Secretary shall work with appropriate educational institutions, operators, and representatives of oil and gas workers to develop and maintain adequate programs with educational institutions and oil and gas operators that are designed—

(i) to enable persons to qualify for positions in the administration of this Act; and

(ii) to provide for the continuing education of inspectors or other appropriate Department of the Interior personnel.

(B) FINANCIAL AND TECHNICAL ASSISTANCE.—The Secretary may provide financial and technical assistance to educational institutions in carrying out this paragraph.

(e) LIMITATION.—The Secretary shall not carry out through the Service any function, power, or duty that is—

- (1) required by section 2 to be carried out through Bureau of Ocean Energy;
- or
- (2) required by section 4 to be carried out through the Office of Natural Resources Revenue.

SEC. 4. OFFICE OF NATURAL RESOURCES REVENUE.

(a) ESTABLISHMENT.—There is established in the Department of the Interior an Office of Natural Resources Revenue (referred to in this section as the “Office”) to be headed by a Director of Natural Resources Revenue (referred to in this section as the “Director”).

(b) APPOINTMENT AND COMPENSATION.—

(1) IN GENERAL.—The Director shall be appointed by the Secretary of the Interior.

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

(c) DUTIES.—

(1) IN GENERAL.—The Secretary of the Interior shall carry out, through the Office, all functions, powers, and duties vested in the Secretary and relating to the administration of offshore royalty and revenue management functions.

(2) SPECIFIC AUTHORITIES.—The Secretary shall carry out, through the Office, all functions, powers, and duties previously assigned to the Minerals Management Service (including the authority to develop, promulgate, and enforce regulations) regarding offshore royalty and revenue collection; royalty and revenue distribution; auditing and compliance; investigation and enforcement of royalty and revenue regulations; and asset management for onshore and offshore activities.

(d) LIMITATION.—The Secretary shall not carry out through the Office any function, power, or duty that is—

- (1) required by section 2 to be carried out through Bureau of Ocean Energy;
- or
- (2) required by section 3 to be carried out through the Ocean Energy Safety Service.

SEC. 5. ETHICS AND DRUG TESTING.

(a) CERTIFICATION.—The Secretary of the Interior shall certify annually that all Department of the Interior officers and employees having regular, direct contact with lessees, contractors, concessionaires, and other businesses interested before the Government as a function of their official duties, or conducting investigations, issuing permits, or responsible for oversight of energy programs, are in full compliance with all Federal employee ethics laws and regulations under the Ethics in Government Act of 1978 (5 U.S.C. App.) and part 2635 of title 5, Code of Federal Regulations, and all guidance issued under subsection (c).

(b) DRUG TESTING.—The Secretary shall conduct a random drug testing program of all Department of the Interior personnel referred to in subsection (a).

(c) GUIDANCE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue supplementary ethics and drug testing guidance for the employees for which certification is required under subsection (a). The Secretary shall update the supplementary ethics guidance not less than once every 3 years thereafter.

SEC. 6. ABOLISHMENT OF MINERALS MANAGEMENT SERVICE.

(a) ABOLISHMENT.—The Minerals Management Service is abolished.

(b) COMPLETED ADMINISTRATIVE ACTIONS.—

(1) IN GENERAL.—Completed administrative actions of the Minerals Management Service shall not be affected by the enactment of this Act, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) COMPLETED ADMINISTRATIVE ACTION DEFINED.—For purposes of paragraph (1), the term “completed administrative action” includes orders, determinations, memoranda of understanding, memoranda of agreements, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(c) **PENDING PROCEEDINGS.**—Subject to the authority of the Secretary of the Interior and the officers of the Department of the Interior under this Act—

(1) pending proceedings in the Minerals Management Service, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue, notwithstanding the enactment of this Act or the vesting of functions of the Service in another agency, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance or modification could have occurred if this Act had not been enacted; and

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

(d) **PENDING CIVIL ACTIONS.**—Subject to the authority of the Secretary of the Interior or any officer of the Department of the Interior under this Act, pending civil actions shall continue notwithstanding the enactment of this Act, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment had not occurred.

(e) **REFERENCES.**—References relating to the Minerals Management Service in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede the effective date of this Act are deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions. Statutory reporting requirements that applied in relation to the Minerals Management Service immediately before the effective date of this Act shall continue to apply.

SEC. 7. CONFORMING AMENDMENTS TO EXECUTIVE SCHEDULE PAY RATES.

