in place for future similar spills in these deepwater areas. We also need to review the current oil and gas regulations and ensure that we have safety and environmental protections in place for all types of onshore and offshore operations and facilities.

This legislation will help to make sure we are better prepared going forward, and I ask my colleagues to join me in supporting this legislation.

I am pleased that Title VII of this legislation, the "Oil Spill Accountability and Environmental Protection Act of 2010," was largely taken from the bill that the Committee on Transportation and Infrastructure passed out of committee. This title covers a number of areas of critical concern: liability provisions; safety measures; and provisions to protect the environment.

The legislation makes much-needed changes to the liability caps for both offshore oil facilities, as well as vessels. With regard to oil facilities, liability caps for economic damages are removed. This is as it should be.

This provision eliminates future incentives for oil companies to ignore the true impacts of their activities and engage in riskier behavior than they otherwise would. As a Congress, we should not enable or subsidize risky behavior on the part of companies simply because they want to do something.

This legislation also includes a number of other important safety and environmental provisions.

It requires that, going forward, there is one individual in true control of the safety of the vessel—and conflicting lines of authority will not result in mishaps, as with the Deepwater Horizon.

This legislation also forces EPA to take a much more rigorous look at oil spill dispersants than has been the case in the past. It is my view that there is a time and a place for the use of some dispersants.

However, it is altogether disturbing that such large volumes of dispersants have been used at the Deepwater site (1,843,786 gallons to date), while so little is known about their impacts to human health, water quality, and marine life.

As a result, we are requiring that EPA study the potential impacts of given dispersants to human health and the environment, get independent verification of effectiveness and toxicity, and then allow for the public disclosure of the chemical ingredients for any product that is "pre-approved" for use. Finally, EPA approval will be required for any use of a dispersant in relation to a future oil spill.

I urge all Members of the House to join with me in supporting this well-considered legislation.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 1 minute to the gentlelady from Wyoming (Mrs. LUMMIS), a member of the committee.

Mrs. LUMMIS. Mr. Chairman, Americans want the spill cleaned up, BP to pay for it, jobs to be restored, and the Federal Government to do a better job of inspecting for worker safety and environmental safety. To my colleagues in the majority party, we agree. Take ''yes'' for an answer.

But what does this bill do? It raises taxes, it removes the BLM land managers from doing land management and over the objection of the Director of the Bureau of Land Management. Only Congress would view this bill as a response to what Americans want.

No wonder Congress has an approval rating of 11 percent. This is nuts, Mr. Chairman. This is nuts.

The CHAIR. The gentleman from Washington State (Mr. HASTINGS) has 9½ minutes remaining. The gentleman from Florida (Mr. MICA) has 7 minutes remaining. The gentleman from Minnesota (Mr. OBERSTAR) has 1½ minutes remaining. The gentleman from West Virginia (Mr. RAHALL) has 10½ minutes remaining.

Mr. RAHALL. Mr. Chairman, I yield myself 15 seconds.

The other side is cherry-picking the letter from the Congressional Budget Office. The gentleman from Tennessee was giving quotes from it, as far as what this conservation fee does, et cetera, and also nothing to do in this legislation. We jettisoned the part related to uranium leasing.

But the bottom line is that CBO estimates that enacting H.R. 3534 would reduce future deficits by $5.3 billion.

I yield 1 minute to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chair, the huge human and environmental catastrophe has brought to light glaring deficiencies in the way we oversee, regulate, and hold accountable those who produce oil and gas on our public lands.

This bill will accomplish several good things such as imposing safety standards on drilling and strengthening the Land and Water Conservation Fund thanks to Chairman RAHALL. It is important that it will also clarify and improve liability laws thanks to Mr. OBERSTAR.

Under the current law, BP is responsible for the removal costs of the spill. They are liable only for $75 million, however, for economic and natural resource damages. For a spill of this magnitude, a limit as low as $75 million is laughable.

After the spill began, I led 85 of my colleagues in introducing the Big Oil Bailout Prevention Act, which would raise the liability cap now and retroactively. Of course the polluters should pay. The escrow account created by the administration and BP will have a short-term fix, but the CLEAR Act will ensure that BP is legally liable for all economic and natural resource damages it has caused. The public will know the buck stops with the oil companies, that the costs will not spill over to taxpayers.

I urge my colleagues to support this.

The CHAIR. The Committee will rise informally.

The Speaker pro tempore (Mr. STUPAK) assumed the chair.

ENROLLED BILLS SIGNED

Ms. Lorraine C. Miller, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5874. An act making supplemental appropriations for the United States Patent and Trademark Office for the fiscal year ending September 30, 2010, and for other purposes.

H.R. 5900. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend airport improvement program project grant authority and to improve airline safety, and for other purposes.

The SPEAKER pro tempore. The Committee will resume its sitting.

CONSOLIDATED LAND, ENERGY, AND AQUATIC RESOURCES ACT OF 2010

The Committee resumed its sitting.

Mr. MICA. I am pleased to yield at this time 2 minutes to the gentleman from North Carolina (Mr. COBLE), another one of our leaders in the T&I Committee.

Mr. COBLE. I want to thank the gentleman from Florida for yielding.

Mr. Chairman, the Deepwater Horizon oil spill is a horrific tragedy, as we all know; and I want to make certain the responsible parties are held accountable. I also want to ensure that we understand what went wrong to prevent future tragedies. Although I support domestic energy exploration, we need legislation that is focused and implements lessons learned, and the CLEAR Act, in my opinion, does not meet these principles.

Specifically, it adds yet another task to the Coast Guard mission without providing the tools necessary to get the job done. I firmly believe the Coast Guard can do its part, but it is our responsibility to make sure that they have the personnel, command structure, and resources to meet its multifaceted mission.

The bill also diminishes intellectual property rights. Its mandatory publication requirements for chemical dispersants will eviscerate a number of trade secrets and undermine competitiveness in the chemical industry, it seems to me. It makes no sense to discard trade secrets in the name of protecting the public when the EPA already has such authority and jurisdiction to test, inspect, and approve these products.

Finally, this legislation will create new impediments for tapping into our domestic energy supply, make us more reliant upon foreign sources of energy, and compromise jobs.

Mr. Chairman, I reiterate, we must address this catastrophe. The CLEAR Act, however, is the wrong approach for the gulf coast, our economy, and my constituents' wallets.

I thank the gentleman from Florida again for yielding.

Mr. HASTINGS of Washington. Mr. Chairman, I'm pleased to yield 1 minute to the gentleman from Louisiana (Mr. FLEMING), a member of the Natural Resources Committee.

Mr. FLEMING. I thank the gentleman.

Mr. Chairman, on the CLEAR Act, in my opinion, this is a textbook case on how to kill jobs and raise energy prices.

Reforms are needed to ensure American offshore drilling will be the safest in the world, but this bill is extremely premature. The investigations are still ongoing, and we do not have the answers to the question, what went wrong?

I am greatly concerned, too, that this will further harm Louisiana. The State of Louisiana has estimated that a moratorium like the one currently imposed could result in a loss of more than 20,000 Louisiana jobs. Rigs are already leaving the gulf for countries like Egypt and the Congo. Yet today's bill imposes a permanent de facto moratorium by including provisions to delay or block offshore drilling and imposing taxes that will raise energy costs. Killing jobs and raising energy prices are the wrong direction.

I urge my colleagues to vote against the CLEAR Act.

Mr. RAHALL. Mr. Chairman, it is my honor to yield 1 minute to the gentlelady from California (Mrs. CAPPS), who has been so instrumental in development of this legislation and a valued member of our Natural Resources Committee.

Mrs. CAPPS. Mr. Chairman, I rise in strong support of the CLEAR Act, and I say this as the Representative of the Santa Barbara channel which Chairman RAHALL referred to as the scene of the big blowout of platform A in 1969.

BP's oil spill is an unprecedented human, economic, and environmental disaster. BP must do everything possible to clean up its damage and make the people of the gulf whole. But this catastrophe is also a sobering reminder of the serious risks from drilling. We can't stop drilling overnight, but we can do everything in our power to ensure that such a disaster never happens again.

That's why we must pass the CLEAR Act. It breaks up the scandal-ridden MMS, increases penalties for polluters, places new safety and environmental standards on oil companies, pays down the deficit by closing loopholes that allow oil companies to drill on the public's land without paying royalties, creates a new trust fund to protect and improve our oceans, provides the Presidential commission looking into the accident with subpoena power.

Once again, this Congress is acting to protect America's families and businesses, rebuild the gulf coast, hold BP accountable. Let's vote to ensure that a spill of this kind never happens again. Vote ''yes'' on the CLEAR Act.

BP's oil spill is an unprecedented environmental disaster that has tragically resulted in the loss of human life and great economic harm.

BP must do everything possible to clean up the damage and make the people of the Gulf whole.

But the catastrophe is also a sobering reminder of the serious risks from oil drilling.

We need a safer, cleaner, more economical approach to energy development, one that shifts us away from oil and toward renewable sources that can't destroy our coasts.

While we can't stop drilling overnight, we can do everything in our power to ensure that such a disaster never happens again.

This Democratic-led Congress has vigorously investigated BP's spill and offshore drilling.

We've exposed our broken regulatory system.

Always a dysfunctional agency, MMS management reached new lows during the Bush Administration.

An Inspector General report, for example, raised serious concerns about the, ''ease with which safety inspectors move between industry and government.''

Oil companies were allowed to cut corners on safety and environmental protection.

And virtually no effort was put into preventing accidents and improving spill response technologies.

Basically, offshore drilling decisions were being made by the oil companies for their benefit instead of the public's.

Sadly, the people in the Gulf are now paying the price.

That's why it's time to pass the CLEAR Act.

The CLEAR Act breaks up the scandal-ridden MMS, increases penalties for polluters, and places new standards on oil companies to prevent another blowout.

It also pays down the deficit by closing loopholes that allow oil companies to drill on the public's land without paying royalties.

It creates a new trust fund to protect and improve our ocean and coastal areas.

And it gives the Presidental Commission investigating the BP spill subpoena power to make sure it can get to the bottom of what actually happened.

Mr. Chairman, there are lots of reasons for us to pass this bill.

But my greatest hope is that some good can come out of this tragedy.

Finally freeing ourselves from our costly oil addiction is the only fitting tribute to the terrible tragedy being borne by the people of the Gulf.

Vote ''yes'' on the CLEAR Act.

