

109TH CONGRESS
2^D SESSION

S. 2440

To provide the Coast Guard and NOAA with additional authorities under the Oil Pollution Act of 1990, to strengthen the Oil Pollution Act of 1990, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 16 (legislative day, MARCH 15), 2006

Ms. CANTWELL (for herself, Mr. LAUTENBERG, Mr. KERRY, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide the Coast Guard and NOAA with additional authorities under the Oil Pollution Act of 1990, to strengthen the Oil Pollution Act of 1990, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Oil Pollution Preven-
5 tion and Response Act of 2006”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

- Sec. 2. Table of contents.
- Sec. 3. Findings.
- Sec. 4. Definitions.

TITLE I—PREVENTION OF OIL SPILLS

SUBTITLE A—COAST GUARD PROVISIONS

- Sec. 101. Rulemakings.
- Sec. 102. Safety standards for towing vessels.
- Sec. 103. Inspections by Coast Guard.
- Sec. 104. Oil transfers from vessels.
- Sec. 105. Improvements to reduce human error.
- Sec. 106. Navigational measures for protection of natural resources.
- Sec. 107. Existing areas to be avoided.
- Sec. 108. Higher volume port area regulatory definition change.
- Sec. 109. Recreational boater outreach program.
- Sec. 110. Improved coordination with tribal governments.
- Sec. 111. Oil spill advisory council.

SUBTITLE B—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
PROVISIONS

- Sec. 151. Hydrographic surveys.
- Sec. 152. Electronic navigational charts.

TITLE II—RESPONSE

- Sec. 201. Rapid response system.
- Sec. 202. Coast Guard oil spill database.
- Sec. 203. Reports on certain Oil Spill Liability Trust Fund expenditures.
- Sec. 204. Use of funds.
- Sec. 205. Limits on liability.
- Sec. 206. Liability for use of unsafe single-hull vessels.
- Sec. 207. Rescue tugs.
- Sec. 208. International efforts on enforcement.
- Sec. 209. Investment of amounts in damage assessment and restoration revolving fund.

TITLE III—RESEARCH AND MISCELLANEOUS REPORTS

- Sec. 301. Federal Oil Spill Research Committee.
- Sec. 302. Grant project for development of cost-effective detection technologies.
- Sec. 303. Status of implementation of recommendations by the National Research Council.
- Sec. 304. GAO report.
- Sec. 305. Oil transportation infrastructure analysis.

1 SEC. 3. FINDINGS.

2 The Congress finds the following:

1 (1) Oil released into the Nation's marine waters
2 can cause substantial, and in some cases irreparable,
3 harm to the marine environment.

4 (2) The economic impact of oil spills is substan-
5 tial. Billions of dollars have been spent in the United
6 States for cleanup of, and damages due to, oil spills.

7 (3) The Oil Pollution Act of 1990, enacted in
8 response to the worst vessel oil spill in United States
9 history, substantially reduced the amount of oil spills
10 from vessels. However, significant volumes of oil
11 continue to be released, and the potential for a
12 major spill remains unacceptably high.

13 (4) Although the total number of oil spills from
14 vessels has decreased since passage of the Oil Pollu-
15 tion Act of 1990, more oil was spilled in 2004 from
16 vessels nationwide than was spilled from vessels in
17 1992.

18 (5) Waterborne transportation of oil in the
19 United States continues to increase.

20 (6) Although the number of oil spills from tank-
21 ers declined from 193 in 1992 to 36 in 2004, spills
22 from oil tankers tend to be large with devastating
23 impacts.

24 (7) While the number of oil spills from tank
25 barges has declined since 1992 (322 spills to 141

1 spills in 2004), the volume of oil spilled from tank
2 barges has remained constant at approximately
3 200,000 gallons spilled each year.

4 (8) Oil spills from non-tank vessels averaged be-
5 tween 125,000 gallons and 400,000 gallons per year
6 from 1992 through 2004 and accounted for over half
7 of the total number of spills from all sources, includ-
8 ing vessels and non-vessel sources.

9 (9) Recent spills involving significant quantities
10 of oil have occurred off the coasts of Alaska, Maine,
11 Massachusetts, Oregon, Virginia, and Washington,
12 and involved barges, tank vessels, and non-tank ves-
13 sels.

14 (10) The existing statutory caps that limit li-
15 ability for responsible parties were set in 1990 and
16 have not been modified since. These liability levels
17 no longer reflect the costs of oil spills, particularly
18 for barges and large non-tank vessels. For example,
19 the liability limit for the ATHOS I oil spill was
20 \$45,400,000, but costs could exceed \$267,000,000.
21 Similarly, the liability limit for the SELENDANG
22 AYU spill was \$23,800,000 while the actual costs
23 will likely exceed \$100,000,000.

1 (11) It is more cost-effective to prevent oil spills
2 than it is to clean-up oil once it is released into the
3 environment.

4 (12) Of the 20 major vessel oil spill incidents
5 since 1990 where liability limits have been exceeded,
6 10 involved tank barges, 8 involved non-tank vessels,
7 2 involved tankers, and only 1 involved a vessel that
8 was double-hulled.

9 (13) Although recent technological improve-
10 ments in oil tanker design, such as double hulls and
11 redundant steering, increase tanker safety, these
12 technologies are not a panacea and cannot ensure
13 against oil spills, the leading cause of which is
14 human error.

15 (14) The Federal government has a responsi-
16 bility to protect the nation's natural resources, pub-
17 lic health, and environment by improving Federal
18 measures to prevent and respond to oil spills.

19 **SEC. 4. DEFINITIONS.**

20 In this Act:

21 (1) **AREA TO BE AVOIDED.**—The term “area to
22 be avoided” means a routing measure established by
23 the International Maritime Organization as an area
24 to be avoided.