(a) **UNDER SECRETARY FOR ENERGY, LANDS, AND MINERALS.**—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to “Under Secretaries of the Treasury (3)” the following:

“Under Secretary for Energy, Lands, and Minerals, Department of the Interior.”

(b) **ASSISTANT SECRETARIES.**—Section 5315 of title 5, United States Code, is amended by striking “Assistant Secretaries of the Interior (6).” and inserting the following:

“Assistant Secretaries of the Interior (7).”

(c) **DIRECTORS.**—Section 5316 of title 5, United States Code, is amended by striking “Director, Bureau of Mines, Department of the Interior.” and inserting the following new items:

“Director, Bureau of Ocean Energy, Department of the Interior.
“Director, Ocean Energy Safety Service, Department of the Interior.
“Director, Office of Natural Resources Revenue, Department of the Interior.”

SEC. 8. OUTER CONTINENTAL SHELF ENERGY SAFETY ADVISORY BOARD.

(a) **ESTABLISHMENT.**—The Secretary of the Interior shall establish, under the Federal Advisory Committee Act, an Outer Continental Shelf Energy Safety Advisory Board (referred to in this section as the “Board”)—

(1) to provide the Secretary and the Directors established by this Act with independent scientific and technical advice on safe, responsible, and timely mineral and renewable energy exploration, development, and production activities; and

(2) to review operations of the National Offshore Energy Health and Safety Academy established under section 3(d), including submitting to the Secretary recommendations of curriculum to ensure training scientific and technical advancements.

(b) **MEMBERSHIP.**—

(1) **SIZE.**—The Board shall consist of not more than 11 members, who—

(A) shall be appointed by the Secretary based on their expertise in oil and gas drilling, well design, operations, well containment and oil spill response; and

(B) must have significant scientific, engineering, management, and other credentials and a history of working in the field related to safe energy exploration, development, and production activities.

(2) **CONSULTATION AND NOMINATIONS.**—The Secretary shall consult with the National Academy of Sciences and the National Academy of Engineering to identify potential candidates for the Board and shall take nominations from the public.

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

(4) **BALANCE.**—In appointing members to the Board, the Secretary shall ensure a balanced representation of industry and research interests.

(c) **CHAIR.**—The Secretary shall appoint the Chair for the Board from among its members.

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

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

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

(2) as appropriate, recommends modifications to the regulations issued under this Act to ensure adequate protection of safety and the environment, including recommendations on how to reduce regulations and administrative actions that are duplicative or unnecessary.

(f) **REPORTS.**—Reports of the Board shall be submitted by the Board to the Committee on Natural Resources of the House or Representatives and the Committee on Energy and Natural Resources of the Senate and made available to the public in electronically accessible form.

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

SEC. 9. VETERANS PREFERENCE.

Consistent with existing law, the Under Secretary for Energy, Lands, and Minerals shall, in administering the programs and authorities referenced under this Act, provide a hiring preference to eligible members listed under section 2108 of title 5, United States Code.

PURPOSE OF THE BILL

The purpose of H.R. 3404, as ordered reported, is to establish in the Department of the Interior an Under Secretary for Energy, Lands, and Minerals and a Bureau of Ocean Energy, an Ocean Energy Safety Service, and an Office of Natural Resources Revenue.

BACKGROUND AND NEED FOR LEGISLATION

The Minerals Management Service (MMS) had long been the agency directly responsible for overseeing the safe planning, leasing, and production of our nation's energy and mineral resources on Outer Continental Shelf (OCS) lands, including the collection of related revenues. MMS had been organizationally aligned within the Department of the Interior under the Assistant Secretary of Land and Minerals Management.

Oversight problems with certain programs within the Department as well as ethical lapses and ensuing investigations, led to general concerns with the existing MMS management structure. The Deepwater Horizon explosion and subsequent oil spill in the Gulf of Mexico brought the issue of MMS reorganization to a critical juncture. As a result, the Secretary of the Interior executed a reorganization by Secretarial Order. The reorganization commenced in 2010, with the separation of the revenue arm of the former MMS into a separate agency, the Office of Natural Resources Revenue. The remaining functions of MMS were reorga-

nized temporarily as the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), which was ultimately further separated into the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE).

On July 15, 2011, the Committee on Natural Resources conducted an oversight hearing regarding the ongoing reorganization effort by the then-Director of BOEMRE, Michael Bromwich. The committee explored the progress of the then-Director to preserve the efficiency of the agency's mission while ensuring a seamless transition to create two separate agencies.

