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112TH CONGRESS
1ST SESSION

H. R. 501

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 2011

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

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A BILL

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

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

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

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

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

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

TITLE I—CREATION OF NEW DEPARTMENT OF THE INTERIOR AGENCIES

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

TITLE II—FEDERAL OIL AND GAS DEVELOPMENT

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

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

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

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Sec. 231. Short title.
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TITLE III—OIL AND GAS ROYALTY REFORM

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Sec. 311. Appeals and final agency action.
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Sec. 316. Required recordkeeping.
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Sec. 319. Limitation on royalty in-kind program.
Sec. 320. Application of royalty to oil that is saved, removed, sold, or discharged under offshore oil and gas leases.
Sec. 321. Disposition of revenue.

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Sec. 603. Evidence of financial responsibility for offshore facilities.
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SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) AFFECTED INDIAN TRIBE.—The term ''affected Indian tribe'' means an Indian tribe that has federally reserved rights that are affirmed by treaty, statute, Executive order, Federal court order, or other Federal law in the area at issue.

(2) COASTAL STATE.—The term ''coastal State'' has the same meaning given the term ''coastal state'' in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

(3) DEPARTMENT.—The term ''Department'' means the Department of the Interior, except as the context indicates otherwise.

(4) FUNCTION.—The term ''function'', with respect to a function of an officer, employee, or agent of the Federal Government, or of a Department, agency, office, or other instrumentality of the Federal Government, includes authorities, powers,

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

(5) IMPORTANT ECOLOGICAL AREA.—The term ''important ecological area'' means an area that contributes significantly to local or larger marine ecosystem health or is an especially unique or sensitive marine ecosystem.

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

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

(8) MARINE ECOSYSTEM HEALTH.—The term ''marine ecosystem health'' means the ability of an ecosystem in ocean and coastal waters to support and maintain patterns, important processes, and productive, sustainable, and resilient communities of organisms, having a species composition, diversity, and functional organization resulting from the natural habitat of the region, such that it is capable of supporting a variety of activities and providing a complete range of ecological benefits. Such an eco-

system would be characterized by a variety of factors, including—

(A) a complete diversity of native species and habitat wherein each native species is able to maintain an abundance, population structure, and distribution supporting its ecological and evolutionary functions, patterns, and processes; and

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

(9) MINERAL.—The term ''mineral'' has the same meaning that the term ''minerals'' has in section 2(q) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(q)).

(10) NONRENEWABLE ENERGY RESOURCE.—The term ''nonrenewable energy resource'' means oil and natural gas.

(11) OPERATOR.—The term ''operator'' means—

(A) the lessee; or

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

(i) approved by the Secretary, acting through the Bureau of Ocean Energy Management, Regulation and Enforcement; or

(ii) the holder of operating rights under an assignment of operating rights that is approved by the Secretary, acting through the Bureau of Ocean Energy Management, Regulation and Enforcement.

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

(13) REGIONAL OCEAN PARTNERSHIP.—The term ''Regional Ocean Partnership'' means voluntary, collaborative management initiatives developed and entered into by the Governors of two or more coastal States or created by an interstate compact for the purpose of addressing more than one ocean, coastal, or Great Lakes issue and to implement policies and activities identified under special area management plans under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) or other agreements developed and signed by the Governors.

(14) RENEWABLE ENERGY RESOURCE.—The term ''renewable energy resource'' means each of the following:

(A) Wind energy.

(B) Solar energy.

(C) Geothermal energy.

(D) Landfill gas.

(E) Marine and hydrokinetic renewable energy, as that term is defined in section 632 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17211).

(15) SECRETARIES.—The term ''Secretaries'' means the Secretary of the Interior and the Secretary of Commerce.

(16) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, except as otherwise provided in this Act.

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

TITLE I—CREATION OF NEW DEPARTMENT OF THE INTERIOR AGENCIES

SEC. 101. BUREAU OF OCEAN ENERGY MANAGEMENT.

(a) ESTABLISHMENT.—There is established in the Department of the Interior a Bureau of Ocean Energy Management (referred to in this section as the ''Bureau'') to be headed by a Director of Energy Management (referred to in this section as the ''Director'').

(b) DIRECTOR.—

(1) APPOINTMENT.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, on the basis of—

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

(B) capacity to—

(i) administer the provisions of this Act; and

(ii) ensure that the fiduciary duties of the United States Government on behalf of the people of the United States, as they relate to development of nonrenewable and renewable energy and mineral resources, are duly met.

(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.—Except as provided in paragraph (4), the Secretary 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 nonrenewable and renewable energy and mineral resources management—

(A) on the Outer Continental Shelf, pursuant to the Outer Continental Shelf Lands Act as amended by this Act (43 U.S.C. 1331 et seq.); and

(B) pursuant to this Act and all other applicable Federal laws, including the administration and approval of all instruments and agreements required to ensure orderly, safe, and environmentally responsible offshore nonrenewable and renewable energy and mineral resources development activities.

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

proper issuance of leases for the exploration, development, and production of nonrenewable and renewable energy and mineral resources, and for the issuance of permits under such leases, on the Outer Continental Shelf, including regulations relating to resource identification, access, evaluation, and utilization.

(3) INDEPENDENT ENVIRONMENTAL SCIENCE.—

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

(i) shall report to the Director;

(ii) shall be programmatically separate and distinct from the leasing and permitting activities of the Bureau; and

(iii) shall—

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

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

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

(B) CONSULTATION.—Studies and analyses carried out by the office created under subparagraph (A) shall be conducted in appropriate and timely consultation with other relevant Federal agencies, including—

(i) the Bureau of Safety and Environmental Enforcement;

(ii) the United States Fish and Wildlife Service;

(iii) the United States Geological Survey; and

(iv) the National Oceanic and Atmospheric Administration.

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

(A) required by section 102 to be carried out through Bureau of Safety and Environmental Enforcement; or

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

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

(1) IN GENERAL.—

(A) PROGRAMS.—The Director shall develop and carry out programs for the collection, evaluation, assembly, analysis, and dissemination of data and information that is relevant to carrying out the duties of the Bureau, including studies under section 20 of the Outer Continental Shelf Lands Act (43 U.S.C. 1346).

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

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

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

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

(C) use existing inventories and mapping of marine resources previously undertaken by the Minerals Management Service, mapping undertaken by the United States Geological Survey and the National Oceanographic and Atmospheric Administration, and information provided by the Department of Defense and other Federal and State agencies possessing relevant data; and

(D) use any available data regarding renewable energy potential, navigation uses, fisheries, aquaculture uses, recreational uses, habitat, conservation, and military uses of the Outer Continental Shelf.

(e) 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. 102. BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT.

(a) ESTABLISHMENT.—There is established in the Department a Bureau of Safety and Environmental Enforcement (referred to in this section as the ''Bureau'') to be headed by a Director of Safety and Environmental Enforcement (referred to in this section as the ''Director'').

(b) DIRECTOR.—

(1) APPOINTMENT.—The Director shall be appointed by the President for a fixed term of five years, by and with the advice and consent of the Senate, on the basis of—

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

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

(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 shall carry out through the Bureau all functions, powers, and duties vested in the Secretary relating to the administration of safety and environmental enforcement activities related to offshore nonrenewable and renewable energy and mineral resources—

(A) on the Outer Continental Shelf pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); and

(B) pursuant to—

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

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

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

(iv) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(v) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(vi) this Act; and

(vii) all other applicable Federal laws, including the authority to develop, promulgate, and enforce regulations to ensure the safe and environmentally sound exploration, development, and production of nonrenewable and renewable energy and mineral resources on the Outer Continental Shelf.

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

(1) performing necessary oversight activities to ensure the proper application of environmental reviews, including those conducted pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by the Bureau of Ocean Energy Management in the performance of its duties under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(2) suspending or prohibiting, on a temporary basis, any operation or activity, including production on 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));

(3) 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));

(4) compelling compliance with applicable worker safety and environmental laws and regulations;

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

(6) 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;

(7) collecting, evaluating, assembling, analyzing, and publicly disseminating electronically data and information that is relevant to inspections, failures, or accidents involving equipment and systems used for exploration and production of energy and mineral resources, including human factors associated therewith;

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

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

(10) levying fines and penalties and disqualifying operators; and

(11) carrying out any safety, response, and removal preparedness functions.

(e) 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 indi-

vidual 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) TRAINING ACADEMY.—

(A) IN GENERAL.—The Secretary shall establish and maintain a National Oil and Gas Health and Safety Academy (referred to in this paragraph as the ''Academy'') as an agency of the Department of the Interior.

(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 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 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 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, labor organizations, 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.

(D) USE OF DEPARTMENTAL 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 of-

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

(5) 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 Departmental personnel.

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

(6) ROLE OF OIL OR GAS OPERATORS AND RELATED INDUSTRIES.—The Secretary shall ensure that any cooperative agreement or other collaboration with a representative of an oil or gas operator or related industry in relation to a training program

established under paragraph (4) or paragraph (5) is limited to consultation regarding curricula and does not extend to the provision of instructional personnel.

SEC. 103. OFFICE OF NATURAL RESOURCES REVENUE.

(a) ESTABLISHMENT.—There is established in the Department 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 President, by and with the advice and consent of the Senate, on the basis of—

(A) professional competence; and

(B) capacity to—

(i) administer the provisions of this Act; and

(ii) ensure that the fiduciary duties of the United States Government on behalf of the American people, as they relate to development of nonrenewable and renewable energy and mineral resources, are duly met.

(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 shall carry out, through the Office—

(A) all functions, powers, and duties vested in the Secretary and relating to the administration of offshore royalty and revenue management functions pursuant to—

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

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

(B) all functions, powers, and duties previously assigned to the Minerals Management Service (including the authority to develop, promulgate, and enforce regulations) regarding offshore—

(i) royalty and revenue collection;

(ii) royalty and revenue distribution;

(iii) auditing and compliance;

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

(v) asset management for onshore and offshore activities.

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

SEC. 104. ETHICS.

(a) CERTIFICATION.—The Secretary shall certify annually that all Department of the Interior officers and employees having regular, direct contact with lessees and operators as a function of their official duties 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 (b).

(b) GUIDANCE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue supplementary ethics 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. 105. REFERENCES.

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

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

(2) to the Director of the Minerals Management Service that pertains to any of the duties and authorities referred to in section 101 is deemed to refer and apply to the Director of the Bureau of Ocean Energy Management; and

(3) to any other position in the Minerals Management Service that pertains to any of the duties and authorities referred to in section 101 is deemed to refer and apply to that same or equivalent position in the Bureau of Ocean Energy Management.

(b) BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT.—Any reference in any law, rule, regulation, directive, instruction, certificate, or other official document in force immediately before the enactment of this Act—

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

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

(3) to any other position in the Minerals Management Service that pertains to any of the duties and authorities referred to in section 102 is deemed to refer and apply to that same or equivalent position in the Bureau of Safety and Environmental Enforcement.

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

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

(2) to the Director of the Minerals Management Service that pertains to any of the duties and authorities referred to in section 103 is deemed to refer and apply to the Director of Natural Resources Revenue; and

(3) to any other position in the Minerals Management Service that pertains to any of the duties and authorities referred to in section 103 is deemed to refer and apply to that same or equivalent position in the Office of Natural Resources Revenue.

SEC. 106. ABOLISHMENT OF MINERALS MANAGEMENT SERVICE.

(a) ABOLISHMENT.—The Minerals Management Service (in this section referred to as the ''Service'') is abolished.

(b) COMPLETED ADMINISTRATIVE ACTIONS.—

(1) IN GENERAL.—Completed administrative actions of the 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, 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 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 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 Service immediately before the effective date of this Act shall continue to apply.

SEC. 107. CONFORMING AMENDMENT.

Section 5316 of title 5, United States Code, is amended by striking ''Director, Bureau of Mines, Department of the Interior.'' and inserting the following new items:

"Director, Bureau of Ocean Energy Management, Department of the Interior.

"Director, Bureau of Safety and Environmental Enforcement, Department of the Interior.

"Director, Office of Natural Resources Revenue, Department of the Interior.".

SEC. 108. OUTER CONTINENTAL SHELF SAFETY AND ENVIRONMENTAL ADVISORY BOARD.

(a) ESTABLISHMENT.—The Secretary shall establish, under the Federal Advisory Committee Act, an Outer Continental Shelf Safety and Environmental Advisory Board (referred to in this section as the "Board"), to provide the Secretary and the Directors of the bureaus established by this title with independent scientific and technical advice on safe and environmentally compliant nonrenewable and renewable energy and mineral resource exploration, development, and production activities.

(b) MEMBERSHIP.—

(1) SIZE.—The Board shall consist of not more than 12 members, chosen to reflect a range of expertise in scientific, engineering, management, environmental, and other disciplines related to safe and environmentally compliant renewable and nonrenewable energy and mineral resource exploration, development, and production activities. The Secretary shall

consult with the National Academy of Sciences and the National Academy of Engineering to identify potential candidates for the Board.

(2) 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.

(3) BALANCE.—In appointing members to the Board, the Secretary shall ensure a balanced representation of industry- and nonindustry-related interests.

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

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

(2) assesses offshore oil and gas well control technologies, practices, voluntary standards, regulations, and technologies and practices used to estimate the flow rate of hydrocarbons in the United States and elsewhere; and

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

(f) REPORTS.—Reports of the Board shall be submitted to the Congress 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. 109. LIMITATION ON EFFECT ON DEVELOPMENT OF OCEAN RENEWABLE ENERGY RESOURCE FACILITIES.

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

(1) promotion of offshore wind development;

(2) planning, leasing, licensing, and fee and royalty collection for such development of ocean renewable energy resource facilities; and

(3) developing and administering an efficient leasing and licensing process for ocean renewable energy resource facilities.

SEC. 110. ANNUAL REPORT ON OFFSHORE ENERGY DEVELOPMENT ACTIVITIES.

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

(1) the Department's progress in improving its safety regulations and strengthening environmental review; and

(2) steps taken by industry to address safety and environmental concerns related to offshore drilling.

TITLE II—FEDERAL OIL AND GAS DEVELOPMENT

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

SEC. 201. SHORT TITLE.

This subtitle may be cited as the ''Outer Continental Shelf Lands Act Amendments of 2011''.

SEC. 202. DEFINITIONS.

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

''(r) The term 'safety case' means a body of evidence that provides a basis for determining whether a system is adequately safe for a given application in a given operating environment.''.

SEC. 203. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.

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

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

''(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Govern-

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

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

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

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

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

(3) in paragraph (5), by striking "should be" and inserting "shall be", and striking "; and" and inserting a semicolon;

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

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

"(6) exploration, development, and production of energy and minerals on the outer Continental

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

"(A) harmful impacts to life (including fish and other aquatic life) and health;

"(B) damage to the marine, coastal, and human environments and to property; and

"(C) harm to other users of the waters, seabed, or subsoil; and"; and

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

(A) striking "should be" and inserting "shall be";

(B) inserting "best available" after "using"; and

(C) striking "or minimize".

SEC. 204. JURISDICTION OF LAWS ON THE OUTER CONTINENTAL SHELF.

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

(1) inserting "or producing or supporting production of energy from sources other than oil and gas" after "therefrom";

(2) inserting "or transmitting such energy" after "transporting such resources"; and

(3) inserting "and other energy" after "That mineral".

SEC. 205. OUTER CONTINENTAL SHELF LEASING STANDARD.

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

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

(2) in the second sentence of subsection (a), by adding after ''provide for'' the following: ''operational safety, the protection of the marine and coastal environment, and'';

(3) in subsection (a), by inserting ''and the Secretary of Commerce with respect to matters that may affect the marine and coastal environment'' after ''which may affect competition'';

(4) in clause (ii) of subsection (a)(2)(A), by striking ''a reasonable period of time'' and inserting ''30 days'';

(5) in subsection (a)(7), by inserting ''in a manner that minimizes harmful impacts to the marine and coastal environment'' after ''lease area'';

(6) in subsection (a), by striking ''and'' after the semicolon at the end of paragraph (7), redesignating paragraph (8) as paragraph (13), and inserting after paragraph (7) the following:

"(8) for independent third-party certification requirements of safety systems related to well control, such as blowout preventers;

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

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

"(11) for the establishment of mandatory safety and environmental management systems by operators on the outer Continental Shelf;

"(12) for procedures and technologies to be used during drilling operations to minimize the risk of ignition and explosion of hydrocarbons;";

(7) in subsection (a), by striking the period at the end of paragraph (13), as so redesignated, and inserting "; and", and by adding at the end the following:

"(14) ensuring compliance with other applicable environmental and natural resource conservation laws, including the response plan requirements of section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)).''; and

(8) by adding at the end the following new subsections:

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

"(l) REGULATORY STANDARDS FOR BLOWOUT PREVENTERS, WELL DESIGN, AND CEMENTING.—

"(1) IN GENERAL.—In promulgating regulations under this Act related to blowout preventers, well design, and cementing, the Secretary shall ensure that such regulations include the minimum standards included in paragraphs (2), (3), and (4), unless, after notice and an opportunity for public comment, the Secretary determines that a standard required under this subsection would be less effective in ensuring safe operations than an available alternative technology or practice. Such regulations shall require independent third-party certification, pursuant to paragraph (5), of blowout preventers, well design, and cementing programs and procedures prior to the commencement of drilling operations. Such regulations shall also require recertification by an independent third-party certifier, pursuant to para-

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

"(2) BLOWOUT PREVENTERS.—Subject to paragraph (1), regulations issued under this Act for blowout preventers shall include at a minimum the following requirements:

"(A) Two sets of blind shear rams appropriately spaced to prevent blowout preventer failure if a drill pipe joint or drill tool is across one set of blind shear rams during a situation that threatens loss of well control.

"(B) Redundant emergency backup control systems capable of activating the relevant components of a blowout preventer, including when the communications link or other critical links between the drilling rig and the blowout preventer are destroyed or inoperable.

"(C) Regular testing of the emergency backup control systems, including testing during deployment of the blowout preventer.

"(D) As appropriate, remotely operated vehicle intervention capabilities for secondary control of all subsea blowout preventer functions,

including adequate hydraulic capacity to activate blind shear rams, casing shear rams, and other critical blowout preventer components.

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

"(A) In connection with the installation of the final casing string, the installation of at least two independent, tested mechanical barriers, in addition to a cement barrier, across each flow path between hydrocarbon bearing formations and the blowout preventer.

"(B) That wells shall be designed so that a failure of one barrier does not significantly increase the likelihood of another barrier's failure.

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

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

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

standards shall include at a minimum the following requirements:

"(A) Adequate centralization of the casing to ensure proper distribution of cement.

"(B) A full circulation of drilling fluids prior to cementing.

"(C) The use of an adequate volume of cement to prevent any unintended flow of hydrocarbons between any hydrocarbon-bearing formation zone and the wellhead.

"(D) Cement bond logs for all cementing jobs intended to provide a barrier to hydrocarbon flow.

"(E) Cement bond logs or such other integrity tests as the Secretary may prescribe for cement jobs other than those identified in subparagraph (D).

"(5) INDEPENDENT THIRD-PARTY CERTIFICATION.—The Secretary shall issue regulations that establish appropriate standards for the approval of independent third-party certifiers capable of exercising certification functions for blowout preventers, well design, and cementing. For any certification required for regulations related to blowout preventers, well design, or cementing, the operator shall use a

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

"(A) Prior to the commencement of drilling through a blowout preventer at any covered well, the operator shall obtain a written and signed certification from an independent third party approved and assigned by the appropriate Federal official pursuant to subsection (a) that the third party—

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

"(ii) in the third-party certifier's best professional judgment, determined that—

"(I) the blowout preventer is designed for the specific drilling conditions, equipment, and location where it will be installed and for the specific well design;

"(II) the blowout preventer and all of its components and control sys-

tems will operate effectively and as designed when installed;

"(III) each blind shear ram or casing shear ram will function effectively under likely emergency scenarios and is capable of shearing the drill pipe or casing, as applicable, that will be used when installed;

"(IV) emergency control systems will function under the conditions in which they will be installed; and

"(V) the blowout preventer has not been compromised or damaged from any previous service.

"(B) Not less than once every 180 days after commencement of drilling through a blowout preventer at any covered well, or upon implementation of any material modification to the blowout preventer or well design at such a well, the operator shall obtain a written and signed recertification from an independent third party approved and assigned by the appropriate Federal official pursuant to subsection (a) that the requirements in clause (ii) of subparagraph (A) continue to be met with the systems as de-

ployed. Such recertification determinations shall consider the results of tests required by the appropriate Federal official, including testing of the emergency control systems of a blowout preventer.

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

"(6) APPLICATION TO INSHORE WATERS; STATE IMPLEMENTATION.—

"(A) IN GENERAL.—Requirements established under this subsection shall apply, as provided in subparagraph (B), to offshore drilling operations that take place on lands that are landward of the outer Continental Shelf and seaward of the line of mean high tide, and that the Secretary determines, based on criteria established by rule, could, in the event of a blowout, lead to extensive and widespread harm to safety or the environment.

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

retary a plan demonstrating that the State's regulatory regime for wells identified in subparagraph (A) establishes requirements for such wells that are comparable to, or alternative requirements providing an equal or greater level of safety than, those established under this section for wells on the outer Continental Shelf. The Secretary shall promptly determine, after notice and an opportunity for public comment, whether a State's regulatory regime meets the standard set forth in the preceding sentence. If the Secretary determines that a State's regulatory regime does not meet such standard, the Secretary shall identify the deficiencies that are the basis for such determination and provide a reasonable period of time for the State to remedy the deficiencies. If the State does not do so within such reasonable period of time, the Secretary shall apply the requirements established under this section to offshore drilling operations described in subparagraph (A) that are located in such State, until such time as the Secretary determines that the deficiencies have been remedied.

"(m) RULEMAKING DOCKETS.—

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

"(2) DOCUMENTS TO BE INCLUDED.—The Secretary shall include in the docket—

"(A) all written comments and documentary information on the proposed rule received from any person in the comment period for the rulemaking, promptly upon receipt by the Secretary;

"(B) the transcript of each public hearing, if any, on the proposed rule, promptly upon receipt from the person who transcribed such hearing; and

"(C) all documents that become available after the proposed rule is published and that the Secretary determines are of central relevance to the rulemaking, by as soon as possible after their availability.

"(3) PROPOSED AND DRAFT FINAL RULE AND ASSOCIATED MATERIAL.—The Secretary shall include in the docket—

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

Budget for any interagency review process prior to proposal of such rule, all documents accompanying such draft, all written comments thereon by other agencies, and all written responses to such written comments by the Secretary, by no later than the date of proposal of the rule; and

"(B) each draft final rule submitted by the Secretary for such review process before issuance of the final rule, all such written comments thereon, all documents accompanying such draft, and all written responses thereto, by no later than the date of issuance of the final rule.".

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

SEC. 206. CHEMICAL SAFETY BOARD INVESTIGATION.

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

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

paragraph, the Chemical Safety and Hazard Investigation Board, the Coast Guard, and the Department of the Interior shall enter into an agreement in order to facilitate the Board's investigation of the facts, circumstances, and causes of an accidental fire, explosion, or release involving an offshore oil or gas exploration or production facility (regardless of whether there is a resulting marine oil spill). Such agreement shall provide the Board with the following:

"(i) Unrestricted access to any personnel, records, witness statements, recorded witness interviews, and physical or documentary evidence related to an offshore oil or gas exploration or production facility under investigation collected or possessed by the Coast Guard or the Department of the Interior.

"(ii) The ability to conduct recorded interviews of all agency personnel and contractors and the right to obtain records related to Federal regulatory, inspection, enforcement, and safety programs for off-

shore oil or gas exploration and production.

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

"(iv) Such support and facilities as may be necessary for the Board's investigation, including transportation to the accident site, coastal waters and affected areas, and other offshore oil or gas exploration and production facilities without cost to the Board.

"(U) RECOMMENDATIONS.—Based on an investigation of an accidental fire, explosion, or release involving an offshore oil or gas exploration or production facility, the Board shall make recommendations with respect to preventing subsequent accidental fires, explosions, or releases to the Secretary of the Interior and the Commandant of the Coast Guard. The Secretary of the Interior and the Commandant of the Coast Guard shall respond formally and in writing to any recommendation of the Board

within 90 days of the receipt of such recommendation.''.