1 (2) NON-TANK VESSEL.—The term “non-tank
2 vessel” means a self-propelled vessel other than a
3 tank vessel.

4 (3) OIL.—The term “oil” has the meaning
5 given that term by section 1001(23) of the Oil Pol-
6 lution Act of 1990 (33 U.S.C. 2701(23)).

7 (4) SECRETARY.—The term “Secretary” means
8 the Secretary of the department in which the Coast
9 Guard is operating except where otherwise explicitly
10 stated.

11 (5) TANK VESSEL.—The term “tank vessel”
12 has the meaning given that term by section
13 1001(34) of the Oil Pollution Act of 1990 (33
14 U.S.C. 2701(34)).

15 (6) WATERS SUBJECT TO THE JURISDICTION
16 OF THE UNITED STATES.—The term “waters subject
17 to the jurisdiction of the United States” means navi-
18 gable waters (as defined in section 1001(21) of the
19 Oil Pollution Act of 1990 (33 U.S.C. 2701(21)) as
20 well as—

21 (A) the territorial sea of the United States
22 as defined in Presidential Proclamation Number
23 5928 of December 27, 1988; and

1 (B) the Exclusive Economic Zone of the
2 United States established by Presidential Pro-
3 clamation Number 5030 of March 10, 1983.

4 **TITLE I—PREVENTION OF OIL**
5 **SPILLS**

6 **Subtitle A—Coast Guard**

7 **Provisions**

8 **SEC. 101. RULEMAKINGS.**

9 (a) STATUS REPORT.—

10 (1) IN GENERAL.—Within 90 days after the
11 date of enactment of this Act, the Secretary shall
12 provide a report to the Senate Committee on Com-
13 merce, Science, and Transportation and the House
14 of Representatives Committee on Transportation
15 and Infrastructure on the status of all Coast Guard
16 rulemakings required (but for which no final rule
17 has been issued as of the date of enactment of this
18 Act)—

19 (A) under the Oil Pollution Act of 1990
20 (33 U.S.C. 2701 et seq.); and

21 (B) for—

22 (i) automatic identification systems
23 required under section 70114 of title 46,
24 United States Code; and

1 (ii) inspection requirements for towing
2 vessels required under section 3306(j) of
3 that title.

4 (2) INFORMATION REQUIRED.—The Secretary
5 shall include in the report required by paragraph
6 (1)—

7 (A) a detailed explanation with respect to
8 each such rulemaking as to—

9 (i) what steps have been completed;

10 (ii) what areas remain to be ad-
11 dressed; and

12 (iii) the cause of any delays; and

13 (B) the date by which a final rule may rea-
14 sonably be expected to be issued.

15 (b) FINAL RULES.—The Secretary shall issue a final
16 rule in each pending rulemaking under the Oil Pollution
17 Act of 1990 (33 U.S.C. 2701 et seq.) as soon as prac-
18 ticable, but in no event later than 18 months after the
19 date of enactment of this Act.

20 **SEC. 102. SAFETY STANDARDS FOR TOWING VESSELS.**

21 In promulgating regulations for towing vessels under
22 chapter 33 of title 46, United States Code, the Secretary
23 shall—

24 (1) give priority to completing such regulations
25 for towing operations involving tank vessels;

1 (2) ensure that such regulations appropriately
2 address the risks from such operations, taking into
3 account such factors as vessel age and hull configu-
4 ration; and

5 (3) consider the possible application of stand-
6 ards that, as of the date of enactment of this Act,
7 apply to self-propelled tank vessels, and any modi-
8 fications that may be necessary for application to
9 towing vessels due to ship design, safety, and other
10 relevant factors.

11 **SEC. 103. INSPECTIONS BY COAST GUARD.**

12 (a) IN GENERAL.—The Secretary shall ensure that
13 the inspection schedule for all United States and foreign-
14 flag tank vessels that enter a United States port or place
15 increases the frequency and comprehensiveness of Coast
16 Guard safety inspections based on such factors as vessel
17 age, hull configuration, past violations of any applicable
18 discharge and safety regulations under United States and
19 international law, indications that the class societies in-
20 specting such vessels may be substandard, and other fac-
21 tors relevant to the potential risk of an oil spill.

22 (b) ENHANCED VERIFICATION OF STRUCTURAL CON-
23 DITION.—The Coast Guard shall adopt, as part of its in-
24 spection requirements for tank vessels, additional proce-
25 dures for enhancing the verification of the reported struc-

1 tural condition of such vessels, taking into account the
2 Condition Assessment Scheme adopted by the Inter-
3 national Maritime Organization by Resolution 94(46) on
4 April 27, 2001.

5 **SEC. 104. OIL TRANSFERS FROM VESSELS.**

6 (a) REGULATIONS.—Within 1 year after the date of
7 enactment of this Act, the Secretary shall promulgate reg-
8 ulations to reduce the risks of oil spills in operations in-
9 volving the transfer of oil from or to a tank vessel. The
10 regulations—

11 (1) shall focus on operations that have the
12 highest risks of discharge, including operations at
13 night and in inclement weather; and

14 (2) shall include—

15 (A) requirements for use of equipment
16 such as putting booms in place for transfers;

17 (B) operational procedures such as man-
18 ning standards, communications protocols, and
19 restrictions on operations in high-risk areas; or

20 (C) both such requirements and oper-
21 ational procedures.

22 (b) APPLICATION WITH STATE LAWS.—The regula-
23 tions promulgated under subsection (a) do not preclude
24 the enforcement of any State law or regulation the re-
25 quirements of which are at least as stringent as require-

1 ments under the regulations (as determined by the Sec-
2 retary) that—

3 (1) applies in State waters; and

4 (2) does not conflict with, or interfere with the
5 enforcement of, requirements and operational proce-
6 dures under the regulations.