□ 1410

Mr. MICA. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. OLSON), another one of our distinguished members from T&I.

Mr. OLSON. I thank my colleague from Florida for giving me a couple of minutes to talk about the problems with this energy bill.

Mr. Chairman, there are parts of this bill that are well-intentioned, but they miss the mark—particularly the language in this bill regarding the moratorium on offshore drilling. Thirty-three rigs were affected by this moratorium when it was imposed shortly after the explosion on the Deepwater Horizon rig. Since that time, these rigs have been incurring somewhere upwards of $500,000 a day in expenses just while they're not doing any production. There are very few companies, very few entities in our economy, that can incur over $90 million in expenses if this moratorium runs out for the 6-month period that it's supposed to run. And there's no guarantee that it's going to end within 6 months.

Predictably—and I've been banging this drum for almost 2 months now—these rigs are going to move overseas and it's starting to happen. The first rig went to Egypt. It was a rig from Diamond Offshore.

Let me read a quote from their CEO, Larry Dickerson, as he talked about why they were moving this rig overseas. Mr. Dickerson said, ''As a result of the uncertainties surrounding the offshore drilling moratorium, we are actively seeking opportunities to keep our rigs fully employed internationally. We greatly regret the loss of U.S. jobs that will result from this rig relocation.''

Again let me read that last sentence: ''We greatly regret the loss of U.S. jobs that will result from this rig relocation.''

Mr. Chairman, this is not what the American economy needs right now. We need to ensure we're independent from foreign oil. We can't be exporting jobs overseas. This is a job-killing bill that's coming before this House and I oppose it.

Another problem I have with the bill that has been introduced here is the change in liability limits. By changing the liability limits, this bill will effectively squeeze out all the small and medium operators in the gulf, resulting in the loss of thousands of jobs.

If you like Big Oil, this bill is your bill. I am strongly opposed to that. We need to create American jobs. Not ending this moratorium and this changing liability limits is not in America's best interests.

Mr. OBERSTAR. Mr. Chairman, I yield the balance of my time to the gentleman from New York (Mr. NADLER).

The CHAIR. The gentleman is recognized for 1½ minutes.

Mr. NADLER of New York. Mr. Chairman, I rise in support of the CLEAR Act of 2010 to respond to the BP oil spill in the Gulf of Mexico.

Mr. Chairman, one of the many important provisions of this bill requires the EPA to do a new rulemaking procedure to establish baseline levels of toxicity and effectiveness that takes into account a study of the acute and chronic risks posed by the use of toxic dispersants. Quite simply, the EPA must determine whether or not it's safe to use these dispersants. Not just which dispersant is the safest, but whether or not they're safe at all.

I offered an amendment in the Transportation Committee to ban the use of these toxic dispersants until the rulemaking and study in the bill determine they are safe. I am very pleased that my amendment is included in the final bill before us today and I thank Chairman OBERSTAR for his support.

The fact is that nobody today can guarantee that dispersants are safe.

The only thing dispersants seem to do is push the oil below the surface, making it harder to see the damage and determine liability and making it harder to boom and skim the oil off the surface. The only benefit seems to be for PR purposes.

Dispersants simply shift the oil to another part of the ecosystem while increasing the toxins in the gulf harming marine life and contaminating the water column. In fact, researchers have recently found evidence of dispersants in blue crab larvae from Louisiana to Florida, indicating the dispersants have already made their way into the food chain.

Let us never again perform a large uncontrolled experiment with a huge population of people and an entire ocean as the experimental test vehicle. Let us be sure that the dispersants are safe before we subject the marine life and the human population to them.

Mr. Chair, I rise in support of the Consolidated Land, Energy and Aquatic Resources (CLEAR) Act of 2010 to respond to the BP oil spill in the Gulf of Mexico.

There are many important provisions in this bill, such as the increased safety regulations for offshore oil rigs, the elimination of the liability cap and the inclusion of damages for human health in the Oil Pollution Act. In the interest of time, I want to focus my comments on the provisions dealing with the controversial use of toxic dispersants.

This bill requires the EPA to do a new rulemaking procedure to establish baseline levels of toxicity and effectiveness that takes into account a study of the acute and chronic risks posed by the use of dispersants. Quite simply, the EPA should determine whether or not it's safe to use these dispersants. And not just which one is the safest, but whether or not they're safe at all. This is what should have been done in the first place, and it is important that we make sure it is done moving forward.

I offered an amendment to the bill in the Transportation Committee to impose a moratorium on the use of these toxic dispersants until the rulemaking and study in the bill are complete. I am very pleased that my amendment is included in the final bill before us today, and I thank Chairman OBERSTAR for his support and willingness to advance this critical public health and environmental protection.

The fact is there is no scientific evidence that dispersants can be effective in an oil spill of this magnitude, and nobody can guarantee they are safe. I have heard experts and agency officials argue the contrary. Well, if these dispersants really are safe, then there should be no problem proving so under the terms of the bill. In the meantime, we should not presume these toxic dispersants are safe, and we should not use the Gulf or anywhere else that suffers an oil spill as an experimental laboratory.

The only thing dispersants seem to do is push the oil below the surface making it harder to see the damage and determine liability, and making it harder to boom and skim the oil off the surface. The only benefit seems to be for PR purposes.

Dispersants simply shift the oil to another part of the ecosystem, while increasing the toxins in the Gulf, harming marine life, and contaminating the water column. In fact, researchers from Tulane and the University of Southern Mississippi have found evidence of dispersants in blue crab larvae from Louisiana to Florida indicating that it has already made its way into the food chain.

So far, over 1.8 million gallons of dispersant have been used in the Gulf, and people are getting sick—from the dispersants, from the oil, or from some mixture of the two. There is already a name for the illness that plagues many of these people—toxicant-induced loss of tolerance, or TILT—in which you can no longer tolerate exposures to household chemical products, medication or even food. There are numerous reports of people being hospitalized, and several health experts are concerned that this is just the beginning. A group of fishermen has filed a class action lawsuit against BP and the dispersant manufacturer, and another personal injury lawsuit was just filed by Gulf Coast residents who have suffered adverse health effects from exposure to these toxins.

As many of you know, I have been greatly concerned that we are repeating the same mistakes of 9/11 where thousands of responders and area residents are now sick after the failure of the Federal Government to provide adequate oversight or enforcement to prevent exposure to toxic chemicals. Luckily, in the case of the Gulf Oil Spill, BP is the clearly responsible party. However, it is up to us to ensure that BP and the dispersant makers are not allowed to evade liability or shift the cost to the taxpayers for any potential health effects. But more importantly, we must do everything we can to prevent people from getting sick in the first place.

This bill makes significant progress to protect the safety and wellbeing of public health and the environment. I thank Chairman OBERSTAR and Chairman RAHALL for their hard work and commitment to these issues. I urge all my colleagues to support the bill.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Louisiana (Mr. CASSIDY), a member of the Natural Resources Committee.

Mr. CASSIDY. Mr. Chairman, supposedly today we unite to bring relief to gulf coast families. But I tell you, if you vote for this bill, there is no unity with gulf coast families. This bill actually prolongs the misery of the gulf coast. It kills jobs.

How does it do so? It raises taxes on domestic oil and gas but not on foreign. We're going to prejudice towards a foreign product. It's a reverse tariff. Call it a jobs program for OPEC.

Now the $22 billion that we raise, by the way, isn't to benefit the gulf. It's to buy parkland across the United States. So when everybody says we're going to raise $22 billion for the gulf, they're raising $22 billion for parklands across the United States.

And now we're going to raise the liability caps because we're going to stick it to Big Oil. We're not sticking it to Big Oil. What we're doing is we're sticking it to small and medium size independent producers who control 90 percent of the leases and, by the way, create 300,000 jobs. This bill kills jobs.

And what is most egregious is the ''Buy American'' provision. We're not only helping the gulf; we're patriotic. Oh, my gosh. But let's look at it.

We haven't built a deepwater rig from beginning to end in over 10 years in the United States. By June of 2011, we've got to create the infrastructure and put out the rigs in order to drill. Now what we do do here is the high value-added, high-tech buildup on top of the hull type job. Those are gone because we don't have the capability to build the hull.

This bill is supposed to help the Louisiana gulf coast. The Louisiana gulf coast says, ''Keep your help. We would rather have our jobs.''

Mr. RAHALL. May I have the time on all sides, please, Mr. Chairman, and who has the right to close.

The CHAIR. The gentleman from West Virginia has 8¼ minutes remaining and the right to close. The gentleman from Florida has 3½ minutes remaining. The gentleman from Washington has 7 minutes remaining.

Mr. RAHALL. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. KIND), a valued member of our Committee on Natural Resources and very helpful in our efforts to preserve the Land and Water Conservation Fund.

(Mr. KIND asked and was given permission to revise and extend his remarks.)

Mr. KIND. Mr. Chairman, our vote today is a very simple choice. It's a choice of whether we're going to stand with the workers of the oil and gas industry, with the families of the gulf region, with the taxpayers of this country, or whether we choose to stand with the powerful special interests known as Big Oil. I choose to stand with the American people. And here is why.

This legislation is going to increase safety standards to protect workers. It's going to increase the liability limits so that those responsible pay. It's going to reform the ethics standards to end the revolving door between industry and oversight functions. And it's also going to live up to the promise of funding the Land and Water Conservation Fund so that those companies extracting resources on our public lands help conserve and protect our natural resources.

In a little bit, I and others will offer an amendment under the Land and Water Conservation Fund so that a dedicated portion of that increases access for hunters, fishermen and outdoor recreationists to the 35 million acres that are currently cut off and isolated from our use.

This is a good bill. It's necessary in the shadow of the worst oil disaster in our Nation's history. I encourage my colleagues to support it and the amendment that I will be offering.

□ 1420

Mr. MICA. I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 1

minute to the gentleman from Louisiana (Mr. SCALISE), a member of the Energy and Commerce Committee.

Mr. SCALISE. Mr. Speaker, I want to thank the gentleman from Washington for yielding.

I rise in opposition to the CLEAR Act, and the only thing clear about this legislation is that it's going to raise $22 billion in new taxes on American families and run more jobs overseas.

If you look at the bill, first of all, when you talk about their $22 billion tax, which, by the way, is yet one more violation of President Obama's pledge that he won't tax American families that make below $250,000, because they are going to pay the bulk of their new tax. It also discriminates by only applying it to American energy producers.