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

(a) FINANCIAL ASSURANCE AND FISCAL RESPONSIBILITY.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

''(q) REVIEW OF BOND AND SURETY AMOUNTS.—Not later than May 1, 2011, and every 5 years thereafter, the Secretary shall review the minimum financial responsibility requirements for leases issued under this section and shall ensure that any bonds or surety required are adequate to comply with the requirements of this Act or the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.).

''(r) PERIODIC FISCAL REVIEW AND REPORT.—

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

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

''(ii) the rationale for the rates;

''(B) whether, in the view of the Secretary, the royalty and rental rates described in subparagraph (A) will yield a fair return to the

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

"(C)(i) the minimum bond or surety amounts required pursuant to offshore oil and gas leases; and

"(ii) the rationale for the minimum amounts;

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

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

"(2) PUBLIC PARTICIPATION.—In carrying out a review and preparing a report under paragraph (1), the Secretary shall provide to the public an opportunity to participate.

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

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

"(B) the Committee on Natural Resources of the House of Representatives.

"(s) COMPARATIVE REVIEW OF FISCAL SYSTEM.—

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

"(A) bonus bids;

"(B) rental rates; and

"(C) royalties.

"(2) REQUIREMENTS.—

"(A) CONTENTS; SCOPE.—A review under paragraph (1) shall include—

"(i) the information and analyses necessary to compare the offshore bonus bids, rents, and royalties of the Federal Government to the offshore bonus bids, rents, and royalties of other resource owners, including States and foreign countries; and

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

"(B) INDEPENDENT ADVISORY COMMITTEE.—In carrying out a review under para-

graph (1), the Secretary shall convene and seek the advice of an independent advisory committee comprised of oil and gas and fiscal experts from States, Indian tribes, academia, the energy industry, and appropriate nongovernmental organizations.

"(3) REPORT.—

"(A) IN GENERAL.—The Secretary shall prepare a report that contains—

"(i) the contents and results of the review carried out under paragraph (1) for the period covered by the report; and

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

"(B) REPORT DEADLINE.—Not later than 30 days after the date on which the Secretary completes a report under paragraph (1), the Secretary shall transmit copies of the report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.".

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

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

"(d) REQUIREMENT FOR CERTIFICATION OF RESPONSIBLE STEWARDSHIP.—

"(1) CERTIFICATION REQUIREMENT.—No bid or request for a lease, easement, or right-of-way under this section, or for a permit to drill under section 11(d), may be submitted by any person unless the person certifies to the Secretary that the person (including any related person and any predecessor of such person or related person) meets each of the following requirements:

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

"(B) In the case of a person that is a responsible party for a vessel or a facility from which oil is discharged, for purposes of section 1002 of the Oil Pollution Act of 1990 (33 U.S.C. 2702), the person has met all of its obligations under that Act to provide compensation for covered removal costs and damages.

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

ploration, development, production, transportation by pipeline, and refining)—

"(i) was not found to have committed willful or repeated violations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) (including State plans approved under section 18(c) of such Act (29 U.S.C. 667(c))) at a rate that is higher than five times the rate determined by the Secretary to be the oil industry average for such violations for such period;

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

"(iii) did not have more than 10 fatalities at its exploration, development, and production facilities and refineries as a result of violations of Federal or State health, safety, or environmental laws;

"(iv) was not assessed, did not enter into an agreement to pay, and was not otherwise required to pay, civil penalties and criminal fines for violations the person was found to have committed under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (including State pro-

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

"(v) was not assessed, did not enter into an agreement to pay, and was not otherwise required to pay, civil penalties and criminal fines for violations the person was found to have committed under the Clean Air Act (42 U.S.C. 7401 et seq.) (including State plans approved under section 110 of such Act (42 U.S.C. 7410)) in a total amount that is equal to more than $10,000,000.

"(2) ENFORCEMENT.—If the Secretary determines that a certification made under paragraph (1) is false, the Secretary shall cancel any lease, easement, or right of way and shall revoke any permit with respect to which the certification was required under such paragraph.

"(3) DEFINITION OF RELATED PERSON.—For purposes of this subsection, the term 'related person' includes a parent, subsidiary, affiliate, member of the same controlled group, contractor, subcontractor, a person holding a controlling interest or in which

a controlling interest is held, and a person with substantially the same board members, senior officers, or investors.''.

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

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting ''or'' after ''1501 et seq.),'', and by striking ''or other applicable law,''; and

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

''(D) use, for energy-related purposes, facilities currently or previously used for activities authorized under this Act, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium.''; and

(2) in paragraph (4)—

(A) in subparagraph (E), by striking ''coordination'' and inserting ''in consultation''; and

(B) in subparagraph (J)(ii), by inserting "a potential site for an alternative energy facility," after "deepwater port,".

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

"(9) At least 60 days prior to any lease sale, the Secretary shall request a review by the Secretary of Commerce of the proposed sale with respect to impacts on the marine and coastal environment. The Secretary of Commerce shall complete and submit in writing the results of that review within 60 days after receipt of the Secretary of the Interior's request. If the Secretary of Commerce makes specific recommendations related to a proposed lease sale to reduce impacts on the marine and coastal environment, and the Secretary rejects or modifies such recommendations, the Secretary shall provide in writing justification for rejecting or modifying such recommendations.".

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

Secretary finds that a larger area is necessary to comprise a reasonable economic production unit''.

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

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

SEC. 208. EXPLORATION PLANS.

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

(b) LIMITATION ON HARM FROM AGENCY EXPLORATION.—Section 11(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1340(a)(1)) is amended by striking ", which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to aquatic life in such area" and inserting "if a permit authorizing such activity is issued by the Secretary under subsection (g)".

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

(1) by inserting "(A)" before the first sentence;

(2) in paragraph (1)(A), as designated by the amendment made by paragraph (1) of this subsection—

(A) by striking "and the provisions of such lease" and inserting "the provisions of such lease, and other applicable environmental and natural resource conservation laws"; and

(B) by striking the fourth sentence and inserting the following:

"(B) The Secretary shall approve such plan, as submitted or modified, within 90 days after its submission and it is made publicly accessible by the Secretary, or within such additional time as the Secretary determines

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

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

"(ii) the plan complies with other applicable environmental or natural resource conservation laws;

"(iii) in the case of geophysical surveys, the applicant will use the best available technologies and methods to minimize impacts on marine life; and

"(iv) the applicant has demonstrated the capability and technology to respond immediately and effectively to a worst-case-scenario discharge, which shall be estimated for the proposed activities contained in the exploration plan, utilizing, in part, the relevant worst-case scenario discharge estimate published by the Secretary under section 208(a) of the Implementing the Recommendations of the BP Oil Spill Commission Act of 2011."; and

(3) by adding at the end the following:

"(5) If the Secretary requires greater than 90 days to review an exploration plan submitted pursuant to any oil and gas lease issued or maintained under this Act, then the Secretary may provide for a suspension of that lease pursuant to section 5

until the review of the exploration plan is completed.''.

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

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

''(A) a schedule of anticipated exploration activities to be undertaken;

''(B) a detailed and accurate description of equipment to be used for such activities, including—

''(i) a description of each drilling unit;

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

''(iii) a description of any new technology to be used;

''(C) a map showing the location of each well to be drilled;

''(D) a scenario for the potential blowout of the well involving the highest potential volume of liquid hydrocarbons, along with a com-

plete description of a response plan to both control the blowout and manage the accompanying discharge of hydrocarbons, including the likelihood for surface intervention to stop the blowout, the availability of a rig to drill a relief well, an estimate of the time it would take to drill a relief well, a description of other technology that may be used to regain control of the well or capture escaping hydrocarbons and the potential timeline for using that technology for its intended purpose, and the strategy, organization, and resources necessary to avoid harm to the environment from hydrocarbons;

''(E) an analysis of the potential impacts of the worst-case-scenario discharge, which shall be estimated for the proposed activities contained in the exploratory plan, utilizing, in part, the worst-case-scenario discharge performed by the Secretary under section 208(a) of hydrocarbons on the marine, coastal, and human environments for activities conducted pursuant to the proposed exploration plan; and

''(F) such other information deemed pertinent by the Secretary.''.

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

"(d) DRILLING PERMITS.—

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

"(2) ENGINEERING REVIEW REQUIRED.—The Secretary may not grant any drilling permit or modification of the permit prior to completion of a full engineering review of the well system, including a determination that critical safety systems, including blowout prevention, will utilize best available technology and that blowout prevention systems will include redundancy and remote triggering capability.

"(3) OPERATOR SAFETY AND ENVIRONMENTAL MANAGEMENT REQUIRED.—The Secretary shall not grant any drilling permit or modification of the permit prior to completion of a safety and environmental management plan to be utilized by the operator during all well operations.".

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

(1) striking ''shall be issued'' and inserting ''may be issued'';

(2) inserting ''and after consultation with the Secretary of Commerce,'' after ''in accordance with regulations issued by the Secretary'';

(3) striking the ''and'' at the end of paragraph (2);

(4) in paragraph (3) striking ''will not be unduly harmful to'' and inserting ''is not likely to harm'';

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

(6) adding at the end the following:

''(4) the exploration will be conducted in accordance with other applicable environmental and natural resource conservation laws;

''(5) in the case of geophysical surveys, the applicant will use the best available technologies and methods to minimize impacts on marine life; and

''(6) in the case of drilling operations, the applicant has available oil spill response and clean-up equipment and technology that has been dem-

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

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

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

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

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

21 ''(j) DISAPPROVAL OF PLAN.—

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

rine or coastal environment, or other exceptional circumstances, that—

"(A) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments;

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

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

"(2) CANCELLATION OF LEASE FOR DISAPPROVAL OF PLAN.—If a plan is disapproved under this subsection, the Secretary may cancel such lease in accordance with subsection (c)(1) of this section.".

SEC. 209. OUTER CONTINENTAL SHELF LEASING PROGRAM.

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

(1) in subsection (a) in the second sentence by striking "meet national energy needs" and inserting "balance national energy needs and the protection of

the marine and coastal environment and all the resources in that environment,'';

(2) in subsection (a)(1), by striking ''considers'' and inserting ''gives equal consideration to'';

(3) in subsection (a)(2)(A)—

(A) by striking ''existing'' and inserting ''the best available scientific''; and

(B) by inserting '', including at least three consecutive years of data'' after ''information'';

(4) in subsection (a)(2)(D), by inserting ''potential and existing sites of renewable energy installations,'' after ''deepwater ports,'';

(5) in subsection (a)(2)(H), by inserting ''including the availability of infrastructure to support oil spill response'' before the period;

(6) in subsection (a)(3), by—

(A) striking ''to the maximum extent practicable,'';

(B) striking ''obtain a proper balance between'' and inserting ''minimize''; and

(C) striking ''damage,'' and all that follows through the period and inserting ''damage and adverse impacts on the marine, coastal, and human environments, and enhancing the potential for the discovery of oil and gas.'';

(7) in subsection (b)(1), by inserting ''environmental, marine, and energy'' after ''obtain'';

(8) in subsection (b)(2), by inserting ''environmental, marine, and'' after ''interpret the'';

(9) in subsection (b)(3), by striking ''and'' after the semicolon at the end;

(10) by striking the period at the end of subsection (b)(4) and inserting a semicolon;

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

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

''(6) conduct regular and thorough safety reviews and inspections; and

''(7) enforce all applicable laws and regulations.'';

(12) in the first sentence of subsection (c)(1), by inserting ''the National Oceanic and Atmospheric Administration and'' after ''including'';

(13) in subsection (c)(2)—

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

erwise provided suggestions under, paragraph (1).'';

(B) in the third sentence, by inserting ''or head of a Federal agency'' after ''such Governor''; and

(C) in the fourth sentence, by inserting ''or between the Secretary and the head of a Federal agency,'' after ''affected State,'';

(14) by redesignating subsection (c)(3) as subsection (c)(4) and by inserting before subsection (c)(4) (as so redesignated) the following:

''(3) At least 60 days prior to the publication of a proposed leasing program under this section, the Secretary shall request a review by the Secretary of Commerce of the proposed leasing program with respect to impacts on the marine and coastal environments. If the Secretary rejects or modifies any of the recommendations made by the Secretary of Commerce concerning the location, timing, or conduct of leasing activities under the proposed leasing program, the Secretary shall provide in writing justification for rejecting or modifying such recommendations.'';

(15) in the second sentence of subsection (d)(2), by inserting '', the head of a Federal agency,'' after ''Attorney General'';

(16) in subsection (g), by inserting after the first sentence the following: ''Such information may include existing inventories and mapping of marine resources previously undertaken by the Department of the Interior and the National Oceanic and Atmospheric Administration, information provided by the Department of Defense, and other available data regarding energy or mineral resource potential, navigation uses, fisheries, aquaculture uses, recreational uses, habitat, conservation, and military uses on the outer Continental Shelf.''; and

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

''(i) RESEARCH AND DEVELOPMENT.—The Secretary shall carry out a program of research and development to ensure the continued improvement of methodologies for characterizing resources of the outer Continental Shelf and conditions that may affect the ability to develop and use those resources in a safe, sound, and environmentally responsible manner. Such research and development activities may include activities to provide accurate estimates of energy and mineral reserves and potential on the Outer Continental Shelf and any activities that may assist in filling gaps in environmental data needed to develop each leasing program under this section. As part of such pro-

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

SEC. 210. ENVIRONMENTAL STUDIES.

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

''SEC. 20. ENVIRONMENTAL STUDIES.

''(a)(1) The Secretary, in cooperation with the Secretary of Commerce, shall conduct a study no less than once every three years''.

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

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

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

''(c) The Secretary shall conduct research to identify and reduce data gaps related to impacts of deepwater hydrocarbon spills, including—

''(1) effects to benthic substrate communities and species;

''(2) water column habitats and species;

''(3) surface and coastal impacts from spills originating in deep waters; and

''(4) the use of dispersants.''.

(c) RESEARCH.—Within 1 year after the date of enactment of this Act, the Secretary, in cooperation with the Secretary of Commerce, shall conduct research to identify and reduce data gaps related to the impacts of offshore oil and gas development in the Arctic region and to identify and reduce gaps in oil spill response capabilities.

SEC. 211. SAFETY REGULATIONS.

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

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

(2) in subsection (b) by—

(A) striking ''for the artificial islands, installations, and other devices referred to in section 4(a)(1) of'' and inserting ''under'';

(B) striking ''which the Secretary determines to be economically feasible''; and

(C) adding at the end the following: ''Not later than 6 months after the date of enactment of the Outer Continental Shelf Lands Act Amendments of 2011 and every 3 years thereafter, the Secretary shall, in consultation with the Outer Continental Shelf Safety and Environmental Advisory Board established under title I of the Implementing the Recommendations of the BP Oil Spill Commission Act of 2011, identify and publish an updated list of (1) the best available technologies for key areas of well design and operation, including blowout prevention and blowout and oil spill response and (2) technology needs for which the Secretary intends to identify best available technologies in the future.''; and

(3) by adding at the end the following:

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

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

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

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

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

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

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

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

"(D) oil spill response and mitigation, including reviews of the best available technology for oil spill response and mitigation and the availability and accessibility of such technology in each region where leasing is taking place;

"(E) risk associated with human factors;

"(F) technologies and methods to reduce the impact of geophysical exploration activities on marine life; and

"(G) renewable energy operations.".

SEC. 212. ENFORCEMENT OF SAFETY AND ENVIRONMENTAL REGULATIONS.

(a) IN GENERAL.—Section 22 of the Outer Continental Shelf Lands Act (43 U.S.C. 1348) is amended—

(1) by amending subsection (c) to read as follows:

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

"(1) scheduled onsite inspection, at least once a year, of each facility on the outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents;

"(2) scheduled onsite inspection, at least once a month, of each facility on the outer Continental Shelf engaged in drilling operations and which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include validation of the safety case required for the facility under section 21(g) and identifications of deviations from the safety case, and shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents;

"(3) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations; and

"(4) periodic audits of each required safety and environmental management plan, and any associated safety case, both with respect to their implementation at each facility on the outer Continental Shelf for which such a plan or safety case is required and with respect to onshore management support for activities at such a facility.";

(2) in subsection (d)(1)—

(A) by striking "each major fire and each major oil spillage" and inserting "each major fire, each major oil spillage, each loss of well control, and any other accident that presented a serious risk to human or environmental safety"; and

(B) by inserting before the period at the end the following: ", as a condition of the lease or permit";

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

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

(5) in subsection (b)(1), by striking ''recognized'' and inserting ''uncontrolled''; and

(6) by adding at the end the following:

''(g) INFORMATION ON CAUSES AND CORRECTIVE ACTIONS.—For any incident investigated under this section, the Secretary shall promptly make available to all lessees and the public technical information about the causes and corrective actions taken. All data and reports related to any such incident shall be maintained in a data base available to the public.

''(h) OPERATOR'S ANNUAL CERTIFICATION.—

''(1) The Secretary, in cooperation with the Secretary of the department in which the Coast Guard is operating, shall require all operators of all new and existing drilling and production operations to annually certify that their operations are being conducted in accordance with applicable law and regulations.

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

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

"(B) examined and conducted tests to ensure that the emergency equipment has been function-tested and is capable of addressing emergency situations;

"(C) reviewed all rig drilling, casing, cementing, well abandonment (temporary and permanent), completion, and workover practices to ensure that well control is not compromised at any point while emergency equipment is installed on the wellhead;

"(D) reviewed all emergency shutdown and dynamic positioning procedures that interface with emergency well control operations;

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

"(F) updated the operator's response plan required under section 25(c)(7) and exploration

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

"(i) CEO STATEMENT.—

"(1) IN GENERAL.—The Secretary shall not approve any application for a permit to drill a well under this Act unless such application is accompanied by a statement in which the chief executive officer of the applicant attests, in writing, that—

"(A) the applicant is in compliance with all applicable environmental and natural resource conservation laws;

"(B) the applicant has the capability and technology to respond immediately and effectively to a worst-case oil spill in real-world conditions in the area of the proposed activity under the permit;

"(C) the applicant has an oil spill response plan that ensures that the applicant has the capacity to promptly control and stop a blowout in the event that well control measures fail;

"(D) the blowout preventer to be used during the drilling of the well has redundant systems to prevent or stop a blowout for all foreseeable blowout scenarios and failure modes;

"(E) the well design is safe; and

"(F) the applicant has the capability to expeditiously begin and complete a relief well if necessary in the event of a blowout.

"(2) CIVIL PENALTY.—Any chief executive officer who makes a false certification under paragraph (1) shall be liable for a civil penalty under section 24.

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

(b) APPLICATION.—Section 22(i) of the Outer Continental Shelf Lands Act, as added by the amendments made by subsection (a), shall apply to approvals of applications for a permit to drill that are submitted after the

end of the 6-month period beginning on the date of enactment of this Act.

SEC. 213. JUDICIAL REVIEW.

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

SEC. 214. REMEDIES AND PENALTIES.

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

''(b)(1) Except as provided in paragraph (2), any person who fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, shall be liable for a civil administrative penalty of not more than $75,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing. The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor.

"(2) If a failure described in paragraph (1) constitutes or constituted a threat of harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty of not more than $150,000 shall be assessed for each day of the continuance of the failure.".

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

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

SEC. 215. UNIFORM PLANNING FOR OUTER CONTINENTAL SHELF.

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

(1) by striking "other than the Gulf of Mexico," in each place it appears;

(2) in subsection (c), by striking "and" after the semicolon at the end of paragraph (5), redesignating paragraph (6) as paragraph (11), and inserting after paragraph (5) the following new paragraphs:

"(6) a detailed and accurate description of equipment to be used for the drilling of wells pursuant to activities included in the development and production plan, including—

"(A) a description of the drilling unit or units;

"(B) a statement of the design and condition of major safety-related pieces of equipment, including independent third-party certification of such equipment; and

"(C) a description of any new technology to be used;

"(7) a scenario for the potential blowout of each well to be drilled as part of the plan involving the highest potential volume of liquid hydrocarbons, along with a complete description of a response plan to both control the blowout and manage the accompanying discharge of hydrocarbons, including the likelihood for surface intervention to stop the blowout, the availability of a rig to drill a relief well, an estimate of the time it would take to drill a relief well, a description of other technology that may be used to regain control of the well or capture escaping hydrocarbons and the potential timeline for using that technology for its intended purpose, and

the strategy, organization, and resources necessary to avoid harm to the environment from hydrocarbons;

''(8) an analysis of the potential impacts of the worst-case-scenario discharge on the marine and coastal environments for activities conducted pursuant to the proposed development and production plan;

''(9) a comprehensive survey and characterization of the coastal or marine environment within the area of operation, including bathymetry, currents and circulation patterns within the water column, and descriptions of benthic and pelagic environments;

''(10) a description of the technologies to be deployed on the facilities to routinely observe and monitor in real time the marine environment throughout the duration of operations, and a description of the process by which such observation data and information will be made available to Federal regulators and to the System established under section 12304 of Public Law 111–11 (33 U.S.C. 3603); and'';

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

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

(4) by striking subsections (g) and (l), and redesignating subsections (h) through (k) as subsections (g) through and (j); and

(5) in subsection (g), as so redesignated, by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and inserting after paragraph (1) the following:

"(2) The Secretary shall not approve a development and production plan, or a significant revision to such a plan, unless—

"(A) the plan is in compliance with all other applicable environmental and natural resource conservation laws; and

"(B) the applicant has available oil spill response and clean-up equipment and technology that has been demonstrated to be capable of effectively remediating the projected worst-case

release of oil from activities conducted pursuant to the development and production plan.''.

SEC. 216. OIL AND GAS INFORMATION PROGRAM.

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

(1) striking the period at the end of subparagraph (A) and inserting '', provided that such data shall be transmitted in electronic format either in real-time or as quickly as practicable following the generation of such data.''; and

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

''(C) Lessees engaged in drilling operations shall provide to the Secretary—

''(i) all daily reports generated by the lessee, or any daily reports generated by contractors or subcontractors engaged in or supporting drilling operations on the lessee's lease, no more than 24 hours after the end of the day for which they should have been generated;

''(ii) documentation of blowout preventer maintenance and repair, and any changes to design specifications of the

blowout preventer, within 24 hours after such activity; and

"(iii) prompt or real-time transmission of the electronic log from a blowout preventer control system.".

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

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

SEC. 218. RESTRICTIONS ON EMPLOYMENT.

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

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

(A) by striking "SEC. 29" and all that follows through "No full-time" and inserting the following:

"SEC. 29. RESTRICTIONS ON EMPLOYMENT.

"(a) IN GENERAL.—No full-time"; and

(B) by striking ", and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate

of basic pay for grade GS–16 of the General Schedule'';

(2) in paragraph (1)—

(A) in subparagraph (A), by inserting ''or advise'' after ''represent'';

(B) in subparagraph (B), by striking ''with the intent to influence, make'' and inserting ''act with the intent to influence, directly or indirectly, or make''; and

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

(i) by inserting ''inspection or enforcement action,'' before ''or other particular matter''; and

(ii) by striking ''or'' at the end;

(3) in paragraph (2)—

(A) in subparagraph (A), by inserting ''or advise'' after ''represent'';

(B) in subparagraph (B), by striking ''with the intent to influence, make'' and inserting ''act with the intent to influence, directly or indirectly, or make''; and

(C) by striking the period at the end and inserting ''; or''; and

(4) by adding at the end the following:

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

"(A) that was pending under the official responsibility of the officer or employee as an officer at any point during the 2-year period preceding the date of termination of the responsibility; or

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

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

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

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

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

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

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

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

SEC. 219. REPEAL OF ROYALTY RELIEF PROVISIONS.

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

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

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

(b) REPEAL OF PROVISIONS RELATING TO PLANNING AREAS OFFSHORE ALASKA.—Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by striking ''and in the Planning Areas offshore Alaska''.

SEC. 220. MANNING AND BUY- AND BUILD-AMERICAN REQUIREMENTS.

