

111TH CONGRESS
2^D SESSION

H. R. 5629

To ensure full recovery from responsible parties of damages for physical and economic injuries, adverse effects on the environment, and clean up of oil spill pollution, to improve the safety of vessels and pipelines supporting offshore oil drilling, to ensure that there are adequate response plans to prevent environmental damage from oil spills, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2010

Mr. OBERSTAR (for himself, Mr. CUMMINGS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DEFazio, Mr. NADLER of New York, Mr. LARSEN of Washington, Mr. CAPUANO, Mr. BISHOP of New York, and Ms. HIRONO) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on the Judiciary and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure full recovery from responsible parties of damages for physical and economic injuries, adverse effects on the environment, and clean up of oil spill pollution, to improve the safety of vessels and pipelines supporting offshore oil drilling, to ensure that there are adequate response plans to prevent environmental damage from oil spills, and for other purposes.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Oil Spill Accountability and Environmental Protection
 6 Act of 2010”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
 8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Repeal of and adjustments to limitation on liability.
- Sec. 3. Evidence of financial responsibility for offshore facilities.
- Sec. 4. Damages to human health.
- Sec. 5. Clarification of liability for discharges from mobile offshore drilling units.
- Sec. 6. Standard of review for damage assessment.
- Sec. 7. Information on claims.
- Sec. 8. Limitation of Liability Act.
- Sec. 9. Death on the High Seas Act.
- Sec. 10. Jones Act.
- Sec. 11. Americanization of offshore operations in the exclusive economic zone.
- Sec. 12. Safety management systems for mobile offshore drilling units.
- Sec. 13. Safety standards for mobile offshore drilling units.
- Sec. 14. Coast Guard marine safety workforce.
- Sec. 15. Operational control of mobile offshore drilling units.
- Sec. 16. Leave retention authority.
- Sec. 17. Single-hull tankers.
- Sec. 18. Repeal of response plan waiver.
- Sec. 19. National Contingency Plan.
- Sec. 20. Tracking Database.
- Sec. 21. Safety of transportation-related offshore platforms.
- Sec. 22. Evaluation and approval of response plans; maximum penalties.
- Sec. 23. Implementation of oil spill prevention and response authorities.
- Sec. 24. Disaster damage notification and assessment.
- Sec. 25. Impacts to Indian Tribes.
- Sec. 26. National Commission study of Federal management and oversight of offshore drilling.
- Sec. 27. Federal enforcement actions.
- Sec. 28. Time required before electing to proceed with judicial claim or against the Fund.
- Sec. 29. Report on former Coast Guard officials employed by recognized organizations of foreign flag administrations.
- Sec. 30. Authorized level of Coast Guard personnel.
- Sec. 31. Clarification of memorandums of understanding.
- Sec. 32. Authorization of appropriations.

1 **SEC. 2. REPEAL OF AND ADJUSTMENTS TO LIMITATION ON**
2 **LIABILITY.**

3 (a) IN GENERAL.—Section 1004 of the Oil Pollution
4 Act of 1990 (33 U.S.C. 2704) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (2)—

7 (i) by striking “\$800,000,,” and in-
8 serting “\$800,000,”; and

9 (ii) by adding “and” after the semi-
10 colon at the end;

11 (B) by striking paragraph (3); and

12 (C) by redesignating paragraph (4) as
13 paragraph (3);

14 (2) in subsection (b)(2) by striking the second
15 sentence; and

16 (3) by striking subsection (d)(4) and inserting
17 the following:

18 “(4) ADJUSTMENT OF LIMITS ON LIABILITY.—
19 Not later than 3 years after the date of enactment
20 of the Oil Spill Accountability and Environmental
21 Protection Act of 2010, and at least once every 3
22 years thereafter, the President shall review the limits
23 on liability specified in subsection (a) and shall by
24 regulation revise such limits upward to reflect either
25 the amount of liability that the President determines
26 is commensurate with the risk of discharge of oil

1 presented by a particular category of vessel or any
2 increase in the Consumer Price Index, whichever is
3 greater.”.

4 (b) APPLICATION.—The repeals and amendments
5 made by this section shall apply to all claims arising from
6 events or activities occurring on or after April 19, 2010,
7 including to claims pending on or before the date of enact-
8 ment of this Act.

9 **SEC. 3. EVIDENCE OF FINANCIAL RESPONSIBILITY FOR**
10 **OFFSHORE FACILITIES.**

11 (a) MODIFICATION.—Section 1016(c)(1) of the Oil
12 Pollution Act of 1990 (33 U.S.C. 2716(c)(1)) is amend-
13 ed—

14 (1) in subparagraph (B) by striking “subpara-
15 graph (A) is” and all that follows before the period
16 and inserting “subparagraph (A) is
17 \$1,500,000,000”;

18 (2) by striking subparagraph (C) and inserting
19 the following:

20 “(C) GREATER AMOUNT.—

21 “(i) SPECIFIC FACILITIES.—If the
22 President determines that an amount of fi-
23 nancial responsibility for a responsible
24 party that is greater than the amount re-
25 quired by subparagraph (B) is justified

1 based on the relative operational, environ-
2 mental, human health, and other risks
3 posed by the quantity, quality, or location
4 of oil that is explored for, drilled for, pro-
5 duced, or transported by the responsible
6 party, the evidence of financial responsi-
7 bility required shall be for an amount de-
8 termined by the President.

9 “(ii) ADJUSTMENT FOR ALL OFF-
10 SHORE FACILITIES.—

11 “(I) IN GENERAL.—Not later
12 than 3 years after the date of enact-
13 ment of the Oil Spill Accountability
14 and Environmental Protection Act of
15 2010, and at least once every 3 years
16 thereafter, the President shall review
17 the level of financial responsibility
18 specified in subparagraph (B) and
19 may by regulation revise such level
20 upwards to a level that the President
21 determines is justified based on the
22 relative operational, environmental,
23 human health, and other risks posed
24 by the quantity, quality, or location of
25 oil that is explored for, drilled for,

1 produced, or transported by the re-
2 sponsible party.

3 “(II) NOTICE TO CONGRESS.—

4 Upon completion of a review specified
5 in subclause (I), the President shall
6 notify Congress as to whether the
7 President will revise the levels of fi-
8 nancial responsibility and the factors
9 for making such determination.”; and

10 (3) by striking subparagraph (E).

11 (b) APPLICATION; TRANSITION PERIOD.—

12 (1) IN GENERAL.—The amendments made by
13 this section shall take effect on the date of enact-
14 ment of this Act and shall apply to any lease for ex-
15 ploration, development, or production of minerals, as
16 defined by the Outer Continental Shelf Lands Act
17 (43 U.S.C. 1331 et seq.), that the Secretary of the
18 Interior awards after the date of enactment of this
19 Act.

20 (2) TRANSITION PERIOD.—Notwithstanding
21 paragraph (1), not later than 6 months after the
22 date of enactment of this Act, the President shall re-
23 quire any person who holds, on the date of enact-
24 ment of this Act, a lease for exploration, develop-
25 ment, or production of minerals, as defined by the

1 Outer Continental Shelf Lands Act (43 U.S.C. 1331
2 et seq.), located in the navigable waters, adjoining
3 shoreline, or the exclusive economic zone of the
4 United States to provide evidence of financial re-
5 sponsibility consistent with the amendments made
6 by this section.

7 **SEC. 4. DAMAGES TO HUMAN HEALTH.**

8 (a) IN GENERAL.—Section 1002(b)(2) of the Oil Pol-
9 lution Act of 1990 (33 U.S.C. 2702(b)(2)) is amended by
10 adding at the end the following:

11 “(G) HUMAN HEALTH.—Damages to
12 human health, including fatal injuries, which
13 shall be recoverable by any claimant who has a
14 demonstrable, adverse impact to human health
15 or, in the case of a fatal injury to an individual,
16 a claimant filing a claim on behalf of such indi-
17 vidual.”.

18 (b) APPLICATION.—The amendment made by sub-
19 section (a) shall apply to all claims arising from events
20 or activities occurring on or after April 19, 2010, includ-
21 ing such claims pending on or before the date of enact-
22 ment of this Act.