As people's heating bills are going to be going up in the winter, and their gas bills are going to be going up all throughout the year, they are going to be wondering, what is this liberal leadership running Congress doing? They are raising taxes on American families and running off more jobs when the provisions in this bill actually make it harder for our domestic energy producers to continue operating because the bill preserves Big Oil's ability to bid on future leases. But it eliminates 70 percent of their competition, the small domestic guys who are out there doing the same kind of drilling in a safe and environmentally friendly way. It's bad for jobs. It raises $22 billion in new taxes. This isn't the answer to help the gulf. It only helps OPEC.

Mr. RAHALL. I reserve the balance of my time.

Mr. MICA. I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. BOUSTANY).

Mr. BOUSTANY. I thank the gentleman for yielding.

Mr. Chairman, we in Louisiana have seen this tragedy firsthand, and we know about it more than anybody else in this Chamber.

I will say this, there is an even bigger tragedy, it's the moratorium that's in place today which is leading to a hemorrhage of jobs. Just a couple of days ago, 300 jobs in my hometown gone, 300, and each day it's ratcheting up to a thousand jobs a day.

This is a tragedy. It's a man-made tragedy. It's awful policy. I will tell you, this bill, on top of that tragedy, is going to add to more woe on the gulf coast, running up the cost of American energy production, killing more jobs.

Let me just say this: the President said he wanted to double exports in 5 years. Well, his policies and the policies of our friends across the aisle are going to basically export American jobs.

Mr. RAHALL. Mr. Chairman, I am very honored to yield 30 seconds to the chairman of the Education and Labor Committee in honor of the Whistleblower Act, a member of our Natural Resources Committee, the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. I thank the chairman for this legislation, and I am very happy that this legislation includes a responsible bidder so that the American people will know that those companies that bid on the Outer Continental Shelf, those lands that belong to all Americans, that the companies will be responsible, that we will check their safety records.

We will not once again have a company like BP, which is out there with hundreds and hundreds of violations, while so many of the other companies that operate on the Outer Continental Shelf have minimal violations, one and two, and this company is completely out of control. We've got to make sure that the American taxpayer, that the American environment and the American Outer Continental Shelf are protected by responsible bidders.

Mr. MICA. Mr. Chairman, I yield 30 seconds to the gentleman from Louisiana (Mr. CAO).

Mr. HASTINGS of Washington. Mr. Chairman, I yield 1½ minutes to the gentleman.

The CHAIR. The gentleman from Louisiana is recognized for 2 minutes.

Mr. CAO. Mr. Chairman, for the past 3 months I have lived with my people down there in the gulf coast. I have cried with them, I have sat with them as they filed their claims. I went out in boats with them as they were cleaning up the oil, so I fully understand what my people need.

I appreciate the congressional leadership trying to address a bill that will help my people, but H.R. 3534 does not do it. This bill doesn't create jobs, it destroys them. This bill doesn't clean up our shorelines, it creates task forces and layers of bureaucracy that will talk about them.

This bill does not preserve our livelihood, it will devastate our way of life. This bill maintains a moratorium that is killing thousands of jobs in Louisiana.

Where is the short-term and long-term funding to protect our coastline and to restore the oyster beds in fishing areas? Where are the comprehensive short-term and long-term job transition plans for displaced workers? Where is the long-term plan to address the mental and public health crisis, including the compound effect of multiple crises?

Where are the jobs?

My colleagues and I tried to amend this bill to address these issues and make sure that these three critical areas, environmental, economic and health, were addressed in this bill. This bill does not protect the people of the gulf coast. It is fundamentally disingenuous to tout any bill not addressing these three areas as a comprehensive oil spill response bill.

My gulf coast colleagues and I will continue to fight for the needs of my people directly in harm's way.

Mr. RAHALL. I yield 1 minute to the gentleman from Maryland, a valued member of our Natural Resources Committee, Mr. SARBANES.

Mr. SARBANES. Mr. Chairman, I want to thank Chairman RAHALL for his leadership on this critical legislation. I was pleased to work with the chairman to ensure that CEOs of oil companies are held accountable for the safety of their company's drilling operations.

We developed language included in the legislation that requires oil company CEOs to certify their drilling and spill response plan capabilities before receiving a permit to proceed. That language has been further strengthened by adding a provision to impose civil penalties on any CEO that files a false certification.

Penalties of consequence will force CEOs to take this process seriously and make it significantly less likely that companies submit inferior or faulty plans. The best CEOs will take this requirement in stride, recognizing it is a fair expectation of them. This provision will ensure accountability and make it less likely that a spill of this consequence will happen in the first place.

I rise today in strong support of the Consolidated Land, Energy and Aquatic Resources Act (H.R. 3534). The legislation includes significant and wide-ranging reforms to ensure that oil and gas development on federal lands and waters is only done when it can be transparent and safe.

The BP Deepwater Horizon Oil Spill has reinforced my very serious concerns about the effect of offshore drilling on coastal communities and maritime ecosystems. The tragedy in the Gulf of Mexico, which claimed the life of 11 people and released millions of gallons of crude oil into a fragile marine ecosystem, is a sad reminder of the inherent safety, environmental, and economic risks associated with offshore drilling. Oil drilling operations, no matter how expensive or technologically advanced, can never completely eliminate the risk of a major disaster. Like other accidents in the past, the long-term impact of this spill on the Gulf coast's fragile wetlands and local fishing communities will be devastating and long lasting.

BP actually had a response plan to deal with the Gulf of Mexico oil spill. Unfortunately, it was a farce. The plan listed a wildlife expert that had been deceased since 2005 and said that sensitive biological resources in the Gulf included walruses, sea otters, sea lions and seals, none of which actually live there. BP also stated that it could handle a worst case oil discharge scenario 10 times the size of the Deepwater Horizon disaster. They clearly did not take this important responsibility seriously. Even when these glaring inaccuracies were made public, no single official at BP was responsible for the plan.

As this legislation was considered in the Committee on Natural Resources, I worked with Chairman RAHALL to include language making the CEO at each oil company directly responsible for certifying the safety and adequacy of their drilling and spill response plans. I also offered an amendment today, included in the manager's amendment, which would

subject the CEO to civil penalties if he or she files a false certification or their company fails to develop or maintain the capabilities included in their response plans. This requirement and the potential penalties should result in self-correcting behavior, forcing CEOs to take this process seriously and making it significantly less likely that companies submit inferior or faulty plans.

It is imperative that there be clear consequences for substandard response plans or we could have a repeat of the disaster that unfolded in the Gulf of Mexico this summer. Adding this amendment ensures there is accountability when a CEO certifies a faulty plan and makes it much more likely that companies will appropriately scrutinize those plans. I believe that responsible CEOs will recognize this new requirement for what it is—a very basic standard that should be a best practice for responsible companies anyway. But for those who try to cut corners, this framework will certainly give them pause because there are real consequences for irresponsible behavior.

I also strongly support the funding included in this bill for conservation of natural, historic and cultural sites around the Nation. The legislation allocates a small portion of offshore drilling fees to the Land and Water Conservation Fund for the preservation of vital land and water resources throughout the Nation. First envisioned by President Eisenhower, we have neglected this fund for far too long. Today this legislation delivers on past promises and supports the conservation of environmentally sensitive lands and critical habitat, especially shoreline areas such as those on the Chesapeake Bay. It also allows for conservation of rivers, lakes, recreational areas, and trails, as well as state and local parks for biking, hunting, fishing, and wildlife watching. Finally, the legislation provides resources for the Historic Preservation Fund to maintain our national historic sites that add so much to the character and culture of our Nation.

I strongly support this much needed legislation and I would encourage my fellow Members to support this bill.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Chairman, this bill is a thinly disguised roadblock, a permanent roadblock to American energy.

It will drive American companies out of the gulf, delay future drilling, increase dependence on foreign oil, kill 300,000 good-paying U.S. energy jobs and levy a new $22 billion tax on American energy, but not on foreign oil. It includes a protectionist measure that the White House itself is troubled about that invites retaliation, will kill U.S. jobs and prevent repairs from occurring in U.S. shipyards.

This is a choice between American energy workers and foreign oil. No Texas lawmaker, no gulf State lawmaker can support this bill and say they truly care about energy workers' jobs in America.

Mr. RAHALL. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. I rise to thank Chairwoman SLAUGHTER and Chairman RAHALL for accepting my amendment reaffirming the permanent ban on oil and gas drilling the in and under the Great Lakes.

I also want to thank Chairman MILLER for joining with me in adding protections from bad actors that pollute the environment, endanger worker safety and threaten the health and welfare of the public.

This legislation prevents these bad corporate actors from being awarded Federal leases and drilling permits. Whether it's BP in the Gulf of Mexico or Enbridge pipeline in Michigan, we need to give Federal regulators the flexibility to prevent oil companies with poor safety and environmental records from accessing our natural resources in reckless disregard for safety and our environment.

□ 1430

As chair of the Energy and Commerce Oversight Investigation Subcommittee, I have held four hearings on the Deepwater Horizon spill and uncovered serious problems of how BP cut corners to save money that led to the gulf oil spill. This legislation begins to correct these problems, and I urge my colleagues to vote for this legislation.

The CHAIR. The gentleman from West Virginia has 4¾ minutes remaining. The gentleman from Florida has 3 minutes remaining. The gentleman from Washington State has 2½ minutes remaining.

Mr. HASTINGS of Washington. Mr. Chairman, I am very pleased to yield 1 minute to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. I want to thank my colleague from Washington State for allowing me 1 minute.

Mr. Chairman, I rise in strong opposition to H.R. 3534, the CLEAR Act, because it will kill jobs, increase our reliance on foreign oil, and has become a vehicle for controversial and extraneous provisions that do not address the issues at hand—the safety of our offshore oil production.

I am proud to represent a district that does everything energy, from constituents who work offshore, to service companies, to refineries, to chemical plants downstream. I strongly support making production safer and cleaner, whether it's offshore, on land, or in our industrial facilities.

No one questions unlimited liability on the responsible party for all environmental cleanup costs, but this bill goes so far that it would make it unlimited also for whatever economic damage. What is going to happen is it will put at serious risk competitive investment in the Gulf of Mexico and potentially precipitate a future energy affordability crisis. Effective legislation can be achieved that will ensure the continued development of the gulf resources in a responsible and safe manner while preserving the ability of our independent oil and gas exploration and production companies to operate offshore.