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

(1) in subsection (a), by striking ''shall issue regulations which'' and inserting ''shall issue regulations that shall be supplemental to and complementary with and under no circumstances a substitution for the provisions of the Constitution and laws of the United States extended to the subsoil and seabed of the outer Continental Shelf pursuant to section

4(a)(1) of this Act, except insofar as such laws would otherwise apply to individuals who have extraordinary ability in the sciences, arts, education, or business, which has been demonstrated by sustained national or international acclaim, and that''; and

(2) by adding at the end the following:

''(d) BUY AND BUILD AMERICAN.—It is the intention of the Congress that this Act, among other things, result in a healthy and growing American industrial, manufacturing, transportation, and service sector employing the vast talents of America's workforce to assist in the development of energy from the outer Continental Shelf. Moreover, the Congress intends to monitor the deployment of personnel and material on the outer Continental Shelf to encourage the development of American technology and manufacturing to enable United States workers to benefit from this Act by good jobs and careers, as well as the establishment of important industrial facilities to support expanded access to American resources.''.

SEC. 221. COORDINATION AND CONSULTATION WITH AFFECTED STATE AND LOCAL GOVERNMENTS.

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

(1) by inserting ''exploration plan or'' before ''development and production plan'' in each place it appears; and

(2) by amending subsection (c) to read as follows:

''(c) ACCEPTANCE OR REJECTION OF RECOMMENDATIONS.—The Secretary may accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if the Secretary determines, after having provided the opportunity for consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on protecting coastal and marine ecosystems and the economies dependent on those ecosystems. The Secretary shall provide an explanation to the Governor, in writing, of the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative identified in consultation with the Governor.''.

SEC. 222. IMPLEMENTATION.

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

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

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

SEC. 223. REPORT ON ENVIRONMENTAL BASELINE STUDIES.

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

SEC. 224. CUMULATIVE IMPACTS ON MARINE MAMMAL SPECIES AND STOCKS AND SUBSISTENCE USE.

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

''(h) CUMULATIVE IMPACTS ON MARINE MAMMAL SPECIES AND STOCKS AND SUBSISTENCE USE.—In determining, pursuant to subparagraphs (A)(i) and (D)(i) of section 101(a)(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(5)), whether takings from specified activities administered under this title will have a negligible impact on a marine mammal species or stock, and not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses, the Secretary of Commerce or Interior shall incorporate any takings of such species or stock from any other reasonably foreseeable activities administered under this Act.''.

SEC. 225. SAVINGS CLAUSE.

Nothing in this Act shall be construed to preempt regulation by any State or local government of oil and gas exploration and production wells drilled in State waters, on State lands, or on private lands within that State pursuant to the laws of that State or local government.

Subtitle B—Royalty Relief for American Consumers

SEC. 231. SHORT TITLE.

This subtitle may be cited as the ''Royalty Relief for American Consumers Act of 2011''.

SEC. 232. ELIGIBILITY FOR NEW LEASES AND THE TRANSFER OF LEASES.

(a) ISSUANCE OF NEW LEASES.—

(1) IN GENERAL.—The Secretary shall not issue any new lease that authorizes the production of oil or natural gas under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) to a person described in paragraph (2) unless the person has renegotiated each covered lease with respect to which the person is a lessee, to modify the payment responsibilities of the person to require the payment of royalties if the price of oil and natural gas is greater than or equal to the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

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

(A) is a lessee that—

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

(ii) was issued a covered lease before the date of enactment of this Act, but transferred the covered lease to another person or entity (including a subsidiary or affiliate of the lessee) after the date of enactment of this Act; or

(B) any other person that has any direct or indirect interest in, or that derives any benefit from, a covered lease.

(3) MULTIPLE LESSEES.—

(A) IN GENERAL.—For purposes of paragraph (1), if there are multiple lessees that own a share of a covered lease, the Secretary may implement separate agreements with any lessee with a share of the covered lease that modifies the payment responsibilities with respect to the share of the lessee to include price thresholds that are equal to or less than the price thresholds described in clauses (v) through (vii) of section 8(a)(3)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(C)).

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

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

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

(2) entered into an agreement with the Secretary to modify the terms of all covered leases of

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

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

(d) DEFINITIONS.—In this section—

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

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

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

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

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

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

SEC. 233. PRICE THRESHOLDS FOR ROYALTY SUSPENSION PROVISIONS.

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

TITLE III—OIL AND GAS ROYALTY REFORM

SEC. 301. AMENDMENTS TO DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702) is amended—

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

(2) in paragraph (20)(A), by striking '': *Provided,* That'' and all that follows through ''subject of the judicial proceeding'';

(3) in paragraph (20)(B), by striking ''(with written notice to the lessee who designated the designee)'';

(4) in paragraph (23)(A), by striking ''(with written notice to the lessee who designated the designee)'';

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

"(24) 'designee' means a person who pays, offsets, or credits monies, makes adjustments, requests and receives refunds, or submits reports with respect to payments a lessee must make pursuant to section 102(a);";

(6) in paragraph (25)(B)—

(A) by striking "(subject to the provisions of section 102(a) of this Act)"; and

(B) in clause (ii) by striking the matter after subclause (IV) and inserting the following: "that arises from or relates to any lease, easement, right-of-way, permit, or other agreement regardless of form administered by the Secretary for, or any mineral leasing law related to, the exploration, production, and development of oil and gas or other energy resource on Federal lands or the Outer Continental Shelf;";

(7) in paragraph (29), by inserting "or permit" after "lease"; and

(8) by striking "and" after the semicolon at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting a semicolon, and by adding at the end the following new paragraphs:

"(34) 'compliance review' means a full-scope or a limited-scope examination of a lessee's lease ac-

counts to compare one or all elements of the royalty equation (volume, value, royalty rate, and allowances) against anticipated elements of the royalty equation to test for variances; and

''(35) 'marketing affiliate' means an affiliate of a lessee whose function is to acquire the lessee's production and to market that production.''.

SEC. 302. COMPLIANCE REVIEWS.

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

''(d) The Secretary may, as an adjunct to audits of accounts for leases, utilize compliance reviews of accounts. Such reviews shall not constitute nor substitute for audits of lease accounts. Any disparity uncovered in such a compliance review shall be immediately referred to a program auditor. The Secretary shall, before completion of a compliance review, provide notice of the review to designees whose obligations are the subject of the review.''.

SEC. 303. CLARIFICATION OF LIABILITY FOR ROYALTY PAYMENTS.

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

"(a) In order to increase receipts and achieve effective collections of royalty and other payments, a lessee who is required to make any royalty or other payment under a lease, easement, right-of-way, permit, or other agreement, regardless of form, or under the mineral leasing laws, shall make such payment in the time and manner as may be specified by the Secretary or the applicable delegated State. Any person who pays, offsets, or credits monies, makes adjustments, requests and receives refunds, or submits reports with respect to payments the lessee must make is the lessee's designee under this Act. Notwithstanding any other provision of this Act to the contrary, a designee shall be liable for any payment obligation of any lessee on whose behalf the designee pays royalty under the lease. The person owning operating rights in a lease and a person owning legal record title in a lease shall be liable for that person's pro rata share of payment obligations under the lease.".

SEC. 304. REQUIRED RECORDKEEPING.

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

SEC. 305. FINES AND PENALTIES.

Section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719) is amended—

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

(2) in subsection (a)(2)(B), by inserting ''(i)'' after ''such person'', and by striking the period at the end and inserting ''; and (ii) has not received notice, pursuant to paragraph (1), of more than two prior violations in the current calendar year.'';

(3) in subsection (b), by striking ''$5,000'' and inserting ''$10,000'';

(4) in subsection (c)—

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

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

(i) by striking ''$10,000'' and inserting ''$20,000''; and

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

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

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

"(5) fails to correctly report and timely provide operations or financial records necessary for the Secretary or any authorized designee of the Secretary to accomplish lease management responsibilities,";

(5) in subsection (d), by striking "$25,000" and inserting "$50,000";

(6) in subsection (h), by striking "by registered mail" and inserting "a common carrier that provides proof of delivery"; and

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

"(m)(1) Any determination by the Secretary or a designee of the Secretary that a person has committed a violation under subsection (a), (c), or (d)(1) shall toll any applicable statute of limitations for all oil and gas leases held or operated by such person, until the later of—

"(A) the date on which the person corrects the violation and certifies that all violations of a like nature have been corrected for all of the oil and gas leases held or operated by such person; or

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

"(2) A person determined by the Secretary or a designee of the Secretary to have violated subsection (a), (c),

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

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

"(B) the expiration of the period during which the records must be maintained under section 103(b).".

SEC. 306. INTEREST ON OVERPAYMENTS.

Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended—

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

"(h) Interest shall not be allowed nor paid nor credited on any overpayment, and no interest shall accrue from the date such overpayment was made.

"(i) A lessee or its designee may make a payment for the approximate amount of royalties (hereinafter in this subsection referred to as the 'estimated payment') that would otherwise be due for such lease by the date royalties are due for that lease. When an estimated payment is made, actual royalties are payable at the end of the month following the month in which the estimated payment is made. If the estimated payment was less than the amount of actual royalties due, interest is owed on the underpaid amount. If the lessee or its designee makes

a payment for such actual royalties, the lessee or its designee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated by the lessee or its designee provided such adjustment, recoupment, or reinstatement is made within the limitation period for which the date royalties were due for that lease.";

(2) by striking subsection (j); and

(3) in subsection (k)(4)—

(A) by striking "or overpaid royalties and associated interest"; and

(B) by striking ", refunded, or credited".

SEC. 307. ADJUSTMENTS AND REFUNDS.

Section 111A of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721a) is amended—

(1) in subsection (a)(3), by inserting "(A)" after "(3)", and by striking the last sentence and inserting the following:

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

or the applicable delegated State, as appropriate.

"(C) If an overpayment is identified during an audit, the Secretary shall allow a credit in the amount of the overpayment.";

(2) in subsection (a)(4)—

(A) by striking "six" and inserting "four"; and

(B) by striking "shall" the second place it appears and inserting "may"; and

(3) in subsection (b)(1) by striking "and" after the semicolon at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting "; and", and by adding at the end the following:

"(E) is made within the adjustment period for that obligation.".

SEC. 308. CONFORMING AMENDMENT.

Section 114 of the Federal Oil and Gas Royalty Management Act of 1982 is repealed.

SEC. 309. OBLIGATION PERIOD.

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

"(3) ADJUSTMENTS.—In the case of an adjustment under section 111A(a) in which a recoupment by the lessee results in an underpayment of an obligation, for purposes of this Act the obligation becomes due on the date the lessee or its designee makes the adjustment.".

SEC. 310. NOTICE REGARDING TOLLING AGREEMENTS AND SUBPOENAS.

(a) TOLLING AGREEMENTS.—Section 115(d)(1) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(d)(1)) is amended by striking "(with notice to the lessee who designated the designee)".

(b) SUBPOENAS.—Section 115(d)(2)(A) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(d)(2)(A)) is amended by striking "(with notice to the lessee who designated the designee, which notice shall not constitute a subpoena to the lessee)".

SEC. 311. APPEALS AND FINAL AGENCY ACTION.

Paragraphs (1) and (2) of section 115(h) the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724(h)) are amended by striking "33" each place it appears and inserting "48".

SEC. 312. ASSESSMENTS.

Section 116 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1724) is repealed.

SEC. 313. COLLECTION AND PRODUCTION ACCOUNTABILITY.

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

(b) REPORT.—The Secretary shall submit to Congress a report on findings and recommendations of the pilot project within 3 years after the date of enactment of this Act.

SEC. 314. NATURAL GAS REPORTING.

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

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

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

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

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

(5) revision of the ''MMS–2014'' reporting form to record, in addition to other information already required, the natural gas BTU values that form the basis for the required royalty payments.

SEC. 315. PENALTY FOR LATE OR INCORRECT REPORTING OF DATA.

(a) IN GENERAL.—The Secretary shall issue regulations by not later than 1 year after the date of enactment of this Act that establish a civil penalty for late or incorrect reporting of data under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.).

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

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

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

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

SEC. 316. REQUIRED RECORDKEEPING.

Within 1 year after the date of enactment of this Act, the Secretary shall publish final regulations concerning required recordkeeping of natural gas measurement data as set forth in part 250.1203 of title 30, Code of Federal Regulations (as in effect on the date of enactment of this Act), to include operators and other persons involved in the transporting, purchasing, or selling of gas under the requirements of that rule, under the authority provided in section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713).

SEC. 317. SHARED CIVIL PENALTIES.

Section 206 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1736) is amended by striking ''Such amount shall be deducted from any compensation due such State or Indian tribe under section 202 or such State under section 205.''.

SEC. 318. ENTITLEMENTS.

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

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

Section 36 of the Mineral Leasing Act (30 U.S.C. 192) is amended by inserting before the period at the end of the first sentence the following: ", except that the Secretary shall not conduct a regular program to take oil and gas lease royalties in oil or gas".

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

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

"(10)(A) Any royalty under a lease under this section shall apply to all oil that is saved, removed, sold, or discharged, without regard to whether any of the oil is unavoidably lost or used on, or for the benefit of, the lease.

"(B) In this paragraph the term 'discharged' means any emission (other than natural seepage), intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping.".

SEC. 321. DISPOSITION OF REVENUE.

(a) USE FOR SAFETY, INSPECTION, AND ENFORCEMENT.—Of the amounts received by the United States under subtitle B of title II and this title—

(1) there shall be available to the Secretary, the Administrator of the National Ocean and Atmospheric Administration, and the Commandant of the Coast Guard, without further appropriation, such sums as may be necessary to carry out any duties or responsibilities related to safety, inspection, and enforcement authorities provided this Act; and

(2) there shall be available, without further appropriation, $48,000,000 for each of the fiscal years 2012 through 2016 to carry out the functions described in section 634.

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

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

TITLE IV—GULF OF MEXICO RESTORATION

SEC. 401. SHORT TITLE.

This title may be cited as the ''Gulf Coast Restoration Act''.

SEC. 402. GULF COAST ECOSYSTEM RESTORATION.

(a) DEFINITIONS.—In this section:

(1) CHAIR.—The term ''Chair'' means the Chair of the Task Force appointed under subsection (d)(3).

(2) STATE COASTAL ECOSYSTEM RESTORATION PLAN.—The term ''State Coastal Ecosystem Restoration Plan'' means a plan submitted under subsection (c) by a qualifying State to the Task Force.

(3) FUND.—The term ''Fund'' means the Gulf Coast Ecosystem Restoration Fund established by subsection (b)(2)(A).

(4) GOVERNORS.—The term ''Governors'' means the Governors of each of the States of Alabama, Florida, Louisiana, Mississippi, and Texas.

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

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

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) QUALIFYING STATE.—The term ''qualifying State'' means each of the States of Alabama, Florida, Louisiana, Mississippi, and Texas.

(8) TASK FORCE.—The term ''Task Force'' means the Gulf Coast Ecosystem Restoration Task Force established by subsection (d).

(b) GULF COAST ECOSYSTEM RESTORATION.—

(1) IN GENERAL.—In accordance with this section, the Chair shall review and approve or disapprove State Coastal Ecosystem Restoration Plans submitted by the Governors that provide for restoration activities with respect to the Gulf Coast ecosystem.

(2) GULF COAST ECOSYSTEM RESTORATION FUND.—

(A) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Gulf Coast Ecosystem Restoration Fund''.

(B) TRANSFERS TO FUND.—Notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Fund amounts equal to not less than 80 percent of any amounts collected by the United States as penalties, settlements, or fines under sections 309 and 311 of the Federal Water Pollution Control Act (33 U.S.C. 1319, 1321) in relation to the blowout and explosion of the mobile offshore drilling unit Deepwater Horizon that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment.

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

(3) DISBURSEMENT.—The Chair shall disburse to each qualifying State for which the Chair has approved a State Coastal Ecosystem Restoration Plan under this section such funds as are allocated to the qualifying State under this section.

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

(A) Projects and activities for the conservation, protection, or restoration of coastal areas, including wetlands.

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

(C) Planning assistance and the administrative costs of complying with this section.

(D) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

(c) STATE COASTAL ECOSYSTEM RESTORATION PLAN.—

(1) SUBMISSION OF STATE PLANS.—

(A) IN GENERAL.—Not later than October 1, 2011, the Governor of a qualifying State shall submit to the Chair a State Coastal Ecosystem Restoration Plan.

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

(2) APPROVAL.—

(A) IN GENERAL.—The Chair must approve a plan of a qualifying State submitted under paragraph (1) before disbursing any amount to the qualifying State under this section.

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

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

(ii) the plan contains—

(I) the name of the State agency that will have the authority to represent and act on behalf of the State

in dealing with the Secretary for purposes of this section;

(II) a program for the implementation of the plan that describes how the amounts provided under this section to the qualifying State will be used; and

(III) a certification by the Governor that ample opportunity has been provided for public participation in the development and revision of the plan.

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

(A) developed in accordance with this subsection; and

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

(4) PROCEDURE.—Not later than 60 days after the date on which a plan or amendment to a plan is submitted under paragraph (1) or (3), respectively, the Chair shall approve or disapprove the plan or amendment.

(d) GULF COAST ECOSYSTEM RESTORATION TASK FORCE.—

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

(2) MEMBERSHIP.—The Task Force shall consist of the following members, or in the case of a Federal agency, a designee at the level of Assistant Secretary or the equivalent:

(A) The Secretary.

(B) The Secretary of Commerce.

(C) The Secretary of the Army.

(D) The Attorney General.

(E) The Secretary of Homeland Security.

(F) The Administrator of the Environmental Protection Agency.

(G) The Commandant of the Coast Guard.

(H) The Secretary of Transportation.

(I) The Secretary of Agriculture.

(J) A representative of each affected Indian tribe, appointed by the Secretary based on the recommendations of the tribal chairman.

(K) Two representatives of each of the States of Alabama, Florida, Louisiana, Mississippi, and Texas, appointed by the Governor of each State, respectively.

(L) Two representatives of local government within each of the States of Alabama,

Florida, Louisiana, Mississippi, and Texas, appointed by the Governor of each State, respectively.

(3) CHAIR.—The Chair of the Task Force shall be appointed by the President from among the members under paragraph (2) who are Federal officials.

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

(A) consult with, and provide recommendations to, the Chair regarding the approval of State Coastal Ecosystem Restoration Plans;

(B) coordinate scientific and other research associated with restoration of the Gulf Coast ecosystem; and

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

(5) APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Task Force shall not be considered an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.).

TITLE V—COORDINATION AND PLANNING

SEC. 501. REGIONAL COORDINATION.

(a) IN GENERAL.—The purpose of this title is to promote—

(1) better coordination, communication, and collaboration between Federal agencies with authorities for ocean, coastal, and Great Lakes management; and

(2) coordinated and collaborative regional planning efforts using the best available science, and to ensure the protection and maintenance of marine ecosystem health, in decisions affecting the sustainable development and use of Federal renewable and nonrenewable resources on, in, or above the ocean (including the Outer Continental Shelf) and the Great Lakes for the long-term economic and environmental benefit of the United States.

(b) OBJECTIVES OF REGIONAL EFFORTS.—Such regional efforts shall achieve the following objectives:

(1) Greater systematic communication and coordination among Federal, coastal State, and affected tribal governments concerned with the conservation of and the sustainable development and

use of Federal renewable and nonrenewable resources of the oceans, coasts, and Great Lakes.

(2) Greater reliance on a multiobjective, science- and ecosystem-based, spatially explicit management approach that integrates regional economic, ecological, affected tribal, and social objectives into ocean, coastal, and Great Lakes management decisions.

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

(4) Identification of data and information needed by the Regional Coordination Councils established under section 602.

(c) REGIONS.—There are hereby designated the following Coordination Regions:

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

(2) GULF OF MEXICO REGION.—The Gulf of Mexico Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the States of Texas, Louisiana, Mississippi, and Alabama, and the west coast of Florida.

(3) NORTH ATLANTIC REGION.—The North Atlantic Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut.

(4) MID-ATLANTIC REGION.—The Mid-Atlantic Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the States of New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia.

(5) SOUTH ATLANTIC REGION.—The South Atlantic Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the States of North Carolina, South Carolina, Georgia, the east coast of Florida, and the Straits of Florida Planning Area.

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

(7) PACIFIC ISLANDS REGION.—The Pacific Islands Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to the State of Hawaii, the Commonwealth of

the Northern Mariana Islands, American Samoa, and Guam.

(8) CARIBBEAN REGION.—The Caribbean Coordination Region, which shall consist of the coastal waters and Exclusive Economic Zone adjacent to Puerto Rico and the United States Virgin Islands.

(9) GREAT LAKES REGION.—The Great Lakes Coordination Region, which shall consist of waters of the Great Lakes in the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

SEC. 502. REGIONAL COORDINATION COUNCILS.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Chairman of the Council on Environmental Quality, in consultation with the affected coastal States and affected Indian tribes, shall establish or designate a Regional Coordination Council for each of the Coordination Regions designated by section 601(c).

(b) MEMBERSHIP.—

(1) FEDERAL REPRESENTATIVES.—Within 90 days after the date of enactment of this Act, the Chairman of the Council on Environmental Quality shall publish the titles of the officials of each Federal agency and department that shall participate in each Council. The Councils shall include representa-

tives of each Federal agency and department that has authorities related to the development of ocean, coastal, or Great Lakes policies or engages in planning, management, or scientific activities that significantly affect or inform the use of ocean, coastal, or Great Lakes resources. The Chairman of the Council on Environmental Quality shall determine which Federal agency representative shall serve as the chairperson of each Council.

(2) COASTAL STATE REPRESENTATIVES.—

(A) NOTICE OF INTENT TO PARTICIPATE.—The Governor of each coastal State within each Coordination Region designated by section 601(c) shall within 3 months after the date of enactment of this Act, inform the Chairman of the Council on Environmental Quality whether or not the State intends to participate in the Regional Coordination Council for the Region.

(B) APPOINTMENT OF RESPONSIBLE STATE OFFICIAL.—If a coastal State intends to participate in such Council, the Governor of the coastal State shall appoint an officer or employee of the coastal State agency with primary

responsibility for overseeing ocean and coastal policy or resource management to that Council.

(C) ALASKA REGIONAL COORDINATION COUNCIL.—The Regional Coordination Council for the Alaska Coordination Region shall include representation from each of the States of Alaska, Washington, and Oregon, if appointed by the Governor of that State in accordance with this paragraph.

(3) REGIONAL FISHERY MANAGEMENT COUNCIL REPRESENTATION.—A representative of each Regional Fishery Management Council with jurisdiction in the Coordination Region of a Regional Coordination Council (who is selected by the Regional Fishery Management Council) and the executive director of the interstate marine fisheries commission with jurisdiction in the Coordination Region of a Regional Coordination Council shall each serve as a member of the Council.

(4) REGIONAL OCEAN PARTNERSHIP REPRESENTATION.—A representative of any Regional Ocean Partnership that has been established for any part of the Coordination Region of a Regional Coordination Council may appoint a representative to

1 serve on the Council in addition to any Federal or
2 State appointments.
3 (5) TRIBAL REPRESENTATION.—An appropriate
4 tribal official selected by affected Indian tribes situ-
5 ated in the affected Coordination Region may elect
6 to appoint a representative of such tribes collectively
7 to serve as a member of the Regional Coordination
8 Council for that Region.
9 (6) LOCAL REPRESENTATION.—The Chairman
10 of the Council on Environmental Quality shall, in
11 consultation with the Governors of the coastal States
12 within each Coordination Region, identify and ap-
13 point representatives of county and local govern-
14 ments, as appropriate, to serve as members of the
15 Regional Coordination Council for that Region.
16 (c) ADVISORY COMMITTEE.—Each Regional Coordi-
17 nation Council shall establish advisory committees for the
18 purposes of public and stakeholder input and scientific ad-
19 vice, made up of a balanced representation from the en-
20 ergy, shipping, transportation, commercial and rec-
21 reational fishing, and recreation industries, from marine
22 environmental nongovernmental organizations, and from
23 scientific and educational authorities with expertise in the
24 conservation and management of ocean, coastal, and
25 Great Lakes resources to advise the Council during the

development of Regional Assessments and Regional Strategic Plans and in its other activities.

(d) COORDINATION WITH EXISTING PROGRAMS.—Each Regional Coordination Council shall build upon and complement current State, multistate, and regional capacity and governance and institutional mechanisms to manage and protect ocean waters, coastal waters, and ocean resources.

SEC. 503. REGIONAL STRATEGIC PLANS.