7 **SEC. 105. IMPROVEMENTS TO REDUCE HUMAN ERROR AND**
8 **NEAR-MISS INCIDENTS.**

9 (a) REPORT.—Within 1 year after the date of enact-
10 ment of this Act, the Secretary shall transmit a report
11 to the Senate Committee on Commerce, Science, and
12 Transportation and the House of Representatives Com-
13 mittee on Energy and Commerce that—

14 (1) identifies the types of human errors that,
15 combined, account for over 50 percent of all oil spills
16 involving vessels that have been caused by human
17 error in the past 10 years;

18 (2) identifies the most frequent types of near-
19 miss oil spill incidents involving vessels such as colli-
20 sions, groundings, and loss of propulsion in the past
21 10 years; and

22 (3) includes recommendations by the Secretary
23 to address the identified types of errors and inci-
24 dents.

1 (b) REGULATIONS.—Based on the findings contained
2 in the report required by subsection (a), the Secretary
3 shall promulgate regulations designed to reduce the risks
4 of oil spills from human errors.

5 (c) INTERNATIONAL MEASURES.—Based on the find-
6 ings contained in the report required by subsection (a),
7 the Secretary shall take appropriate action at the Inter-
8 national Maritime Organization to reduce the risk of oil
9 spills from human error internationally.

10 **SEC. 106. NAVIGATIONAL MEASURES FOR PROTECTION OF**
11 **NATURAL RESOURCES.**

12 (a) DESIGNATION OF AT-RISK AREAS.—The Sec-
13 retary and the Undersecretary of Commerce for Oceans
14 and Atmosphere shall jointly identify areas where routing
15 or other navigational measures are warranted in waters
16 subject to the jurisdiction of the United States to reduce
17 the risk of oil spills and potential damage to natural re-
18 sources. In identifying those areas, the Secretary and the
19 Undersecretary shall give priority consideration to natural
20 resources of particular ecological importance or economic
21 importance, including commercial fisheries, aquaculture
22 facilities, marine sanctuaries designated by the Secretary
23 of Commerce pursuant to the National Marine Sanc-
24 tuaries Act (16 U.S.C. 1431 et seq.), estuaries of national
25 significance designated under section 319 of the Federal

1 Water Pollution Control Act (33 U.S.C. 1330), critical
2 habitats (as defined in section 3(5) of the Endangered
3 Species Act of 1973 (16 U.S.C. 1532(5)), estuarine re-
4 search reserves within the National Estuarine Research
5 Reserve System established by section 315 of the Coastal
6 Zone Management Act of 1972, and national parks and
7 national seashores administered by the National Park
8 Service under the National Park Service Organic Act (16
9 U.S.C. 1 et seq.).

10 (b) FACTORS CONSIDERED.—In determining whether
11 navigational measures are warranted, the Secretary and
12 the Undersecretary shall consider, at a minimum—

13 (1) the frequency of transits of vessels required
14 to prepare a response plan under section 311(j) of
15 the Federal Water Pollution Control Act (33 U.S.C.
16 1321(j));

17 (2) the type and quantity of oil transported as
18 cargo or fuel;

19 (3) the expected benefits of routing measures in
20 reducing risks of spills;

21 (4) the costs of such measures;

22 (5) the safety implications of such measures;

23 and

24 (6) the nature and value of the resources to be
25 protected by such measures.

1 (c) ESTABLISHMENT OF ROUTING AND OTHER NAVI-
2 GATIONAL MEASURES.—The Secretary shall establish
3 such routing or other navigational measures for areas
4 identified under subsection (a).

5 (d) ESTABLISHMENT OF AVOIDANCE AREAS.—To the
6 extent that the Secretary and the Undersecretary conclude
7 that the establishment of areas to be avoided is warranted
8 under this section, they shall seek to establish such areas
9 through the International Maritime Organization or estab-
10 lish comparable areas pursuant to regulations and in a
11 manner that is consistent with international law.

12 (e) OIL SHIPMENT DATA AND REPORT.—

13 (1) DATA COLLECTION.—The Secretary,
14 through the Commandant of the Coast Guard and in
15 consultation with the Army Corps of Engineers,
16 shall collect and analyze data on oil transported as
17 cargo on vessels in the navigable waters of the
18 United States, including information on—

19 (A) the quantity and type of oil being
20 transported;

21 (B) the vessels used for such transpor-
22 tation;

23 (C) the frequency with which each type of
24 oil is being transported; and

1 (D) the point of origin, transit route, and
2 destination of each such shipment of oil.

3 (2) REPORT.—The Secretary shall transmit a
4 report, not less frequently than quarterly, to the
5 Senate Committee on Commerce, Science, and
6 Transportation and the House of Representatives
7 Committee on Energy and Commerce, on the data
8 collected and analyzed under paragraph (1) in a for-
9 mat that does not disclose information exempted
10 from disclosure under section 552b(e) of title 5,
11 United States Code.

12 **SEC. 107. EXISTING AREAS TO BE AVOIDED.**

13 (a) ENFORCEMENT OF EXISTING AREAS TO BE
14 AVOIDED PROVISIONS.—The Secretary and the Under
15 Secretary of Commerce for Oceans and Atmosphere shall
16 cooperate in tracking compliance by vessels with the condi-
17 tions and requirements of areas to be avoided established
18 in United States waters, and shall enforce compliance with
19 those conditions and requirements. A violation of those
20 conditions and requirements is subject to a civil penalty
21 of not more than \$100,000, and each day of a continuing
22 violation constitutes a separate violation.