This legislation will instead make it impossible for these producers, most of which are small businesses, to get insurance to drill and drive hundreds of production and servicing companies out of business.

This is the last thing the Gulf Coast and our recovering economy needs.

If you want to eliminate jobs and hundreds of small businesses, vote for this bill.

Secondly, this bill contains several extraneous provisions that have nothing to do with ensuring the safety of our offshore production. In football, we call this piling on.

Section 728 of the bill subjects oil and gas construction activities to storm water discharge permits—a regulatory requirement inappropriate for oil and gas operations, which could place entire projects and significant capital at risk and has nothing to do with safety.

This provision mischaracterizes the issue, placing preparatory steps for oil and gas production in the same category as building construction. These are two very different things.

The Department of Energy estimates that such regulation could result in the loss of future production up to ten percent of both current U.S. oil production and current U.S. natural gas production. Again, if you want to kill U.S. jobs, vote for this bill.

Section 802 of the bill imposes a conservation fee of $2 per barrel of oil, or 20 cents per million BTU of natural gas, for production from all new and existing federal onshore and offshore leases, a cost that will eventually be passed on to consumers.

While I am a member of the Sportsman's Caucus and a strong support of the Land and Water Conservation Fund, this fee targets onshore production, which has no place in a bill responding to the BP oil spill.

Section 241 compels companies to renegotiate their 1996–2000 deepwater royalty relief leases or else be ineligible to bid on new leases.

This has nothing to do with responding to the BP oil spill.

For these reasons and others, I strongly encourage my colleagues to vote against this bill.

This bill will kill jobs, hurt our domestic production, and has become a vehicle for controversial and extraneous provisions that do not address the issue at hand.

Mr. RAHALL. Mr. Chairman, I reserve the balance of my time.

Mr. MICA. Mr. Chairman, I am pleased to yield 1 minute to another gentleman from Texas affected by this, the distinguished gentleman, Mr. GOHMERT.

Mr. GOHMERT. Mr. Chairman, at a time when we're billions of dollars behind on what we need to spend to keep up our parks and the Federal land that's owned right now, this bill irresponsibly adds $900 million per year for 30 years. It's not enough that we're going to put children in debt for generations; now we're going to keep spending money they don't want spent. They want us to stop the bleeding so the body can get healthy again.

One thing about this CLEAR Act is clear: It's going to cause more people to lose jobs, it's going to hurt more State and local governments by buying more land the Federal Government can't take care of, but takes that land

off the rolls. Please, for goodness sake, let's stop the bleeding—and in this case the gushing forth of this Nation's blood and its tax dollars—and vote this down.

Mr. RAHALL. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE), another member of our Natural Resources Committee.

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Chairman, Republicans and Democrats mourned the losses in the gulf, and it is very disappointing that my Republican friends will not stand to try to prevent this tragedy.

The fact is, oil is killing the oceans in many ways—in one way, in a small way, by this giant oil slick, but in a large way because of carbon pollution. I just think we can't have this debate without recognizing this. In fact, every oil well that we drill puts carbon pollution in the atmosphere when we burn that oil. That carbon pollution then goes into the oceans, into solution, and that carbon pollution makes carbonic acid. The oceans today are 30 percent more acidic because of the oil we burn.

Let me show you what this has done to the bottom of the food chain. This is a picture of plankton, what happens when you expose it to ocean water that is as acidic as it will be at the end of the century; plankton dissolve in the water.

This bill is not too much; if anything, it is too little. Our Nation needs an energy policy so we stop carbon pollution. That is America's destiny.

The CHAIR. The gentleman from West Virginia has 3¾ minutes remaining. The gentleman from Florida has 2 minutes remaining. The gentleman from Washington State has 2½ minutes remaining.

Mr. HASTINGS of Washington. Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I am glad to yield 30 seconds to the distinguished chairman of the Defense Appropriations Subcommittee, Mr. DICKS.

(Mr. DICKS asked and was given permission to revise and extend his remarks.)

Mr. DICKS. Mr. Chairman, I rise in very strong support of this legislation.

My colleague, Congressman INSLEE from Washington State, talked about ocean acidification. This is one of the most serious issues that the planet faces. This legislation also will free up money, make it mandatory, and land and water conservation does preserve the right of the appropriations committee to appropriate that money, but we'll get those dollars that we haven't been getting before. We also have a provision in here for the oceans.

So this is a great bill. I urge all my colleagues to vote for it today.

Mr. MICA. Mr. Chairman, I reserve the balance of my time.

Mr. HASTINGS of Washington. I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. I appreciate the gentleman's courtesy.

Mr. Chairman, this is about keeping faith with the American public. It's not the end, but it's an important beginning.

Large oil companies pay some of the lowest fees to American taxpayers compared to what oil companies pay anywhere in the world while enjoying unnecessarily expensive, outmoded tax breaks. And some, by bookkeeping errors, pay no royalties at all while they extract oil. Under this legislation, they will have to choose between continuing this rip-off or getting future leases.

It will make the Land and Water Conservation Fund properly funded, making an impact on communities all across the country, and it leverages new resources. It does all this, as the chairman says, with a net benefit of deficit reduction of $5.3 billion over the next 5 years.

Protect the taxpayer, protect the environment, and improve our communities by approving this legislation.

Mr. MICA. Mr. Chairman, I yield myself the balance of my time to close for the T&I Committee.

The CHAIR. The gentleman is recognized for 2 minutes.

Mr. MICA. Mr. Chairman, I was hoping we could have come here in a bipartisan effort to pass legislation that would have made certain that the tragic spill, the loss of life, be prevented, that we never see that happen off America's shores again. We do need domestic oil production. We don't want to be beholden to foreign fossil fuels.

□ 1440

Unfortunately, this bill misses the mark. Unfortunately, this bill is the typical Democrat solution. It imposes huge taxes—$22 billion in taxes. It overregulates.

Yes, we want proper regulation. We saw where the mark was missed. We saw where the law did not keep up with technology. Though let me say we missed the mark, too, in holding people responsible. We must hold people responsible, and that is whether it is BP or anyone who had anything to do with this or whether it is the administration officials who stamped the permit allowing the drilling to proceed in deep water, as they did, without the proper protections of the environment.

Only 27 deepwater wells off the coast—only 27—have exploration, have production. This administration missed the mark. We want these people held responsible, and we also want it in law. You know, the guy who issued that permit, that one-page permit with a flawed backup cleanup for oil spills, is still on the job. He is in charge of the moratorium, which is another overreach that put people out of work, instead of being in charge of going down and making certain that the production and that those exploration wells were doing well.

They missed the mark. That is a shame for the American people, and it is a shame for the future of containing the tragedy we have seen here.

I yield back the balance of my time.

Mr. HASTINGS of Washington. I yield myself the balance of my time.

Mr. Chairman, this debate has been very interesting because most of the talk on the other side of the aisle has been on the oil spill. Most of the talk on this side of the aisle has been on the increased taxes and on the increased spending.

There is broad agreement that we have to respond in a responsible way to what happened, to the tragedy in the gulf. Nobody argues with that. There is broad support on this side. What we object to—and we have said this over and over and over again—is the extraneous material that is added to this bill.

I didn't hear anybody, for example, on the other side defend the huge tax increases that are embodied in this bill. I didn't hear anybody on the other side of the aisle defend the $30 billion entitlement that is embodied in this bill. That is what our concern is because that is in this bill. As a matter of fact, in my opening remarks, I made reference to the tax increases, and my good friend, the chairman of the Transportation Committee, wondered about the tax increases. I pointed them out to him. They're on page 224. To his credit, he came up here and said, You're right. I appreciate that very much because that really is what the issue is.

If you want to get bipartisan approval dealing with the gulf coast oil crisis, we can do that in a bipartisan way, but don't add extraneous material. That is our objection to this bill, because extraneous material is increased taxes, more spending, resulting in a loss of jobs.

I urge my colleagues to vote ''no'' on this bill, and I yield back the balance of my time.

The CHAIR. The gentleman from West Virginia has the right to close and has 2¼ minutes remaining.

Mr. RAHALL. Mr. Chairman, the Republicans are at it again—apologizing for Big Oil against the interests of the American people.

The fact of the matter is that House Republicans were for a conservation fee before they were against it, and now they're coming to the floor today and accusing the majority of all of these huge tax increases, but they are opposed to the CLEAR Act. House Republicans voted for a $9 conservation fee in energy legislation sponsored by the former Republican Congressman, now Governor of Louisiana, Bobby Jindal. That vote was on June 29, 2006. I have it here: 192 Republicans voted ''yes'' for a $9 conservation fee, and 155 Democrats voted against it.

What is the difference between then and now? I'll tell you the difference. The Democrats' fee is smaller and Big Oil is richer. That is the difference. The House has passed similar conservation fees with Republican support four different times since 2007, and I could list them.

The fact of the matter is the conservation fee will have no impact on the prices at the pump. As we all know, the prices at the pump are determined by the world market. The $2 per barrel fee will be paid for by Big Oil, not by the American consumer. So I respond by saying the Republicans' raising this conservation fee as a tax increase is simply not true.

The Republicans will also say that we are proposing $30 billion in mandatory spending that is unrelated to the oil spill. We just heard my dear friend and ranking member say that. Not true. There they go again—apologizing for Big Oil.

The fact is that the Land and Water Conservation Fund was visualized by Dwight Eisenhower, proposed by John Kennedy, signed into law by Lyndon Johnson, and is financed by royalties from offshore oil and gas drilling. The dollars raised from depleting one of our natural resources goes toward protecting another. The LWCS is a decades-old promise to the American people that, if we allow energy companies to deplete public resources off our shores, we will require them to dedicate that back in order to help our people and to help our coastlines. That's what this bill is all about.

I urge support.

Mr. HASTINGS of Washington. Mr. Chair, I submit the following:

OFFICE OF THE GOVERNOR,
Cheyenne, WY, July 27, 2010.

Hon. NANCY PELOSI,
Speaker of the House, Office of the Speaker, U.S. Capitol, Washington, DC.

DEAR SPEAKER PELOSI: The State of Wyoming has deep concerns at the haste with which Congress is attempting to legislate new oil and gas regulatory processes under H.R. 5626. Provisions which have been added to this bill would affect onshore leasing and energy production and rob the States of their traditional role of overseeing energy production within the States. I urge you to delay action until more definitive information can be obtained and provided to Members of Congress.