(a) INITIAL REGIONAL ASSESSMENT.—

(1) IN GENERAL.—Each Regional Coordination Council, shall, within one year after the date of enactment of this Act, prepare an initial assessment of its Coordination Region that shall identify deficiencies in data and information necessary to informed decisionmaking by Federal, State, and affected tribal governments concerned with the conservation of and management of the oceans, coasts, and Great Lakes. Each initial assessment shall to the extent feasible—

(A) identify the Coordination Region's renewable and non renewable resources, including current and potential energy resources, except for the assessment for the Great Lakes Coordination Region, for which the Regional Coordi-

nation Council for such Coordination Region shall only identify the Great Lakes Coordination Region's renewable energy resources, including current and potential renewable energy resources;

(B) identify and include a spatially and temporally explicit inventory of existing and potential uses of the Coordination Region, including fishing and fish habitat, recreation, and energy development;

(C) document the health and relative environmental sensitivity of the marine ecosystem within the Coordination Region, including a comprehensive survey and status assessment of species, habitats, and indicators of ecosystem health;

(D) identify marine habitat types and important ecological areas within the Coordination Region;

(E) assess the Coordination Region's marine economy and cultural attributes and include regionally-specific ecological and socio-economic baseline data;

(F) identify and prioritize additional scientific and economic data necessary to inform the development of Strategic Plans; and

(G) include other information to improve decision making as determined by the Regional Coordination Council.

(2) DATA.—Each initial assessment shall—

(A) use the best available data;

(B) collect and provide data in a spatially explicit manner wherever practicable and provide such data to the interagency comprehensive digital mapping initiative as described in section 2 of Public Law 109–58 (42 U.S.C. 15801); and

(C) make publicly available any such data that is not classified information.

(3) PUBLIC PARTICIPATION.—Each Regional Coordination Council shall provide adequate opportunity for review and input by stakeholders and the general public during the preparation of the initial assessment and any revised assessments.

(b) REGIONAL STRATEGIC PLANS.—

(1) REQUIREMENT.—Each Regional Coordination Council shall, within 3 years after the completion of the initial regional assessment, prepare and

1 submit to the Chairman of the Council on Environ-
2 mental Quality a multiobjective, science- and eco-
3 system-based, spatially explicit, integrated Strategic
4 Plan in accordance with this subsection for the
5 Council's Coordination Region.

6 (2) OBJECTIVE AND GOALS.—The objective of
7 the Strategic Plans under this subsection shall be to
8 foster comprehensive, integrated, and sustainable de-
9 velopment and use of ocean, coastal, and Great
10 Lakes resources, while protecting marine ecosystem
11 health and sustaining the long-term economic and
12 ecosystem values of the oceans, coasts, and Great
13 Lakes.

14 (3) CONTENTS.—Each Strategic Plan prepared
15 by a Regional Coordination Council shall—

16 (A) be based on the initial regional assess-
17 ment and updates for the Coordination Region
18 under subsections (a) and (c), respectively;

19 (B) foster the sustainable and integrated
20 development and use of ocean, coastal, and
21 Great Lakes resources in a manner that pro-
22 tects the health of marine ecosystems;

23 (C) identify areas with potential for siting
24 and developing renewable and nonrenewable en-
25 ergy resources in the Coordination Region cov-

ered by the Strategic Plan, except for the Strategic Plan for the Great Lakes Coordination Region which shall identify only areas with potential for siting and developing renewable energy resources in the Great Lakes Coordination Region;

(D) identify other current and potential uses of the ocean and coastal resources in the Coordination Region;

(E) identify and recommend long-term monitoring needs for ecosystem health and socioeconomic variables within the Coordination Region covered by the Strategic Plan;

(F) identify existing State and Federal regulating authorities within the Coordination Region covered by the Strategic Plan and measures to assist those authorities in carrying out their responsibilities;

(G) identify best available technologies to minimize adverse environmental impacts and use conflicts in the development of ocean and coastal resources in the Coordination Region;

(H) identify additional research, information, and data needed to carry out the Strategic Plan;

(I) identify performance measures and benchmarks for purposes of fulfilling the responsibilities under this section to be used to evaluate the Strategic Plan's effectiveness;

(J) define responsibilities and include an analysis of the gaps in authority, coordination, and resources, including funding, that must be filled in order to fully achieve those performance measures and benchmarks; and

(K) include such other information at the Chairman of the Council on Environmental Quality determines is appropriate.

(4) PUBLIC PARTICIPATION.—Each Regional Coordination Council shall provide adequate opportunities for review and input by stakeholders and the general public during the development of the Strategic Plan and any Strategic Plan revisions.

(c) UPDATED REGIONAL ASSESSMENTS.—Each Regional Coordination Council shall update the initial regional assessment prepared under subsection (a) in coordination with each Strategic Plan revision under subsection (e), to provide more detailed information regarding the required elements of the assessment and to include any relevant new information that has become available in the interim.

(d) REVIEW AND APPROVAL.—

(1) COMMENCEMENT OF REVIEW.—Within 10 days after receipt of a Strategic Plan under this section, or any revision to such a Strategic Plan, from a Regional Coordination Council, the Chairman of the Council of Environmental Quality shall commence a review of the Strategic Plan or the revised Strategic Plan, respectively.

(2) PUBLIC NOTICE AND COMMENT.—Immediately after receipt of such a Strategic Plan or revision, the Chairman of the Council of Environmental Quality shall publish the Strategic Plan or revision in the Federal Register and provide an opportunity for the submission of public comment for a 90-day period beginning on the date of such publication.

(3) REQUIREMENTS FOR APPROVAL.—Before approving a Strategic Plan, or any revision to a Strategic Plan, the Chairman of the Council on Environmental Quality must find that the Strategic Plan or revision—

(A) complies with subsection (b); and

(B) complies with the purposes of this title as identified in section 601(a) and the objectives identified in section 601(b).

(4) DEADLINE FOR COMPLETION.—Within 180 days after the receipt of a Strategic Plan, or a revision to a Strategic Plan, the Chairman of the Council of Environmental Quality shall approve or disapprove the Strategic Plan or revision. If the Chairman disapproves the Strategic Plan or revision, the Chairman shall transmit to the Regional Coordination Council that submitted the Strategic Plan or revision, an identification of the deficiencies and recommendations to improve it. The Council shall submit a revised Strategic Plan or revision to such plan with 180 days after receiving the recommendations from the Chairman.

(e) PLAN REVISION.—Each Strategic Plan shall be reviewed and revised by the relevant Regional Coordination Council at least once every 5 years. Such review and revision shall be based on the most recently updated regional assessment. Any proposed revisions to the Strategic Plan shall be submitted to the Chairman of the Council on Environmental Quality for review and approval pursuant to this section.

SEC. 504. REGULATIONS AND SAVINGS CLAUSE.

(a) REGULATIONS.—The Chairman of the Council on Environmental Quality may issue such regulations as the

Chairman considers necessary to implement sections 601 through 603.

(b) SAVINGS CLAUSE.—Nothing in this title shall be construed to affect existing authorities under Federal law.

SEC. 505. OCEAN RESOURCES CONSERVATION AND ASSISTANCE FUND.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the Treasury of the United States a separate account to be known as the Ocean Resources Conservation and Assistance Fund.

(2) CREDITS.—The ORCA Fund shall be credited with such sums as may be necessary.

(3) ALLOCATION OF THE ORCA FUND.—Of the amounts appropriated from the ORCA Fund each fiscal year—

(A) 70 percent shall be allocated to the Secretary, of which—

(i) one-half shall be used to make grants to coastal States and affected Indian tribes under subsection (b); and

(ii) one-half shall be used for the ocean, coastal, and Great Lakes grants program established by subsection (c);

(B) 20 percent shall be allocated to the Secretary to carry out the purposes of subsection (e); and

(C) 10 percent shall be allocated to the Secretary to make grants to Regional Ocean Partnerships under subsection (d) and the Regional Coordination Councils established under section 602.

(4) PROCEDURES.—The Secretary shall establish application, review, oversight, financial accountability, and performance accountability procedures for each grant program for which funds are allocated under this subsection.

(b) GRANTS TO COASTAL STATES.—

(1) GRANT AUTHORITY.—The Secretary may use amounts allocated under subsection (a)(3)(A)(i)(I) to make grants to—

(A) coastal States pursuant to the formula established under section 306(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)); and

(B) affected Indian tribes based on and proportional to any specific coastal and ocean management authority granted to an affected

tribe pursuant to affirmation of a Federal reserved right.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, a coastal State or affected Indian tribe must prepare and revise a 5-year plan and annual work plans that—

(A) demonstrate that activities for which the coastal State or affected Indian tribe will use the funds are consistent with the eligible uses of the Fund described in subsection (f); and

(B) provide mechanisms to ensure that funding is made available to government, non-government, and academic entities to carry out eligible activities at the county and local level.

(3) APPROVAL OF STATE AND AFFECTED TRIBAL PLANS.—

(A) IN GENERAL.—Plans required under paragraph (2) must be submitted to and approved by the Secretary.

(B) PUBLIC INPUT AND COMMENT.—In determining whether to approve such plans, the Secretary shall provide opportunity for, and take into consideration, public input and com-

1 ment on the plans from stakeholders and the
2 general public.
3 (4) ENERGY PLANNING GRANTS.—For each of
4 the fiscal years 2011 through 2015, the Secretary
5 may use funds allocated for grants under this sub-
6 section to make grants to coastal States and affected
7 tribes under section 320 of the Coastal Zone Man-
8 agement Act of 1972 (16 U.S.C. 1451 et seq.), as
9 amended by this Act.
10 (5) USE OF FUNDS.—Any amounts provided as
11 a grant under this subsection, other than as a
12 grants under paragraph (4), may only be used for
13 activities described in subsection (f).
14 (c) OCEAN AND COASTAL COMPETITIVE GRANTS
15 PROGRAM.—
16 (1) ESTABLISHMENT.—The Secretary shall use
17 amounts allocated under subsection (a)(3)(A)(I)(II)
18 to make competitive grants for conservation and
19 management of ocean, coastal, and Great Lakes eco-
20 systems and marine resources.
21 (2) OCEAN, COASTAL, AND GREAT LAKES RE-
22 VIEW PANEL.—
23 (A) IN GENERAL.—The Secretary shall es-
24 tablish an Ocean, Coastal, and Great Lakes Re-
25 view Panel (in this subsection referred to as the

"Panel"), which shall consist of 12 members appointed by the Secretary with expertise in the conservation and management of ocean, coastal, and Great Lakes ecosystems and marine resources. In appointing members to the Council, the Secretary shall include a balanced diversity of representatives of relevant Federal agencies, the private sector, nonprofit organizations, and academia.

(B) FUNCTIONS.—The Panel shall—

(i) review, in accordance with the procedures and criteria established under paragraph (3), grant applications under this subsection;

(ii) make recommendations to the Secretary regarding which grant applications should be funded and the amount of each grant; and

(iii) establish any specific requirements, conditions, or limitations on a grant application recommended for funding.

(3) PROCEDURES AND ELIGIBILITY CRITERIA FOR GRANTS.—

(A) IN GENERAL.—The Secretary shall establish—

(i) procedures for applying for a grant under this subsection and criteria for evaluating applications for such grants; and

(ii) criteria, in consultation with the Panel, to determine what persons are eligible for grants under the program.

(B) ELIGIBLE PERSONS.—Persons eligible under the criteria under subparagraph (A)(ii) shall include Federal, State, affected tribal, and local agencies, fishery or wildlife management organizations, nonprofit organizations, and academic institutions.

(4) APPROVAL OF GRANTS.—In making grants under this subsection the Secretary shall give the highest priority to the recommendations of the Panel. If the Secretary disapproves a grant recommended by the Panel, the Secretary shall explain that disapproval in writing.

(5) USE OF GRANT FUNDS.—Any amounts provided as a grant under this subsection may only be used for activities described in subsection (f).

(d) GRANTS TO REGIONAL OCEAN PARTNERSHIPS.—

(1) GRANT AUTHORITY.—The Secretary may use amounts allocated under subsection (a)(3)(A)(iii) to make grants to Regional Ocean Partnerships.

(2) ELIGIBILITY.—In order to be eligible to receive a grant, a Regional Ocean Partnership must prepare and annually revise a plan that—

(A) identifies regional science and information needs, regional goals and priorities, and mechanisms for facilitating coordinated and collaborative responses to regional issues;

(B) establishes a process for coordinating and collaborating with the Regional Coordination Councils established under section 602 to address regional issues and information needs and achieve regional goals and priorities; and

(C) demonstrates that activities to be carried out with such funds are eligible uses of the funds identified in subsection (f).

(3) APPROVAL BY SECRETARY.—Such plans must be submitted to and approved by the Secretary.

(4) PUBLIC INPUT AND COMMENT.—In determining whether to approve such plans, the Secretary shall provide opportunity for, and take into consideration, input and comment on the plans from stakeholders and the general public.

(5) USE OF FUNDS.—Any amounts provided as a grant under this subsection may only be used for activities described in subsection (f).

(e) LONG-TERM OCEAN AND COASTAL OBSERVATIONS.—

(1) IN GENERAL.—The Secretary shall use the amounts allocated under subsection (a)(3)(A)(ii) to build, operate, and maintain the system established under section 12304 of Public Law 111–11 (33 U.S.C. 3603), in accordance with the purposes and policies for which the system was established.

(2) ADMINISTRATION OF FUNDS.—The Secretary shall administer and distribute funds under this subsection based upon comprehensive system budgets adopted by the Council referred to in section 12304(c)(1)(A) of the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3603(c)(1)(A)).

(f) ELIGIBLE USE OF FUNDS.—Any funds made available under this section may only be used for activities that contribute to the conservation, protection, maintenance, and restoration of ocean, coastal, and Great Lakes ecosystems in a manner that is consistent with Federal environmental laws and that avoids environmental degradation, including—

(1) activities to conserve, protect, maintain, and restore coastal, marine, and Great Lakes ecosystem health;

(2) activities to protect marine biodiversity and living marine and coastal resources and their habitats, including fish populations;

(3) the development and implementation of multiobjective, science- and ecosystem-based plans for monitoring and managing the wide variety of uses affecting ocean, coastal, and Great Lakes ecosystems and resources that consider cumulative impacts and are spatially explicit where appropriate;

(4) activities to improve the resiliency of those ecosystems;

(5) activities to improve the ability of those ecosystems to become more resilient, and to adapt to and withstand the impacts of climate change and ocean acidification;

(6) planning for and managing coastal development to minimize the loss of life and property associated with sea level rise and the coastal hazards resulting from it;

(7) research, education, assessment, monitoring, and dissemination of information that contributes to the achievement of these purposes;

(8) research of, protection of, enhancement to, and activities to improve the resiliency of culturally significant areas and resources; and

(9) activities designed to rescue, rehabilitate, and recover injured marine mammals, marine birds, and sea turtles.

(g) DEFINITIONS.—In this section:

(1) ORCA FUND.—The term ''ORCA Fund'' means the Ocean Resources Conservation and Assistance Fund established by this section.

(2) SECRETARY.—Notwithstanding section 3, the term ''Secretary'' means the Secretary of Commerce.

SEC. 506. WAIVER.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Regional Coordination Councils established under section 602.

TITLE VI—OIL SPILL ACCOUNTABILITY AND ENVIRONMENTAL PROTECTION

SEC. 601. SHORT TITLE.

This title may be cited as the ''Oil Spill Accountability and Environmental Protection Act of 2011''.

SEC. 602. REPEAL OF AND ADJUSTMENTS TO LIMITATION ON LIABILITY.

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

(1) in subsection (a)—

(A) in paragraph (2) by adding ''and'' after the semicolon at the end;

(B) by striking paragraph (3); and

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

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

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

''(4) ADJUSTMENT OF LIMITS ON LIABILITY.—Not later than 3 years after the date of enactment of the Oil Spill Accountability and Environmental Protection Act of 2011, and at least once every 3 years thereafter, the President shall review the limits on liability specified in subsection (a) and shall by regulation revise such limits upward to reflect either the amount of liability that the President determines is commensurate with the risk of discharge of oil presented by a particular category of vessel, facility, or port or any increase in the Consumer Price Index, whichever is greater.''.

(b) APPLICABILITY.—The amendments made by this section apply to—

(1) any claim arising from an event occurring after the date of enactment of this Act; and

(2) any claim arising from an event occurring before such date of enactment, if the claim is brought within the limitations period applicable to the claim.

SEC. 603. EVIDENCE OF FINANCIAL RESPONSIBILITY FOR OFFSHORE FACILITIES.

Section 1016 of the Oil Pollution Act of 1990 (33 U.S.C. 2716) is amended—

(1) in subsection (c)(1)—

(A) in subparagraph (B) by striking ''subparagraph (A) is'' and all that follows before the period and inserting ''subparagraph (A) is $300,000,000''; and

(B) by striking subparagraph (C) and inserting the following:

''(C) ALTERNATE AMOUNT.—

''(i) SPECIFIC FACILITIES.—

''(I) IN GENERAL.—If the President determines that an amount of financial responsibility for a responsible party that is less than the amount re-

quired by subparagraph (B) is justified based on the criteria established under clause (ii), the evidence of financial responsibility required shall be for an amount determined by the President.

"(II) MINIMUM AMOUNTS.—In no case shall the evidence of financial responsibility required under this section be less than—

"(aa) $105,000,000 for an offshore facility located seaward of the seaward boundary of a State; or

"(bb) $30,000,000 for an offshore facility located landward of the seaward boundary of a State.

"(ii) CRITERIA FOR DETERMINATION OF FINANCIAL RESPONSIBILITY.—The President shall prescribe the amount of financial responsibility required under clause (i)(I) based on the following:

"(I) The market capacity of the insurance industry to issue such instruments.

"(II) The operational risk of a discharge and the effects of that discharge on the environment and the region.

"(III) The quantity and location of the oil and gas that is explored for, drilled for, produced, or transported by the responsible party.

"(IV) The asset value of the owner of the offshore facility, including the combined asset value of all partners that own the facility.

"(V) The cost of all removal costs and damages for which the owner may be liable under this Act based on a worst-case scenario.

"(VI) The safety history of the owner of the offshore facility.

"(VII) Any other factors that the President considers appropriate.

"(iii) ADJUSTMENT FOR ALL OFFSHORE FACILITIES.—

"(I) IN GENERAL.—Not later than 3 years after the date of enactment of the Oil Spill Accountability and Environmental Protection Act of 2011, and at least once every 3 years thereafter, the President shall review the levels of financial responsibility specified in this subsection and the limit on liability specified in subsection (f)(4) and may by regulation revise such levels and limit upward to the levels and limit that the President determines are justified based on the relative operational, environmental, and other risks posed by the quantity, quality, or location of oil that is explored for, drilled for, produced, or transported by the responsible party.

"(II) NOTICE TO CONGRESS.—Upon completion of a review specified in subclause (I), the President shall notify Congress as to whether the President will revise the levels of financial responsibility and limit on liability referred to in subclause (I) and

the factors used in making such determination.'';

(2) in subsection (e) by striking ''self-insurer,'' and inserting ''self-insurer, participation in cooperative arrangements such as pooling or joint insurance,''; and

(3) in subsection (f)—

(A) in paragraph (1) by striking ''Subject'' and inserting ''Except as provided in paragraph (4) and subject''; and

(B) by adding at the end the following:

''(4) MAXIMUM LIABILITY.—The maximum liability of a guarantor of an offshore facility under this subsection is $300,000,000.''.

SEC. 604. DAMAGES TO HUMAN HEALTH.

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

''(G) HUMAN HEALTH.—

''(i) IN GENERAL.—Damages to human health, including fatal injuries, which shall be recoverable by any claimant who has a demonstrable, adverse impact to human health or, in the case of a fatal in-

jury to an individual, a claimant filing a claim on behalf of such individual.

"(ii) INCLUSION.—For purposes of clause (i), the term 'human health' includes mental health.".

(b) APPLICABILITY.—The amendments made by this section apply to—

(1) any claim arising from an event occurring after the date of enactment of this Act; and

(2) any claim arising from an event occurring before such date of enactment, if the claim is brought within the limitations period applicable to the claim.

SEC. 605. CLARIFICATION OF LIABILITY FOR DISCHARGES FROM MOBILE OFFSHORE DRILLING UNITS.

(a) IN GENERAL.—Section 1004(b)(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(b)(2)) is amended—

(1) by striking "from any incident described in paragraph (1)" and inserting "from any discharge of oil, or substantial threat of a discharge of oil, into or upon the water"; and

(2) by striking "liable" and inserting "liable as described in paragraph (1)".

(b) APPLICABILITY.—The amendments made by this section shall apply to—

(1) any claim arising from an event occurring after the date of enactment of this Act; and

(2) any claim arising from an event occurring before such date of enactment, if the claim is brought within the limitations period applicable to the claim.

SEC. 606. STANDARD OF REVIEW FOR DAMAGE ASSESSMENT.

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

(1) in the heading by striking ''REBUTTABLE PRESUMPTION'' and inserting ''JUDICIAL REVIEW OF ASSESSMENTS''; and

(2) by striking ''have the force and effect'' and all that follows before the period and inserting the following: ''be subject to judicial review under subchapter II of chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act), on the basis of the administrative record developed by the lead Federal trustee as provided in such regulations''.

SEC. 607. PROCEDURES FOR CLAIMS AGAINST FUND; INFORMATION ON CLAIMS.

(a) PROCEDURES FOR CLAIMS AGAINST FUND.—Section 1013(e) of the Oil Pollution Act of 1990 (33

U.S.C. 2713(e)) is amended by adding at the end the following: ''In the event of a spill of national significance, the President may exercise the authorities under this section to ensure that the presentation, filing, processing, settlement, and adjudication of claims occurs within the States and local governments affected by such spill to the greatest extent practicable.''.

(b) INFORMATION ON CLAIMS.—Title I of the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) is amended by inserting after section 1013 the following:

''SEC. 1013A. INFORMATION ON CLAIMS.

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

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

''(2) any other data pertaining to such claims necessary to ensure the performance of the responsible party or the guarantor with regard to the processing and adjudication of such claims.''.

(c) CONFORMING AMENDMENT.—The table of contents contained in section 2 of such Act is amended by

inserting after the item relating to section 1013 the following:

"Sec. 1013A. Information on claims.".

(d) APPLICABILITY.—The amendments made by this section apply to—

(1) any claim arising from an event occurring after the date of enactment of this Act; and

(2) any claim arising from an event occurring before such date of enactment, if the claim is brought within the limitations period applicable to the claim.

SEC. 608. ADDITIONAL AMENDMENTS AND CLARIFICATIONS TO OIL POLLUTION ACT OF 1990.

(a) DEFINITIONS.—

(1) REMOVAL COSTS.—Section 1001(31) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(31)) is amended by inserting before the semicolon the following: "and includes all costs of Federal enforcement activities related thereto".

(2) RESPONSIBLE PARTY.—Section 1001(32)(B) of such Act (33 U.S.C. 2701(32)(B)) is amended by inserting before ", except a" the following: "or any person who owns or who has a leasehold interest or other property interest in the land or in the minerals beneath the land on which the facility is located, and any person who is the assignor

of a property interest in the land or in the minerals beneath the land on which the facility is located,''.

(b) ELEMENTS OF LIABILITY.—Section 1002(b)(1)(A) of such Act (33 U.S.C. 2702(b)(1)(A)) is amended by inserting before the semicolon the following: '', including all costs of Federal enforcement activities related thereto''.

(c) SUBROGATION.—Section 1015(c) of such Act (33 U.S.C. 2715(c)) is amended by adding at the end the following: ''In such actions, the Fund shall recover all costs and damages paid from the Fund unless the decision to make the payment is found to be arbitrary or capricious.''.

(d) FINANCIAL RESPONSIBILITY.—Section 1016(f)(1) of such Act (33 U.S.C. 2717(f)(1)) is amended—

(1) by inserting ''and'' at the end of subparagraph (A);

(2) by striking ''; and'' at the end of subparagraph (B) and inserting a period; and

(3) by striking subparagraph (C).

(e) CONSIDERATIONS OF TRUSTEES.—Section 1006(d) of such Act (33 U.S.C. 2706(d)) is amended by adding at the end the following:

''(4) CONSIDERATIONS OF TRUSTEES.—

"(A) EQUAL AND FULL CONSIDERATION.—Trustees shall—

"(i) give equal and full consideration to restoration, rehabilitation, replacement, and the acquisition of the equivalent of the natural resources under their trusteeship; and

"(ii) consider restoration, rehabilitation, replacement, and the acquisition of the equivalent of the natural resources under their trusteeship in a holistic ecosystem context and using, where available, eco-regional or natural resource plans.