On September 15, 2011, the Subcommittee on Energy and Mineral Resources held a legislative hearing on a proposed bill later introduced as H.R. 3404. This hearing again explored the progress of the ongoing reorganization and the impact the reorganization had on the effective, efficient, and responsible production of our nation's offshore energy resources. Additionally, of note, both Interior Secretary Ken Salazar and then-Director of the BSEE, Michael Bromwich, have called for organic legislation to codify the reorganization.

This bill echoes the reorganization put forward by then-Director Bromwich and Secretary Salazar, though it includes important differences that the Committee believes to be integral to preserving continued efficient development of our nation's offshore resources.

This legislation creates three completely separate agencies with clearly defined missions. The bill also creates an Under Secretary for Energy, Lands and Minerals—with a direct line to the Secretary of the Interior unless the Secretary delegates that authority. This new role elevates the principle of multiple use on federal lands—something the Committee on Natural Resources has continually needed to emphasize to the Obama Administration. This new position also increases oversight of safe energy development on all federal lands, including the OCS.

This bill includes other differences as well, such as different agency names; the Bureau of Land Management and the Office of Surface Mining moved under the new Under Secretary to further encourage energy development both onshore and offshore; limiting the ability for safety inspectors to walk off the job to strike; ethics and drug testing requirements; and an OCS board that has the ability to provide recommendations on regulatory measures that are duplicative or unnecessary.

In 2011, production on our nation's OCS lands was responsible for roughly 25 percent of domestic oil production and about 8 percent of domestic natural gas production—and revenues generated from such production on average provide roughly \$13 billion to the federal treasury. It is pivotal that the federal agencies which bear responsibility to develop our nation's OCS resources are able to move forward in an efficient manner while also ensuring the safety of offshore operations. Their efficient operations have a direct effect on domestic energy production, nationwide job creation, and significant revenue streams upon which the federal government relies.

Most Americans wish to see our nation's domestic energy resources produced safely to promote job growth and energy security. It is in our nation's best interest to ensure that the Department of the Interior is prioritizing multiple-use missions by developing

American energy resources. It is equally important that the reorganization of these agencies within the Department provides effective oversight of these operations without tying up the processes in more bureaucratic red tape.

While this balance is undoubtedly a goal that may not easily be achieved, it can be done. Offshore oil and gas development does not have to come at the cost of safe operations—American workers have conducted these operations safely for decades. This legislation seeks to add common sense to the Administration’s reorganization plan to achieve a balance of increased yet safe energy production.

COMMITTEE ACTION

H.R. 3404 was introduced on November 14, 2011, by Congressman Doc Hastings (R-WA). The bill was referred to the Committee on Natural Resources. On September 15, 2011, the Subcommittee on Energy and Mineral Resources held a hearing on a draft version of the bill. On November 17, 2011, the Full Natural Resources Committee met to consider H.R. 3404. Congressman Doc Hastings (R-WA) offered amendment designated Hastings.001 to the bill; the amendment was adopted by voice vote. Congressman Doug Lamborn (R-CO) offered amendment designated .002 to the bill; the amendment was adopted by voice vote. Congressman Bill Johnson (R-OH) offered amendment designated Johnson.004 to the bill; the amendment was adopted by voice vote. Congressman Jon Runyan (R-NJ) offered an amendment to the bill; the amendment was adopted by voice vote. Congressman Niki Tsongas (D-MA) offered amendment designated Tsongsas.004 to the bill; the amendment was not adopted by a bipartisan roll call vote of 14 to 27, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: November 17, 2011

Recorded Vote #: 1

Meeting on / Amendment: **HR 3404** – Amendment offered by Ms. Tsongas.004 was NOT AGREED TO by a roll call vote of 14 yeas and 27 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>	X		
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX				<i>Ms. Sutton, OH</i>	X		
<i>Mr. Faleomavaega, AS</i>				Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas</i>	X		
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Pierluisi, PR</i>	X		
<i>Mrs. Napolitano, CA</i>				Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA				<i>Ms. Hanabusa, HI</i>			
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland, FL		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>				Mr. Harris, MD		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>		X		Mr. Runyan, NJ		X	
Mr. McClintock, CA		X		Mr. Johnson, OH		X	
<i>Mr. Boren, OK</i>		X		Mr. Amodei, NV		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA		X					
				TOTALS	14	27	

Congressman John Garamendi (D-CA) offered amendment designated Garamendi.001 to the bill; the amendment was not adopted by a rollcall vote of 14 to 28, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: November 17, 2011