Based on the hearings and focus that Congress to date has brought to bear on the tragedy in the Gulf, an expansion of the intended reach of any legislation to respond to this offshore spill and precipitously cover onshore energy production would be a mistake. The State of Wyoming has had effective regulation of the oil and natural gas industry through a variety of programs designed to gather and share information, technology and best regulatory methods for several decades.

The implications of the bill's encroachment to onshore energy leasing and production are ominous as it represents a takeover of state regulation of well construction and permitting and gives it to the Federal government at the expense of long-established State authority. Such preemption would occur whenever the Department of the Interior determines that a state is not adequately regulating oil and gas, or because of citizen lawsuit. This is overreach of the first order.

The State of Wyoming has a proven history of oversight of the energy industry and has effectively overseen industry activity without federal oversight for decades. Regulatory requirements and inspections of well sites are important components of our state program and the prevention of accidents and environmental protection are among our highest priorities.

It is my view that the federal government lacks both the justification and the expertise to effectively oversee oil and natural gas production in the State of Wyoming and I urge you to reject the preemption of Wyoming's and other State's authority to perform this important function.

Sincerely,

DAVE FREUDENTHAL,
Governor.

JULY 29, 2010.

DEAR TEXAS CONGRESSIONAL DELEGATION: We write to express our strong disagreement with provisions in pending legislation that threaten the rights of states to regulate oil and gas exploration and production on state lands and waters. We call on you to reject any proposal that interferes with state regulation of oil and gas safety, exploration and production on non-federal land and waters.

The Deepwater Horizon disaster and the subsequent impacts on the Gulf Coast states occurred on the federal government's watch. The Macondo well is located in a federal offshore lease area. The federal Minerals Management Service and the U.S. Department of the Interior failed to properly evaluate, oversee and regulate drilling in federal waters. It is the federal government that is managing the containment and cleanup effort. It is agencies of the federal government that are engaged in unjustified efforts to impose indiscriminate and illegal drilling moratoria, adding economic insult to injury.

In light of these federal failures, it is incomprehensible that the United States Congress is entertaining proposals that expand federal authority over oil and gas drilling in state waters and lands long regulated by states. Several bills and amendments to be considered this week, for the first time in the history of our nation, attack successful state laws and agencies regulating oil and gas exploration and production on state or private lands and waters. Furthermore, some of these proposals grant unilateral discretion to an unelected federal bureaucrat as to whether or not to allow states to continue regulatory systems established by duly elected state officials, and even create the possibility that such authority would be given to an official recently found by the federal courts to have engaged in arbitrary and capricious decisionmaking on this very topic.

While Congress has every right to consider whatever regulation it deems appropriate on activities in federal lands and waters, it is not permitted to force states to submit their successful state regulations and laws to a federal agency for approval and allow that agency to unilaterally dictate changes. As you well know, the 10th Amendment to the United States Constitution states, ''powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.'' Laws like the one you are considering are unfounded and dangerously destructive of state sovereignty.

We request that Congress respect our state safety and energy laws. Federal laws and regulations failed to stop the Deepwater Horizon disaster. Given the track record, putting the federal government in charge of energy production on state lands and waters not only breaks years of successful precedent and threatens the 10th Amendment to the United States Constitution, but it also undermines common sense and threatens the environmental and economic security of our state's citizens.

Sincerely,

Rick Perry, Governor; David Dewhurst, Lieutenant Governor; Joe Straus, Speaker of the House. Greg Abbott, Attorney General; Jerry Patterson, Land Commissioner; Victor G. Carrillo, Chair, Railroad Commission of Texas; Elizabeth Ames Jones, Commissioner, Railroad Commission of Texas; Michael L. Williams, Commissioner, Railroad Commission of Texas; Troy Fraser, Chair, Senate Committee on Natural Resources; James L. ''Jim'' Keffer, Chair, House Committee on Energy Resources.

ALLIANT,
Houston, TX, May 10, 2010.

Hon. ROBERT MENENDEZ,
U.S. Senator, Senate Hart Office Building, Washington, DC.

DEAR SENATOR MENENDEZ: We are retail insurance brokers. Among our clients are offshore contractors, operators and non-operators, both small and large market cap independent entities, with interests in the US Gulf of Mexico. Our clients are involved in almost every aspect of offshore exploration and development work. We have been asked to comment upon the amount of insurance that is available from the commercial insurance market for third party pollution liability for operators and non-operators before and after the Macondo well incident. Prior to the incident, we estimate the maximum working capacity available in the commercial insurance market (i.e., the limit which could be purchased) was $1.5 billion (for 100% interest—i.e., the limit to be shared between operators and non-operators in any common endeavor). Subsequent to the Macondo incident, we believe the available working capacity has reduced by 15% and the cost involved in procuring this capacity is and will be significantly higher than the pricing prior to the incident.

If, as we understand, there is legislation under consideration which would materially increase the liability cap for economic damages from its current level of $75 million, based on our experience operators and non-operators in the US Gulf of Mexico will be unable to obtain adequate protection from insurance. The increase of the liability cap will impact the economic structure of Gulf of Mexico operations. If the liability cap is increased to the levels we understand are under consideration, the fact that adequate insurance protection is not available will dramatically limit the participants in ongoing exploration and production activities—in our view only major oil companies and NOCs (National Oil Companies) will be financially strong enough to continue current exploration and development efforts.

Yours very truly,

BENJAMIN D. WILCOX,
Executive Vice President and Director, Marine and Energy.

NATIONAL OCEAN INDUSTRIES ASSOCIATION,
Washington, DC, June 8, 2010.

Hon. BARBARA BOXER,
Chair, Senate Environment & Public Works Committee, Dirksen Senate Office Building, Washington, DC.

Hon. JAMES M. INHOFE,
Ranking Member, Senate Environment & Public Works Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS BOXER AND INHOFE: Tomorrow, the Environment & Public Works Committee will be conducting a legislative hearing on S. 3305, the ''Big Oil Bailout Prevention Liability Act of 2010.'' The National Ocean Industries Association opposes this legislation in its current form.

In the wake of the immense economic and environmental impacts still developing in the Gulf, we understand the desire of some in

Congress to take immediate action, whether it be to re-impose outright drilling bans or raise liability caps on the offshore industry. As Congress and the Administration continue to investigate the Deepwater Horizon accident, it is very apparent that until we firmly understand what vent wrong, it is premature to dictate broad and possibly counter-productive solutions.

There are numerous hearings and investigations underway to delve into the root causes of the tragic explosion on the Deepwater Horizon and resulting loss of well control. This week alone, various Committees in Congress are conducting nine separate hearings. Clearly, new information is pouring in.

In the meantime, an unprecedented response and cleanup effort is underway involving over 17,000 people and thousands of private and government vessels. The offshore industry is participating fully and is also hard at work to stem the flow of oil and protect the shorelines and natural resources of the Gulf of Mexico. NOIA member companies are assisting BP in its response efforts, and stand ready to cooperate in hearings and investigations.

In addition, the Administration has initiated investigations through several avenues, which should allow the federal government and the American people to put all the pieces of the puzzle together for a complete picture. Once complete, this picture will provide valuable information on strategic, targeted measures for possible reforms in planning, permitting, inspections, regulatory and statutory regimes.

The companies involved in the Deepwater. Horizon tragedy have indicated their intent to pay for damages and economic impacts beyond the current liability cap of $75 million, so calls for limitless liability may be a solution in search of a real problem. One thing that is clear is that raising the liability caps as high as $10 billion or beyond will drive most non-international producers out of the Gulf of Mexico. This means less domestic energy production and more imports of oil from politically unstable regions, along with increased transportation of oil. The resulting concentration of domestic offshore energy production will be in the hands of a few multinational or nationalized companies.

In addition, I encourage our policy makers to remember that, despite this tragedy, America's need for domestic energy has not changed and OCS development remains a vital part of our overall national energy picture. Nearly a third of our domestic oil comes from the Gulf of Mexico. No one can argue the fact that demand for energy will only continue to increase for the foreseeable future.

We should resist the impulse toward knee jerk reactions and proceed carefully when making decisions that affect the future of our nation's energy supply.

Sincerely,

BURT ADAMS,
Chairman, National Ocean Industries Association.

[From the Hill, June 23, 2010.]

REASONED DEBATE NEEDED TO AMEND ENERGY LEGISLATION

(By Senator James Inhofe)

As oil continues to leak into the Gulf, President Barack Obama and the Democratic leadership face a critical test: Will they seek prudent measures to directly address the BP disaster or will they exploit the tragedy by advancing extraneous measures that drastically reduce domestic energy production, or even enact new energy taxes on consumers and small businesses?

My sincere hope is that President Obama exhibits the leadership necessary to engage in a reasoned debate—one that produces the same outcome following the Exxon Valdez disaster in 1989. After a year-long debate and bipartisan negotiation, Congress unanimously passed the Oil Pollution Act in 1990. The OPA has largely been untested, and some of my colleagues believe it should be updated to account for new realities produced by the BP spill. I couldn't agree more.

Yet the leading proposal to amend the OPA could severely curtail domestic energy production in the Gulf. The ''Big Oil Bailout Prevention Act,'' introduced by Sen. Robert Menendez (D–N.J.), is ostensibly motivated by the desire to make BP, not the taxpayers, pay for the tragedy it unleashed. No one disagrees with that. And no one disagrees that BP must fairly and expeditiously compensate the various business owners now out of work because of BP's actions. But if the Menendez bill becomes law, more than BP could pay: The estimated 150,000 workers connected to the offshore oil and natural gas industry could pay with their jobs and their livelihoods.

As Federal District Court Judge Martin Feldman wrote in his decision yesterday overturning the Obama administration's wrong-headed moratorium on deepwater production, ''Oil and gas production is quite simply elemental to Gulf communities.'' This, and the other elemental fact that Gulf energy production is essential to America's economy, is the principal reason Congress should deliberate carefully on Gulf spill legislation.

I have objected four times to attempts to circumvent the committee process and pass the Menendez bill in the Senate. Emotions are no doubt running high, but we must resist the urge to let emotion dictate the course of deliberations. The legal and regulatory issues involved in legislating on this issue are intricate and complex and therefore should compel us to think carefully about how to proceed.