23 (b) OLYMPIC COAST NATURAL MARINE SANCTUARY
24 AREA TO BE AVOIDED.—The Secretary and the Under-

1 secretary of Commerce for Oceans and Atmosphere
2 shall—

3 (1) revise the area to be avoided off the coast
4 of the State of Washington so that restrictions apply
5 to all vessels required to prepare a response plan
6 under section 311(j) of the Federal Water Pollution
7 Control Act (33 U.S.C. 1321(j)) (other than fishing
8 vessels while engaged in fishing within the area to
9 be avoided); and

10 (2) revise the area to be avoided to make the
11 conditions and requirements for that area to be
12 avoided mandatory, consistent with international
13 law.

14 (c) EMERGENCY DRILL.—Beginning with 1 year
15 after the date of enactment of this Act, the Secretary shall
16 conduct, jointly with other Federal agencies and State,
17 local, and tribal governmental entities, regular, unan-
18 nounced emergency drills for responding to an oil spill in
19 the Olympic Coast National Marine Sanctuary.

20 (d) RACON BEACONS.—The Secretary shall place 1
21 or more radar beacons in or near the area to be avoided
22 described in subsection (b) in sites that maximize warn-
23 ings to vessels of the boundaries of that area.

1 **SEC. 108. HIGHER VOLUME PORT REGULATORY DEFINI-**
2 **TION CHANGE.**

3 Within 30 days after the date of enactment of this
4 Act, notwithstanding subchapter 5 of title 5, United
5 States Code, the Commandant of the Coast Guard shall
6 modify the definition of the term “higher volume port
7 area” contained in section 155.1020 of the Coast Guard
8 regulations (33 C.F.R. 155.1020) by striking “Port Ange-
9 les, WA” in paragraph (13) of that section and inserting
10 “Cape Flattery, WA” without initiating a rulemaking pro-
11 ceeding.

12 **SEC. 109. RECREATIONAL BOATER OUTREACH PROGRAM.**

13 The Secretary shall establish an outreach program
14 for recreational boaters and commercial and recreational
15 fishermen to inform them about ways in which they can
16 assist in reducing the risk of an oil spill or release. The
17 program shall focus initially on regions in the country
18 where, in the past 10 years, the incidence of such spills
19 has been the highest.

20 **SEC. 110. IMPROVED COORDINATION WITH TRIBAL GOV-**
21 **ERNMENTS.**

22 (a) IN GENERAL.—The Secretary shall take such ac-
23 tion as may be necessary to improve the Coast Guard’s
24 consultation and coordination with the tribal governments
25 of Federally recognized Indian tribes with respect to oil
26 spill prevention, preparedness, and response.

1 (b) INCLUSION OF TRIBAL GOVERNMENT.—The Sec-
2 retary shall ensure that, as soon as practicable after iden-
3 tifying an oil spill that is likely to have an impact on nat-
4 ural resources owned or utilized by a Federally recognized
5 Indian tribe, the Coast Guard will—

6 (1) ensure that representatives of the tribal
7 government of the affected tribes are included as
8 part of the incident response team established by the
9 Coast Guard to respond to the spill;

10 (2) share nonconfidential information about the
11 oil spill with the tribal government of the affected
12 tribe; and

13 (3) to the extent practicable, involve tribal gov-
14 ernments in deciding how to respond to such spill.

15 (c) COOPERATIVE ARRANGEMENTS.—The Coast
16 Guard may enter into memoranda of understanding or
17 similar arrangements with tribal governments in order to
18 establish cooperative arrangements for oil pollution pre-
19 vention, preparedness, and response. Such memoranda
20 may include training for preparedness and response and
21 provisions on coordination in the event of a spill.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to the Secretary
24 \$500,000 for each of fiscal years 2007 through 2011 to

1 be used to execute and implement memoranda of under-
2 standing under this section.

3 **SEC. 111. OIL SPILL ADVISORY COUNCIL.**

4 Section 5002(k) of the Oil Pollution Act of 1990 (33
5 U.S.C. 2732(k)) is amended by adding at the end the fol-
6 lowing:

7 “(4) WASHINGTON STATE PROGRAM.—

8 “(A) IN GENERAL.—For purposes of this para-
9 graph, the oil spill advisory council established by
10 section 90.56.120 of title 90 of the Revised Code of
11 Washington is deemed to be an advisory council es-
12 tablished under this section. The provisions of this
13 section, other than this paragraph, do not apply to
14 that oil spill advisory council.

15 “(B) FUNDING.—The owners or operators of
16 terminal facilities or crude oil tankers operating in
17 Washington State waters shall provide, on an annual
18 basis, an aggregate amount of not more than
19 \$1,000,000, as determined by the Secretary. Such
20 amount—

21 “(i) shall be made available to the oil spill
22 advisory council established by section
23 90.56.120 of title 90 of the Revised Code of
24 Washington;

1 “(ii) shall be adjusted annually by the
2 Consumer Price Index; and

3 “(iii) may be adjusted periodically upon
4 the mutual consent of the owners or operators
5 of terminal facilities or crude oil tankers oper-
6 ating in Washington State waters and the
7 Council.”.

8 **Subtitle B—National Oceanic and**
9 **Atmospheric Administration**
10 **Provisions**

11 **SEC. 151. HYDROGRAPHIC SURVEYS.**

12 (a) REDUCTION OF BACKLOG.—The Undersecretary
13 of Commerce for Oceans and Atmosphere shall continue
14 survey operations to reduce the survey backlog in naviga-
15 tionally significant waters outlined in its National Survey
16 Plan, concentrating on areas where oil and other haz-
17 ardous materials are transported.