Recorded Vote #: 2

Meeting on / Amendment: **HR 3404** – Amendment offered by Mr. Garamendi.001 was NOT AGREED TO by a roll call vote of 14 yeas and 28 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>	X		
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX				<i>Ms. Sutton, OH</i>	X		
<i>Mr. Faleomavaega, AS</i>				Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas</i>	X		
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Pierluisi, PR</i>	X		
<i>Mrs. Napolitano, CA</i>				Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</i>			
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland, FL		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>				Mr. Harris, MD		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>		X		Mr. Runyan, NJ		X	
Mr. McClintock, CA		X		Mr. Johnson, OH		X	
<i>Mr. Boren, OK</i>		X		Mr. Amodei, NV		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA		X					
				TOTALS	14	28	

The bill was then adopted and ordered favorably reported to the House of Representatives by a bipartisan rollcall vote of 28 to 14, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: November 17, 2011

Recorded Vote #: 3

Meeting on / Amendment: **HR 3404** – Favorably reported to the House of Representatives, as amended, by a roll call vote of 28 yeas and 14 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman	X			<i>Mr. Heinrich, NM</i>		X	
<i>Mr. Markey, MA Ranking</i>		X		Mr. Benishek, MI	X		
Mr. Young, AK	X			<i>Mr. Lujan, NM</i>		X	
<i>Mr. Kildee, MI</i>		X		Mr. Rivera, FL	X		
Mr. Duncan of TN	X			<i>Mr. Sarbanes, MD</i>		X	
<i>Mr. Defazio, OR</i>		X		Mr. Duncan of SC	X		
Mr. Gohmert, TX				<i>Ms. Sutton, OH</i>		X	
<i>Mr. Faleomavaega, AS</i>				Mr. Tipton, CO	X		
Mr. Bishop, UT	X			<i>Ms. Tsongas</i>		X	
<i>Mr. Pallone, NJ</i>		X		Mr. Gosar, AZ	X		
Mr. Lamborn, CO	X			<i>Mr. Pierluisi, PR</i>		X	
<i>Mrs. Napolitano, CA</i>				Mr. Labrador, ID	X		
Mr. Wittman, VA	X			<i>Mr. Garamendi, CA</i>		X	
<i>Mr. Hult, NJ</i>		X		Ms. Noem, SD	X		
Mr. Broun, GA	x			<i>Ms. Hanabusa, HI</i>			
<i>Mr. Grijalva, AZ</i>		X		Mr. Southerland, FL	X		
Mr. Fleming, LA	X			Mr. Flores, TX	X		
<i>Ms. Bordallo, GU</i>				Mr. Harris, MD	X		
Mr. Coffman, CO	X			Mr. Landry, LA	X		
<i>Mr. Costa, CA</i>	X			Mr. Runyan, NJ	X		
Mr. McClintock, CA	X			Mr. Johnson, OH	X		
<i>Mr. Boren, OK</i>	X			Mr. Amodei, NV	X		
Mr. Thompson, PA	X						
<i>Mr. Sablan, CNMI</i>		X					
Mr. Denham, CA	X						
				TOTALS	28	14	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 3404—A bill to establish in the Department of the Interior an Under Secretary for Energy, Lands, and Minerals and a Bureau of Ocean Energy, an Ocean Energy Safety Service, and an Office for Natural Resources Revenue, and for other purposes

H.R. 3404 would establish two new executive positions within the Department of the Interior (DOI) and require the agency to conduct a drug testing program for certain employees. The bill also would codify certain DOI reforms related to managing mineral resources on federal lands and the Outer Continental Shelf. Assuming appropriation of the necessary amounts, CBO estimates that implementing the legislation would cost roughly \$1 million a year over the 2012–2017 period. Enacting H.R. 3404 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 3404 would establish two new executive positions at DOI, an Under Secretary and an Assistant Secretary, who would oversee the development of mineral resources on federal lands. The bill also would require the agency to administer drug tests for certain employees who do work related to DOI energy programs. Based on information regarding the salaries for executive positions and support staff within the federal government and the cost of providing drug tests at other federal agencies, CBO estimates that implementing those provisions would cost about \$1 million a year over the 2012–2017 period, assuming appropriation of the necessary amounts.