I take pause on Menendez because of what the experts are telling us. The bill could make exploration and production so costly that only Big Oil companies such as BP, and state-owned firms, such as China's National Offshore Oil Corporation, could afford to operate in the Gulf. Consider INDECS insurance, which said of the Menendez bill: ''If we have understood the proposals correctly, then it would appear to us that the proposed bill will not act as 'Big Oil Bailout Prevention Liability Act of 2010', rather making it impossible for anyone other than 'Big Oil' to operate.''

For a time, the Obama administration shared this view. Just after the Menendez bill was introduced, Interior Secretary Ken Salazar told the Senate Energy Committee that, ''It is important that we be thoughtful relative to that, what that cap will be, because you don't want only the BP's of the world essentially be the ones that are involved in these efforts, that there are companies of lesser economic robustness.'' That the view of the administration then rashly changed to endorse Menendez raises a question: what changed?

One can only speculate; I regret that partisanship may have intervened. Whatever the reason, we need a workable solution that balances the important values of energy production, environmental protection, safety and fairness for affected parties. The Senate Committee on Environment and Public Works, on which I serve as Ranking Member, plans to markup the Menendez bill next week. I hope before then the committee, and then the full Senate, can agree to a bipartisan solution that achieves appropriate balance.

That balance certainly won't be achieved if Democratic leaders insist on attaching energy taxes and other unrelated provisions to the eventual spill bill. And it certainly won't be achieved if they insist on enacting a political agenda animated by aversion to domestic energy production. Nevertheless, I will continue work with my colleagues to craft legislation that holds oil companies accountable without putting jobs and America's energy security at risk.

LOUISIANA OIL & GAS ASSOCIATION,
Baton Rouge, LA, June 30, 2010.

DEAR MEMBERS OF THE EPW COMMITTEE: We have just received a copy of Chairwoman Boxer's second amendment to S. 3305. This poison pill amendment seeks to end offshore drilling by mandating truly unachievable regulations on the offshore oil industry.

We write you today to state our adamant opposition to this amendment as it amounts to a permanent moratorium on deepwater drilling in the United States. We strongly believe we must learn from the mistakes of the Deepwater Horizon incident to ensure safe and effective offshore drilling. However, offshore jobs are critical to the economic success of Louisiana, the Gulf Coast and the energy independence of America.

Senator Boxer's second amendment would impose a permanent moratorium on deepwater drilling in the United States and kill tens of thousands of jobs.

The language imposes unachievable mandates because the mandates are undefined. The uncertainty associated with these undefined mandates, and the amendment in its entirety, present insurmountable obstacles for the oil industry to operate.

We strongly urge you to vote against this permanent moratorium and pursue more reasonable legislation that promotes safe and effective drilling practices.

Sincerely,

DON G. BRIGGS,
President.

Mr. BISHOP of Utah. Mr. Chair, I submit the following:

LOCKTON COMPANIES, LLC.,
Houston, TX, May 13, 2010.

Hon. ROBERT MENENDEZ,
U.S. Senator, Senate Hart Office Building, Washington, DC.

DEAR SENATOR MENENDEZ: Lockton Companies is the largest privately owned insurance broker in the world, and through Lockton Marine & Energy in Houston, we service the insurance needs of many energy companies operating in the Gulf of Mexico. Specifically, we specialize in the small to midsize independent exploration and production companies that are very active in drilling wells in the shallow and deepwater Gulf of Mexico. In fact, two of our clients are in the top 10 largest lease holders and/or most active drillers in the Gulf of Mexico; however, they are relatively small companies. Exploration and production companies are supported by thousands of workers all along the Gulf Coast from their own employees to many small to midsized service companies' employees. The Bureau of Labor and Statistics reported that there were well over 100,000 petroleum-related workers and greater than $12 billion in total wages earned in the Gulf Coast Region alone.

Insurance is critical to our clients and all small to midsized energy companies operating in the Gulf of Mexico. All of the companies operating in the Gulf of Mexico essentially go to the same insurance market to purchase their liability insurance coverage. The insurance market for offshore operations is relatively small, and prior to the Macondo well incident, we estimated the total market capacity for third-party pollution liability to be $1.3 billion to $1.6 billion. Following the Macondo well event, we estimate the capacity has dropped to $1 billion

to $1.2 billion. Furthermore, the cost for the insurance coverage has increased substantially.

The market for Oil Pollution Act (OPA) coverage is an even smaller market, with total capacity of $200 to $300 million. While large exploration and production companies are able to certify on the basis of their balance sheet, most small and midsized companies are dependent on purchasing OPA coverage in the commercial insurance market.

We understand there is legislation under consideration which could significantly increase the liability cap for economic damages from the current level of $75 million. Given the limited capacity in the energy insurance market, a material increase in the cap will eliminate insurance as an option for many exploration and production companies. Without insurance, many of the active exploration and production companies would be unable to operate in the Gulf of Mexico. This decision will affect thousands of people, their families and their local economies.

We respectfully request you give this issue careful consideration, and we are more than happy to provide supporting information on the energy insurance market providing insurance for the Gulf of Mexico.

Sincerely,

JOHN A. RATHMELL, *Jr.*

INSURANCE INFORMATION INSTITUTE,
New York, NY, July 19, 2010.

Hon. JIM OBERSTAR,
Chairman, House Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN OBERSTAR: Thank you once again for the opportunity to testify before the House Committee on Transportation and Infrastructure's June 9, 2010, hearing on the ''Liability and Financial Responsibility for Oil Spills under the Oil Pollution Act of 1990 and Related Statutes.''

It has recently come to my attention that my testimony may have been misinterpreted and that this misinterpretation may have influenced language in the drafting of H.R. 5629, the ''Oil Spill Accountability and Environmental Protection Act of 2010.'' Specifically, in Section 3 of the June 29 draft, the Act would increase the minimum level of proof of financial responsibility for an offshore facility to $1.5 billion.

The rationale for the increase to $1.5 billion figure has been upon occasion traced back to my testimony in which I discuss the current insurable limits of liability for offshore operators. However, the $1.5 billion figure from my testimony is a maximum available limit for third-party liability coverage for the largest of operators, not a suggested limit for certificates of financial responsibility (COFR).

On page 6 of my written testimony I state the following about limits of third-party liability coverage:

''In terms of capacity, the typical third-party liability limit purchased by large operators is approximately $1 billion.''

On page 12, I reaffirm my prior statement:

''As discussed earlier in this testimony, the typical maximum available limit of third-party liability coverage in the offshore energy market today is approximately $1 billion and with perhaps as much as $1.2 billion to $1.5 billion available under some circumstances.''

My statement is clearly distinct from any comment on the appropriate limits for a COFR. Consequently, the use of the $1.5 billion figure in the draft legislation is inappropriate. Indeed, there are several problems associated with adopting a $1.5 billion proof of financial responsibility in the legislation current under consideration:

1. The $1.5 billion figure in my testimony is for total per incident third-party liability coverage available in the private insurance market for large offshore operators. Such a figure therefore should not and cannot be construed as the necessary or available COFR limit for operators of all size;

2. Such limits are not available (or affordable) to smaller operators;

3. There is not sufficient capacity within the offshore energy insurance industry to provide $1.5 billion in coverage limits to all operators;

4. The size of the COFR requirement should reflect the size and nature of the drilling operation, rather than applying a uniform COFR across all operators;

To summarize, imposing a $1.5 billion proof of financial responsibility requirement on all offshore operators is not feasible. There simply does not exist anywhere near enough capacity in the insurance sector to meet such a requirement.

It has been my pleasure to provide input on this very important issue. Consequently, I hope that the clarification of my testimony provided above is of use to the Committee as it continues to consider the details of this legislation.

If you or your staff have any questions or comments, please do not hesitate to give me a call at (212) 346–5520 or to send me an email at *bobh@iii.org*.

Sincerely,

ROBERT P. HARTWIG,

Mr. SMITH of Nebraska. Mr. Chair, I submit the following:

LLOYD & PARTNERS LIMITED,
London, England, May 10, 2010.

Re Deepwater Horizon/Macondo Well Incident.

To Whom it May Concern:

ABOUT LLOYD & PARTNERS

Lloyd & Partners is a London and Bermuda based Major Account (complex risk) insurance broker specialising in onshore and offshore energy insurance with premiums placed annually in excess of USD1.5bn. Overall Lloyd & Partners employs over 200 people and our 40 plus strong Energy team is one of the largest and most respected teams in the London market. We arrange both Property and Liability Insurance for a wide range of Energy insureds including integrated oil companies, exploration & production companies and drilling/service contractors.

Available Liability Insurance Capacity under normal Insurance conditions (policies with normal terms and conditions)

Prior to tine recent Gulf of Mexico drilling incident, worldwide third party pollution liability capacity for offshore energy operations was in excess of USD1.5bn for each insured on a 100% basis (meaning the limits scaled to an individual insured working interest in a project).

Whilst the insurance market previously attempted to limit their ''clash'' exposures (where they could pick up a loss from more than one insured from the same loss) by scaling their limits to an operating group company's working interest, in the main they had previously thought of clashes between operators and contractors as the Joint Operating Agreement would have given them some comfort that only the operator would be liable for a pollution loss, the concern now is that a loss of the nature we are witnessing may result in attempts to hold all the parties responsible regardless of the provisions of the JOA.

We have therefore already seen in the market a realisation that if every party involved in the loss (operating group, drilling contractor, other service contractors—such as mud or cementing contractors—and blowout preventor manufactures) are successfully sued then the market will be exposed to a degree much larger than anticipated when committing capacity to individual insureds. This has already resulted in at least one major London energy liability insurance leader advising us that they are cuffing back their maximum capacity for individual insureds by a third.

At this stage it is really impossible to accurately predict what the exact impact of this loss will have on available capacity but we think it could result in a reduction of such capacity of around 15% to 30%.

Available Liability Insurance Capacity under OPA ''certificates''

Where insurers are asked to provide full coverage under OPA (being strict liability with direct access to insurers and no defence of normal insurance policy terms and conditions) capacity is much more restricted than normal third party liability and we estimate available capacity would be no more than USD150mm—USD200mm.

PRICING

Prior to the recent incident the market was in a ''soft'' phase where rates were low as a result of oversupply of capacity, as not many insureds purchased the full available capacity (typically offshore E&P companies would have purchased on average somewhere around USD 250mm to USD 500mm in limits.)

There is not likely to be pressure from both sides of the supply and demand equation, as capacity shrinks and demand for higher limits materialises (as the recent loss highlights the potential to insureds for a loss of a magnitude higher than most are protected for) which coupled with the fact the market will be looking to recoup the loss they will have to pay out from this latest incident, is likely to result in a significant increase in offshore liability insurance premiums.