1 **SEC. 5. CLARIFICATION OF LIABILITY FOR DISCHARGES**
2 **FROM MOBILE OFFSHORE DRILLING UNITS.**

3 (a) IN GENERAL.—Section 1004(b)(2) of the Oil Pol-
4 lution Act of 1990 (33 U.S.C. 2704(b)(2)) is amended—

5 (1) by striking “from any incident described in
6 paragraph (1)” and inserting “from any discharge of
7 oil, or substantial threat of a discharge of oil, into
8 or upon the water”; and

9 (2) by striking “liable” and inserting “liable as
10 described in paragraph (1)”.

11 (b) APPLICATION.—The amendments made by sub-
12 section (a) shall apply to all claims arising from events
13 or activities occurring on or after April 19, 2010, includ-
14 ing such claims pending on or before the date of enact-
15 ment of this Act.

16 **SEC. 6. STANDARD OF REVIEW FOR DAMAGE ASSESSMENT.**

17 Section 1006(e)(2) of the Oil Pollution Act of 1990
18 (33 U.S.C. 2706(e)(2)) is amended—

19 (1) in the heading by striking “REBUTTABLE
20 PRESUMPTION” and inserting “JUDICIAL REVIEW OF
21 ASSESSMENTS”; and

22 (2) by striking “have the force and effect” and
23 all that follows before the period and inserting the
24 following: “be subject to judicial review under sub-
25 chapter II of chapter 5 of title 5, United States
26 Code, (commonly known as the Administrative Pro-

1 cedure Act) on the basis of the administrative record
2 developed by the lead Federal trustee as provided in
3 such regulations”.

4 **SEC. 7. INFORMATION ON CLAIMS.**

5 (a) IN GENERAL.—Title I of the Oil Pollution Act
6 of 1990 (33 U.S.C. 2701 et seq.) is amended by inserting
7 after section 1013 the following:

8 **“SEC. 1013A. INFORMATION ON CLAIMS.**

9 “In the event of a spill of national significance, the
10 President may require a responsible party or a guarantor
11 of a source designated under section 1014(a) to provide
12 to the President any information on or related to claims,
13 either individually, in the aggregate, or both, that the
14 President requests, including—

15 “(1) the transaction date or dates of such
16 claims, including processing times; and

17 “(2) any other data pertaining to such claims
18 necessary to ensure the performance of the respon-
19 sible party or the guarantor with regard to the proc-
20 essing and adjudication of such claims.”.

21 (b) CONFORMING AMENDMENT.—The table of con-
22 tents contained in section 2 of such Act is amended by
23 inserting after the item relating to section 1013 the fol-
24 lowing:

“Sec. 1013A. Information on claims.”.

1 (c) APPLICATION.—The amendments made by this
2 section shall apply to all claims arising from events or ac-
3 tivities occurring on or after April 19, 2010, including
4 such claims pending on or before the date of enactment
5 of this Act.

6 **SEC. 8. LIMITATION OF LIABILITY ACT.**

7 (a) REPEAL.—Chapter 305 of title 46, United States
8 Code, is amended—

9 (1) by repealing sections 30505, 30506, 30507,
10 30511, and 30512; and

11 (2) by redesignating sections 30508 through
12 30510 as sections 30505 through 30507, respec-
13 tively.

14 (b) CONFORMING AND CLERICAL AMENDMENTS.—

15 (1) OIL POLLUTION ACT OF 1990.—Section
16 1018 of the Oil Pollution Act of 1990 (33 U.S.C.
17 2718) is amended—

18 (A) in subsection (a), by striking “or the
19 Act of March 3, 1851”; and

20 (B) in subsection (c), by striking “, the
21 Act of March 3, 1851 (46 U.S.C. 183 et
22 seq.),”.

23 (2) TITLE 46.—Section 14305(a) of title 46,
24 United States Code, is amended by striking para-

1 graph (5) and redesignating the subsequent para-
 2 graphs as paragraphs (5) through (14), respectively.

3 (3) CLERICAL AMENDMENT.—The analysis at
 4 the beginning of chapter 305 of title 46, United
 5 States Code, is amended by striking the items relat-
 6 ing to sections 30505 through 30512 and inserting
 7 the following:

“30505. Provisions requiring notice of claim or limiting time for bringing action.

“30506. Provisions limiting liability for personal injury or death.

“30507. Vicarious liability for medical malpractice with regard to crew.”.

8 (c) APPLICATION.—The repeals and amendments
 9 made by this section shall apply to all claims arising from
 10 events or activities occurring on or after April 19, 2010,
 11 including to claims pending on or before the date of enact-
 12 ment of this Act.

13 **SEC. 9. DEATH ON THE HIGH SEAS ACT.**

14 (a) IN GENERAL.—The Death on the High Seas Act
 15 (chapter 303 of title 46, United States Code), is amend-
 16 ed—

17 (1) in section 30302—

18 (A) by inserting “or law” after “admi-
 19 ralty”; and

20 (B) by striking the last sentence and in-
 21 serting “The action shall be for the exclusive
 22 benefit of the survivors, including the dece-
 23 dent’s spouse, parent, child, or dependent rel-
 24 atives.”;

1 (2) in section 30303—

2 (A) by inserting “and nonpecuniary loss”
3 after “pecuniary loss”;

4 (B) by striking “by” and all that follows
5 through the end, and inserting “, plus a fair
6 compensation for the decedent’s pain and suf-
7 fering.”; and

8 (C) by adding at the end the following: “In
9 this section, the term ‘nonpecuniary loss’ means
10 losses authorized under general maritime law
11 including loss of care, comfort, and companion-
12 ship.”;

13 (3) in section 30305 by inserting “or law” after
14 “admiralty”;

15 (4) in section 30306, by inserting “or law”
16 after “admiralty”;

17 (5) by striking section 30307; and

18 (6) in the table of sections at the beginning of
19 such chapter, by striking the item relating to sec-
20 tions 30307.

21 (b) APPLICATION.—The amendments made by sub-
22 section (a) shall apply to all claims arising from events
23 or activities occurring on or after April 19, 2010, includ-
24 ing such claims pending on or before the date of enact-
25 ment of this Act.

1 **SEC. 10. JONES ACT.**

2 (a) IN GENERAL.—Section 30104 of title 46, United
3 States Code, is amended—

4 (1) in the second sentence, by striking “Laws”
5 and inserting “Except as provided in subsection (b),
6 laws”;

7 (2) by inserting “(a) IN GENERAL.—” before
8 the first sentence; and

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

10 “(b) NONPECUNIARY LOSSES FOR DEATH.—In addi-
11 tion to other amounts authorized by law, the recovery for
12 a seaman who dies may also include nonpecuniary losses
13 that are authorized under general maritime law, such as
14 the loss of care, comfort, and companionship.”.

15 (b) APPLICATION.—The amendments made by sub-
16 section (a) shall apply to all claims arising from events
17 or activities occurring on or after April 19, 2010, includ-
18 ing such claims pending on or before the date of enact-
19 ment of this Act.

20 **SEC. 11. AMERICANIZATION OF OFFSHORE OPERATIONS IN**
21 **THE EXCLUSIVE ECONOMIC ZONE.**

22 (a) REGISTRY ENDORSEMENT REQUIRED.—

23 (1) IN GENERAL.—Section 12111 of title 46,
24 United States Code, is amended by adding at the
25 end the following:

1 “(e) RESOURCE ACTIVITIES IN THE EEZ.—Except
2 for activities requiring an endorsement under sections
3 12112 or 12113, only a vessel for which a certificate of
4 documentation with a registry endorsement is issued and
5 that is owned by a citizen of the United States (as deter-
6 mined under section 50501(d)) may engage in support of
7 exploration, development, or production of resources in,
8 on, above, or below the exclusive economic zone or any
9 other activity in the exclusive economic zone to the extent
10 that the regulation of such activity is not prohibited under
11 customary international law.”.

12 (2) APPLICATION.—The amendment made by
13 paragraph (1) applies only with respect to explo-
14 ration, development, production, and support activi-
15 ties that commence on or after July 1, 2011.

16 (b) LEGAL AUTHORITY.—Section 2301 of title 46,
17 United States Code, is amended—

18 (1) by striking “chapter” and inserting “title”;

19 and

20 (2) by inserting after “1988” the following:

21 “and the exclusive economic zone to the extent that
22 the regulation of such operation is not prohibited
23 under customary international law”.