18 (b) NEW SURVEYS.—By no later than January 1,
19 2010, the Undersecretary shall complete new surveys, to-
20 gether with necessary data processing, analysis, and dis-
21 semination, for all areas in United States coastal areas
22 determined by the Undersecretary to be critical areas.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to the Undersecretary
25 for the purpose of carrying out the new surveys required

1 by subsection (b) \$68,000,000 for each of fiscal years
2 2007 through 2011.

3 **SEC. 152. ELECTRONIC NAVIGATIONAL CHARTS.**

4 (a) IN GENERAL.—By no later than September 1,
5 2007, the Undersecretary of Commerce for Oceans and
6 Atmosphere shall complete the electronic navigation chart
7 suite for all coastal waters of the United States.

8 (b) PRIORITIES.—In completing the suite, the Under-
9 secretary shall give priority to producing and maintaining
10 the electronic navigation charts of the entrances to major
11 ports and the coastal transportation routes for oil and haz-
12 ardous materials, and for estuaries of national significance
13 designated under section 319 of the Federal Water Pollu-
14 tion Control Act (33 U.S.C. 1330).

15 (c) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated to the Undersecretary
17 for the purpose of completing the electronic navigation
18 chart suite \$6,200,000 for fiscal years 2007 and 2008.

19 **TITLE II—RESPONSE**

20 **SEC. 201. RAPID RESPONSE SYSTEM.**

21 The Undersecretary of Commerce for Oceans and At-
22 mosphere shall develop and implement a rapid response
23 system to collect and predict in situ information about oil
24 spill behavior, trajectory and impacts, and a mechanism

1 to provide such information rapidly to Federal, State, trib-
2 al, and other entities involved in a response to an oil spill.

3 **SEC. 202. COAST GUARD OIL SPILL DATABASE.**

4 The Secretary shall modify the Coast Guard's oil spill
5 database as necessary to ensure that it—

6 (1) includes information on the cause of oil
7 spills maintained in the database; and

8 (2) is capable of facilitating the analysis of
9 trends and the comparison of accidents involving oil
10 spills.

11 **SEC. 203. REPORTS ON CERTAIN OIL SPILL LIABILITY**
12 **TRUST FUND EXPENDITURES.**

13 (a) ANNUAL SPENDING REPORT.—Title I of the Oil
14 Pollution Act of 1990 (33 U.S.C. 2701 et seq.) is amended
15 by adding at the end the following:

16 **“SEC. 1021. ANNUAL EXPENDITURE REPORT.**

17 “(a) IN GENERAL.—No later than March 1 of each
18 year after 2006, the Secretary shall provide an annual re-
19 port on spending for the preceding fiscal year on expendi-
20 tures from the Oil Spill Liability Trust Fund established
21 by section 9509 of the Internal Revenue Code of 1986,
22 whether or not subject to annual appropriations, to the
23 Senate Committee on Commerce, Science, and Transpor-
24 tation, the Senate Committee on Environment and Public
25 Works, and the House of Representatives Committee on

1 Transportation and Infrastructure and to the National
2 Pollution Funds Center, which shall make the report avail-
3 able to the public on its Internet website.

4 “(b) CONTENTS.—The report shall include—

5 “(1) a list of each expenditure of \$500,000 or
6 more from the Fund during the fiscal year to which
7 the report relates; and

8 “(2) a description of how each such expenditure
9 related to—

10 “(A) oil pollution liability and compensa-
11 tion;

12 “(B) oil pollution prevention;

13 “(C) oil pollution preparedness;

14 “(D) oil spill removal;

15 “(E) natural resource damage assessment
16 and restoration;

17 “(F) oil pollution research and develop-
18 ment; or

19 “(G) other pollution-related activities.

20 “(c) AGENCY REPORTS.—Each Federal agency that
21 receives appropriated funds for use from the Fund shall—

22 “(1) maintain records of the purposes for which
23 such funds were obligated or expended in such detail
24 as the Secretary may require for purposes of the re-
25 port required by subsection (a); and

1 “(2) transmit the information contained in such
2 records to the Secretary at such time, in such form,
3 and in such detail as the Secretary may require for
4 purposes of that report, including a breakdown of
5 expenditures described in subsection (b)(1) and a de-
6 scription of the use of such expenditures in accord-
7 ance with subsection (b)(2).

8 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to the Secretary such
10 sums as may be necessary to carry out this section.”.

11 (b) AUDIT COOPERATION.—Section 1012(g) of the
12 Oil Pollution Act of 1990 (33 U.S.C. 2712(g)) is amended
13 by striking the last sentence and inserting the following:
14 “Each Federal agency that receives appropriated funds
15 for use from the Fund shall cooperate with, and provide
16 requested documentation to, the Comptroller General in
17 carrying out this subsection and the Secretary in carrying
18 out section 1021.”.

19 (c) USE OF FUND IN NATIONAL EMERGENCIES.—
20 Notwithstanding any provision of the Oil Pollution Act of
21 1990 (33 U.S.C. 2701 et seq.) to the contrary, no amount
22 may be made available from the Oil Spill Liability Trust
23 Fund established by section 9509 of the Internal Revenue
24 Code of 1986 for claims described in section 1012(a)(4)
25 of that Act (33 U.S.C. 2712(a)(4)) attributable to any na-

1 tional emergency or major disaster declared by the Presi-
 2 dent under the Robert T. Stafford Disaster Relief and
 3 Emergency Assistance Act (42 U.S.C. 5121 et seq.).

4 (d) CONFORMING AMENDMENT.—Section 2 of the Oil
 5 Pollution Act of 1990 (33 U.S.C. 2701 note) is amended
 6 by inserting after the item relating to section 1020 the
 7 following:

“Sec. 1021. Annual expenditure report.”.