In 2010, DOI initiated a reorganization of the Minerals Management Service (MMS) that was completed at the beginning of fiscal year 2012. Under that reorganization, MMS was abolished, and three new entities—the Office of Natural Resources Revenue, the Bureau of Ocean Energy Management, and the Bureau of Safety and Environmental Enforcement—were created to perform activi-

ties formerly conducted by MMS. DOI also established a training center for oil rig inspectors and an advisory board to provide guidance on improving practices related to offshore drilling. Because certain provisions of H.R. 3404 would codify those reforms, which have been completed, CBO estimates that implementing those provisions would have no significant impact on the federal budget.

The CBO staff contact for this estimate is Jeff LaFave. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. Assuming appropriation of the necessary amounts, CBO estimates that implementing the legislation would cost roughly \$1 million a year over the 2012–2017 period.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to establish in the Department of the Interior an Under Secretary for Energy, Lands, and Minerals and a Bureau of Ocean Energy, an Ocean Energy Safety Service, and an Office of Natural Resources Revenue.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

* * * * *

PART III—EMPLOYEES

* * * * *

SUBPART D—PAY AND ALLOWANCES

* * * * *

CHAPTER 53—PAY RATES AND SYSTEMS

* * * * *

SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

* * * * *

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

* * * * *

Under Secretary for Energy, Lands, and Minerals, Department of the Interior.

* * * * *

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

* * * * *

[Assistant Secretaries of the Interior (6).]
Assistant Secretaries, Department of the Interior (7).

* * * * *

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Administrator, Bonneville Power Administration, Department of the Interior.

* * * * *

[Director, Bureau of Mines, Department of the Interior.]
Director, Bureau of Ocean Energy, Department of the Interior.
Director, Ocean Energy Safety Service, Department of the Interior.
Director, Office of Natural Resources Revenue, Department of the Interior.

* * * * *

DISSENTING VIEWS

H.R. 3404: To establish in the Department of the Interior an Under Secretary for Energy, Lands, and Minerals and a Bureau of Ocean Energy, an Ocean Energy Safety Service, and an Office of Natural Resources Revenue, and for other purposes.

Less than two months after the Deepwater Horizon oil spill began, Secretary Salazar and the Obama Administration began the process of dividing the former offshore regulator, the Minerals Management Service, into three separate agencies to oversee the leasing, revenue collection and safety of offshore drilling.

On October 1, 2011 the Department completed that reorganization, thereby implementing a key recommendation of the independent BP Spill Commission that these conflicting functions should be housed in separate agencies at the Interior Department.

Secretary Salazar and the Administration have requested organic legislation to codify the reorganization and the BP Commission has similarly recommended that Congress pass an organic act for the new agencies.

However, while passing organic legislation for the new Interior Department agencies in charge of regulating offshore drilling is an important step, we believe it is only one of many reforms that are needed to ensure that we never have a similar disaster again. The BP Commission found that the causes of the Deepwater Horizon Disaster were “systemic” to the entire industry. The Commission recommended sweeping reforms to improve the safety of offshore drilling, yet more than a year and a half since the spill began the Congress has still not enacted a single legislative reform.

The Majority rejected multiple Democratic amendments to H.R. 3404 that would have improved the safety of offshore drilling, including an amendment offered by Representative Tsongas (D-MA) that would have elevated specific safety requirements as part of the duties of the position of Assistant Secretary of Ocean Energy Safety that H.R. 3404 would establish. The Majority also rejected an amendment offered by Representative Garamendi (D-CA) that would have allowed the Interior Department to increase the inspection fees they collect on offshore oil rigs in order to fund the Department’s inspection activities. The Garamendi amendment would have implemented a reform called for by the independent blue-ribbon BP Commission, which recommended increasing the \$10 million the oil and gas industry pays each year in inspection fees “significantly” to fund the Department’s regulatory efforts.

The Majority has not taken any action on legislation introduced by Natural Resources Committee Democrats (H.R. 501) to implement the Commission's recommendations. We oppose H.R. 3404 because we believe that codification of the reorganization of the former Minerals Management Service should come as part of a broader reform of the offshore oil and gas industry in the United States to ensure that we can protect the workers, economy and environment of the Gulf and that we never have a spill like this again.

EDWARD J. MARKEY.
RUSH D. HOLT.
MADELEINE Z. BORDALLO.
JOHN GARAMENDI.
FRANK PALLONE, JR.
RAÚL M. GRIJALVA.
GRACE F. NAPOLITANO.
NIKI TSONGAS.
DALE E. KILDEE.
GREGORIO KILILI CAMACHO
SABLAN.
BEN RAY LUJÁN.

○