24 (c) TRAINING FOR COAST GUARD PERSONNEL.—Not
25 later than 180 days after the date of enactment of this

1 Act, the Secretary of the department in which the Coast
2 Guard is operating shall establish a program to provide
3 Coast Guard personnel with the training necessary for the
4 implementation of the amendments made by this section.

5 **SEC. 12. SAFETY MANAGEMENT SYSTEMS FOR MOBILE OFF-**
6 **SHORE DRILLING UNITS.**

7 Section 3203 of title 46 United States Code, is
8 amended—

9 (1) by redesignating subsection (b) as sub-
10 section (c); and

11 (2) by inserting after subsection (a) the fol-
12 lowing:

13 “(b) MOBILE OFFSHORE DRILLING UNITS.—The
14 safety management system described in subsection (a) for
15 a mobile offshore drilling unit operating in waters subject
16 to the jurisdiction of the United States (including the ex-
17 clusive economic zone) shall include processes, procedures,
18 and policies related to the safe operation and maintenance
19 of the machinery and systems on board the unit that are
20 used for the industrial business and functions of the unit,
21 including drilling operations.”.

22 **SEC. 13. SAFETY STANDARDS FOR MOBILE OFFSHORE**
23 **DRILLING UNITS.**

24 Section 3306 of title 46, United States Code, is
25 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 involving a discharge as that term
4 is defined in section 1001 of the Oil Pollution Act of 1990
5 (33 U.S.C. 2701)”.

6 **SEC. 14. COAST GUARD MARINE SAFETY WORKFORCE.**

7 (a) IN GENERAL.—Chapter 5 of title 14, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 **“§ 99. Marine safety workforce**

11 “(a) MARINE SAFETY WORKFORCE.—The Secretary,
12 acting through the Commandant—

13 “(1) shall designate a sufficient number of posi-
14 tions to be in the Coast Guard’s marine safety work-
15 force to perform vessel inspections and marine cas-
16 ualty investigations; and

17 “(2) shall ensure that a sufficient number of
18 fully qualified officers, members, and civilian em-
19 ployees of the Coast Guard are assigned to those po-
20 sitions.

21 “(b) CAREER PATHS.—The Secretary, acting
22 through the Commandant, shall ensure that appropriate
23 career paths for an officer, member, or civilian employee
24 of the Coast Guard who wishes to pursue a career in ma-
25 rine safety are identified in terms of the education, train-

1 ing, experience, and assignments necessary for career pro-
2 gression to the most senior marine safety positions. The
3 Secretary shall make available published information on
4 such career paths.

5 “(c) QUALIFICATIONS.—With regard to the marine
6 safety workforce, an officer, member, or civilian employee
7 of the Coast Guard assigned as a—

8 “(1) marine inspector shall have the training,
9 experience, and qualifications equivalent to that re-
10 quired for a similar position at a classification soci-
11 ety recognized by the Secretary under section 3316
12 of title 46 for the type of vessel, system, or equip-
13 ment that is inspected;

14 “(2) marine casualty investigator shall have
15 training, experience, and qualifications in investiga-
16 tion, marine casualty reconstruction, evidence collec-
17 tion and preservation, human factors, and docu-
18 mentation using best investigation practices by Fed-
19 eral and non-Federal entities;

20 “(3) marine safety engineer shall have knowl-
21 edge, skill, and practical experience in—

22 “(A) the construction and operation of
23 commercial vessels;

1 “(B) judging the character, strength, sta-
2 bility, and safety qualities of such vessels and
3 their equipment; or

4 “(C) the qualifications and training of ves-
5 sel personnel; or

6 “(4) marine inspector inspecting mobile off-
7 shore drilling units shall have knowledge, skill, and
8 practical experience in—

9 “(A) Federal, State, and international law
10 compliance;

11 “(B) personnel training;

12 “(C) drilling operations;

13 “(D) mobile offshore drilling unit and mar-
14 itime safety;

15 “(E) the effect of weather on mobile off-
16 shore drilling unit safety and operations;

17 “(F) ship handling and positioning; and

18 “(G) emergency procedures.

19 “(d) APPRENTICESHIP REQUIREMENTS.—

20 “(1) IN GENERAL.—An officer, member, or ci-
21 vilian employee of the Coast Guard in training to be-
22 come a marine inspector, marine casualty investi-
23 gator, or a marine safety engineer shall serve a min-
24 imum of one-year apprenticeship, unless otherwise
25 directed by the Commandant, under the guidance of

1 a qualified marine inspector (including an inspector
2 of mobile offshore drilling units), marine casualty in-
3 vestigator, or marine safety engineer. The Com-
4 mandant may authorize shorter apprenticeship peri-
5 ods for certain qualifications, as appropriate.

6 “(2) HIGHLY SPECIALIZED VESSELS.—

7 “(A) IN GENERAL.—In addition to the re-
8 quirement under paragraph (1), any officer,
9 member, or employee of the Coast Guard as-
10 signed as a marine inspector or marine casualty
11 investigator with responsibility for inspecting or
12 responding to casualties involving highly spe-
13 cialized vessels must have served a minimum of
14 6 months apprenticeship with those vessels.

15 “(B) HIGHLY SPECIALIZED VESSELS DE-
16 FINED.—In this paragraph the term ‘highly
17 specialized vessel’ includes mobile offshore drill-
18 ing units, tank vessels, and vessels carrying cer-
19 tain dangerous cargoes as defined by the Com-
20 mandant.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of such chapter is amended by adding
23 at the end the following:

“99. Marine safety workforce.”.

1 **SEC. 15. OPERATIONAL CONTROL OF MOBILE OFFSHORE**
2 **DRILLING UNITS.**

3 (a) **LICENSES FOR MASTERS OF MOBILE OFFSHORE**
4 **DRILLING UNITS.—**

5 (1) **IN GENERAL.**—Chapter 71 of title 46,
6 United States Code, is amended by redesignating
7 sections 7104 through 7114 as sections 7105
8 through 7115, respectively, and by inserting after
9 section 7103 the following:

10 **“§ 7104. Licenses for masters of mobile offshore drill-**
11 **ing units**

12 “A license as master of a mobile offshore drilling unit
13 may be issued only to an applicant who has been issued
14 a license as master under section 7101(c)(1) and has dem-
15 onstrated the knowledge, understanding, proficiency, and
16 sea service required to be responsible for all industrial
17 business or functions of a mobile offshore drilling unit,
18 including all drilling operations of that type of unit for
19 which the applicant is to be licensed.”.

20 (2) **CONFORMING AMENDMENT.**—Section 7109
21 of such title, as so redesignated, is amended by
22 striking “section 7106 or 7107” and inserting “sec-
23 tion 7107 or 7108”.

24 (3) **CLERICAL AMENDMENT.**—The table of sec-
25 tions at the beginning of such chapter is amended

1 by striking the items relating to sections 7104
2 through 7114 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.”.

3 (b) REQUIREMENT FOR CERTIFICATE OF INSPEC-
4 TION.—Section 8101(a)(2) of title 46, United States
5 Code, is amended by inserting before the semicolon the
6 following: “and shall at all times be under the command
7 of a master licensed under section 7104”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect 6 months after the date of
10 the enactment of this Act.

11 **SEC. 16. LEAVE RETENTION AUTHORITY.**

12 (a) IN GENERAL.—Chapter 11 of title 14, United
13 States Code, is amended by inserting after section 425 the
14 following:

15 **“§ 426. Emergency leave retention authority**

16 “(a) IN GENERAL.—A duty assignment for an active
17 duty member of the Coast Guard in support of a declara-
18 tion of a major disaster or emergency by the President
19 under the Robert T. Stafford Disaster Relief and Emer-
20 gency Assistance Act (42 U.S.C. 5121 et seq.) or in re-

1 sponse to a spill of national significance shall be treated,
2 for the purpose of section 701(f)(2) of title 10, as a duty
3 assignment in support of a contingency operation.

4 “(b) DEFINITIONS.—In this section:

5 “(1) SPILL OF NATIONAL SIGNIFICANCE.—The
6 term ‘spill of national significance’ means a dis-
7 charge of oil or a hazardous substance that is de-
8 clared by the Commandant to be a spill of national
9 significance.

10 “(2) DISCHARGE.—The term ‘discharge’ has
11 the meaning given that term in section 1001 of the
12 Oil Pollution Act of 1990 (33 U.S.C. 2701).”.