PROPOSED CHANGES TO LEGISLATION

Currently OPA provides operators of offshore facilities a limitation of USD 75mm for ''Economic Claims'' (loss of earnings rather than clean-up costs or property damage caused by pollution). Any significant increases in this limit will cause insureds operations in US Waters to face the prospect of significant self insurance, since (depending on the amount) the insurance market will not have sufficient capacity to provide cover for this in addition clean-up costs and third party properties damage suits).

Your sincerely,

JOHN LLOYD,
Chairman and CEO.

INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA,
Washington, DC, June 7, 2010.

Hon. BARBARA BOXER,
Chair, Environment and Public Works Committee, Dirksen Senate Building, Washington, DC.

Hon. JIM INHOFE,
Ranking Member, Environment and Public Works Committee, Dirksen Senate Building, Washington, DC.

DEAR SENATORS BOXER AND INHOFE: This Wednesday, the Environment and Public Works Committee will hold a hearing on S. 3305, the ''Big Oil Bailout Prevention Liability Act,'' in response to the current oil spill crisis in the Gulf of Mexico (GOM). The Independent Petroleum Association of America (IPAA) is opposed to the proposal in its current form.

It is important to note that the tragic events surrounding the Deepwater Horizon incident in the GOM will have a significant impact on American offshore oil and gas exploration and production for years to come. Our thoughts and prayers go out to the families and communities affected by the tragedy in the Gulf of Mexico and we stand ready to help them as we move forward.

Independent producers have operated responsibly in the GOM for decades and hold roughly 90 percent of the leases, producing about 30 percent of GOM oil and more than 60 percent of GOM natural gas. GOM production represents a significant amount of energy supply for consumers all across America, and it remains an essential component of America's energy portfolio. The entire industry is dedicated to working together to protect the environment and to contain the damage from the spill. Many of our member companies have offered supplies and services; others are directly helping with the clean-up efforts.

Controlling the well and protecting the environment are the main priority of the industry today. We support President Obama's independent commission investigating the Deepwater Horizon incident. It is important that a thoughtful, thorough and timely investigation and analysis of the incident is conducted to fully understand what caused the accident and to ensure the proper, improved safety measures are identified and put into practice to prevent incidents in the future. IPAA supports the following principles to address this important issue:

1. Any company operating offshore or onshore should be fully responsible (financial and otherwise) for all clean-up efforts.
2. There must be a fund to ensure that those affected by such incidents (i.e., fishermen, tourism, local businesses, etc.) will be able to fairly recoup lost costs without being caught in fierce litigation with large corporations.
3. The oil industry, collectively, should contribute to this fund and ensure its long-term viability.

These principles are already a part of federal law in the Oil Pollution Act of 1990 (OPA 90) and the Oil Spill Liability Trust Fund (OSLTF). Changes may be needed to update out-of-date OSLTF limits with additional industry funding. However, we are strongly opposed to S. 3305 and other legislative proposals being discussed in Congress that would have negative consequences for independent producers. These changes include increasing offshore liability limits to unrealistic levels that will preclude nearly every company operating in the U.S. offshore from getting insurance to cover their operations. Without the proper insurance coverage, there will not be independent producers with offshore exploration and production—it is that simple. These consequences are not justified based on the performance of independent producers operating in the offshore, who have an outstanding safety and environmental record.

The Congress should not make hasty decisions and advocate legislative and regulatory initiatives that will result in severe limitations to offshore drilling in the United States—consequences that can further harm the Gulf Coast economy. IPAA looks forward to working with the Committee and the entire Congress to find solutions that will allow American producers to continue to operate in the U.S. offshore and explore for the oil and natural gas that is vital to our nation's energy security.

A significant aspect of OPA 90 was the creation of a trust fund filled by crude oil taxes that is intended to be used by injured parties to compensate them for economic damages instead of requiring lengthy litigation. We support the expansion of this industry-wide fund to ensure that future costs and claims are covered and urge the Committee to work within the framework of OPA 90 before taking other actions that will impact American energy production.

The Obama Administration also recently announced a six month moratorium on any offshore drilling in water depths greater than 500 feet. The moratorium includes wellbore sidetracks and bypasses; spudding of any new deepwater wells and is designed to allow the presidential commission investigating the spill to prepare its recommendations. While we understand that many Americans are rightfully concerned about the environmental risks and the safety of offshore drilling, the federal government should methodically review this matter and follow the facts in the incident before taking actions that could impact oil and natural gas production from the offshore for years to come.

A recent analysis conducted by Wood MacKenzie predicted that the moratorium and new regulations will push back into later years 80,000 barrels a day of production scheduled for 2011. The impact of the spill becomes harder to ignore further into the decade. By 2015, Wood MacKenzie predicts stiffer federal offshore permitting and safety regulations will result in more than 350,000 barrels a day of production forecast for that year to be delayed. It is important to note, however, that these predictions assume available capacity for production in the GOM after the current moratorium is lifted. That is an issue that could be in serious jeopardy if rigs currently in the GOM are sent to various parts of the world to begin operations on other projects, and then are not available to return once the moratorium is lifted.

Congress must continue to recognize the importance of energy development in the United States. Rather than enacting legislation such as S. 3305 that will destroy the ability of independent, American oil and gas companies from exploring for energy resources in our nation's offshore areas, we need Congress to create a forward-looking, balanced energy policy that recognizes the role oil and natural gas will continue to play in our nation for years to come. Offshore oil and natural gas production creates jobs, revenues and helps stabilize energy prices for American consumers and helps reduce our reliance on energy supplies from unstable regimes across the globe.

As the facts and information surrounding the Deepwater Horizon incident come forward, our nation must develop a reasonable regulatory program that will allow further offshore oil and gas exploration and production in the United States. Offshore oil and gas production must continue to be an integral part of America's energy portfolio and IPAA is dedicated to finding answers that will help us achieve that goal.

Unfortunately, the implementation of S. 3305 into law would dramatically hinder American production of oil and gas. Thank you for your attention to this matter.

Sincerely,

BRUCE VINCENT,
Chairman.

Mr. LAMBORN. Mr. Chair, I submit the following.

INDECS,
May 12, 2010.

Re Proposal to amend the Oil Pollution Act 1990 (OPA 90) and the Internal Revenue Code of 1986.

Hon. ROBERT MENENDEZ,
U.S. Senator, Senate Hart Office Building, Washington, DC.

DEAR SIR:

EXECUTIVE SUMMARY

The energy insurance market has limited financial capacity for pollution. What protection it can offer, sees many terms and conditions contained in the language of the policies issued. These limitations can range from whether a policy covers pollution originating from a reservoir, the absence of a definition for environmental damage, the sharing of limits with other heads of claims, to whether there is negligence on the part of the entity making the claim.

Insurers' ability to issue an insurance certificate to provide a company with its evidence of financial responsibility under OPA 90 is similarly limited. Our current estimates point to a maximum insurance financial capacity of approximately US$250 million for this exposure, with a further US$1.5 billion subject to the exclusions mentioned above.

We detail below many of the areas that need to be considered carefully in this assessment. It is quite clear to us that the ability to transfer any increased risk to the insurance market is very constrained. The extent to which oil companies, other than the super majors, will be able to provide alternative security, must be questionable.

ABOUT INDECS

INDECS is an independent insurance consultancy with over 20 years' experience working across more than thirty countries including the USA. We assist global businesses to aohieve a more effective insurance and risk management strategy. INDECS does not sell insurance, we are not a broker, but provide independent advice to our clients on their insurance and risk management needs.

THE PROPOSED BILL

We understand that two bills have been drafted, in the wake of the Deepwater Horizon catastrophe:

1. To amend the limits of liability for offshore facilities under OPA 90 from US$75 million to US$10 billion
2. To remove the limit of US$1 billion expenditures from the Oil Spill Liability Trust Fund, and to permit advances to be made to the Fund

CURRENT INSURANCE PROTECTION

Under OPA 90, holders of leases or permits for offshore facilities are liable for up to US$75 million per spill plus removal costs.

Under Section 1016 the holder was initially required to provide evidence of financial responsibility of between US$10 million and US$35 million depending on whether the facility is located seaward or landward of the seaward boundary of the State. This has subsequently increased to the maximum allowed by the act of US$150 million.

There are various methods of evidencing financial responsibility including surety bonds, guarantees, letters of credit and self insurance, but the most common and the one that is most commercially available to all is by means of an insurance certificate. The certificate issued must identify a limit not less than that required under Section 1016.

While there are certain defences under OPA 90, insurers are put in the position of being a guarantor and may not have the ability to rely on the normal general conditions of the policy. Some insurers may also consider that it imposes a more ''strict liability'' on the insured, and, moreover, enables claims to be made directly against the insurer in certain circumstances. They therefore treat OPA certification distinctly from other insurance that may be available for this type of risk. The potential capacity for this type of insurance, which is the broadest available specifically focusing on OPA obligations and liabilities, is approximately US$150 to US$250 million.

Outside the realms of strict liability and OPA, an insured will be able to obtain coverage for sudden and accidental seepage and pollution by way of its Operators Extra Expense (OEE) and Excess Liability insurances. OEE coverage provides a combined single limit for well control, well redrilling and sudden and accidental seepage and pollution and clean-up. Therefore pollution liability and clean-up cost is subject to the apportionment of this combined single limit over respective risks. In practice the limit would be

made available first for control measures (i.e. hiring in specialist well control experts and, if necessary, relief well drilling), with any balance of the limit then being reserved for redrilling and pollution. It is possible to prioritise the use of the limit for compliance with OPA Financial Responsibility provisions, but this would be impractical in relation to the urgency by which oil companies will need to address the well control situation.

We consider that the OEE policy provides the widest cover and is most ''user friendly'' to oil companies. The pollution element of the cover responds to costs which the insured company is obligated to pay by law or under the terms of the lease/license for the cost of remedial measures or as damages in compensation for third party property damage and third party injury claims. In respect of clean-up and containment, or attempt thereat, the policy pays such costs, including where incurred to divert pollution from shore, and is not on a ''liability'' basis. It should be noted that there is no definition of environmental damage—claims are recoverable to the extent of damages for third party bodily injury and loss of or damage to, or loss of use of tangible property. This coverage can therefore respond on a ''strict liability'' basis, where the law or license agreement specifies that such remedial costs or compensation is payable if emanating from the insured's facilities, irrespective of negligence. This contrasts starkly with the coverage available under most Excess Liability policies.