8 **SEC. 204. USE OF FUNDS.**

9 Section 1012(a)(5) of the Oil Pollution Act of 1990
 10 (33 U.S.C. 2712(a)(5)) is amended—

11 (1) by redesignating subparagraphs (B) and
 12 (C) as subparagraphs (C) and (D), respectively; and

13 (2) by inserting after subparagraph (A) the fol-
 14 lowing:

15 “(B) not more than \$25,000,000 in each
 16 fiscal year shall be available to the Secretary of
 17 Commerce for expenses incurred by, and activi-
 18 ties related to, response and damage assess-
 19 ment capabilities of the National Oceanic and
 20 Atmospheric Administration;”.

21 **SEC. 205. LIMITS ON LIABILITY.**

22 (a) INCREASE OF LIABILITY LIMITS.—Within 6
 23 months after the date of enactment of this Act, the Sec-
 24 retary, acting through the Commandant of the Coast
 25 Guard, shall by regulation revise the limits of liability

1 specified in section 1004(a) of that Act (33 U.S.C.
2 2704(a)) as follows:

3 (1) For a tank vessel under paragraph (1)—

4 (A) by substituting “\$2,400” for “\$1,200”
5 in subparagraph (A);

6 (B) by substituting “\$20,000,000” for
7 “\$10,000,000” in subparagraph (B)(i); and

8 (C) by substituting “\$6,000,000” for
9 “\$2,000,000” in subparagraph (B)(ii).

10 (2) For other vessels under paragraph (2)—

11 (A) by substituting “\$1,800” for “\$600”;
12 and

13 (B) by substituting “\$1,000,000” for
14 “\$500,000”.

15 (3) For offshore facilities other than deepwater
16 ports, by substituting “\$150,000,000” for
17 “\$75,000,000” in paragraph (3).

18 (b) INFLATION ADJUSTMENT.—Section 1004(d)(4)
19 of the Oil Pollution Act of 1990 (33 U.S.C. 2704(d)(4))
20 is amended by striking “significant”.

21 (c) FINANCIAL RESPONSIBILITY.—Section 1016(a)
22 of the Oil Pollution Act of 1990 (33 U.S.C. 2716(a)) is
23 amended—

24 (1) by striking “or” after the semicolon in
25 paragraph (1);

1 (2) by inserting “or” after the semicolon in
2 paragraph (2); and

3 (3) by inserting after paragraph (2) the fol-
4 lowing:

5 “(3) any tank vessel over 100 gross tons (ex-
6 cept a non-self-propelled vessel that does not carry
7 oil as cargo) using any place subject to the jurisdic-
8 tion of the United States;”.

9 **SEC. 206. LIABILITY FOR USE OF UNSAFE SINGLE-HULL**
10 **VESSELS.**

11 Section 1001(32) of the Oil Pollution Act of 1990
12 (33 U.S.C. 2702(d)) is amended by striking subparagraph
13 (A) and inserting the following:

14 “(A) VESSELS.—In the case of a vessel—

15 “(i) any person owning, operating, or
16 demise chartering the vessel; and

17 “(ii) the owner of oil being trans-
18 ported in a tank vessel with a single hull
19 after December 31, 2010, if the owner of
20 the oil knew, or should have known, from
21 publicly available information that the ves-
22 sel had a poor safety or operational
23 record.”.

1 **SEC. 207. RESCUE TUGS.**

2 Paragraph (5) of section 311(j) of the Federal Water
3 Pollution Control Act (33 U.S.C. 1321(j)) is amended by
4 adding at the end the following:

5 “(J) RESCUE TUGS.—

6 “(i) IN GENERAL.—The Secretary shall require
7 the stationing of a rescue tug in the entry to the
8 Strait of Juan de Fuca near Neah Bay and other
9 areas designated by the Secretary as areas where the
10 risk of oil spill and the remoteness of the area war-
11 rants. In selecting such areas for designation, the
12 Secretary shall consider the frequency of transits by
13 vessels required to prepare a response plan under
14 this paragraph, weather conditions, distance to exist-
15 ing Federally required response equipment and ves-
16 sels, and other relevant criteria.

17 “(ii) SHARED RESOURCES.—The Secretary may
18 authorize compliance with the rescue tug stationing
19 requirement of paragraph (1) through joint or
20 shared resources between or among entities to which
21 this subsection applies.

22 “(iii) STATE REQUIREMENTS.—Nothing in this
23 subparagraph preempts the authority of any State to
24 require the stationing of rescue tugs in any area
25 under State law or regulations.”.

1 **SEC. 208. INTERNATIONAL EFFORTS ON ENFORCEMENT.**

2 The Secretary, in consultation with the heads of other
3 appropriate Federal agencies, shall ensure that the Coast
4 Guard pursues stronger enforcement in the International
5 Maritime Organization of agreements related to oil dis-
6 charges, including joint enforcement operations, training,
7 and stronger compliance mechanisms.

8 **SEC. 209. INVESTMENT OF AMOUNTS IN DAMAGE ASSESS-**
9 **MENT AND RESTORATION REVOLVING FUND.**

10 The Secretary of the Treasury shall invest such por-
11 tion of the damage assessment and restoration revolving
12 fund described in title I of the Departments of Commerce,
13 Justice, and State, the Judiciary, and Related Agencies
14 Appropriations Act, 1991 (33 U.S.C. 2706 note) as is not,
15 in the Secretary's judgment, required to meet current
16 withdrawals in interest-bearing obligations of the United
17 States in accordance with section 9602 of the Internal
18 Revenue Code of 1986.

19 **TITLE III—RESEARCH AND**
20 **MISCELLANEOUS REPORTS**

21 **SEC. 301. FEDERAL OIL SPILL RESEARCH COMMITTEE.**

22 (a) **ESTABLISHMENT.**—There is established a com-
23 mittee to be known as the Federal Oil Spill Research Com-
24 mittee.