"(B) SPECIAL RULE ON ACQUISITION.—Acquisition shall only be given full and equal consideration under subparagraph (A) if it provides a substantially greater likelihood of improving the resilience of the lost or damaged resource and supports local ecological processes.".

(f) APPLICABILITY.—The amendments made by this section apply to—

(1) any claim arising from an event occurring after the date of enactment of this Act; and

(2) any claim arising from an event occurring before such date of enactment, if the claim is

brought within the limitations period applicable to the claim.

SEC. 609. AMERICANIZATION OF OFFSHORE OPERATIONS IN THE EXCLUSIVE ECONOMIC ZONE.

(a) REGISTRY ENDORSEMENT REQUIRED.—

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

''(e) RESOURCE ACTIVITIES IN THE EEZ.—Except for activities requiring an endorsement under sections 12112 or 12113, only a vessel for which a certificate of documentation with a registry endorsement is issued and that is owned by a citizen of the United States (as determined under section 50501(d)) may engage in support of exploration, development, or production of resources in, on, above, or below the exclusive economic zone or any other activity in the exclusive economic zone to the extent that the regulation of such activity is not prohibited under customary international law.''.

(2) APPLICABILITY.—The amendment made by paragraph (1) applies only with respect to exploration, development, production, and support activities that commence on or after July 1, 2011.

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

(1) by striking ''chapter'' and inserting ''title''; and

(2) by inserting after ''1988'' the following: ''and the exclusive economic zone to the extent that the regulation of such operation is not prohibited under customary international law''.

(c) TRAINING FOR COAST GUARD PERSONNEL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish a program to provide Coast Guard personnel with the training necessary for the implementation of the amendments made by this section.

SEC. 610. SAFETY MANAGEMENT SYSTEMS FOR MOBILE OFFSHORE DRILLING UNITS.

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

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

''(b) MOBILE OFFSHORE DRILLING UNITS.—The safety management system described in subsection (a) for a mobile offshore drilling unit operating in waters subject to the jurisdiction of the United States (including the exclusive economic zone) shall include processes, procedures,

and policies related to the safe operation and maintenance of the machinery and systems on board the vessel that may affect the seaworthiness of the vessel in a worst-case event.''.

SEC. 611. SAFETY STANDARDS FOR MOBILE OFFSHORE DRILLING UNITS.

Section 3306 of title 46, United States Code, is amended by adding at the end the following:

''(l) In prescribing regulations for mobile offshore drilling units, the Secretary shall develop standards to address a worst-case event on the vessel.''.

SEC. 612. OPERATIONAL CONTROL OF MOBILE OFFSHORE DRILLING UNITS.

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

(1) IN GENERAL.—Chapter 71 of title 46, United States Code, is amended by redesignating sections 7104 through 7115 as sections 7105 through 7116, respectively, and by inserting after section 7103 the following:

''§ 7104. Licenses for masters of mobile offshore drilling units

''A license as master of a mobile offshore drilling unit may be issued only to an applicant who has been issued a license as master under section 7101(c)(1) and has dem-

onstrated the knowledge, understanding, proficiency, and sea service for all industrial business or functions of a mobile offshore drilling unit.''.

(2) CONFORMING AMENDMENT.—Section 7109 of such title, as so redesignated, is amended by striking ''section 7106 or 7107'' and inserting ''section 7107 or 7108''.

(3) CLERICAL AMENDMENT.—The analysis at the beginning of such chapter is amended by striking the items relating to sections 7104 through 7115 and inserting the following:

''7104. Licenses for masters of mobile offshore drilling units.
''7105. Certificates for medical doctors and nurses.
''7106. Oaths.
''7107. Duration of licenses.
''7108. Duration of certificates of registry.
''7109. Termination of licenses and certificates of registry.
''7110. Review of criminal records.
''7111. Exhibiting licenses.
''7112. Oral examinations for licenses.
''7113. Licenses of masters or mates as pilots.
''7114. Exemption from draft.
''7115. Fees.
''7116. Merchant Mariner Medical Advisory Committee.''.

(b) REQUIREMENT FOR CERTIFICATE OF INSPECTION.—Section 8101(a)(2) of title 46, United States Code, is amended by inserting before the semicolon the following: ''and shall at all times be under the command of a master licensed under section 7104''.

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

SEC. 613. SINGLE-HULL TANKERS.

(a) APPLICATION OF TANK VESSEL CONSTRUCTION STANDARDS.—Section 3703a(b) of title 46, United States Code, is amended by striking paragraph (3), and redesignating paragraphs (4) through (6) as paragraphs (3) through (5), respectively.

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

SEC. 614. REPEAL OF RESPONSE PLAN WAIVER.

Section 311(j)(5)(G) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(5)(G)) is amended—

(1) by striking ''a tank vessel, nontank vessel, offshore facility, or onshore facility'' and inserting ''a nontank vessel'';

(2) by striking ''tank vessel, nontank vessel, or facility'' and inserting ''nontank vessel''; and

(3) by adding at the end the following: ''A mobile offshore drilling unit, as such term is defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701), is not eligible to operate without a response plan approved under this section.''.

SEC. 615. NATIONAL CONTINGENCY PLAN.

(a) GUIDELINES FOR CONTAINMENT BOOMS.—Section 311(d)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1321(d)(2)) is amended by adding at the end the following:

"(N) Guidelines regarding the use of containment booms to contain a discharge of oil or a hazardous substance, including identification of quantities of containment booms likely to be needed, available sources of containment booms, and best practices for containment boom placement, monitoring, and maintenance.".

(b) SCHEDULE, CRITERIA, AND FEES.—Section 311(d) of the Federal Water Pollution Control Act (33 U.S.C. 1321(d)) is amended by adding at the end the following:

"(5) SCHEDULE FOR USE OF DISPERSANTS, OTHER CHEMICALS, AND OTHER SPILL MITIGATING DEVICES AND SUBSTANCES.—

"(A) RULEMAKING.—Not later than 2 years after the date of enactment of this paragraph, the President, acting through the Administrator, after providing notice and an opportunity for public comment, shall issue a revised regulation for the development of the schedule for the use of dispersants, other chemicals, and other spill mitigating devices and substances developed under paragraph (2)(G) in a manner that is consistent with the requirements of this paragraph and shall mod-

ify the existing schedule to take into account the requirements of the revised regulation.

"(B) SCHEDULE LISTING REQUIREMENTS.—In issuing the regulation under subparagraph (A), the Administrator shall—

"(i) with respect to dispersants, other chemicals, and other spill mitigating substances included or proposed to be included on the schedule under paragraph (2)(G)—

"(I) establish minimum toxicity and efficacy testing criteria, taking into account the results of the study carried out under subparagraph (D);

"(II) provide for testing or other verification (independent from the information provided by an applicant seeking the inclusion of such dispersant, chemical, or substance on the schedule) related to the toxicity and effectiveness of such dispersant, chemical, or substance;

"(III) establish a framework for the application of any such dispersant, chemical, or substance, including—

"(aa) application conditions;

"(bb) the quantity thresholds for which approval by the Administrator is required;

"(cc) the criteria to be used to develop the appropriate maximum quantity of any such dispersant, chemical, or substance that the Administrator determines may be used, both on a daily and cumulative basis; and

"(dd) a ranking, by geographic area, of any such dispersant, chemical, or substance based on a combination of its effectiveness for each type of oil and its level of toxicity;

"(IV) establish a requirement that the volume of oil or hazardous substance discharged, and the volume and location of any such dispersant, chemical, or substance used, be measured and made publicly available, including on the Internet;

"(V) require that an applicant seeking the inclusion of a dispersant,

chemical, or substance on the schedule shall assure that such applicant will publicly disclose, upon a declaration of a spill of national significance, the constituent ingredients of such dispersant, chemical, or substance if such dispersant, chemical, or substance will be used to respond to the spill; and

"(VI) in addition to existing authority, expressly provide a mechanism for the delisting of any such dispersant, chemical, or substance that the Administrator determines poses a significant risk or impact to water quality, aquatic life, the environment, or any other factor the Administrator determines appropriate;

"(ii) with respect to a dispersant, other chemical, and other spill mitigating substance not specifically identified on the schedule, and prior to the use of such dispersant, chemical, or substance in accordance with paragraph (2)(G)—

"(I) establish the minimum toxicity and efficacy levels for such dispersant, chemical, or substance;

"(II) require that, upon a declaration of a spill of national significance, the constituent ingredients of such dispersant, chemical, or substance be publicly disclosed if such dispersant, chemical, or substance will be used to respond to the spill; and

"(III) require the provision of such additional information as the Administrator determines necessary; and

"(iii) with respect to other spill mitigating devices included or proposed to be included on the schedule under paragraph (2)(G)—

"(I) require the manufacturer of such device to carry out a study of the risks and effectiveness of the device according to guidelines developed and published by the Administrator; and

"(II) in addition to existing authority, expressly provide a mechanism for the delisting of any such de-

vice based on any information made available to the Administrator that demonstrates that such device poses a significant risk or impact to water quality, aquatic life, the environment, or any other factor the Administrator determines appropriate.

"(C) DELISTING.—In carrying out subparagraphs (B)(i)(VI) and (B)(iii)(II), the Administrator, after posting a notice in the Federal Register and providing an opportunity for public comment, shall initiate a formal review of the potential risks and impacts associated with a dispersant, chemical, substance, or device prior to delisting the dispersant, chemical, substance, or device.

"(D) STUDY.—

"(i) IN GENERAL.—Not later than 3 months after the date of enactment of this paragraph, the Administrator shall initiate a study of the potential risks and impacts to water quality, aquatic life, the environment, or any other factor the Administrator determines appropriate, from the use of dispersants, other chemicals, and

other spill-mitigating substances, if any, that may be used to carry out the National Contingency Plan, including an assessment of—

"(I) acute and chronic impacts resulting from short term and sustained use on marine, coastal, estuarine, and freshwater environments;

"(II) risks and impacts to a representative sample of biota from various ocean depths, including effects on early life stages such as eggs and larvae;

"(III) risks and impacts from any byproducts created from the use of such dispersants, chemicals, or substances; and

"(IV) efficacy on particular types of oil from locations where such dispersants, chemicals, or substances may potentially be used.

"(ii) INFORMATION FROM MANUFACTURERS.—

"(I) IN GENERAL.—In conjunction with the study authorized by

clause (i), the Administrator shall determine the requirements for manufacturers of dispersants, chemicals, or substances to evaluate the potential risks and impacts to water quality, the environment, human and aquatic health, or any other factor the Administrator determines appropriate, including acute and chronic risks, associated with the use of the dispersants, chemicals, or substances and any by-products generated by such use and to provide the details of such evaluation as a condition for listing on the schedule, or approving for use under this section, according to guidelines developed and published by the Administrator.

"(II) MINIMUM REQUIREMENTS FOR EVALUATION.—In carrying out this clause, the Administrator shall require a manufacturer to include—

"(aa) information that describes the potential acute health impacts on humans who are in-

volved in application activities and who may reasonably be exposed during such activities;

"(bb) information on the oils and locations where such dispersants, chemicals, or substances may potentially be used; and

"(cc) if appropriate, an assessment of impacts from subsea use of the dispersant, chemical, or substance, including the potential long-term effects of such use on water quality, aquatic life, and the environment.

"(E) PERIODIC REVISIONS.—

"(i) IN GENERAL.—Not later than 5 years after the date of the issuance of the regulation under this paragraph, and at least once every 5 years thereafter, the Administrator shall review the schedule for the use of dispersants, other chemicals, and other spill mitigating devices and substances that may be used to carry out the National Contingency Plan and update or

revise the schedule, as necessary, to ensure the protection of water quality, aquatic life, the environment, and any other factor the Administrator determines appropriate.

"(ii) EFFECTIVENESS.—The Administrator shall ensure, to the maximum extent practicable, that each update or revision to the schedule increases the effectiveness and decreases the toxicity values necessary for listing a dispersant, other chemical, or other spill mitigating device or substance on the schedule.

"(F) APPROVAL OF USE AND APPLICATION OF DISPERSANTS.—

"(i) IN GENERAL.—In issuing the regulation under subparagraph (A), the Administrator shall require the approval of the Federal On-Scene Coordinator, in coordination with the Administrator, for all uses of a dispersant, other chemical, or other spill mitigating substance in any removal action, including—

"(I) any such dispersant, chemical, or substance that is included on

the schedule developed pursuant to this subsection; or

"(II) any dispersant, chemical, or other substance that is included as part of an approved area contingency plan or response plan developed under this section.

"(ii) REPEAL.—Any part of section 300.910 of title 40, Code of Federal Regulations, that is inconsistent with this paragraph is hereby repealed.

"(G) TOXICITY DEFINITION.—In this section, the term 'toxicity' is used in reference to the potential impacts of a dispersant, substance, or device on water quality, organismal health, or the environment.

"(6) REVIEW OF AND DEVELOPMENT OF CRITERIA FOR EVALUATING RESPONSE PLANS.—

"(A) REVIEW.—Not later than 6 months after the date of enactment of this paragraph, the President shall review the procedures and standards developed under paragraph (2)(J) to determine their sufficiency in ceasing and removing a worst case discharge of oil or hazardous substances, and for mitigating or pre-

venting a substantial threat of such a discharge.

"(B) RULEMAKING.—Not later than 2 years after the date of enactment of this paragraph, the President, after providing notice and an opportunity for public comment, shall issue a final rule to—

"(i) revise the procedures and standards for ceasing and removing a worst case discharge of oil or hazardous substances, and for mitigating or preventing a substantial threat of such a discharge; and

"(ii) develop a metric for the periodic evaluation and, as necessary, revision, of the National Contingency Plan, Area Contingency Plans, and tank vessel, nontank vessel, and facility response plans consistent with the procedures and standards developed pursuant to this paragraph.

"(C) USE OF WORST-CASE SCENARIO DISCHARGE ESTIMATES.—In carrying out the activities required under this paragraph, the President shall use the worst-case scenario discharge estimates published by the Secretary under section 208(a) of the Implementing the

Recommendations of the BP Oil Spill Commission Act of 2011as a basis for assessing the sufficiency of the procedures and standards developed under paragraph (2)(J).

"(7) FEES.—

"(A) GENERAL AUTHORITY AND FEES.—Subject to subparagraph (B), the Administrator shall establish a schedule of fees to be collected from the manufacturer of a dispersant, chemical, or spill mitigating substance or device to offset the costs of the Administrator associated with evaluating the use of the dispersant, chemical, substance, or device in accordance with this subsection and listing the dispersant, chemical, substance, or device on the schedule under paragraph (2)(G).

"(B) LIMITATION ON COLLECTION.—No fee may be collected under this subsection unless the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act.

"(C) FEES CREDITED AS OFFSETTING COLLECTIONS.—

"(i) IN GENERAL.—Notwithstanding section 3302 of title 31, United States Code, any fee authorized to be collected under this paragraph shall—

"(I) be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

"(II) be available for expenditure only to pay the costs of activities and services for which the fee is imposed, including all costs associated with collecting such fees; and

"(III) remain available until expended.

"(ii) CONTINUING APPROPRIATIONS.—The Administrator may continue to assess, collect, and spend fees established under this section during any period in which the funding for the Environmental Protection Agency is provided under an Act providing continuing appropriations in lieu of the Administration's regular appropriations.

"(iii) ADJUSTMENTS.—The Administrator shall adjust the fees established by

subparagraph (A) periodically to ensure that each of the fees required by subparagraph (A) is reasonably related to the Administration's costs, as determined by the Administrator, of performing the activity for which the fee is imposed.''.

(c) INCLUSION OF CONTAINMENT BOOMS IN AREA CONTINGENCY PLANS.—Section 311(j)(4)(C)(iv) of such Act (33 U.S.C. 1321(j)(4)(C)(iv)) is amended by striking ''(including firefighting equipment)'' and inserting ''(including firefighting equipment and containment booms)''.

SEC. 616. TRACKING DATABASE.

Section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) is amended by adding at the end the following:

''(13) TRACKING DATABASE.—

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

''(i) into the waters of the United States, onto adjoining shorelines, or into or upon the waters of the contiguous zone;

''(ii) in connection with activities under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or the Deep-

water Port Act of 1974 (33 U.S.C. 1501 et seq.); or

"(iii) which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.)).

"(B) REQUIREMENTS.—The database shall—

"(i) include—

"(I) the name of the vessel or facility;

"(II) the name of the owner, operator, or person in charge of the vessel or facility;

"(III) the date of the discharge;

"(IV) the volume of the discharge;

"(V) the location of the discharge, including an identification of any receiving waters that are or could be affected by the discharge;

"(VI) the type, volume, and location of the use of any dispersant, other chemical, or other spill mitigating substance used in any removal action;

"(VII) a record of any determination of a violation of this section or liability under section 1002 of the Oil Pollution Act of 1990 (33 U.S.C. 2702);

"(VIII) a record of any enforcement action taken against the owner, operator, or person in charge; and

"(IX) any additional information that the President determines necessary;

"(ii) use data provided by the Environmental Protection Agency, the Coast Guard, and other appropriate Federal agencies;

"(iii) use data protocols developed and managed by the Environmental Protection Agency; and

"(iv) be publicly accessible, including by electronic means.".

SEC. 617. EVALUATION AND APPROVAL OF RESPONSE PLANS; MAXIMUM PENALTIES.

(a) AGENCY REVIEW OF RESPONSE PLANS.—

(1) LEAD FEDERAL AGENCY FOR REVIEW OF RESPONSE PLANS.—Section 311(j)(5)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(5)(A)) is amended by adding at the end the following:

''(iii) In issuing the regulations under this paragraph, the President shall ensure that—

''(I) the owner, operator, or person in charge of a tank vessel, nontank vessel, or offshore facility described in subparagraph (C) will not be considered to have complied with this paragraph until the owner, operator, or person in charge submits a plan under clause (i) or (ii), as appropriate, to the Secretary of the department in which the Coast Guard is operating, the Secretary of the Interior, or the Administrator, with respect to such offshore facilities as the President may designate, and the Secretary or Administrator, as appropriate, determines and notifies the owner, operator, or person in charge that the plan, if implemented, will provide an adequate response to a worst

case discharge of oil or a hazardous substance or a substantial threat of such a discharge; and

"(II) the owner, operator, or person in charge of an onshore facility described in subparagraph (C)(iv) will not be considered to have complied with this paragraph until the owner, operator, or person in charge submits a plan under clause (i) either to the Secretary of Transportation, with respect to transportation-related onshore facilities, or the Administrator, with respect to all other onshore facilities, and the Secretary or Administrator, as appropriate, determines and notifies the owner, operator, or person in charge that the plan, if implemented, will provide an adequate response to a worst-case discharge of oil or a hazardous substance or a substantial threat of such a discharge.

"(iv)(I) The Secretary of the department in which the Coast Guard is operating, the Secretary of the Interior, the Secretary of Transportation, or the Administrator, as appropriate, shall require that a plan submitted to the Secretary or Administrator for a vessel or facility under clause (iii)(I) or (iii)(II) by an owner, operator, or person in charge—

"(aa) contain a probabilistic risk analysis for all critical engineered systems of the vessel or facility; and

"(bb) adequately address all risks identified in the risk analysis.

"(II) The Secretary or Administrator, as appropriate, shall require that a risk analysis developed under subclause (I) include, at a minimum, the following:

"(aa) An analysis of human factors risks, including both organizational and management failure risks.

"(bb) An analysis of technical failure risks, including both component technologies and integrated systems risks.

"(cc) An analysis of interactions between humans and critical engineered systems.

"(dd) Quantification of the likelihood of modes of failure and potential consequences.

"(ee) A description of methods for reducing known risks.

"(III) The Secretary or Administrator, as appropriate, shall require an owner, operator, or person in charge that develops a risk analysis under

subclause (I) to make the risk analysis available to the public.''.

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

''(E) With respect to any response plan submitted under this paragraph for an onshore facility that, because of its location, could reasonably be expected to cause significant and substantial harm to the environment by discharging into or on the navigable waters or adjoining shorelines or the exclusive economic zone, and with respect to each response plan submitted under this paragraph for a tank vessel, nontank vessel, or offshore facility, the President shall—

''(i) promptly review the response plan;

''(ii) verify that the response plan complies with subparagraph (A)(iv), relating to risk analyses;

''(iii) with respect to a plan for an offshore or onshore facility or a tank vessel that carries liquefied natural gas, provide an opportunity for public notice and comment on the response plan;

"(iv) taking into consideration any public comments received and other appropriate factors, as determined by the President, require revisions to the response plan;

"(v) approve, approve with revisions, or disapprove the response plan;

"(vi) review the response plan periodically thereafter, and if applicable requirements are not met, acting through the head of the appropriate Federal department or agency—

"(I) issue administrative orders directing the owner, operator, or person in charge to comply with the response plan or any regulation issued under this section; or

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

"(vii) acting through the head of the appropriate Federal department or agency, conduct, at a minimum, biennial inspections of the

tank vessel, nontank vessel, or facility to ensure compliance with the response plan or identify deficiencies in such plan;

"(viii) acting through the head of the appropriate Federal department or agency, make the response plan available to the public, including on the Internet; and

"(ix) in the case of a plan for a nontank vessel, consider any applicable State-mandated response plan in effect on the date of enactment of the Coast Guard and Maritime Transportation Act of 2004 and ensure consistency to the extent practicable.".

(3) BIENNIAL REPORT.—Section 311(j)(5) of such Act (33 U.S.C. 1321(j)(5)) is amended by adding at the end the following:

"(J) Not later than 2 years after the date of enactment of this subparagraph, and biennially thereafter, the President, acting through the Administrator, the Secretary of the department in which the Coast Guard is operating, and the Secretary of Transportation, shall submit to Congress a report containing the following information for each owner, operator, or person in charge that submitted a re-

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

"(i) The number of response plans approved, disapproved, or approved with revisions under subparagraph (E) annually for tank vessels, nontank vessels, and facilities of the owner, operator, or person in charge.

"(ii) The number of inspections conducted under subparagraph (E) annually for tank vessels, nontank vessels, and facilities of the owner, operator, or person in charge.

"(iii) A summary of each administrative or enforcement action concluded with respect each tank vessel, nontank vessel, and facility of the owner, operator, or person in charge, including a description of the violation, the date of violation, the amount of each penalty proposed, and the final assessment of each penalty and an explanation for any reduction in a penalty.".

(4) ADMINISTRATIVE PROVISIONS FOR FACILITIES.—Section 311(m)(2) of such Act (33 U.S.C. 1321(m)(2)) is amended in each of subparagraphs (A) and (B) by inserting ", the Secretary of Transportation," before "or the Secretary of the department in which the Coast Guard is operating".

(b) PENALTIES.—

(1) ADMINISTRATIVE PENALTIES.—

(A) AUTHORITY OF SECRETARY OF TRANSPORTATION TO ASSESS PENALTIES.—Section 311(b)(6)(A) of such Act (33 U.S.C. 1321(b)(6)(A)) is amended by inserting ", the Secretary of Transportation," before "or the Administrator".

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

(i) in clause (i) by striking "paragraph (3), or" and inserting "paragraph (3),";

(ii) in clause (ii) by striking "any regulation issued under subsection (j)" and inserting "any order or action required by the President under subsection (c) or (e) or any regulation issued under subsection (d) or (j)";

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

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

"(ii) who fails to provide notice to the appropriate Federal agency pursuant to paragraph (5), or"; and

(v) by adding at the end the following: "Whenever the President delegates the authority to issue regulations under subsection (j), the head of the agency who issues regulations pursuant to that authority shall have the authority to assess a civil penalty in accordance with this section for violations of such regulations.".

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

(i) in clause (i)—

(I) by striking "$10,000" and inserting "$100,000"; and

(II) by striking "$25,000" and inserting "$250,000"; and

(ii) in clause (ii)—

(I) by striking "$10,000" and inserting "$100,000"; and

(II) by striking "$125,000" and inserting "$1,000,000".