13 (b) CLERICAL AMENDMENT.—The analysis for such
14 chapter is amended by inserting after the item relating
15 to section 425 the following:

“426. Emergency leave retention authority.”.

16 **SEC. 17. SINGLE-HULL TANKERS.**

17 (a) APPLICATION OF TANK VESSEL CONSTRUCTION
18 STANDARDS.—Section 3703a(b) of title 46, United States
19 Code, is amended by striking paragraph (3), and redesi-
20 gnating paragraphs (4) through (6) as paragraphs (3)
21 through (5), respectively.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) takes effect on January 1, 2011.

1 **SEC. 18. 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. 19. NATIONAL CONTINGENCY PLAN.**

15 Section 311(d) of the Federal Water Pollution Con-
16 trol Act (33 U.S.C. 1321(d)) is amended by adding at the
17 end the following:

18 “(5) SCHEDULE FOR USE OF DISPERSANTS,
19 OTHER CHEMICALS, AND OTHER SPILL MITIGATING
20 DEVICES AND SUBSTANCES.—

21 “(A) RULEMAKING.—Not later than 15
22 months after the date of enactment of this
23 paragraph, the President, acting through the
24 Administrator, after providing notice and an
25 opportunity for public comment, shall issue a
26 revised regulation for the development of the

1 schedule for the use of dispersants, other
2 chemicals, and other spill mitigating devices
3 and substances developed under paragraph
4 (2)(G) in a manner that is consistent with the
5 requirements of this paragraph and shall mod-
6 ify the existing schedule to take into account
7 the requirements of the revised regulation.

8 “(B) SCHEDULE LISTING REQUIRE-
9 MENTS.—In issuing the regulation under sub-
10 paragraph (A), the Administrator shall—

11 “(i) with respect to dispersants, other
12 chemicals, and other spill mitigating sub-
13 stances included or proposed to be included
14 on the schedule under paragraph (2)(G)—

15 “(I) establish minimum toxicity
16 and efficacy testing criteria, taking
17 into account the results of the study
18 carried out under subparagraph (C);

19 “(II) provide for testing or other
20 verification (independent from the in-
21 formation provided by an applicant
22 seeking the inclusion of such dispers-
23 ant, chemical, or substance on the
24 schedule) related to the toxicity and

1 effectiveness of such dispersant, chem-
2 ical, or substance;

3 “(III) establish a framework for
4 the application of any such dispersant,
5 chemical, or substance, including—

6 “(aa) quantity restrictions
7 or application conditions;

8 “(bb) the quantity thresh-
9 olds for which consultation with
10 and approval by the Regional Re-
11 sponse Team and the Federal
12 On-Scene Coordinator is re-
13 quired; and

14 “(cc) the criteria to be used
15 to develop the appropriate max-
16 imum quantity of any such dis-
17 persant, chemical, or substance
18 that the Administrator deter-
19 mines may be used, both on a
20 daily and cumulative basis;

21 “(IV) establish a requirement
22 that the volume of oil or hazardous
23 substance discharged, and the volume
24 and location of any such dispersant,

1 chemical, or substance used, be meas-
2 ured and made publicly available;

3 “(V) notwithstanding any other
4 provision of law, require the public
5 disclosure of the specific chemical
6 identity, including the chemical and
7 common name of any ingredients con-
8 tained in, and specific chemical for-
9 mulas or mixtures of, any such dis-
10 persant, chemical, or substance; and

11 “(VI) in addition to existing au-
12 thority, expressly provide a mecha-
13 nism for the delisting of any such dis-
14 persant, chemical, or substance based
15 on any information made available to
16 the Administrator that demonstrates
17 that such dispersant, chemical, or
18 substance poses a significant risk to
19 or impact on human health or the en-
20 vironment;

21 “(ii) with respect to a dispersant,
22 other chemical, and other spill mitigating
23 substance not specifically identified on the
24 schedule, and prior to the use of such dis-

1 persant, chemical, or substance in accord-
2 ance with paragraph (2)(G), establish—

3 “(I) the minimum toxicity and
4 efficacy levels for such dispersant,
5 chemical, or substance;

6 “(II) the information, including
7 the specific chemical identity, formula,
8 and mixtures, on such dispersant,
9 other chemical, or other spill miti-
10 gating substance that shall be made
11 publicly available; and

12 “(III) such additional informa-
13 tion as the Administrator determines
14 necessary; and

15 “(iii) with respect to other spill miti-
16 gating devices included or proposed to be
17 included on the schedule under paragraph
18 (2)(G)—

19 “(I) require the manufacturer of
20 such device to carry out a study of the
21 risks and effectiveness of the device
22 according to guidelines developed and
23 published by the Administrator; and

24 “(II) in addition to existing au-
25 thority, expressly provide a mecha-

1 nism for the delisting of any such de-
2 vice based on any information made
3 available to the Administrator that
4 demonstrates that such device poses a
5 significant risk to or impact on
6 human health or the environment.

7 “(C) 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 human health and the environment, in-
13 cluding acute and chronic risks, from the
14 use of dispersants, other chemicals, and
15 other spill mitigating substances, if any,
16 that may be used to carry out the National
17 Contingency Plan, including an assessment
18 of such risks and impacts—

19 “(I) on a representative sample
20 of biota and types of oil from loca-
21 tions where such dispersants, chemi-
22 cals, or substances may potentially be
23 used;

24 “(II) on human health, including
25 individuals most likely to come into

1 contact with such dispersants, chemi-
2 cals, or substances, such as oil spill
3 response action workers; and

4 “(III) that result from any by-
5 products created from the use of such
6 dispersants, chemicals, or substances.

7 “(ii) INFORMATION FROM MANUFAC-
8 TURERS.—

9 “(I) IN GENERAL.—In conjunc-
10 tion with the study authorized by
11 clause (i), the Administrator shall de-
12 termine the requirements for manu-
13 facturers of dispersants, chemicals, or
14 substances to evaluate the potential
15 risks and impacts to human health
16 and the environment, including acute
17 and chronic risks, associated with the
18 use of the dispersants, chemicals, or
19 substances and any byproducts gen-
20 erated by such use and to provide the
21 details of such evaluation as a condi-
22 tion for listing on the schedule accord-
23 ing to guidelines developed and pub-
24 lished by the Administrator.

1 “(II) MINIMUM REQUIREMENTS
2 FOR EVALUATION.—Any evaluation
3 carried out by a manufacturer under
4 this clause shall include—

5 “(aa) information on the oils
6 and locations where such
7 dispersants, chemicals, or sub-
8 stances may potentially be used;

9 “(bb) an evaluation of the
10 variety of different dispersants,
11 chemicals, or substances that
12 may be used in a response; and

13 “(cc) an assessment of ap-
14 plication and impacts from
15 subsea use of the dispersant,
16 chemical, or substance, including
17 the potential long term effects of
18 such use.

19 “(D) PERIODIC REVISIONS.—

20 “(i) IN GENERAL.—Not later than 5
21 years after the date of the issuance of the
22 regulation under this paragraph, and at
23 least once every 5 years thereafter, the Ad-
24 ministrators shall review the schedule for
25 the use of dispersants, other chemicals,

1 and other spill mitigating devices and sub-
2 stances that may be used to carry out the
3 National Contingency Plan and update or
4 revise the schedule, as necessary, to ensure
5 the protection of human health and the en-
6 vironment.

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 “(E) 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 “(6) REVIEW OF AND DEVELOPMENT OF CRI-
13 TERIA FOR EVALUATING RESPONSE PLANS.—

14 “(A) REVIEW.—Not later than 6 months
15 after the date of enactment of this paragraph,
16 the President shall review the procedures and
17 standards developed under paragraph (2)(J) to
18 determine their sufficiency in ceasing and re-
19 moving a worst case discharge of oil or haz-
20 ardous substances, and for mitigating or pre-
21 venting a substantial threat of such a dis-
22 charge.

23 “(B) RULEMAKING.—Not later than 1
24 year after the date of enactment of this para-
25 graph, the President, after providing notice and

1 an opportunity for public comment, shall under-
2 take a rulemaking to—

3 “(i) revise the procedures and stand-
4 ards for ceasing and removing a worst case
5 discharge of oil or hazardous substances,
6 and for mitigating or preventing a substan-
7 tial threat of such a discharge; and

8 “(ii) develop a metric for evaluating
9 the National Contingency Plan, Area Con-
10 tingency Plans, and Tank Vessel, Nontank
11 Vessel, and Facility Response Plans con-
12 sistent with the procedures and standards
13 developed pursuant to this paragraph.”.