25 (b) **MEMBERSHIP.**—The members of the Committee
26 shall be designated by the Undersecretary of Commerce

1 for oceans and Atmosphere and shall include representa-
2 tives from the National Oceanic and Atmospheric Admin-
3 istration, the United States Coast Guard, the Environ-
4 mental Protection Agency, and such other Federal agen-
5 cies as the President may designate. A representative of
6 the National Oceanic and Atmospheric Administration,
7 designated by the Undersecretary, shall serve as Chair-
8 man.

9 (c) DUTIES.—The Committee shall coordinate a com-
10 prehensive program of oil pollution research, technology
11 development, and demonstration among the Federal agen-
12 cies, in cooperation and coordination with industry, uni-
13 versities, research institutions, State governments, tribal
14 governments, and other nations, as appropriate, and shall
15 foster cost-effective research mechanisms, including the
16 joint funding of research.

17 (d) REPORTS TO CONGRESS.—

18 (1) Not later than 180 days after the date of
19 enactment of this Act, the Committee shall submit
20 to Congress a report on the current state of oil spill
21 prevention and response capabilities that—

22 (A) identifies current research programs
23 conducted by governments, universities, cor-
24 porate entities;

1 (B) assesses the current status of knowl-
2 edge on oil pollution prevention, response, and
3 mitigation technologies;

4 (C) establishes national research priorities
5 and goals for oil pollution technology develop-
6 ment related to prevention, response, mitiga-
7 tion, and environmental effects;

8 (D) identifies regional oil pollution re-
9 search needs and priorities for a coordinated
10 program of research at the regional level devel-
11 oped in consultation with the State and local
12 governments, tribes;

13 (E) assesses the current state of spill re-
14 sponse equipment, and determines areas in
15 need of improvement including amount, age,
16 quality, effectiveness, or necessary technological
17 improvements;

18 (F) assesses the current state of real time
19 data available to mariners, including water
20 level, currents and weather information and
21 predictions, and assesses whether lack of timely
22 information increases the risk of oil spills; and

23 (G) includes such recommendations as the
24 Committee deems appropriate.

1 (2) QUINQUENNIAL UPDATES.—The Committee
2 shall submit a report every fifth year after its first
3 report under paragraph (1) updating the informa-
4 tion contained in its previous report under this sub-
5 section.

6 (e) ADVICE AND GUIDANCE.—The Committee shall
7 accept comments and input from State and local govern-
8 ments, Indian tribes, industry representatives, and other
9 stakeholders.

10 (f) NATIONAL ACADEMY OF SCIENCE PARTICIPA-
11 TION.—The Chairman, through the National Oceanic and
12 Atmospheric Administration, shall contract with the Na-
13 tional Academy of Sciences to—

14 (1) provide advice and guidance in the prepara-
15 tion and development of the research plan; and

16 (2) assess the adequacy of the plan as sub-
17 mitted, and submit a report to Congress on the con-
18 clusions of such assessment.

19 (g) RESEARCH AND DEVELOPMENT PROGRAM.—

20 (1) IN GENERAL.—The Committee shall estab-
21 lish a program for conducting oil pollution research
22 and development. Within 180 days after submitting
23 its report to the Congress under subsection (c), the
24 Committee shall submit to Congress a plan for the
25 implementation of the program.

1 (2) PROGRAM ELEMENTS.—The program estab-
2 lished under paragraph (1) shall provide for re-
3 search, development, and demonstration of new or
4 improved technologies which are effective in pre-
5 venting, detecting, or mitigating oil discharges and
6 which protect the environment, and include—

7 (A) high priority research areas described
8 in the report;

9 (B) environmental effects of acute and
10 chronic oil spills;

11 (C) long-term effects of major spills and
12 the long-term cumulative effects of smaller en-
13 demic spills;

14 (D) new technologies to detect accidental
15 or intentional overboard discharges;

16 (E) response capabilities, such as improved
17 booms, oil skimmers, and storage capacity;

18 (F) methods to restore and rehabilitate
19 natural resources damaged by oil discharges;
20 and

21 (G) research and training, in consultation
22 with the National Response Team, to improve
23 industry's and Government's ability to remove
24 an oil discharge quickly and effectively.

25 (h) GRANT PROGRAM.—

1 (1) IN GENERAL.—The Undersecretary of Com-
2 merce for Oceans and Atmosphere shall manage a
3 program of competitive grants to universities or
4 other research institutions, or groups of universities
5 or research institutions, for the purposes of con-
6 ducting the program established under subsection
7 (g).

8 (2) APPLICATIONS AND CONDITIONS.—In con-
9 ducting the program, the Undersecretary—

10 (A) shall establish a notification and appli-
11 cation procedure;

12 (B) may establish such conditions, and re-
13 quire such assurances, as may be appropriate to
14 ensure the efficiency and integrity of the grant
15 program; and

16 (C) may make grants under the program
17 on a matching or nonmatching basis.

18 (i) FACILITATION.—The Committee may develop
19 memoranda of agreement or memoranda of understanding
20 with universities, States, or other entities to facilitate the
21 research program.

22 (j) ANNUAL REPORTS.—The chairman of the Com-
23 mittee shall submit an annual report to Congress on the
24 activities carried out under this section in the preceding

1 fiscal year, and on activities proposed to be carried out
2 under this section in the current fiscal year.

3 (k) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary of Com-
5 merce to carry out this section—

6 (1) \$200,000 for fiscal year 2007, to remain
7 available until expended, for contracting with the
8 National Academy of Sciences and other expenses
9 associated with developing the report and research
10 program; and

11 (2) \$2,000,000 for each of fiscal years 2007,
12 2008, and 2009, to remain available until expended,
13 to fund grants under subsection (h).