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

(A) in subparagraph (A)—

(i) by striking ''$25,000'' and inserting ''$100,000''; and

(ii) by striking ''$1,000'' and inserting ''$2,500'';

(B) in subparagraph (B)—

(i) by striking ''described in subparagraph (A)'';

(ii) in clause (i) by striking ''carry out removal of the discharge under an order of the President pursuant to subsection (c); or'' and inserting ''comply with any order or action required by the President pursuant to subsection (c),'';

(iii) in clause (ii) by striking ''(1)(B)'';

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

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

''(ii) fails to provide notice to the appropriate Federal agency pursuant to paragraph (5), or''; and

(vi) by striking ''$25,000'' and inserting ''$100,000'';

(C) in subparagraph (C)—

(i) by striking ''(j)'' and inserting ''(d) or (j)'';

(ii) by striking ''$25,000'' and inserting ''$100,000''; and

(iii) by adding at the end the following: ''Whenever the President delegates the authority to issue regulations under subsection (j), the head of the agency who issues regulations pursuant to that authority shall have the authority to seek injunctive relief or assess a civil penalty in accordance with this section for violations of such regulations and the authority to refer the matter to the Attorney General for action under subparagraph (E).'';

(D) in subparagraph (D)—

(i) by striking ''$100,000'' and inserting ''$300,000''; and

(ii) by striking ''$3,000'' and inserting ''$7,500''; and

(E) in subparagraph (E) by adding at the end the following: ''The court may award ap-

propriate relief, including a temporary or permanent injunction, civil penalties, and punitive damages.''.

(3) APPLICABILITY.—The amendments made by this subsection apply to—

(A) any claim arising from an event occurring after the date of enactment of this Act; and

(B) any claim arising from an event occurring before such date of enactment, if the claim is brought within the limitations period applicable to the claim.

(c) CLARIFICATION OF FEDERAL REMOVAL AUTHORITY.—Section 311(c)(1)(B)(ii) of such Act (33 U.S.C. 1321(c)(1)(B)(ii)) is amended by striking ''direct'' and inserting ''direct, including through the use of an administrative order,''.

SEC. 618. OIL AND HAZARDOUS SUBSTANCE CLEANUP TECHNOLOGIES.

Section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended by adding at the end the following:

''(9) OIL AND HAZARDOUS SUBSTANCE CLEANUP TECHNOLOGIES.—The President, acting through

the Secretary of the department in which the Coast Guard is operating, shall—

"(A) in coordination with the Secretary of the Interior and the heads of other appropriate Federal agencies, establish a process for—

"(i) quickly and effectively soliciting, assessing, and deploying offshore oil and hazardous substance cleanup technologies in the event of a discharge or substantial threat of a discharge of oil or a hazardous substance; and

"(ii) effectively coordinating with other appropriate agencies, industry, academia, small businesses, and others to ensure the best technology available is implemented in the event of such a discharge or threat; and

"(B) in coordination with the Secretary of the Interior and the heads of other appropriate Federal agencies, maintain a database on best available oil and hazardous substance cleanup technologies in the event of a discharge or substantial threat of a discharge of oil or a hazardous substance.".

SEC. 619. IMPLEMENTATION OF OIL SPILL PREVENTION AND RESPONSE AUTHORITIES.

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

(1) by striking ''(l) The President'' and inserting the following:

''(l) DELEGATION AND IMPLEMENTATION.—

''(1) DELEGATION.—The President''; and

(2) by adding at the end the following:

''(2) ENVIRONMENTAL PROTECTION AGENCY.—

''(A) IN GENERAL.—The President shall delegate the responsibilities under subparagraph (B) to the Administrator.

''(B) RESPONSIBILITIES.—With respect to onshore facilities (other than transportation-related facilities) and such offshore facilities as the President may designate, the Administrator shall ensure that Environmental Protection Agency personnel develop and maintain operational capability—

''(i) for effective inspection, monitoring, prevention, preparedness, and response authorities related to the discharge or substantial threat of a discharge of oil or a hazardous substance;

"(ii) to protect water quality and the environment from impacts of a discharge or substantial threat of a discharge of oil or a hazardous substance; and

"(iii) to review and approve of, disapprove of, or require revisions (if necessary) to facility response plans and to carry out all other responsibilities under subsection (j)(5)(E).

"(3) COAST GUARD.—

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

"(B) RESPONSIBILITIES.—The Secretary shall ensure that Coast Guard personnel develop and maintain operational capability—

"(i) to establish and enforce regulations and standards for procedures, methods, equipment, and other requirements to prevent and to contain a discharge of oil or a hazardous substance from a tank vessel or nontank vessel or such an offshore facility as the President may designate;

"(ii) to establish and enforce regulations, and to carry out all other responsibilities, under subsection (j)(5) with respect to such vessels and offshore facilities as the President may designate; and

"(iii) to protect the environment and natural resources from impacts of a discharge or substantial threat of a discharge of oil or a hazardous substance from such vessels and offshore facilities as the President may designate.

"(C) ROLE AS FIRST RESPONDER.—

"(i) IN GENERAL.—The responsibilities delegated to the Secretary under subparagraph (B) shall be sufficient to allow the Coast Guard to act as a first responder to a discharge or substantial threat of a discharge of oil or a hazardous substance from a tank vessel, nontank vessel, or offshore facility.

"(ii) CAPABILITIES.—The President shall ensure that the Coast Guard has sufficient personnel and resources to act as a first responder as described in clause (i), including the resources necessary for on-

going training of personnel, acquisition of equipment (including containment booms, dispersants, and skimmers), and prepositioning of equipment.

"(D) CONTRACTS.—The Secretary may enter into contracts with private and nonprofit organizations for personnel and equipment in carrying out the responsibilities delegated to the Secretary under subparagraph (B).

"(4) DEPARTMENT OF TRANSPORTATION.—

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

"(B) RESPONSIBILITIES.—The Secretary of Transportation shall—

"(i) establish and enforce regulations and standards for procedures, methods, equipment, and other requirements to prevent and to contain discharges of oil and hazardous substances from transportation-related onshore facilities;

"(ii) have the authority to review and approve of, disapprove of, or require revisions (if necessary) to transportation-related onshore facility response plans and to

carry out all other responsibilities under subsection (j)(5)(E); and

"(iii) ensure that Department of Transportation personnel develop and maintain operational capability—

"(I) for effective inspection, monitoring, prevention, preparedness, and response authorities related to the discharge or substantial threat of a discharge of oil or a hazardous substance from a transportation-related onshore facility; and

"(II) to protect the environment and natural resources from the impacts of a discharge or substantial threat of a discharge of oil or a hazardous substance from a transportation-related onshore facility.

"(5) DEPARTMENT OF THE INTERIOR.—

"(A) IN GENERAL.—The President shall delegate the responsibilities under subparagraph (B) to the Secretary of the Interior.

"(B) RESPONSIBILITIES.—The Secretary of the Interior shall—

"(i) establish and enforce regulations and standards for procedures, methods, equipment, and other requirements to prevent and to contain discharges of oil and hazardous substances from such offshore facilities as the President may designate;

"(ii) establish and enforce regulations to carry out all other responsibilities under subsection (j)(5) for such offshore facilities as the President may designate;

"(iii) have the authority to review and approve of, disapprove of, or require revisions (if necessary) to offshore facility response plans under subsection (j)(5) for such offshore facilities as the President may designate; and

"(iv) ensure that Department of the Interior personnel develop and maintain operational capability for effective inspection, monitoring, prevention, and preparedness authorities related to the discharge or a substantial threat of a discharge of oil or hazardous material from such offshore facilities as the President may designate.".

SEC. 620. IMPACTS TO INDIAN TRIBES AND PUBLIC SERVICE DAMAGES.

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

(1) in subparagraph (D) by striking ''or a political subdivision thereof'' and inserting ''a political subdivision of a State, or an Indian tribe''; and

(2) in subparagraph (F) by striking ''by a State'' and all that follows before the period and inserting ''the United States, a State, a political subdivision of a State, or an Indian tribe''.

(b) APPLICABILITY.—The amendments made by this section apply to—

(1) any claim arising from an event occurring after the date of enactment of this Act; and

(2) any claim arising from an event occurring before such date of enactment, if the claim is brought within the limitations period applicable to the claim.

SEC. 621. FEDERAL ENFORCEMENT ACTIONS.

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

SEC. 622. TIME REQUIRED BEFORE ELECTING TO PROCEED WITH JUDICIAL CLAIM OR AGAINST THE FUND.

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

SEC. 623. AUTHORIZED LEVEL OF COAST GUARD PERSONNEL.

The authorized end-of-year strength for active duty personnel of the Coast Guard for fiscal year 2011 is hereby increased by 300 personnel, above any other level authorized by law, for implementing the activities of the Coast Guard under this title, including the amendments made by this title.

SEC. 624. CLARIFICATION OF MEMORANDUMS OF UNDERSTANDING.

Not later than September 30, 2011, the President (acting through the head of the appropriate Federal department or agency) shall implement or revise, as appropriate, memorandums of understanding to clarify the roles and jurisdictional responsibilities of the Environmental Protection Agency, the Coast Guard, the Department of the Interior, the Department of Transportation, and other Federal agencies relating to the prevention of oil discharges from tank vessels, nontank vessels, and facilities subject to the Oil Pollution Act of 1990.

SEC. 625. BUILD AMERICA REQUIREMENT FOR OFFSHORE FACILITIES.

(a) IN GENERAL.—Title VI of the Oil Pollution Act of 1990 (33 U.S.C. 2751 et seq.) is amended by adding at the end the following:

"SEC. 6005. BUILD AMERICA REQUIREMENT FOR OFFSHORE FACILITIES.

"(a) BUILD AMERICA REQUIREMENT.—Except as provided by subsection (b), a person may not use an offshore facility to engage in support of exploration, development, or production of oil or natural gas in, on, above, or below the exclusive economic zone unless the facility was built in the United States, including construction of any major component of the hull or superstructure of the facility.

"(b) WAIVER AUTHORITY.—A person seeking to charter an offshore facility in the exclusive economic zone may seek a waiver of subsection (a). The Secretary may waive subsection (a) if the Secretary, in consultation with the Secretary of the Interior and the Secretary of Transportation, finds that—

"(1) the offshore facility was built in a foreign country and is under contract, on the date of enactment of this section, in support of exploration, development, or production of oil or natural gas in, on, above, or below the exclusive economic zone;

"(2) an offshore facility built in the United States is not available within a reasonable period of time, as defined in subsection (e), or of sufficient quality to perform drilling operations required under a contract; or

"(3) an emergency requires the use of an offshore facility built in a foreign country.

"(c) WRITTEN JUSTIFICATION AND PUBLIC NOTICE OF NONAVAILABILITY WAIVER.—When issuing a waiver based on a determination under subsection (b)(2), the Secretary shall issue a detailed written justification as to why the waiver meets the requirement of such subsection. The Secretary shall publish the justification in the Federal Register and provide the public with 45 days for notice and comment.

"(d) FINAL DECISION.—The Secretary shall approve or deny any waiver request submitted under subsection (b) not later than 90 days after the date of receipt of the request.

"(e) REASONABLE PERIOD OF TIME DEFINED.—For purposes of subsection (b)(2), the term 'reasonable period of time' means the time needed for a person seeking to charter an offshore facility in the exclusive economic zone to meet the requirements in the primary term of the person's lease.".

(b) CLERICAL AMENDMENT.—The table of contents contained in section 2 of such Act is amended by inserting after the item relating to section 6004 the following:

"Sec. 6005. Build America requirement for offshore facilities.".

SEC. 626. OIL SPILL RESPONSE VESSEL DATABASE.

(a) REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the Commandant of the Coast Guard shall complete an inventory of all vessels operating in the waters of the United States that are capable of meeting oil spill response needs designated in the National Contingency Plan authorized by section 311(d) of the Federal Water Pollution Control Act (33 U.S.C. 1321(d)).

(b) CATEGORIZATION.—The inventory required under subsection (a) shall categorize such vessels by capabilities, type, function, and location.

(c) MAINTENANCE OF DATABASE.—The Commandant shall maintain a database containing the results of the inventory required under subsection (a) and update the information in the database on no less than a quarterly basis.

(d) AVAILABILITY.—The Commandant may make information regarding the location and capabilities of oil spill response vessels available to a Federal On-Scene Coordinator designated under section 311 of such Act (33

U.S.C. 1321) to assist in the response to an oil spill or other incident in the waters of the United States.

SEC. 627. OFFSHORE SENSING AND MONITORING SYSTEMS.

(a) REQUIREMENT.—Subtitle A of title IV of the Oil Pollution Act of 1990 is amended by adding at the end the following new section:

"SEC. 4119. OFFSHORE SENSING AND MONITORING SYSTEMS.

"(a) IN GENERAL.—The equipment required to be available under section 311(j)(5)(D)(iii) of the Federal Water Pollution Control Act for facilities listed in section 311(j)(5)(C)(iii) of such Act and located in more than 500 feet of water includes sensing and monitoring systems that meet the requirements of this section.

"(b) SYSTEMS REQUIREMENTS.—Sensing and monitoring systems required under subsection (a) shall—

"(1) use an integrated, modular, expandable, multi-sensor, open-architecture design and technology with interoperable capability;

"(2) be capable of—

"(A) operating for at least 25 years;

"(B) real-time physical, biological, geological, and environmental monitoring;

"(C) providing alerts in the event of anomalous circumstances;

"(D) providing docking bases to accommodate spatial sensors for remote inspection and monitoring; and

"(E) collecting chemical boundary condition data for drift and flow modeling; and

"(3) include—

"(A) an uninterruptible power source;

"(B) a spatial sensor;

"(C) secure Internet access to real-time physical, biological, geological, and environmental monitoring data gathered by the system sensors; and

"(D) a process by which such observation data and information will be made available to Federal Regulators and to the system established under section 12304 of Public Law 111–11 (33 U.S.C. 3603).".

(b) REQUEST FOR INFORMATION.—Within 60 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall issue a request for information to determine the most capable and efficient domestic systems that meet the requirements under section 4119 of the Oil Pollution Act of 1990, as amended by this section.

(c) IMPLEMENTING REGULATIONS.—Within 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall issue regulations to implement section 4119 of the Oil Pollution Act of 1990 as amended by this section.

(d) CLERICAL AMENDMENT.—The table of contents in section 2 of the Oil Pollution Act of 1990 is amended by adding at the end of the items relating to such subtitle the following new item:

"Sec. 4119. Offshore sensing and monitoring systems.".

SEC. 628. OIL AND GAS EXPLORATION AND PRODUCTION.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended—

(1) by striking paragraph (24); and

(2) by redesignating paragraph (25) as paragraph (24).

SEC. 629. AUTHORIZATION OF APPROPRIATIONS.

(a) COAST GUARD.—In addition to amounts made available pursuant to section 1012(a)(5)(A) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)(A)), there is authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating from the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509) to carry out the purposes of this title and the amendments made by this title the following:

(1) For fiscal year 2011, $30,000,000.

(2) For each of fiscal years 2012 through 2015, $32,000,000.

(b) ENVIRONMENTAL PROTECTION AGENCY.—In addition to amounts made available pursuant to section 1012 of the Oil Pollution Act of 1990 (33 U.S.C. 2712), there is authorized to be appropriated to the Administrator of the Environmental Protection Agency from the Oil Spill Liability Trust Fund to implement this title and the amendments made by this title $10,000,000 for each of fiscal years 2011 through 2015.

(c) DEPARTMENT OF TRANSPORTATION.—In addition to amounts made available pursuant to section 60125 of title 49, United States Code, there is authorized to be appropriated to the Secretary of Transportation from the Oil Spill Liability Trust Fund to carry out the purposes of this title and the amendments made by this title the following:

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

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

SEC. 630. EXTENSION OF LIABILITY TO PERSONS HAVING OWNERSHIP INTERESTS IN RESPONSIBLE PARTIES.

(a) DEFINITION OF RESPONSIBLE PARTY.—Section 1001(32) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(32)) is amended by adding at the end the following:

"(G) PERSON HAVING OWNERSHIP INTEREST.—Any person, other than an individual, having an ownership interest (directly or indirectly) in any entity described in any of subparagraphs (A) through (F) of more than 25 percent, in the aggregate, of the total ownership interests in such entity, if the assets of such entity are insufficient to pay the claims owed by such entity as a responsible party under this Act.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to an incident occurring on or after January 1, 2010.

SEC. 631. CLARIFICATION OF LIABILITY UNDER OIL POLLUTION ACT OF 1990.

The Oil Pollution Act of 1990 is amended—

(1) in section 1013 (33 U.S.C. 2713), by inserting after subsection (f) the following:

"(g) LIMITATION ON RELEASE OF LIABILITY.—No release of liability in connection with compensation re-

ceived by a claimant under this Act shall apply to liability for any type of harm unless—

"(1) the claimant presented a claim under subsection (a) with respect to such type of harm; and

"(2) the claimant received compensation for such type of harm, from the responsible party or from guarantor of the source designated under section 1014(a), in connection with such release."; and

(2) in section 1018 (33 U.S.C. 2718), by—

(A) striking "or" at the end of paragraph (1);

(B) striking the period at the end of paragraph (2) and inserting "; and"; and

(C) inserting after paragraph (2) the following:

"(3) with respect to a claim described in section 1013(g), affect, or be construed or interpreted to affect or modify in any way, the obligations or liabilities of any person under other Federal law.".

SEC. 632. SALVAGE ACTIVITIES.

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

(1) in subsection (a)(2)(D) by inserting "or salvage activities" after "removal"; and

(2) in subsection (c)(4)(A) by inserting ''or conducting salvage activities'' after ''advice''.

SEC. 633. REQUIREMENT FOR REDUNDANCY IN RESPONSE PLANS.

(a) REQUIREMENT.—Section 311(j)(5)(D) of the Federal Water Pollution Control Act (33 U.S.C. 1331(j)(5)(D)) is amended by redesignating clauses (v) and (vi) as clauses (vii) and (viii), and by inserting after clause (iv) the following new clauses:

''(v) include redundancies that specify response actions that will be taken if other response actions specified in the plan fail;

''(vi) be vetted by impartial experts;''.

(b) CONDITION OF PERMIT.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following new section:

''SEC. 32. RESPONSE PLAN REQUIRED FOR PERMIT OR LICENSE AUTHORIZING DRILLING FOR OIL AND GAS.

''The Secretary may not issue any license or permit authorizing drilling for oil and gas on the Outer Continental Shelf unless the applicant for the license or permit has a response plan approved under section 311(j)(5)(D) of the Federal Water Pollution Control Act (33 U.S.C.

1331(j)(5)(D)) for the vessel or facility that will be used to conduct such drilling.''.

SEC. 634. FEDERAL OIL SPILL RESEARCH PROGRAM.

(a) SHORT TITLE.—This section may be cited as the ''Oil Pollution Research and Development Program Reauthorization Act of 2011''.

(b) FEDERAL OIL POLLUTION RESEARCH COMMITTEE.—

(1) PURPOSES.—Section 7001(a)(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(a)(2)) is amended by striking ''State'' and inserting ''State and tribal''.

(2) MEMBERSHIP.—Section 7001(a)(3) of such Act (33 U.S.C. 2761(a)(3)) is amended to read as follows:

''(3) STRUCTURE.—

''(A) MEMBERS.—The Interagency Committee shall consist of representatives from the following:

''(i) The Coast Guard.

''(ii) The Department of Commerce, including the National Oceanic and Atmospheric Administration.

''(iii) The Department of the Interior.

"(iv) The Environmental Protection Agency.

"(B) COLLABORATING AGENCIES.—The Interagency Committee shall collaborate with the following:

"(i) The National Institute of Standards and Technology.

"(ii) The Department of Energy.

"(iii) The Department of Transportation, including the Maritime Administration and the Pipeline and Hazardous Materials Safety Administration.

"(iv) The Department of Defense, including the Army Corps of Engineers and the Navy.

"(v) The Department of Homeland Security, including the United States Fire Administration in the Federal Emergency Management Agency.

"(vi) The National Aeronautics and Space Administration.

"(vii) The National Science Foundation.

"(viii) Other Federal agencies, as appropriate.".

(3) ROLE OF THE CHAIR.—Section 7001(a)(4) of such Act (33 U.S.C. 2761(a)(4)) is amended to read as follows:

"(4) CHAIR.—

"(A) IN GENERAL.—A representative of the Coast Guard shall serve as Chair.

"(B) ROLE OF CHAIR.—The primary role of the Chair shall be to ensure that—

"(i) the activities of the Interagency Committee and the agencies listed in paragraph (3)(B) are coordinated;

"(ii) the implementation plans required under subsection (b)(1) are completed and submitted;

"(iii) the annual reports required under subsection (e) are completed and submitted;

"(iv) the Interagency Committee meets in accordance with the requirements of paragraph (5); and

"(v) the Oil Pollution Research Advisory Committee under subsection (f) is established and utilized.".

(4) ACTIVITIES.—Section 7001(a) of such Act (33 U.S.C. 2761(a)) is amended by adding at the end the following:

"(5) ACTIVITIES.—

"(A) ONGOING, COORDINATED EFFORTS.—The Interagency Committee shall ensure that the research, development, and demonstration efforts authorized by this section are coordinated and conducted on an ongoing basis.

"(B) MEETINGS.—

"(i) IN GENERAL.—The Interagency Committee shall meet, or otherwise communicate, as appropriate, to—

"(I) plan program-related activities; and

"(II) determine whether the program is resulting in the development of new or improved methods and technologies to prevent, detect, respond to, contain, and mitigate oil discharge.

"(ii) FREQUENCY.—In no event shall the Interagency Committee meet less than once per year.

"(C) INFORMATION EXCHANGE.—The Interagency Committee, acting through the Ad-

ministrator of the National Oceanic and Atmospheric Administration, shall develop a national information clearinghouse on oil discharge that—

"(i) includes scientific information and research on preparedness, response, and restoration; and

"(ii) serves as a single electronic access and input point for Federal agencies, emergency responders, the research community, and other interested parties for such information.".

(c) OIL POLLUTION RESEARCH AND TECHNOLOGY PLAN.—

(1) IMPLEMENTATION PLAN.—Section 7001(b)(1) of such Act (33 U.S.C. 2761(b)(1)) is amended—

(A) by striking "180 days after the date of enactment of this Act" and inserting "180 days after the date of enactment of the Oil Pollution Research and Development Program Reauthorization Act of 2011 and periodically thereafter, as appropriate, but not less than once every 5 years";

(B) by striking subparagraph (A) and inserting the following:

''(A) identify the roles and responsibilities of each member agency of the Interagency Committee under subsection (a)(3)(A) and each of the collaborating agencies under subsection (a)(3)(B);'';

(C) in subparagraph (B) by inserting ''containment,'' after ''response,'';

(D) in subparagraph (D) by inserting ''containment,'' after ''response,'';

(E) by striking ''and'' at the end of subparagraph (E);

(F) in subparagraph (F)—

(i) by striking ''the States, regional oil pollution research needs'' and inserting ''State and tribal governments, regional oil pollution research needs, including natural seeps and pollution resulting from importing oil from overseas,''; and

(ii) by striking the period at the end and inserting a semicolon; and

(G) by adding at the end the following new subparagraphs:

"(G) identify the information needed to conduct risk assessment and risk analysis research to effectively prevent oil discharges, including information on human factors and decisionmaking, and to protect the environment; and

"(H) identify a methodology that—

"(i) provides for the solicitation, evaluation, preapproval, funding, and utilization of technologies and research projects developed by the public and private sector in advance of future oil discharges; and

"(ii) where appropriate, ensures that such technologies are readily available for rapid testing and potential deployment and that research projects can be implemented during an incident response.".

(2) ADVICE AND GUIDANCE.—Section 7001(b) of such Act (33 U.S.C. 2761(b)) is amended by striking paragraph (2) and all that follows through "under this section." and by inserting the following:

"(2) ADVICE AND GUIDANCE.—

"(A) IN GENERAL.—The Chair shall solicit advice and guidance in the development of the research plan under paragraph (1) from—

"(i) the Oil Pollution Research Advisory Committee established under subsection (f);

"(ii) the National Institute of Standards and Technology on issues relating to quality assurance and standards measurements;

"(iii) third party standard-setting organizations on issues relating to voluntary consensus standards; and

"(iv) the public in accordance with subparagraph (B).

"(B) PUBLIC COMMENT.—Prior to the submission of the research plan to Congress under paragraph (1), the research plan shall be published in the Federal Register and subject to a public comment period of 30 days. The Chair shall review the public comments received and incorporate those comments into the plan, as appropriate.".