14 **SEC. 20. TRACKING DATABASE.**

15 Section 311(b) of the Federal Water Pollution Con-
16 trol Act (33 U.S.C. 1321(b)) is amended by adding at the
17 end the following:

18 “(13) TRACKING DATABASE.—

19 “(A) IN GENERAL.—The President shall
20 create a database to track all discharges of oil
21 or hazardous substances—

22 “(i) into the waters of the United
23 States, adjoining shorelines, or into or
24 upon the waters of the contiguous zone;

1 “(ii) in connection with activities
2 under the Outer Continental Shelf Lands
3 Act (43 U.S.C. 1331 et seq.) or the Deep-
4 water Port Act of 1974 (33 U.S.C. 1501
5 et seq.); or

6 “(iii) which may affect natural re-
7 sources belonging to, appertaining to, or
8 under the exclusive management authority
9 of the United States (including resources
10 under the Fishery Conservation and Man-
11 agement Act of 1976 (16 U.S.C. 1801 et
12 seq.)).

13 “(B) REQUIREMENTS.—The database
14 shall—

15 “(i) include—

16 “(I) the name of the vessel or fa-
17 cility;

18 “(II) the name of the owner, op-
19 erator, or person in charge of the ves-
20 sel or facility;

21 “(III) the date of the discharge;

22 “(IV) the volume of the dis-
23 charge;

24 “(V) the location of the dis-
25 charge, including an identification of

1 any receiving waters that are or could
2 be affected by the discharge;

3 “(VI) a record of any determina-
4 tion of a violation of this section or
5 section 1002 of the Oil Pollution Act
6 of 1990 (33 U.S.C. 2702);

7 “(VII) a record of any adminis-
8 trative or enforcement action taken
9 against the owner, operator, or person
10 in charge; and

11 “(VIII) any additional informa-
12 tion that the President determines
13 necessary;

14 “(ii) use data provided by the Envi-
15 ronmental Protection Agency, the Coast
16 Guard, the Pipeline and Hazardous Mate-
17 rials Safety Administration, and other ap-
18 propriate Federal agencies;

19 “(iii) use data protocols developed and
20 managed by the Environmental Protection
21 Agency; and

22 “(iv) be publicly accessible, including
23 by electronic means.”.

1 **SEC. 21. SAFETY OF TRANSPORTATION-RELATED OFF-**
2 **SHORE PLATFORMS.**

3 (a) IN GENERAL.—Chapter 601 of title 49, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 60138. Safety of transportation-related offshore**
7 **platforms**

8 “(a) IN GENERAL.—The Secretary of Transportation
9 shall conduct an analysis of the adequacy of existing regu-
10 lations and standards for the safety of transportation-re-
11 lated offshore platforms and the impact of the integrity
12 of such platforms on pipeline safety.

13 “(b) CONSULTATION.—In carrying out subsection
14 (a), the Secretary may consult with any agency, organiza-
15 tion, or person with expertise in the design, construction,
16 testing, operation, or maintenance of offshore platforms.

17 “(c) REPORT TO CONGRESS.—Not later than 24
18 months after the date of enactment of this section, the
19 Secretary shall submit to the Committee on Transpor-
20 tation and Infrastructure of the House of Representatives
21 and the Committee on Commerce, Science, and Transpor-
22 tation of the Senate a report describing the results of the
23 analysis conducted under subsection (a). The report shall
24 include any recommendations the Secretary may have for
25 addressing the safety or integrity of transportation-related

1 offshore platforms, including any recommendations for
2 legislative or regulatory action.

3 “(d) **TRANSPORTATION-RELATED OFFSHORE PLAT-**
4 **FORM DEFINED.**—In this section, the term ‘transpor-

5 tation-related offshore platform’ means any platform—
6 “(1) located beyond the shoreline of the United
7 States in State or Federal waters;

8 “(2) used for transporting gas or hazardous liq-
9 uid; and

10 “(3) the design, construction, testing, operation,
11 maintenance, and security of which is not regulated
12 by another Federal agency.

13 “(e) **LIMITATION.**—Nothing in this section applies to
14 a production facility.”.

15 (b) **CLERICAL AMENDMENT.**—The analysis for such
16 chapter is amended by adding at the end the following:

“60138. Safety of transportation-related offshore platforms.”.

17 **SEC. 22. EVALUATION AND APPROVAL OF RESPONSE**
18 **PLANS; MAXIMUM PENALTIES.**

19 (a) **AGENCY REVIEW OF RESPONSE PLANS.**—

20 (1) **LEAD FEDERAL AGENCY FOR REVIEW OF**
21 **RESPONSE PLANS.**—Section 311(j)(5)(A) of the Fed-
22 eral Water Pollution Control Act (33 U.S.C.
23 1321(j)(5)(A)) is amended by adding at the end the
24 following:

1 “(iii) In issuing the regulations under this para-
2 graph, the President shall ensure that—

3 “(I) the owner, operator, or person in
4 charge of a tank vessel, nontank vessel, or off-
5 shore facility described in subparagraph (C) will
6 not be considered to have complied with this
7 paragraph until the owner, operator, or person
8 in charge submits a plan under clause (i) or
9 (ii), as appropriate, to the Secretary of the de-
10 partment in which the Coast Guard is operating
11 and the Secretary determines and notifies the
12 owner, operator, or person in charge that the
13 plan, if implemented, will provide an adequate
14 response to a worst case discharge of oil or a
15 hazardous substance or a substantial threat of
16 such a discharge; and

17 “(II) the owner, operator, or person in
18 charge of an onshore facility described in sub-
19 paragraph (C)(iv) will not be considered to have
20 complied with this paragraph until the owner,
21 operator, or person in charge submits a plan
22 under clause (i) either to the Secretary of
23 Transportation, with respect to transportation-
24 related onshore facilities, or the Administrator,
25 with respect to all other onshore facilities, and

1 the Secretary or Administrator, as appropriate,
2 determines and notifies the owner, operator, or
3 person in charge that the plan, if implemented,
4 will provide an adequate response to a worst-
5 case discharge of oil or a hazardous substance
6 or a substantial threat of such a discharge.”.

7 (2) REVIEW AND APPROVAL OF RESPONSE
8 PLANS.—Section 311(j)(5)(E) of such Act (33
9 U.S.C. 1321(j)(5)(E)) is amended to read as follows:

10 “(E) With respect to any response plan sub-
11 mitted under this paragraph for an onshore facility
12 that, because of its location, could reasonably be ex-
13 pected to cause significant and substantial harm to
14 the environment by discharging into or on the navi-
15 gable waters or adjoining shorelines or the exclusive
16 economic zone, and with respect to each response
17 plan submitted under this paragraph for a tank ves-
18 sel, nontank vessel, or offshore facility, the President
19 shall—

20 “(i) promptly review the response plan;

21 “(ii) with respect to a plan for an offshore
22 or onshore facility, provide an opportunity for
23 public notice and comment on the response
24 plan;

1 “(iii) taking into consideration any public
2 comments received and other appropriate fac-
3 tors, as determined by the President, require
4 revisions to the response plan;

5 “(iv) approve, approve with revisions, or
6 disapprove the response plan;

7 “(v) review the response plan periodically
8 thereafter, and if applicable requirements are
9 not met, acting through the head of the appro-
10 priate Federal department or agency—

11 “(I) issue administrative orders di-
12 recting the owner, operator, or person in
13 charge to comply with the response plan or
14 any regulation issued under this section; or

15 “(II) assess civil penalties or conduct
16 other appropriate enforcement actions in
17 accordance with subsections (b)(6), (b)(7),
18 and (b)(8) for failure to develop, submit,
19 receive approval of, adhere to, or maintain
20 the capability to implement the response
21 plan, or failure to comply with any other
22 requirement of this section;

23 “(vi) acting through the head of the appro-
24 priate Federal department or agency, require,
25 at a minimum, biennial inspections conducted

1 by such agency of the tank vessel, nontank ves-
2 sel, or facility to ensure compliance with the re-
3 sponse plan or identify deficiencies in such plan;

4 “(vii) acting through the head of the ap-
5 propriate Federal department or agency, make
6 the response plan available to the public, includ-
7 ing on the Internet; and

8 “(viii) in the case of a plan for a nontank
9 vessel, consider any applicable State-mandated
10 response plan in effect on the date of enactment
11 of the Coast Guard and Maritime Transpor-
12 tation Act of 2004 and ensure consistency to
13 the extent practicable.”.