14 (l) COMMITTEE REPLACES EXISTING AUTHORITY.—
15 The authority provided by this section supersedes the au-
16 thority provided by section 7001 of the Oil Pollution Act
17 of 1990 (33 U.S.C. 2761) for the establishment of the
18 Interagency Committee on Oil Pollution Research under
19 subsection (a) of that section, and that Committee shall
20 cease operations and terminate on the date of enactment
21 of this Act.

22 **SEC. 302. GRANT PROJECT FOR DEVELOPMENT OF COST-**
23 **EFFECTIVE DETECTION TECHNOLOGIES.**

24 (a) IN GENERAL.—Not later than 180 days after the
25 date of enactment of this Act, the Secretary of Homeland

1 Security shall, by regulation, establish a grant program
2 for the development of cost-effective technologies for de-
3 tecting discharges of oil from vessels including infrared,
4 pressure sensors, and remote sensing.

5 (b) MATCHING REQUIREMENT.—The Federal share
6 of any project funded under subsection (a) may not exceed
7 50 percent of the total cost of the project.

8 (c) REPORT TO CONGRESS.—Not later than 3 years
9 after the date of enactment of this Act the Secretary shall
10 provide a report to the Senate Committee on Commerce,
11 Science, and Transportation, and to the House of Rep-
12 resentatives Committee on Transportation and Infrastruc-
13 ture on the results of the program.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary to carry
16 out this section \$5,000,000 for each of fiscal years 2007,
17 2008, and 2009, to remain available until expended.

18 **SEC. 303. STATUS OF IMPLEMENTATION OF RECOMMENDA-**
19 **TIONS BY THE NATIONAL RESEARCH COUN-**
20 **CIL.**

21 (a) IN GENERAL.—Within 90 days after the date of
22 enactment of this Act, the Secretary shall provide a report
23 to the Senate Committee on Commerce, Science, and
24 Transportation and the House of Representatives Com-
25 mittee on Transportation and Infrastructure on whether

1 the Coast Guard has implemented each of the rec-
2 ommendations directed at the Coast Guard, or at the
3 Coast Guard and other entities, in the following National
4 Research Council reports:

5 (1) “Double-Hull Tanker Legislation, An As-
6 sessment of the Oil Pollution Act of 1990”, dated
7 1998.

8 (2) “Oil in the Sea III, Inputs, Fates and Ef-
9 fects”, dated 2003.

10 (b) CONTENT.—The report shall contained a detailed
11 explanation of the actions taken by the Coast Guard pur-
12 suant to the National Research Council reports. If the
13 Secretary determines that the Coast Guard has not fully
14 implemented the recommendations, the Secretary shall in-
15 clude a detailed explanation of the reasons any such rec-
16 ommendation has not been fully implemented, together
17 with any recommendations the Secretary deems appro-
18 priate for implementing any such non-implemented rec-
19 ommendation.

20 **SEC. 304. GAO REPORT.**

21 Within 1 year after the date of enactment of this Act,
22 the Comptroller General shall provide a written report
23 with recommendations for reducing the risks and fre-
24 quency of releases of oil from vessels (both intentional and
25 accidental) to the Senate Committee on Commerce,

1 Science, and Transportation and the House of Represent-
2 atives Committee on Transportation and Infrastructure
3 that includes the following:

4 (1) CONTINUING OIL RELEASES.—A summary
5 of continuing sources of oil pollution from vessels,
6 the major causes of such pollution, the extent to
7 which the Coast Guard or other Federal or State en-
8 tities regulate such sources and enforce such regula-
9 tions, possible measures that could reduce such re-
10 leases of oil.

11 (2) DOUBLE HULLS.—

12 (A) A description of the various types of
13 double hulls, including designs, construction,
14 and materials, authorized by the Coast Guard
15 for United States flag vessels, and by foreign
16 flag vessels pursuant to international law, and
17 any changes with respect to what is now au-
18 thorized compared to the what was authorized
19 in the past.

20 (B) A comparison of the potential struc-
21 tural and design safety risks of the various
22 types of double hulls described in subparagraph
23 (A) that have been observed or identified by the
24 Coast Guard, or in public documents readily
25 available to the Coast Guard, including suscep-

1 tibility to corrosion and other structural con-
2 cerns, unsafe temperatures within the hulls, the
3 build-up of gases within the hulls, ease of in-
4 spection, and any other factors affecting reli-
5 ability and safety.

6 (3) ALTERNATIVE DESIGNS FOR NON-TANK
7 VESSELS.—A description of the various types of al-
8 ternative designs for non-tank vessels to reduce risk
9 of an oil spill, known effectiveness in reducing oil
10 spills, and a summary of how extensively such de-
11 signs are being used in the United States and else-
12 where.

13 (4) RESPONSE EQUIPMENT.—An assessment of
14 the sufficiency of oil pollution response and salvage
15 equipment, the quality of existing equipment, new
16 developments in the United States and elsewhere,
17 and whether new technologies are being used in the
18 United States.

19 **SEC. 305. OIL TRANSPORTATION INFRASTRUCTURE ANAL-**
20 **YSIS.**

21 The Secretary of the Department of Homeland Secu-
22 rity shall, in conjunction with the Secretary of Commerce,
23 the Secretary of Transportation, the Administrator of the
24 Environmental Protection Agency, and the heads of other
25 appropriate Federal agencies, contract with the National

1 Research Council to conduct an analysis of the condition
2 and safety of all aspects of oil transportation infrastruc-
3 ture in the United States, and provide recommendations
4 to improve such safety, including an assessment of the
5 adequacy of contingency and emergency plans in the event
6 of a natural event.

○