(3) REVIEW.—Section 7001(b) of such Act (33 U.S.C. 2761(b)) is further amended by adding at the end the following:

"(3) REVIEW.—After the submission of each research plan to Congress under paragraph (1), the

Chair shall contract with the National Academy of Sciences—

"(A) to review the research plan;

"(B) to assess the adequacy of the research plan; and

"(C) to submit a report to Congress on the conclusions of the assessment.

"(4) INCORPORATION OF RECOMMENDATIONS.—The Chair shall address any recommendations in the review conducted under paragraph (3) and shall incorporate such recommendations into the research plan, as appropriate.".

(d) OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM.—

(1) ESTABLISHMENT.—Section 7001(c)(1) of such Act (33 U.S.C. 2761(c)(1)) is amended by striking "research and development, as provided in this subsection" and inserting "research, development, and demonstration, as provided in this subsection and subsection (a)(2)".

(2) INNOVATIVE OIL POLLUTION TECHNOLOGY.—Section 7001(c)(2) of such Act (33 U.S.C. 2761(c)(2)) is amended—

(A) in the matter before subparagraph (A), by striking "preventing or mitigating" and in-

serting "preventing, detecting, containing, recovering, or mitigating";

(B) by striking subparagraph (I);

(C) by redesignating subparagraph (J) as subparagraph (I);

(D) by striking the period at the end of subparagraph (I) (as so redesignated) and by inserting at the end a semicolon; and

(E) by adding at the end the following:

"(J) technologies and methods to address oil discharge on land and in inland waters, coastal areas, offshore areas, including deepwater and ultra-deepwater areas, and polar and other icy areas; and

"(K) modeling and simulation capabilities, including tools and technologies, that can be used to facilitate effective recovery and containment of oil discharge during incident response.".

(3) OIL POLLUTION TECHNOLOGY EVALUATION.—Section 7001(c)(3) of such Act (33 U.S.C. 2761(c)(3)) is amended to read as follows:

"(3) OIL POLLUTION TECHNOLOGY EVALUATION.—The program established under this subsection shall provide for the evaluation of oil pollu-

tion prevention, containment, and mitigation technologies, including—

"(A) the evaluation of the performance and effectiveness of such technologies in preventing, detecting, containing, recovering, and mitigating oil discharges;

"(B) the evaluation of the environmental effects of the use of such technologies;

"(C) the evaluation and testing of technologies developed independently of the research and development program established under this subsection, including technologies developed by small businesses;

"(D) the establishment, with the advice and guidance of the National Institute of Standards and Technology, of standards and testing protocols traceable to national standards to measure the performance of oil pollution prevention, containment, or mitigation technologies;

"(E) an evaluation of the environmental effects and utility of controlled field testing;

"(F) the use, where appropriate, of controlled field testing to evaluate real-world application of new or improved oil discharge preven-

tion, response, containment, recovery, or mitigation technologies;

"(G) an evaluation of the effectiveness of oil pollution prevention technologies based on probabilistic risk analyses of the system; and

"(H) research conducted by the Environmental Protection Agency and other appropriate Federal agencies for the evaluation and testing of technologies that demonstrate—

"(i) maximum effectiveness, including application and delivery mechanisms; and

"(ii) minimum effects, including toxicity, to human health and the environment in both the near-term and long-term.".

(4) OIL POLLUTION EFFECTS RESEARCH.—Section 7001(c)(4) of such Act (33 U.S.C. 2761(c)(4)) is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—

"(i) ESTABLISHMENT.—The Interagency Committee, acting through the Administrator of the National Oceanic and Atmospheric Administration, shall establish a research program to monitor and

1 scientifically evaluate the environmental ef-
2 fects, including long-term effects, of oil dis-
3 charge.
4 ''(ii) SPECIFICATIONS.—Such pro-
5 gram shall include the following elements:
6 ''(I) Research on and the devel-
7 opment of effective tools to detect,
8 measure, observe, analyze, monitor,
9 model, and forecast the presence,
10 transport, fate, and effect of an oil
11 discharge throughout the environ-
12 ment, including tools and models to
13 accurately measure and predict the
14 flow of oil discharged.
15 ''(II) The development of meth-
16 ods, including economic methods, to
17 assess and predict damages to natural
18 resources, including air quality, result-
19 ing from oil discharges, including in
20 economically disadvantaged commu-
21 nities and areas.
22 ''(III) The identification of types
23 of ecologically sensitive areas at par-
24 ticular risk from oil discharges, such
25 as inland waters, coastal areas, off-

shore areas, including deepwater and ultra-deepwater areas, and polar and other icy areas.

"(IV) The preparation of scientific monitoring and evaluation plans for the areas identified under subclause (III) to be implemented in the event of major oil discharges in such areas.

"(V) The collection of environmental baseline data in the areas identified under subclause (III) if such data are insufficient.

"(VI) The use of both onshore and offshore air quality monitoring to study the effects of an oil discharge and oil discharge cleanup technologies on air quality.

"(VII) Making the results, health, and safety warnings readily available to the public, including emergency responders, the research community, local residents, and other interested parties.

"(VIII) Research on technologies, methods, and standards for protecting removal personnel and for volunteers that may participate in incident responses, including training, adequate supervision, protective equipment, maximum exposure limits, and decontamination procedures.";

(B) in subparagraph (B)—

(i) by striking "(B) The Department of Commerce" and all that follows through "future oil discharges." and inserting the following:

"(B) CONDITIONS.—The Interagency Committee, acting through the Administrator of the National Oceanic and Atmospheric Administration, shall conduct research activities under subparagraph (A) for areas in which—

"(i) the amount of oil discharged exceeds 250,000 gallons; and

"(ii) a study of the long-term environmental effects of the discharge would be of significant scientific value, especially for preventing or responding to future oil discharges.";

(ii) by striking "ATHOS I, and" and inserting "ATHOS I;"; and

(iii) by striking the period at the end and inserting "; Prince William Sound, where oil was discharged by the EXXON VALDEZ; and the Gulf of Mexico, where oil was discharged by the DEEPWATER HORIZON."; and

(C) in subparagraph (C) by striking "Research" and inserting "COORDINATION.—Research".

(5) DEMONSTRATION PROJECTS.—Section 7001(c)(6) of such Act (33 U.S.C. 2761(c)(6)) is amended—

(A) by striking the first sentence and inserting the following: "The United States Coast Guard, in conjunction with such agencies as the President may designate, shall conduct a total of 2 port oil pollution minimization demonstration projects, 1 with the Ports of Los Angeles and Long Beach, California, and 1 with a port on the Great Lakes, for the purpose of developing and demonstrating integrated port oil pollution prevention and cleanup systems that utilize the information and implement the im-

proved practices and technologies developed from the research, development, and demonstration program established in this section.''; and

(B) in the second sentence by striking ''oil spill'' and inserting ''oil discharge''.

(6) SIMULATED ENVIRONMENTAL TESTING.—Section 7001(c)(7) of such Act (33 U.S.C. 2761(c)(7)) is amended by inserting ''Oil pollution technology testing and evaluations shall be given priority over all other activities performed at such Research Center.'' after ''evaluations.''.

(7) REGIONAL RESEARCH PROGRAM.—

(A) IN GENERAL.—Section 7001(c)(8) of such Act (33 U.S.C. 2761(c)(8)) is amended—

(i) in subparagraph (A)—

(I) by striking ''program of competitive grants'' and inserting ''program of peer-reviewed, competitive grants''; and

(II) by striking ''(1989)'' and inserting ''(2009)'';

(ii) in subparagraph (C) by striking ''the entity or entities which'' and inserting ''at least one entity that''; and

(iii) by adding at the end the following new subparagraph:

"(H) In carrying out this paragraph, the Interagency Committee shall coordinate the program of peer-reviewed, competitive grants to universities or other research institutions, including Minority Serving Institutions as defined under section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a)), and provide consideration to such institutions in the recommendations for awarding grants.".

(B) FUNDING.—Section 7001(c)(9) of such Act (33 U.S.C. 2761(c)(9)) is amended by striking "1991" and all that follows through "shall be available" and inserting "2011, 2012, 2013, 2014, and 2015, there are authorized to be appropriated from amounts in the Fund $12,000,000".

(e) INTERNATIONAL COOPERATION.—Section 7001(d) of such Act (33 U.S.C. 2761(d)) is amended to read as follows:

"(d) INTERNATIONAL COOPERATION.—In accordance with the research plan submitted under subsection (b), the Interagency Committee shall engage in international cooperation by—

"(1) harnessing global expertise through collaborative partnerships with foreign governments and research entities, and domestic and foreign private actors, including nongovernmental organizations and private sector companies; and

"(2) leveraging public and private capital, technology, expertise, and services towards innovative models that can be instituted to conduct collaborative oil pollution research, development, and demonstration activities, including controlled field tests of oil discharges and other activities designed to improve oil recovery and cleanup.".

(f) ANNUAL REPORTS.—Section 7001(e) of such Act (33 U.S.C. 2761(e)) is amended to read as follows:

"(e) ANNUAL REPORT.—

"(1) Concurrent with the submission to Congress of the President's annual budget request in each year after the date of enactment of the Oil Pollution Research and Development Program Reauthorization Act of 2011, the Chair of the Interagency Committee shall submit to Congress a report describing the—

"(A) activities carried out under this section in the preceding fiscal year, including—

"(i) a description of major research conducted on oil discharge prevention, detection, containment, recovery, and mitigation techniques in all environments by each agency described in subsection (a)(3)(A) and (B); and

"(ii) a summary of—

"(I) projects in which the agency contributed funding or other resources;

"(II) major projects undertaken by State and tribal governments, and foreign governments; and

"(III) major projects undertaken by the private sector and educational institutions;

"(B) activities being carried out under this section in the current fiscal year, including a description of major research and development activities on oil discharge prevention, detection, containment, recovery, and mitigation technologies and techniques in all environments that each agency will conduct or contribute to; and

"(C) activities proposed to be carried out under this section in the subsequent fiscal year,

including an analysis of how these activities will further the purposes of the program authorized by this section.

"(2) If the National Academy of Sciences provides recommendations on the research plan under subsection (b)(3), the Chair shall include, in the first annual report under paragraph (1) of this subsection, a description of those recommendations incorporated into the research plan, and a description of, and explanation for, any recommendations that are not included in such plan.".

(g) ADVISORY COMMITTEE.—Section 7001 of such Act (33 U.S.C. 2761) is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Oil Pollution Research and Development Program Reauthorization Act of 2011, the Chair of the Interagency Committee shall establish an advisory committee to be known as the Oil Pollution Research Advisory Com-

mittee (in this subsection referred to as the 'advisory committee').

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The advisory committee shall be composed of members appointed by the Chair, in consultation with each member agency described in subsection (a)(3), including—

"(i) individuals with extensive knowledge and research experience or operational knowledge of prevention, detection, response, containment, and mitigation of oil discharges;

"(ii) individuals broadly representative of stakeholders affected by oil discharges; and

"(iii) other individuals, as determined by the Chair.

"(B) LIMITATIONS.—The Chair shall—

"(i) appoint no more than 25 members that shall not include representatives of the Federal Government, but may include representatives from State, tribal, and local governments; and

"(ii) ensure that no class of individuals described in clause (ii) or (iii) of subparagraph (A) comprises more than ⅓ of the membership of the advisory committee.

"(C) TERMS OF SERVICE.—

"(i) IN GENERAL.—Members shall be appointed for a 3-year term and may serve for not more than 2 terms, except as provided in clause (iii).

"(ii) VACANCIES.—Vacancy appointments shall be for the remainder of the unexpired term of the vacancy.

"(iii) SPECIAL RULE.—If a member is appointed to fill a vacancy and the remainder of the unexpired term is less than 1 year, the member may subsequently be appointed for 2 full terms.

"(D) COMPENSATION AND EXPENSES.—Members of the advisory committee shall not be compensated for service on the advisory committee, but may be allowed travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(3) DUTIES.—The advisory committee shall review, advise, and comment on Interagency Committee activities, including the following:

"(A) Management and functioning of the Interagency Committee.

"(B) Collaboration of the Interagency Committee and the agencies listed in subsection (a)(3)(B).

"(C) The research and technology development of new or improved response capabilities.

"(D) The use of cost-effective research mechanisms.

"(E) Research, computation, and modeling needs and other resources needed to develop a comprehensive program of oil pollution research.

"(4) SUBCOMMITTEES.—The advisory committee may establish subcommittees of its members.

"(5) MEETINGS.—The advisory committee shall meet at least once per year and at other times at the call of the Chair of the Interagency Committee.

"(6) REPORT.—The advisory committee shall submit biennial reports to the Interagency Committee and Congress on the function, activities, and

progress of the Interagency Committee and the programs established under this section.

"(7) EXPIRATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee.".

(h) FUNDING.—

(1) IN GENERAL.—Section 7001(g) of such Act, as redesignated by subsection (g) of this section, is amended to read as follows:

"(g) FUNDING.—From the amounts authorized in section 321 of the Implementing the Recommendations of the BP Oil Spill Commission Act of 2011, there are authorized to be appropriated—

"(1) $16,000,000 to the Administrator of the National Oceanic and Atmospheric Administration annually to carry out this section; and

"(2) $2,000,000 for each of fiscal years 2011, 2012, 2013, and 2014 to carry out the activities in subsection (c)(6).".

(i) ACCESS TO RESEARCH DURING AN EMERGENCY.—Section 7001 of such Act (33 U.S.C. 2761) is amended by adding at the end the following new subsection:

"(h) ACCESS TO RESEARCH DURING AN EMERGENCY.—Any entity that receives Federal funding for re-

search, the methodologies or results of which may be useful for response activities in the event of an oil discharge incident described in sections 300.300–334 of title 40 of the Code of Federal Regulations, shall, upon request to that entity, make the methodologies or results of such research available to the Interagency Committee and the Federal On-Scene Coordinator (as defined in section 311(a)(21) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)(21))). Any methodologies or research results made available under this subsection shall be for use only for purposes of the response activities with respect to the oil discharge incident, and shall not be available for disclosure under section 552 of title 5, United States Code, or included in information made publicly available pursuant to this Act.''.

SEC. 635. OIL SPILL LIABILITY TRUST FUND.

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

''(m) ADVANCE PAYMENTS.—The President shall promulgate regulations that allow advance payments to be made from the Fund to States and political subdivisions of States for actions taken to prepare for and mitigate substantial threats from the discharge of oil.''.

(b) OIL SPILL LIABILITY TRUST FUND.—

(1) LIMITATIONS ON EXPENDITURES.—Section 9509(c) of the Internal Revenue Code of 1986 (relating to expenditures from the Oil Spill Liability Trust Fund) is amended—

(A) by striking paragraph (2);

(B) by striking ''EXPENDITURES'' and all that follows through ''Amounts in'' and inserting ''EXPENDITURES.—Amounts in''; and

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

(2) AUTHORITY TO BORROW.—Section 9509(d) of the Internal Revenue Code of 1986 (relating to authority to borrow for the Oil Spill Liability Trust Fund) is amended—

(A) by striking paragraph (2);

(B) by redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2) (as so redesignated)—

(i) by striking subparagraph (B); and

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

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. REPEAL OF CERTAIN TAXPAYER SUBSIDIZED ROYALTY RELIEF FOR THE OIL AND GAS INDUSTRY.

(a) PROVISIONS RELATING TO PLANNING AREAS OFFSHORE ALASKA.—Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by striking ''and in the Planning Areas offshore Alaska'' after ''West longitude''.

(b) PROVISIONS RELATING TO NAVAL PETROLEUM RESERVE IN ALASKA.—Section 107 of the Naval Petroleum Reserves Production Act of 1976 (as transferred, redesignated, moved, and amended by section 347 of the Energy Policy Act of 2005 (119 Stat. 704)) is amended—

(1) in subsection (i) by striking paragraphs (2) through (6); and

(2) by striking subsection (k).

SEC. 702. LEASING ON INDIAN LANDS.

Nothing in this Act modifies, amends, or affects leasing on Indian lands as currently carried out by the Bureau of Indian Affairs.

SEC. 703. OUTER CONTINENTAL SHELF STATE BOUNDARIES.

(a) GENERAL.—Not later than 2 years after the date of enactment of this Act, the President, acting through the Secretary of the Interior, shall publish a final determination under section 4(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)) of the boundaries of coastal States projected seaward to the outer margin of the Outer Continental Shelf.

(b) NOTICE AND COMMENT.—In determining the projected boundaries specified in subsection (a), the Secretary shall comply with the notice and comment requirements under chapter 5 of title 5, United States Code.

(c) SAVINGS CLAUSE.—The determination and publication of projected boundaries under subsection (a) shall not be construed to alter, limit, or modify the jurisdiction, control, or any other authority of the United States over the Outer Continental Shelf.

SEC. 704. LIABILITY FOR DAMAGES TO NATIONAL WILDLIFE REFUGES.

Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) is amended by adding at the end the following new subsection:

"(p) DESTRUCTION OR LOSS OF, OR INJURY TO, REFUGE RESOURCES.—

"(1) LIABILITY.—

"(A) LIABILITY TO UNITED STATES.—Any person who destroys, causes the loss of, or injures any refuge resource is liable to the United States for an amount equal to the sum of—

"(i) the amount of the response costs and damages resulting from the destruction, loss, or injury; and

"(ii) interest on that amount calculated in the manner described under section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

"(B) LIABILITY IN REM.—Any instrumentality, including a vessel, vehicle, aircraft, or other equipment, that destroys, causes the loss of, or injures any refuge resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury to the same extent as a person is liable under subparagraph (A).

"(C) DEFENSES.—A person is not liable under this paragraph if that person establishes that—

"(i) the destruction or loss of, or injury to, the refuge resource was caused solely by an act of God, an act of war, or

1 an act or omission of a third party, and
2 the person acted with due care;
3 "(ii) the destruction, loss, or injury
4 was caused by an activity authorized by
5 Federal or State law; or
6 "(iii) the destruction, loss, or injury
7 was negligible.
8 "(D) LIMITS TO LIABILITY.—Nothing in
9 sections 30501 to 30512 or section 30706 of
10 title 46, United States Code, shall limit the li-
11 ability of any person under this section.
12 "(2) RESPONSE ACTIONS.—The Secretary may
13 undertake or authorize all necessary actions to pre-
14 vent or minimize the destruction or loss of, or injury
15 to, refuge resources, or to minimize the imminent
16 risk of such destruction, loss, or injury.
17 "(3) CIVIL ACTIONS FOR RESPONSE COSTS AND
18 DAMAGES.—
19 "(A) IN GENERAL.—The Attorney General,
20 upon request of the Secretary, may commence
21 a civil action against any person or instrumen-
22 tality who may be liable under paragraph (1)
23 for response costs and damages. The Secretary,
24 acting as trustee for refuge resources for the
25 United States, shall submit a request for such

1 an action to the Attorney General whenever a
2 person may be liable for such costs or damages.
3 "(B) JURISDICTION AND VENUE.—An ac-
4 tion under this subsection may be brought in
5 the United States district court for any district
6 in which—
7 "(i) the defendant is located, resides,
8 or is doing business, in the case of an ac-
9 tion against a person;
10 "(ii) the instrumentality is located, in
11 the case of an action against an instru-
12 mentality; or
13 "(iii) the destruction of, loss of, or in-
14 jury to a refuge resource occurred.
15 "(4) USE OF RECOVERED AMOUNTS.—Response
16 costs and damages recovered by the Secretary under
17 this subsection shall be retained by the Secretary in
18 the manner provided for in section 107(f)(1) of the
19 Comprehensive Environmental Response, Compensa-
20 tion, and Liability Act of 1980 (42 U.S.C.
21 9607(f)(1)) and used as follows:
22 "(A) RESPONSE COSTS.—Amounts recov-
23 ered by the United States for costs of response
24 actions and damage assessments under this

subsection shall be used, as the Secretary considers appropriate—

"(i) to reimburse the Secretary or any other Federal or State agency that conducted those activities; and

"(ii) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any refuge resource.

"(B) OTHER AMOUNTS.—All other amounts recovered shall be used, in order of priority—

"(i) to restore, replace, or acquire the equivalent of the refuge resources that were the subject of the action, including the costs of monitoring the refuge resources;

"(ii) to restore degraded refuge resources of the refuge that was the subject of the action, giving priority to refuge resources that are comparable to the refuge resources that were the subject of the action; and

"(iii) to restore degraded refuge resources of other refuges.

1 "(5) DEFINITIONS.—In this subsection, the
2 term—
3 "(A) 'damages' includes—
4 "(i) compensation for—
5 "(I)(aa) the cost of replacing, re-
6 storing, or acquiring the equivalent of
7 a refuge resource; and
8 "(bb) the value of the lost use of
9 a refuge resource pending its restora-
10 tion or replacement or the acquisition
11 of an equivalent refuge resource; or
12 "(II) the value of a refuge re-
13 source if the refuge resource cannot
14 be restored or replaced or if the equiv-
15 alent of such resource cannot be ac-
16 quired;
17 "(ii) the cost of conducting damage
18 assessments;
19 "(iii) the reasonable cost of moni-
20 toring appropriate to the injured, restored,
21 or replaced refuge resource; and
22 "(iv) the cost of enforcement actions
23 undertaken by the Secretary in response to
24 the destruction or loss of, or injury to, a
25 refuge resource;

"(B) 'response costs' means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, refuge resources, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability, or to monitor ongoing effects of incidents causing such destruction, loss, or injury under this subsection; and

"(C) 'refuge resource' means any living or nonliving resource of a refuge that contributes to the conservation, management, and restoration mission of the System, including living or nonliving resources of a marine national monument that may be managed as a unit of the System.".

SEC. 705. STRENGTHENING COASTAL STATE OIL SPILL PLANNING AND RESPONSE.

The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) is amended adding at the end the following new section:

"SEC. 320. STRENGTHENING COASTAL STATE OIL SPILL RESPONSE AND PLANNING.

"(a) GRANTS TO STATES.—The Secretary may make grants to eligible coastal States—

"(1) to revise management programs approved under section 306 (16 U.S.C. 1455) to identify and implement new enforceable policies and procedures to ensure sufficient response capabilities at the State level to address the environmental, economic, and social impacts of oil spills or other accidents resulting from Outer Continental Shelf energy activities with the potential to affect any land or water use or natural resource of the coastal zone; and

"(2) to review and revise where necessary applicable enforceable policies within approved State management programs affecting coastal energy activities and energy to ensure that these policies are consistent with—

"(A) other emergency response plans and policies developed under Federal or State law; and

"(B) new policies and procedures developed under paragraph (1); and

"(3) after a State has adopted new or revised enforceable policies and procedures under paragraphs (1) and (2)—

"(A) the State shall submit the policies and procedures to the Secretary; and

"(B) the Secretary shall notify the State whether the Secretary approves or disapproves the incorporation of the policies and procedures into the State's management program pursuant to section 306(e).

"(b) ELEMENTS.—New enforceable policies and procedures developed by coastal States with grants awarded under this section shall consider, but not be limited to—

"(1) other existing emergency response plans, procedures and enforceable policies developed under other Federal or State law that affect the coastal zone;

"(2) identification of critical infrastructure essential to facilitate spill or accident response activities;

"(3) identification of coordination, logistics and communication networks between Federal and State government agencies, and between State agencies and affected local communities, to ensure the efficient and timely dissemination of data and other information;

"(4) inventories of shore locations and infrastructure and equipment necessary to respond to oil

spills or other accidents resulting from Outer Continental Shelf energy activities;

"(5) identification and characterization of significant or sensitive marine ecosystems or other areas possessing important conservation, recreational, ecological, historic, or aesthetic values;

"(6) inventories and surveys of shore locations and infrastructure capable of supporting alternative energy development; and

"(7) other information or actions as may be necessary.

"(c) GUIDELINES.—The Secretary shall, within 180 days after the date of enactment of this section and after consultation with the coastal states, publish guidelines for the application for and use of grants under this section.

"(d) PARTICIPATION.—A coastal state shall provide opportunity for public participation in developing new enforceable policies and procedures under this section pursuant to sections 306(d)(1) and 306(e), especially by relevant Federal agencies, other coastal state agencies, local governments, regional organizations, port authorities, and other interested parties and stakeholders, public and private, that are related to, or affected by Outer Continental Shelf energy activities.