14 (3) BIENNIAL REPORT.—Section 311(j)(5) of
15 such Act (33 U.S.C. 1321(j)(5)) is amended by add-
16 ing at the end the following:

17 “(J) Not later than 2 years after the date of
18 enactment of this subparagraph, and biennially
19 thereafter, the President, acting through the Admin-
20 istrator, the Secretary of the department in which
21 the Coast Guard is operating, and the Secretary of
22 Transportation, shall submit to Congress a report
23 containing the following information for each owner,
24 operator, or person in charge that submitted a re-

1 sponse plan for a tank vessel, nontank vessel, or
2 other facility under this paragraph:

3 “(i) The number of response plans ap-
4 proved, disapproved, or approved with revisions
5 under subparagraph (E) annually for tank ves-
6 sels, nontank vessels, and facilities of the
7 owner, operator, or person in charge.

8 “(ii) The number of inspections conducted
9 under subparagraph (E) annually for tank ves-
10 sels, nontank vessels, and facilities of the
11 owner, operator, or person in charge.

12 “(iii) A summary of each administrative or
13 enforcement action taken with respect each
14 tank vessel, nontank vessel, and facility of the
15 owner, operator, or person in charge, including
16 a description of the violation, the date of viola-
17 tion, the amount of each penalty proposed, and
18 the final assessment of each penalty and an ex-
19 planation for any reduction in a penalty.”.

20 (4) ADMINISTRATIVE PROVISIONS FOR FACILI-
21 TIES.—Section 311(m)(2) of such Act (33 U.S.C.
22 1321(m)(2)) is amended in each of subparagraphs
23 (A) and (B) by inserting “, the Secretary of Trans-
24 portation,” before “or the Secretary of the depart-
25 ment in which the Coast Guard is operating”.

1 (b) PENALTIES.—

2 (1) ADMINISTRATIVE PENALTIES.—

3 (A) AUTHORITY OF SECRETARY OF TRANS-
4 PORTATION TO ASSESS PENALTIES.—Section
5 311(b)(6)(A) of such Act (33 U.S.C.
6 1321(b)(6)(A)) is amended by inserting “, the
7 Secretary of Transportation,” before “or the
8 Administrator”.

9 (B) ADMINISTRATIVE PENALTIES FOR
10 FAILURE TO PROVIDE NOTICE.—Section
11 311(b)(6)(A) of such Act (33 U.S.C.
12 1321(b)(6)(A)) is further amended—

13 (i) in clause (i) by striking “para-
14 graph (3), or” and inserting “paragraph
15 (3),”;

16 (ii) in clause (ii) by striking “any reg-
17 ulation” and inserting “any order or action
18 required by the President under sub-
19 sections (c) or (e) or any regulation”;

20 (iii) by redesignating clause (ii) as
21 clause (iii);

22 (iv) by inserting after clause (i) the
23 following:

1 “(ii) who fails to provide notice to the
2 appropriate Federal agency pursuant to
3 paragraph (5), or”; and

4 (v) by adding at the end the following:
5 “Whenever the President delegates the au-
6 thority to issue regulations under sub-
7 section (j), the agency that issues regula-
8 tions pursuant to that authority shall have
9 the authority to assess a civil penalty in
10 accordance with this section for violations
11 of such regulations.”.

12 (C) PENALTY AMOUNTS.—Section
13 311(b)(6)(B) of such Act (33 U.S.C.
14 1321(b)(6)(B)) is amended—

15 (i) in clause (i)—

16 (I) by striking “\$10,000” and in-
17 serting “100,000”; and

18 (II) by striking “\$25,000” and
19 inserting “\$250,000”; and

20 (ii) in clause (ii)—

21 (I) by striking “\$10,000” and in-
22 serting “\$100,000”; and

23 (II) by striking “\$125,000” and
24 inserting “\$1,000,000”.

1 (2) CIVIL PENALTIES.—Section 311(b)(7) of
2 such Act (33 U.S.C. 1321(b)(7)) is amended—

3 (A) in subparagraph (A)—

4 (i) by striking “\$25,000” and insert-
5 ing “\$100,000”; and

6 (ii) by striking “\$1,000” and insert-
7 ing “\$2,500”;

8 (B) in subparagraph (B)—

9 (i) by striking “described in subpara-
10 graph (A)”;

11 (ii) in clause (i) by striking “carry out
12 removal of the discharge under an order of
13 the President pursuant to subsection (c);
14 or” and inserting “comply with any action
15 required by the President pursuant to sub-
16 section (c),”;

17 (iii) in clause (ii) by striking
18 “(1)(B)”;

19 (iv) by redesignating clause (ii) as
20 clause (iii);

21 (v) by inserting after clause (i) the
22 following:

23 “(ii) fails to provide notice to the ap-
24 propriate Federal agency pursuant to para-
25 graph (5), or”; and

1 (vi) by striking “\$25,000” and insert-
2 ing “\$100,000”;

3 (C) in subparagraph (C)—

4 (i) by striking “\$25,000” and insert-
5 ing “\$100,000”; and

6 (ii) by adding at the end the fol-
7 lowing: “Whenever the President delegates
8 the authority to issue regulations under
9 subsection (j), the agency that issues regu-
10 lations pursuant to that authority shall
11 have the authority to order injunctive relief
12 or assess a civil penalty in accordance with
13 this section for violations of such regula-
14 tions and the authority to refer the matter
15 to the Attorney General for action under
16 subparagraph (E).”;

17 (D) in subparagraph (D)—

18 (i) by striking “\$100,000” and insert-
19 ing “\$1,000,000”; and

20 (ii) by striking “\$3,000” and insert-
21 ing “\$7,500”; and

22 (E) in subparagraph (E) by adding at the
23 end the following: “The court may award ap-
24 propriate relief, including a temporary or per-

1 manent injunction, civil penalties, compliance
2 requirements, and punitive damages.”.

3 (3) APPLICATION.—The amendments made by
4 this subsection shall apply to violations occurring on
5 or after April 19, 2010.

6 (c) CLARIFICATION OF FEDERAL REMOVAL AUTHOR-
7 ITY.—Section 311(c)(1)(B)(ii) of such Act (33 U.S.C.
8 1321(c)(1)(B)(ii)) is amended by striking the term “mon-
9 itor all” and replace with “monitor, including through the
10 use of an administrative order, all”.

11 **SEC. 23. IMPLEMENTATION OF OIL SPILL PREVENTION AND**
12 **RESPONSE AUTHORITIES.**

13 Section 311(l) of the Federal Water Pollution Control
14 Act (33 U.S.C. 1321(l)) is amended—

15 (1) by striking “(l) The President” and insert-
16 ing the following:

17 “(l) DELEGATION AND IMPLEMENTATION.—

18 “(1) DELEGATION.—The President”; and

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

20 “(2) ENVIRONMENTAL PROTECTION AGENCY.—

21 “(A) IN GENERAL.—The President shall
22 delegate the responsibilities under subparagraph
23 (B) to the Administrator.

24 “(B) RESPONSIBILITIES.—The Adminis-
25 trator shall ensure that Environmental Protec-

1 tion Agency personnel develop and maintain
2 operational capability—

3 “(i) for effective inspection, moni-
4 toring, prevention, preparedness, and re-
5 sponse authorities related to the discharge
6 or substantial threat of a discharge of oil
7 or a hazardous substance;

8 “(ii) to protect human health and
9 safety from impacts of a discharge or sub-
10 stantial threat of a discharge of oil or a
11 hazardous substance;

12 “(iii) to review and approve of, dis-
13 approve of, or require revisions (if nec-
14 essary) to onshore facility response plans
15 and to carry out all other responsibilities
16 under subsection (j)(E)(5); and

17 “(iv) to protect the environment and
18 natural resources from impacts of a dis-
19 charge or substantial threat of a discharge
20 of oil or a hazardous substance.

21 “(3) COAST GUARD.—

22 “(A) IN GENERAL.—The President shall
23 delegate the responsibilities under subparagraph
24 (B) to the Secretary of the department in which
25 the Coast Guard is operating.

1 “(B) RESPONSIBILITIES.—The Secretary
2 shall ensure that Coast Guard personnel de-
3 velop and maintain operational capability—

4 “(i) to establish and enforce regula-
5 tions and standards for procedures, meth-
6 ods, equipment, and other requirements to
7 prevent and to contain a discharge of oil or
8 a hazardous substance from a tank vessel,
9 nontank vessel, or offshore facility;

10 “(ii) to establish and enforce regula-
11 tions, and to carry out all other respon-
12 sibilities, under subsection (j)(5)(A);

13 “(iii) to review and approve of, dis-
14 approve of, or require revisions (if nec-
15 essary) to tank vessel, nontank vessel, and
16 offshore facility response plans and to
17 carry out all other responsibilities under
18 subsection (j)(5)(E);

19 “(iv) for effective inspection, moni-
20 toring, prevention, preparedness, and re-
21 sponse authorities related to the discharge
22 or substantial threat of a discharge of oil
23 or a hazardous substance from a tank ves-
24 sel, nontank vessel, or offshore facility;

1 “(v) to protect the public from im-
2 pacts of a discharge or substantial threat
3 of a discharge of oil or a hazardous sub-
4 stance in United States waters; and

5 “(vi) to protect the environment and
6 natural resources from impacts of a dis-
7 charge or substantial threat of a discharge
8 of oil or a hazardous substance in United
9 States waters.

10 “(4) DEPARTMENT OF TRANSPORTATION.—

11 “(A) IN GENERAL.—The President shall
12 delegate the responsibilities under subparagraph
13 (B) to the Secretary of Transportation.

14 “(B) RESPONSIBILITIES.—The Secretary
15 of Transportation shall—

16 “(i) establish and enforce regulations
17 and standards for procedures, methods,
18 equipment, and other requirements to pre-
19 vent and to contain discharges of oil and
20 hazardous substances from transportation-
21 related onshore facilities;

22 “(ii) to review and approve of, dis-
23 approve of, or require revisions (if nec-
24 essary) to transportation-related onshore
25 facility response plans and to carry out all

1 other responsibilities under subsection
2 (j)(5)(E); and

3 “(iii) ensure that Department of
4 Transportation personnel develop and
5 maintain operational capability—

6 “(I) for effective inspection, mon-
7 itoring, prevention, preparedness, and
8 response authorities related to the dis-
9 charge or substantial threat of a dis-
10 charge of oil or a hazardous substance
11 from a transportation-related onshore
12 facility;

13 “(II) to protect the public from
14 the impacts of a discharge or substan-
15 tial threat of a discharge of oil or a
16 hazardous substance from a transpor-
17 tation-related onshore facility; and

18 “(III) to protect the environment
19 and natural resources from the im-
20 pacts of a discharge or substantial
21 threat of a discharge of oil or a haz-
22 ardous substance from a transpor-
23 tation-related onshore facility.”.

1 **SEC. 24. DISASTER DAMAGE NOTIFICATION AND ASSESS-**
2 **MENT.**

3 (a) IN GENERAL.—Section 60108 of title 49, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 “(e) DISASTER DAMAGE NOTIFICATION AND ASSESS-
7 MENT.—

8 “(1) NOTIFICATION REQUIRED.—In the event
9 of a manmade or natural disaster, the operator of a
10 pipeline facility in an affected location shall notify
11 the Secretary not later than 12 hours after the ces-
12 sation of the disaster, as determined by the Sec-
13 retary, or an earlier time determined appropriate by
14 the Secretary, of any changes to the operational sta-
15 tus of the pipeline facility, including information
16 concerning physical damages, releases of highly vola-
17 tile liquid, other hazardous liquid, or gas, interrup-
18 tions in service, and projected dates for return to
19 service.

20 “(2) PREPARATION OF DAMAGE ASSESS-
21 MENTS.—Not later than 30 days after the cessation
22 of a manmade or natural disaster, as determined by
23 the Secretary, the operator of a pipeline facility in
24 an affected location shall develop and transmit to
25 the Secretary a written damage assessment. The
26 damage assessment, at a minimum, shall—

1 “(A) identify any physical damage to the
2 pipeline facility and any other credible threat or
3 hazard to the pipeline facility;

4 “(B) assess the extent of any physical
5 damage to the pipeline facility and any other
6 credible threat or hazard to the pipeline facility;

7 “(C) evaluate the integrity of the pipeline
8 facility;

9 “(D) if necessary, provide a schedule for
10 repairing or abandoning the pipeline facility;
11 and

12 “(E) meet any other requirements the Sec-
13 retary determines are appropriate by regulation.

14 “(3) ABANDONMENT.—An operator of a pipe-
15 line facility shall notify the Secretary promptly if the
16 operator determines that the pipeline facility must
17 be abandoned as a result of a manmade or natural
18 disaster.

19 “(4) OTHER.—An operator of a pipeline facility
20 shall retain, and make available to the Secretary on
21 request, a copy of any report prepared under this
22 subsection for at least 5 years.

23 “(5) DEFINITIONS.—In this subsection, the fol-
24 lowing definitions apply:

1 “(A) ABANDON.—The term ‘abandon’
2 means permanently remove from service.

3 “(B) AFFECTED LOCATION.—The term
4 ‘affected location’ means any area directly or
5 substantially affected by a manmade or natural
6 disaster, as determined by the Secretary.

7 “(C) MANMADE OR NATURAL DISASTER.—
8 The term ‘manmade or natural disaster’ means
9 any hurricane, tornado, tidal wave, tsunami,
10 earthquake, volcanic eruption, or, regardless of
11 cause, any fire, flood, or explosion, or any simi-
12 lar catastrophe in the United States that
13 causes, or may cause, substantial damage or in-
14 jury to persons, property, or the environment,
15 as determined by the Secretary.”.

16 (b) REGULATIONS.—

17 (1) FINAL RULE.—The Secretary of Transpor-
18 tation shall issue a final rule establishing procedures
19 to carry out section 60108(e) of title 49, United
20 States Code, not later than 1 year after the date of
21 enactment of this Act.

22 (2) INTERIM GUIDANCE.—For the period begin-
23 ning on the date of enactment of this Act and end-
24 ing on the date of issuance of a rule under para-
25 graph (1), or the date that is 45 days after such

1 date of enactment, whichever is earlier, the Sec-
2 retary shall issue interim guidance to the operator of
3 a pipeline facility requiring notification of the Sec-
4 retary and an assessment of pipeline facilities lo-
5 cated in an affected area in the case of a manmade
6 or natural disaster.

7 **SEC. 25. IMPACTS TO INDIAN TRIBES.**

8 Section 1002(b)(2) of the Oil Pollution Act of 1990
9 (33 U.S.C. 2702(b)(2)) is amended—

10 (1) in subparagraph (D) by striking “or a polit-
11 ical subdivision thereof” and inserting “a political
12 subdivision of a State, or an Indian tribe”; and

13 (2) in subparagraph (F) by striking “or a polit-
14 ical subdivision of a State” and inserting “a political
15 subdivision of a State, or an Indian tribe”.

16 **SEC. 26. NATIONAL COMMISSION STUDY OF FEDERAL MAN-**
17 **AGEMENT AND OVERSIGHT OF OFFSHORE**
18 **DRILLING.**

19 (a) IN GENERAL.—The National Commission on the
20 BP Deepwater Horizon Oil Spill and Offshore Drilling es-
21 tablished by Executive Order No. 13543 dated May 21,
22 2010 (in this section referred to as the “Commission”),
23 shall develop recommendations for—

1 (1) improvements to Federal laws, regulations,
2 and industry practices applicable to offshore drilling
3 that would—

4 (A) ensure the effective oversight, inspec-
5 tion, monitoring, and response capabilities; and

6 (B) protect human health and safety, occu-
7 pational health and safety, and the environment
8 and natural resources; and

9 (2) organizational or other reforms of Federal
10 agencies or processes, including the creation of new
11 agencies, as necessary, to ensure that the improve-
12 ments described in paragraph (1) are implemented
13 and maintained.