"(e) ANNUAL GRANTS.—

"(1) IN GENERAL.—For each of fiscal years 2011 through 2015, the Secretary may make a grant to a coastal state to develop new enforceable polices and procedures as required under this section.

"(2) GRANT AMOUNTS AND LIMIT ON AWARDS.—The amount of any grant to any one coastal State under this section shall not exceed $750,000 for any fiscal year. No coastal state may receive more than two grants under this section.

"(3) NO STATE MATCHING CONTRIBUTION REQUIRED.—As it is in the national interest to be able to respond efficiently and effectively at all levels of government to oil spills and other accidents resulting from Outer Continental Shelf energy activities, a coastal state shall not be required to contribute any portion of the cost of a grant awarded under this section.

"(4) SECRETARIAL REVIEW AND LIMIT ON AWARDS.—After an initial grant is made to a coastal state under this section, no subsequent grant may be made to that coastal state under this section unless the Secretary finds that the coastal state is satisfactorily developing revisions to address offshore energy

impacts. No coastal state is eligible to receive grants under this section for more than 2 fiscal years.

''(f) APPLICABILITY.—The requirements of this section shall only apply if appropriations are provided to the Secretary to make grants under this section. This section shall not be construed to convey any new authority to any coastal state, or repeal or supersede any existing authority of any coastal state, to regulate the siting, licensing, leasing, or permitting of energy facilities in areas of the Outer Continental Shelf under the administration of the Federal Government. Nothing in this section repeals or supersedes any existing coastal state authority.

''(g) ASSISTANCE BY THE SECRETARY.—The Secretary as authorized under section 310(a) and to the extent practicable, shall make available to coastal states the resources and capabilities of the National Oceanic and Atmospheric Administration to provide technical assistance to the coastal states to prepare revisions to approved management programs to meet the requirements under this section.''.

SEC. 706. INFORMATION SHARING.

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

"(4) AVAILABILITY OF DATA AND INFORMATION.—All heads of departments and agencies of the Federal Government shall, upon request of the Secretary, provide to the Secretary all data and information that the Secretary deems necessary for the purpose of including such data and information in the mapping initiative, except that no department or agency of the Federal Government shall be required to provide any data or information that is privileged or proprietary.".

SEC. 707. LIMITATION ON USE OF FUNDS.

None of the funds authorized or made available by this Act may be used to carry out any activity or pay any costs for removal or damages for which a responsible party (as such term is defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701)) is liable under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) or other law.

SEC. 708. ENVIRONMENTAL REVIEW.

Section 390 of the Energy Policy Act of 2005 (Public Law 109–58; 42 U.S.C. 15942) is repealed.

SEC. 709. GOVERNMENT ACCOUNTABILITY OFFICE EVALUATION.

(a) EVALUATION.—The Comptroller General shall conduct an evaluation of the Department of the Interior to determine—

(1) whether the reforms carried out under this Act and the amendments made by this Act address concerns of the Government Accountability Office and the Inspector General expressed before the date of enactment of this Act;

(2) whether the increased hiring authority given to the Secretary of the Interior under this Act and the amendments made by this Act has resulted in the Department of the Interior being more effective in addressing its oversight missions; and

(3) whether there has been a sufficient reduction in the conflict between mission and interest within the Department of the Interior.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report containing the results of the evaluation conducted under subsection (a).

SEC. 710. STUDY ON RELIEF WELLS.

Not later than 60 days after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Engineering under which

the Academy shall, not later than 1 year after such arrangement is entered into, submit to the Secretary and to Congress a report that assesses the economic, safety, and environmental impacts of requiring that 1 or more relief wells be drilled in tandem with the drilling of some or all wells subject to the requirements of this Act and the amendments made by this Act.

SEC. 711. FLOW RATE TECHNICAL GROUP.

(a) ESTABLISHMENT.—Within 180 days after the date of enactment of this Act, the Secretary, acting through the Director of the United States Geologic Survey, shall establish a permanent Flow Rate Technical Group to develop and maintain expertise in measuring and estimating flow rates and spill volumes.

(b) MEMBERSHIP.—The Flow Rate Technical Group shall be chaired by the Director of the United States Geologic Survey and shall include representatives from the Coast Guard, the National Oceanic and Atmospheric Administration, the Department of Energy, the national laboratories, and academic institutions.

(c) APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Task Force shall not be considered an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.).

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

SEC. 801. SHORT TITLE.

This title may be cited as the ''Study of Ways To Improve the Accuracy of the Collection of Federal Oil, Condensate, and Natural Gas Royalties Act of 2011''.

SEC. 802. STUDY OF ACTIONS TO IMPROVE THE ACCURACY OF COLLECTION OF FEDERAL OIL, CONDENSATE, AND NATURAL GAS ROYALTIES.

The Secretary of the Interior shall seek to enter into an arrangement with the National Academy of Engineering under which the Academy, by not later than six months after the date of the enactment of this Act, shall study and report to the Secretary regarding whether the accuracy of collection of royalties on production of oil, condensate, and natural gas under leases of Federal lands (in eluding submerged and deep water lands) and Indian lands would be improved by any of the following:

(1) Requiring the installation of digital meters, calibrated at least monthly to an absolute zero value, for all lands from which natural gas (including condensate) is produced under such leases.

(2) Requiring that—

(A) the size of every orifice plate on each natural gas well operated under such leases be inspected at least quarterly by the Secretary; and

(B) chipped orifice plates and wrong-sized orifice plates be replaced immediately after those inspections and reported to the Secretary for retroactive volume measurement corrections and royalty payments with interest of 8 percent compounded monthly.

(3) Requiring that any plug valves that are in natural gas gathering lines be removed and replaced with ball valves.

(4) Requiring that—

(A) all meter runs should be opened for inspection by the Secretary and the producer at all times; and

(B) any welding or closing of the meter runs leading to the orifice plates should be prohibited unless authorized by the Secretary.

(5) Requiring the installation of straightening vanes approximately 10 feet before natural gas enters each orifice meter, including each master meter and each sales meter.

(6) Requiring that all master meters be inspected and the results of such inspections be made available to the Secretary and the producers immediately.

(7) Requiring that—

(A) all sampling of natural gas for heating content analysis be performed monthly upstream of each natural gas meter, including upstream of each master meter;

(B) records of such sampling and heating content analysis be maintained by the purchaser and made available to the Secretary and to the producer monthly;

(C) probes for such upstream sampling be installed upstream within three feet of each natural gas meter;

(D) any oil and natural gas lease for which heat content analysis is falsified shall be subject to cancellation;

(E) natural gas sampling probes be located—

(i) upstream of the natural gas meter at all times;

(ii) within a few feet of the natural gas meter; and

(iii) after the natural gas goes through a Welker or Y–Z vanishing chamber; and

(F) temperature probes and testing probes be located between the natural gas sampling probe and the orifice of the natural gas meter.

(8) Prohibiting the dilution of natural gas with inert nitrogen or inert carbon dioxide gas for royalty determination, sale, or resale at any point.

(9) Requiring that both the measurement of the volume of natural gas and the heating content analyses be reported only on the basis of 14.73 PSI and 60 degrees Fahrenheit, regardless of the elevation above sea level of such volume measurement and heating content analysis, for both purchases and sales of natural gas.

(10) Prohibiting the construction of bypass pipes that go around the natural gas meter, and imposing criminal penalties for any such construction or subsequent removal including, but not limited to, automatic cancellation of the lease.

(11) Requiring that all natural gas sold to consumers have a minimum BTU content of 960 at an atmospheric pressure of 14.73 PSI and be at a tem-

perature of 60 degrees Fahrenheit, as required by the State of Wyoming Public Utilities Commission.

(12) Requiring that all natural gas sold in the USA will be on a MMBTU basis with the BTU content adjusted for elevation above sea level in higher altitudes. Thus all natural gas meters must correct for BTU content in higher elevations (altitudes).

(13) Issuance by the Secretary of rules for the measurement at the wellhead of the standard volume of natural gas produced, based on independent industry standards such as those suggested by the American Society of Testing Materials (ASTM).

(14) Requiring use of the fundamental orifice meter mass flow equation, as revised in 1990, for calculating the standard volume of natural gas produced.

(15) Requiring the use of Fpv in standard volume measurement computations as described in the 1992 American Gas Association Report No. 8 entitled Compressibility Factor of Natural Gas and Other Related Hydrocarbon Gases.

(16) Requiring that gathering lines must be constructed so as to have as few angles and turns as possible, with a maximum of three angles, before they connect with the natural gas meter.

(17) Requiring that for purposes of reporting the royalty value of natural gas, condensate, oil, and associated natural gases, such royalty value must be based upon the natural gas' condensate's, oil's, and associated natural gases' arm's length, independent market value, as reported in independent, respected market reports such as Platts or Bloombergs, and not based upon industry controlled posted prices, such as Koch's.

(18) Requiring that royalties be paid on all the condensate recovered through purging gathering lines and pipelines with a cone-shaped device to push out condensate (popularly referred to as a pig) and on condensate recovered from separators, dehydrators, and processing plants.

(19) Requiring that all royalty deductions for dehydration, treating, natural gas gathering, compression, transportation, marketing, removal of impurities such as carbon dioxide (CO_2), nitrogen (N_2), hydrogen sulphide (H_2S), mercaptain (HS), helium (He), and other similar charges on natural gas, condensate, and oil produced under such leases that are now in existence be eliminated.

(20) Requiring that at all times—

(A) the quantity, quality, and value obtained for natural gas liquids (condensate) be reported to the Secretary; and

(B) such reported value be based on fair independent arm's length market value.

(21) Issuance by the Secretary of regulations that prohibit venting or flaring (or both) of natural gas in cases for which technology exists to reasonably prevent it, strict enforcement of such prohibitions, and cancellation of leases for violations.

(22) Requiring lessees to pay full royalties on any natural gas that is vented, flared, or otherwise avoidably lost.

(23)(A) Requiring payment of royalties on carbon dioxide at the wellhead used for tertiary oil recovery from depleted oil fields on the basis of 5 percent of the West Texas Intermediate crude oil fair market price to be used for one MCF (1,000 cubic feet) of carbon dioxide gas.

(B) Requiring that—

(i) carbon dioxide used for edible purposes should be subjected to a royalty per thousand cubic feet (MCF) on the basis of the sales price at the downstream delivery point without de-

ducting for removal of impurities, processing, transportation, and marketing costs;

(ii) such price to apply with respect to gaseous forms, liquid forms, and solid (dry ice) forms of carbon dioxide converted to equivalent MCF; and

(iii) such royalty to apply with respect to both a direct producer of carbon dioxide and purchases of carbon dioxide from another person that is either affiliated or not affiliated with the purchaser.

(24) Requiring that—

(A) royalties be paid on the fair market value of nitrogen extracted from such leases that is used industrially for well stimulation, helium recovery, or other uses; and

(B) royalties be paid on the fair market value of ultimately processed helium recovered from such leases.

(25) Allowing only 5 percent of the value of the elemental sulfur recovered during processing of hydrogen sulfide gas from such leases to be deducted for processing costs in determining royalty payments.

(26) Requiring that all heating content analysis of natural gas be conducted to a minimum level of C_{15}.

(27) Eliminating artificial conversion from dry BTU to wet BTU, and requiring that natural gas be analyzed and royalties paid for at all times on the basis of dry BTU only.

(28) Requiring that natural gas sampling be performed at all times with a floating piston cylinder container at the same pressure intake as the pressure of the natural gas gathering line.

(29) Requiring use of natural gas filters with a minimum of 10 microns, and preferably 15 microns, both in the intake to natural gas sampling containers and in the exit from the natural gas sampling containers into the chromatograph.

(30) Mandate the use of a Quad Unit for both portable and stationary chromatographs in order to correct for the presence of nitrogen and oxygen, if any, in certain natural gas streams.

(31) Require the calibration of all chromatograph equipment every three months and the use of only American Gas Association-approved standard comparison containers for such calibration.

(32) Requiring payment of royalties on any such natural gas stored on Federal or Indian lands on the basis of corresponding storage charges for the use of Federal or Indian lands, respectively, for such storage service.

(33) Imposing penalties for the intentional non-payment of royalties for natural gas liquids recovered—

(A) from purging of natural gas gathering lines and natural gas pipelines; or

(B) from field separators, dehydrators, and processing plants,

including cancellation of oil and natural gas leases and criminal penalties.

(34) Requiring that the separator, dehydrator, and natural gas meter be located within 100 feet of each natural gas wellhead.

(35) Requiring that BTU heating content analysis be performed when the natural gas is at a temperature of 140 to 150 degrees Fahrenheit at all times, as required by the American Gas Association (AGA) regulations.

(36) Requiring that heating content analysis and volume measurements are identical at the sales point to what they are at the purchase point, after

allowing for a small volume for leakage in old pipes, but with no allowance for heating content discrepancy.

(37) Verification by the Secretary that the specific gravity of natural gas produced under such leases, as measured at the meter run, corresponds to the heating content analysis data for such natural gas, in accordance with the Natural Gas Processors Association Publication 2145–71(1), entitled ''Physical Constants Of Paraffin Hydrocarbons And Other Components Of Natural Gas'', and reporting of all discrepancies immediately.

(38) Prohibiting all deductions on royalty payments for marketing of natural gas, condensate, and oil by an affiliate or agent.

(39) Requiring that all standards of the American Petroleum Institute, the American Gas Association, the Gas Processors Association, and the American Society of Testing Materials, Minerals Management Service Order No. 5, and all other Minerals Management Service orders be faithfully observed and applied, and willful misconduct of such standards and orders be subject to oil and gas lease cancellation.

SEC. 803. DEFINITIONS.

In this title:

(1) COVERED LANDS.—The term ''covered lands'' means—

(A) all Federal onshore lands and offshore lands that are under the administrative jurisdiction of the Department of the Interior for purposes of oil and gas leasing; and

(B) Indian onshore lands.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

TITLE IX—OFFSHORE OIL AND GAS WORKER WHISTLEBLOWER PROTECTION

SEC. 901. SHORT TITLE.

This title may be cited as the ''Offshore Oil and Gas Worker Whistleblower Protection Act of 2011''.

SEC. 902. WHISTLEBLOWER PROTECTIONS; EMPLOYEE PROTECTION FROM OTHER RETALIATION.

(a) PROHIBITION AGAINST RETALIATION.—

(1) IN GENERAL.—No employer may discharge or otherwise discriminate against a covered employee because the covered employee, whether at the covered employee's initiative or in the ordinary course of the covered employee's duties—

(A) provided, caused to be provided, or is about to provide or cause to be provided to the employer or to a Federal or State government official, information relating to any violation of, or any act or omission the covered employee reasonably believes to be a violation of, any provision of the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.), or any order, rule, regulation, standard, or prohibition under that Act, or exercised any rights provided to employees under that Act;

(B) testified or is about to testify in a proceeding concerning such violation;

(C) assisted or participated or is about to assist or participate in such a proceeding;

(D) testified or is about to testify before Congress on any matter covered by such Act;

(E) objected to, or refused to participate in any activity, policy, practice, or assigned task that the covered employee reasonably believed to be in violation of any provision of such Act, or any order, rule, regulation, standard, or ban under such Act;

(F) reported to the employer or a State or Federal government official any of the following

related to the employer's activities described in section 1003(1): an illness, injury, unsafe condition, or information regarding the adequacy of any oil spill response plan required by law; or

(G) refused to perform the covered employee's duties, or exercised stop work authority, related to the employer's activities described in section 1003(1) if the covered employee had a good faith belief that performing such duties could result in injury to or impairment of the health of the covered employee or other employees, or cause an oil spill to the environment.

(2) GOOD FAITH BELIEF.—For purposes of paragraph (1)(E), the circumstances causing the covered employee's good faith belief that performing such duties would pose a health and safety hazard shall be of such a nature that a reasonable person under circumstances confronting the covered employee would conclude there is such a hazard.

(b) PROCESS.—

(1) IN GENERAL.—A covered employee who believes that he or she has been discharged or otherwise discriminated against (hereafter referred to as the ''complainant'') by any employer in violation of subsection (a)(1) may, not later than 180 days after

the date on which such alleged violation occurs or the date on which the covered employee knows or should reasonably have known that such alleged violation occurred, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor (referred to in this section as the ''Secretary'') alleging such discharge or discrimination and identifying employer or employers responsible for such act. Upon receipt of such a complaint, the Secretary shall notify, in writing, the employer or employers named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

(2) INVESTIGATION.—

(A) IN GENERAL.—Not later than 90 days after the date of receipt of a complaint filed under paragraph (1) the Secretary shall initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the employer or employers alleged to have committed a violation of subsection (a)(1) of the Secretary's findings. The Secretary shall,

during such investigation afford the complainant and the employer or employers named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses. The complainant shall be provided with an opportunity to review the information and evidence provided by employer or employers to the Secretary, and to review any response or rebuttal by such the complaint, as part of such investigation.

(B) REASONABLE CAUSE FOUND; PRELIMINARY ORDER.—If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a)(1) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, the employer or employers alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record before an admin-

1 istrative law judge of the Department of Labor.
2 The filing of such objections shall not operate
3 to stay any reinstatement remedy contained in
4 the preliminary order. Any such hearing shall
5 be conducted expeditiously. If a hearing is not
6 requested in such 30-day period, the prelimi-
7 nary order shall be deemed a final order that is
8 not subject to judicial review. The Secretary of
9 Labor is authorized to enforce preliminary rein-
10 statement orders in the United States district
11 court for the district in which the violation was
12 found to occur, or in the United States district
13 court for the District of Columbia.
14 (C) DISMISSAL OF COMPLAINT.—
15 (i) STANDARD FOR COMPLAINANT.—
16 The Secretary shall dismiss a complaint
17 filed under this subsection and shall not
18 conduct an investigation otherwise required
19 under subparagraph (A) unless the com-
20 plainant makes a prima facie showing that
21 any behavior described in subparagraphs
22 (A) through (G) of subsection (a)(1) was a
23 contributing factor in the adverse action
24 alleged in the complaint.

(ii) STANDARD FOR EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same adverse action in the absence of that behavior.

(iii) VIOLATION STANDARD.—The Secretary may determine that a violation of subsection (a)(1) has occurred only if the complainant demonstrates that any behavior described in subparagraphs (A) through (G) of such subsection was a contributing factor in the adverse action alleged in the complaint.

(iv) RELIEF STANDARD.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same adverse action in the absence of that behavior.

(3) ORDERS.—

(A) IN GENERAL.—Not later than 90 days after the receipt of a request for a hearing under subsection (b)(2)(B), the administrative law judge shall issue findings of fact and order the relief provided under this paragraph or deny the complaint. At any time before issuance of an order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation. Such a settlement may not be agreed by such parties if it contains conditions which conflict with rights protected under this title, are contrary to public policy, or include a restriction on a complainant's right to future employment with employers other than the specific employers named in the complaint.

(B) CONTENT OF ORDER.—If, in response to a complaint filed under paragraph (1), the administrative law judge determines that a violation of subsection (a)(1) has occurred, the administrative law judge shall order the employer or employers who committed such violation—

(i) to take affirmative action to abate the violation;

(ii) to reinstate the complainant to his or her former position together with compensation (including back pay and prejudgment interest) and restore the terms, conditions, and privileges associated with his or her employment; and

(iii) to provide compensatory and consequential damages, and, as appropriate, exemplary damages to the complainant.

(C) ATTORNEY FEES.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the employer or employers a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued at the conclusion of any stage of the proceeding.

(D) BAD FAITH CLAIM.—If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer reasonable attorneys' fees, not exceeding $1,000, to be paid by the complainant.

1 (E) ADMINISTRATIVE APPEAL.—Not later
2 than 30 days after the receipt of findings of
3 fact or an order under subparagraph (B), the
4 employer or employers alleged to have com-
5 mitted the violation or the complainant may
6 file, with objections, an administrative appeal
7 with the Secretary, who may designate such ap-
8 peal to a review board. In reviewing a decision
9 and order of the administrative law judge, the
10 Secretary shall affirm the decision and order if
11 it is determined that the factual findings set
12 forth therein are supported by substantial evi-
13 dence and the decision and order are made in
14 accordance with applicable law. The Secretary
15 shall issue a final decision and order affirming,
16 or reversing, in whole or in part, the decision
17 under review within 90 days after receipt of the
18 administrative appeal under this subparagraph.
19 If it is determined that a violation of subsection
20 (a)(1) has occurred, the Secretary shall order
21 relief provided under subparagraphs (B) and
22 (C). Such decision shall constitute a final agen-
23 cy action with respect to the matter appealed.
24 (4) ACTION IN COURT.—

(A) IN GENERAL.—If the Secretary has not issued a final decision within 330 days after the filing of the complaint, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States, which action shall, at the request of either party to such action, be tried by the court with a jury. The proceedings shall be governed by the same legal burdens of proof specified in paragraph (2)(C).

(B) RELIEF.—The court may award all appropriate relief including injunctive relief, compensatory and consequential damages, including—

(i) reinstatement with the same seniority status that the covered employee would have had, but for the discharge or discrimination;

(ii) the amount of back pay sufficient to make the covered employee whole, with prejudgment interest;

(iii) exemplary damages, as appropriate; and

(iv) litigation costs, including reasonable attorney fees and expert witness fees.

(5) REVIEW.—

(A) IN GENERAL.—Any person aggrieved by a final order issued under paragraph (3) or a judgment or order under paragraph (4) may obtain review of the order in the appropriate United States Court of Appeals. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall be in accordance with chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) NO OTHER JUDICIAL REVIEW.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any other proceeding.

(6) FAILURE TO COMPLY WITH ORDER.—Whenever any employer has failed to comply with an order issued under paragraph (3), the Secretary may obtain in a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, all appropriate relief

including, but not limited to, injunctive relief and compensatory damages.

(7) CIVIL ACTION TO REQUIRE COMPLIANCE.—

(A) IN GENERAL.—Whenever an employer has failed to comply with an order issued under paragraph (3), the complainant on whose behalf the order was issued may obtain in a civil action in an appropriate United States district court against the employer to whom the order was issued, all appropriate relief.

(B) AWARD.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

(c) CONSTRUCTION.—

(1) EFFECT ON OTHER LAWS.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

(2) RIGHTS OF EMPLOYEES.—Nothing in this section shall be construed to diminish the rights,

1 privileges, or remedies of any employee under any
2 Federal or State law or under any collective bar-
3 gaining agreement. The rights and remedies in this
4 section may not be waived by any agreement, policy,
5 form, or condition of employment.

6 (d) ENFORCEMENT OF NONDISCRETIONARY DU-
7 TIES.—Any nondiscretionary duty imposed by this section
8 shall be enforceable in a mandamus proceeding brought
9 under section 1361 of title 28, United States Code.

10 (e) POSTING OF NOTICE AND TRAINING.—All em-
11 ployers shall post a notice which has been approved as to
12 form and content by the Secretary of Labor in a con-
13 spicuous location in the place of employment where cov-
14 ered employees frequent which explains employee rights
15 and remedies under this section. Each employer shall pro-
16 vide training to covered employees of their rights under
17 this section within 30 days of employment, and at not less
18 than once every 12 months thereafter, and provide covered
19 employees with a card which contains a toll free telephone
20 number at the Department of Labor which covered em-
21 ployees can call to get information or file a complaint
22 under this section.

23 (f) DESIGNATION BY THE SECRETARY.—The Sec-
24 retary of Labor shall, within 30 days of the date of enact-
25 ment of this Act, designate by order the appropriate agen-

cy officials to receive, investigate, and adjudicate complaints of violations of subsection (a)(1).

SEC. 903. DEFINITIONS.

As used in this title the following definitions apply:

(1) The term ''covered employee''—

(A) means an individual performing services on behalf of an employer that is engaged in activities on or in waters above the Outer Continental Shelf related to—

(i) supporting, or carrying out exploration, development, production, processing, or transportation of oil or gas; or

(ii) oil spill cleanup, emergency response, environmental surveillance, protection, or restoration, or other oil spill activities related to occupational safety and health; and

(B) includes an applicant for such employment.

(2) The term ''employer'' means one or more individuals, partnerships, associations, corporations, trusts, unincorporated organizations, nongovernmental organizations, or trustees, and includes any agent, contractor, subcontractor, grantee or consultant of such employer.

(3) The term ''Outer Continental Shelf'' has the meaning that the term ''outer Continental Shelf'' has in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

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