14 (b) PURPOSES.—In developing recommendations
15 under subsection (a), the Commission shall ensure that
16 the following goals are met:

17 (1) Ensuring the safe operation and mainte-
18 nance of offshore drilling platforms or vessels.

19 (2) Protecting the health and safety of workers
20 on offshore drilling platforms or vessels.

21 (3) Protecting the overall environment and nat-
22 ural resources surrounding ongoing and potential
23 offshore drilling sites.

24 (4) Protecting the health and safety of workers
25 that service offshore drilling platforms or vessels.

1 (5) Developing and maintaining Federal agency
2 expertise on the safe and effective use of offshore
3 drilling technologies, including technologies to mini-
4 mize the risk of release of oil from offshore drilling
5 platforms or vessels.

6 (6) Encouraging the development and imple-
7 mentation of efficient and effective oil spill response
8 techniques and technologies that minimize or elimi-
9 nate any adverse effects on natural resources or the
10 environment that result from response activities.

11 (7) Protecting the health and safety of first re-
12 sponders against releases of oil from offshore drilling
13 platforms or vessels.

14 (8) Ensuring that the Federal agencies regu-
15 lating offshore drilling are staffed with, and man-
16 aged by, career professionals, who are—

17 (A) permitted to exercise independent pro-
18 fessional judgments and make safety the high-
19 est priority in carrying out their responsibilities;

20 (B) not subject to undue influence from
21 regulated interests or political appointees; and

22 (C) subject to strict regulation to prevent
23 improper relationships with regulated interests
24 and to eliminate real or perceived conflicts of
25 interests.

1 (c) REPORT TO CONGRESS.—In coordination with the
2 final public report to the President, the Commission shall
3 submit to Congress a report containing the recommenda-
4 tions developed under subsection (a).

5 **SEC. 27. FEDERAL ENFORCEMENT ACTIONS.**

6 Section 309(g)(6)(A) of the Federal Water Pollution
7 Control Act (33 U.S.C. 1319(g)(6)(A)) is amended by
8 striking “or section 311(b)”.

9 **SEC. 28. TIME REQUIRED BEFORE ELECTING TO PROCEED**
10 **WITH JUDICIAL CLAIM OR AGAINST THE**
11 **FUND.**

12 Paragraph (2) of section 1013(c) of the Oil Pollution
13 Act of 1990 (33 U.S.C. 2713(c)) is amended by striking
14 “90” and inserting “45”.

15 **SEC. 29. REPORT ON FORMER COAST GUARD OFFICIALS**
16 **EMPLOYED BY RECOGNIZED ORGANIZATIONS**
17 **OF FOREIGN FLAG ADMINISTRATIONS.**

18 (a) REPORT REQUIRED.—Not later than 1 year after
19 the date of enactment of this Act and annually thereafter,
20 the Comptroller General of the United States shall submit
21 a report to the Committee on Transportation and Infra-
22 structure of the House of Representatives and the Com-
23 mittee on Commerce, Science, and Transportation of the
24 Senate on the employment during the preceding year of
25 individuals who were Coast Guard officials in the previous

1 5-year period, by recognized organizations contracted to
2 administer maritime programs for foreign flag administra-
3 tions.

4 (b) OBJECTIVES OF REPORT.—At a minimum, the
5 report required by this section shall assess the extent to
6 which former Coast Guard officials who received com-
7 pensation from recognized organizations were assigned to
8 work on matters over which the former Coast Guard offi-
9 cials had oversight, inspection responsibility, or decision-
10 making authority when the officials served in or worked
11 for the Coast Guard. The report shall assess the extent
12 to which former Coast Guard officials were provided com-
13 pensation by recognized organizations and the positions
14 held by former Coast Guard officials in the preceding cal-
15 endar year.

16 (c) CONFIDENTIALITY REQUIREMENT.—The report
17 required by this subsection shall not include the names
18 of the former Coast Guard officials who received com-
19 pensation from recognized organizations.

20 (d) ACCESS TO INFORMATION.—The Comptroller
21 General may seek agreements with recognized organiza-
22 tions to obtain access to information for the purpose of
23 preparing reports required by this section.

24 (e) DEFINITIONS.—In this section:

1 (1) FOREIGN FLAG ADMINISTRATION.—The
2 term “foreign flag administration” means the mari-
3 time administration, maritime agency, or similar
4 governmental organization of a country other than
5 the United States that maintains a register of ves-
6 sels and performs some or all of the following statu-
7 tory functions with respect to maritime programs:

8 (A) Issues certificates of registry and man-
9 ning certificates.

10 (B) Conducts or contracts with recognized
11 organizations to conduct safety inspections.

12 (C) Issues radio station licenses.

13 (D) Certifies maritime officers and unli-
14 censed seamen and conducts inquiries into
15 charges of incompetence or misconduct.

16 (E) Regulates the construction, equipment,
17 and operation of vessels under its flag.

18 (F) Monitors vessels’ compliance with
19 international and national standards for marine
20 safety, pollution prevention, and security.

21 (G) Investigates marine casualties.

22 (2) RECOGNIZED ORGANIZATION.—The term
23 “recognized organization” means an organization,
24 such as a classification society or a corporation, to
25 which a foreign flag administration has delegated

1 some or all of its statutory functions with respect to
2 maritime programs.

3 (3) COAST GUARD OFFICIAL.—The term “Coast
4 Guard official” includes former Coast Guard offi-
5 cers, enlisted personnel, or civilian employees who
6 had responsibilities for—

7 (A) issuing certificates of registry and
8 manning certificates;

9 (B) safety inspections;

10 (C) certification of maritime officers and
11 unlicensed seamen;

12 (D) conducting inquiries into charges of
13 incompetence or misconduct of maritime offi-
14 cers and unlicensed seamen;

15 (E) regulation of the construction, equip-
16 ment, and operation of vessels;

17 (F) monitoring vessels’ compliance with
18 international and national standards for marine
19 safety, pollution prevention, and security; or

20 (G) investigating marine casualties.

21 **SEC. 30. AUTHORIZED LEVEL OF COAST GUARD PER-**
22 **SONNEL.**

23 The Coast Guard is authorized an end-of-year
24 strength for active duty personnel of 47,300 for fiscal year
25 2011, of which at least 300 personnel shall be assigned

1 to implement the activities of the Coast Guard under this
2 Act, including the amendments made by this Act.

3 **SEC. 31. CLARIFICATION OF MEMORANDUMS OF UNDER-**
4 **STANDING.**

5 Not later than September 30, 2011, the President
6 (acting through the head of the appropriate Federal de-
7 partment or agency) shall implement or revise, as appro-
8 priate, memorandums of understanding to clarify the roles
9 and jurisdictional responsibilities of the Environmental
10 Protection Agency, the Coast Guard, the Department of
11 Transportation, and other Federal agencies relating to the
12 prevention of oil discharges from tank vessels, nontank
13 vessels, and facilities subject to the Oil Pollution Act of
14 1990.

15 **SEC. 32. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) COAST GUARD.—In addition to amounts made
17 available pursuant to section 1012(a)(5)(A) of the Oil Pol-
18 lution Act of 1990 (33 U.S.C. 2712(a)(5)(A)), there is au-
19 thorized to be appropriated to the Secretary of the depart-
20 ment in which the Coast Guard is operating from the Oil
21 Spill Liability Trust Fund established by section 9509 of
22 the Internal Revenue Code of 1986 (26 U.S.C. 9509) the
23 following:

24 (1) For fiscal year 2011, \$15,000,000.

1 (2) For each of fiscal years 2012 through 2015,
2 \$16,000,000.

3 (b) ENVIRONMENTAL PROTECTION AGENCY.—There
4 is authorized to be appropriated to the Administrator of
5 the Environmental Protection Agency from the Oil Spill
6 Liability Trust Fund to implement this Act and the
7 amendments made by this Act \$10,000,000 for each of
8 fiscal years 2011 through 2015.

9 (c) DEPARTMENT OF TRANSPORTATION.—There is
10 authorized to be appropriated to the Secretary of Trans-
11 portation from the Oil Spill Liability Trust Fund to carry
12 out the purposes of this Act and the amendments made
13 by this Act the following:

14 (1) For each of fiscal years 2011 through 2013,
15 \$7,000,000.

16 (2) For each of fiscal years 2014 and 2015,
17 \$6,000,000.

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