Excess Liability insurance responds to all legal liabilities incurred. Sudden and accidental pollution would be included in any limit provided. In respect of pollution from wells the limit available under these policies sits excess of the OEE policy referred to above (but is subject to its own policy form insuring conditions which are not as wide as OEE policies). In respect of pollution from hydrocarbons stored or being produced from or through facilities such as fixed and floating platforms and pipelines, the limit is from ''the ground-up'', or in excess of a specific local general liability policy.

Excess Liability Policy forms vary but the market ''standard'' coverage offers quite limited pollution cover. Some actually specifically exclude pollution from wells. Basically pollution liabilities are excluded from all policies, but within the exclusion is a limited ''buy-back'', which requires that the pollution event is sudden, accidental and unintended and subject to strict discovery and reporting requirements. However, and significantly, the cover excludes ''. . . . actual or alleged liability to evaluate, monitor, control, remove, nullify and/or clean-up seeping, polluting or contaminating substances to the extent such liability arises solely from any obligations imposed by any statute, rule, ordinance, regulation or imposed by contract''.

We regard this wording as too draconian and would always counsel oil companies to include a specific ''pollution endorsement'' that overrides this phrasing and would provide legal and statutory liability coverage, including costs incurred under lease block obligations for removal. We think this distinction in cover is important as it will impact capacity. Our figure below of US$1 to US$ 1.5 billion is based upon insurers subscribing to the standard market cover. If an alternative wording is utilised, or the pollution endorsement used, it could have the effect of reducing capacity by about 25 to 35%.

As with the OEE policy, the coverage is geared to damages for compensation in respect of third party bodily injury and third party property loss or damage or loss of use. There is similarly no concept of ''environmental damage'' expressed in the policy.

INSURANCE CAPACITY

The immediate effect of the Deepwater Horizon loss is that capacity will, for a time, be fluid. Most insurers had not factored in to their risk aggregations that the net is spread very wide indeed in respect of responsible parties under OPA. They are now seeing the implications of multi party actions against operators, drilling contractors, cementing engineers and their various sub-contractors arising out of a single incident such as the ''Deepwater Horizon'' loss. This is because the insurance limits are available to each separate party, so will stack up if three different entities are sued.

In this context the lease block holders constitute one entity (their insurance policies may be separate covering their respective equity interests, but the capacity available is assessed upon 100% interest).

Inevitably the recent loss has increased the demand for higher limits, and has consequently affected the overall aggregate exposures to insurers. This will likely reduce the available limits in the immediate future. At least one insurer has let it be known that its capacity has reduced. Others are reviewing their positions and it is most likely that June renewals will be subject to some reduction in overall capacity. This could be between 25 and 30% reduction, affecting all above policies, except Protection and Indemnity entries. INDECS has close relationships with the Energy Insurance Market including its insurers and brokers. Based on our knowledge and these relationships we would opine that the following represents the maximum per occurrence capacity in this market currently:

OPERATORS' EXTRA EXPENSE (OEE)

The available global market capacity for the OEE cover is between US$500 million and US$750 million per event on 100% basis. This means that the total limit purchased is shared out between the co-owners of the lease block (the licensees) according to their equity interest in the venture (as per the Joint Operating Agreement).

In addition to this capacity, oil companies who are members of the mutual, Oil Insurance Ltd (OIL), Bermuda, (which includes a number of US based E&P companies) can claim up to a further US$ 250 million for each companies' equity interest, limited to US$ 750 million per event, but this limit is also applied on a combined single limit basis, inclusive not only of control of well cost and redrilling, but also property damage and wreck removal.

EXCESS LIABILITIES

The global commercial market limits available are between US$1 billion and US$1.5 billion per event on 100% basis (meaning that the limit is effectively reduced to reflect each of the oil companies' equity interests). This would include capacity available under any specific local general liability policy (normally limited to USD50m per event). This total would be inclusive of capacity from the Bermuda reinsurance market and specifically from Oil Casualty Insurance Ltd (OCIL), which is a sister organisation to OIL. This limit operates on an Ultimate Nett Loss basis, meaning that it must also respond to injuries and fatalities to third parties (but not employees) and to third party property damage and consequential financial loss.

One final issue to consider for the commercial market is that in the event that the pollution arises from a named hurricane there would be a sub-limit agreed in the policy, which may not be more than US$200 million per oil company, and this would be inclusive of all insurable exposures (i.e. property damage, control of well, redrilling, wreck removal and pollution).

PROTECTION AND INDEMNITY CLUBS (P&I)

One further area that merits comment is P&I, which provides cover in respect of pollution from mobile drilling units, heavy-lift vessels, pipelaying vessels and, to the extent that they may ultimately be more widely used in the Gulf of Mexico, Floating Production, Storage and Offtake units (FPSOs).

The limit purchased is generally between US$300 million and US$ 500 million, but US$ 1 billion per event is theoretically available. However, most US drilling contractors are not insured by the P and I Clubs. US drilling contractors generally rely upon commercial marine liability insurers, whose capacity would be limited to between US$ 500 million and US$ 750 million per event referred to above.

EFFECTS OF INCREASING THE OPA 90 LIMITS

In conclusion, if the intention is to increase the limit required under OPA90 to US$10 billion and also the required evidence of financial responsibility to something similar, then quite simply the energy insurance market will no longer be an option. Its capacity lies far below this limit and even then has a number of restrictions contained in it which we have discussed above.

Companies, with the exception of super majors and foreign state owned companies, operating in the United States are highly unlikely to be able to provide any alternative method of financial responsibility such as bonds and lines of credit. The cost of these methods or ability to self insure these risks will far exceed their capabilities, preventing their management from fulfilling their fiduciary liability and presenting a barrier to acquiring new or even servicing existing permits in the future.

If we have understood the proposals correctly, then it would appear to us that the proposed Bill will not act as ''Big Oil Bailout Prevention Liability Act of 2010'', rather making it impossible for anyone other than ''Big Oil'' to operate.

Yours sincerely,

PAUL KING,
Director.

Ms. JACKSON LEE of Texas. Mr. Chair, I rise to speak on H.R. 3534, the Consolidated Land, Energy and Aquatic Resources (CLEAR) Act.

I would like to recount the facts of April 30th, 2010 for this House and the American people. First, let us remember the names of the eleven brave men who tragically lost their lives in the Deepwater Horizon explosion:

1. Jason Anderson, 35;
2. Aaron Dale Burkeen, 37;
3. Donald Clark, 34;
4. Stephen Curtis, 39;
5. Gordon Jones, 28;
6. Roy Wyatt Kemp, 27;
7. Karl Klepping, 38;
8. Blair Manuel, 56;
9. Dewey Revette, 48;
10. Shane Roshto, 22; and
11. Adam Weise, 24.

What the eleven names do not reveal is that there are families with children, widows, and many other family members who are still mourning the loss of their loved ones. I believe we have a moral obligation to remember all of the lives affected by the loss of these eleven dedicated oil rig workers. They were tough workers, but also gentle fathers, brothers, husbands, as well as friends to many. Congress must always consider how to best protect American lives, and in doing so protect the safety of the American oil industry worker. In addition to the lives lost, every individual, business and community adversely affected by

the oil spill must be taken into account as we consider legislative responses. Unfortunately, now with more than 92 million estimated gallons of oil spilled and the fishing, tourism, boating, shrimping industries, and the oil industry itself brought to a grinding halt, we can anticipate other losses.

This tragedy begs the American people to act to promote safety, spur technology, and to protect people in the Gulf Region. We owe it to them to provide the kind of protection and legal framework that will ease their minds, and help them receive what they are entitled to through the claims process. Unfortunately, the original claims system was an abomination with numerous claims unresolved, unpaid and ignored. BP has received many claims and has issued many statements and reports, but the fact of the matter is they have not delivered on those early promises. We must make sure that they do what is right, and meet their financial obligations to the many claimants still waiting to reconstruct their lives and livelihoods.

The urgency of the energy situation in our country calls for immediate action by Congress in developing a national energy policy. I would have fully supported targeting the culprits in the Gulf oil spill and getting the Gulf region back on track, as long as we also develop effective policies to ensure that we set a high bar of expectations for these companies in a system based on culpability. The people in the Gulf region need to be assured that we will preserve their way of life, while ensuring that their best interests are taken to heart. Their jobs must be restored and preserved for future generations who may want a livelihood in the oil and gas industry. I do not believe you can graft a broader national energy policy for the future onto a bill meant primarily to address the myriad of complex issues currently facing the energy industry.

Regarding the Remedies Act, on July 1, 2010, I introduced a bill to address some of the larger issues raised by oil spill related developments in the Gulf of Mexico. Although a pronouncement of the issue, I believe it captures the most substantive matters. I have tried to adapt some of the provisions of that bill as amendments to the CLEAR Act, to try and make a weak bill better.

I introduced an amendment under which applicants for permits to drill in the Gulf of Mexico will be required to have spill prevention, mitigation, and recovery plans that are vetted by impartial experts, rather than rubber stamped by industry friendly regulators; the amendment would also require that there be legitimate, effective back-up plans in case the first response is ineffective. Another of my amendments would allow the Secretary of Homeland Security to establish, immediately, an independent claims process for those whose property and livelihoods have been damaged by oil spills much like the process only now being set up under Special Master Feinberg. Finally, I am proud to cosponsor Representative TEAGUE's (NM–2D) amendment, introduced the same Amendment which will allow several small companies working together in joint venture and partnerships to pool their financial resources for the necessary Certificate of Oil Field Responsibility, the price of admission to work in the Gulf. Without the option of pooling their resources, or joint insurance, independent oil companies will be driven from the Gulf, leaving it the province of only three or four massive, multinational oil companies. If we can not preserve the independent oil companies, responsible for 80 percent of the drilling in the Gulf and 30 percent of the oil, then we are likely to doom an industry that is one of the most prolific job generators in the nation, particularly at a time when job creation in most American industries is stagnant or minimal at best.

We must also take into consideration the importance of the environment as it relates to our national energy policy and the quality of life in the Gulf and the rest of the country, not to mention the rest of the globe. We have no idea what the long-term impact of the Gulf oil spill will be, as we are just beginning to understand the issues of connectivity related to the environment and ecological system. When birds nest in polluted wetlands and migrate to other parts of the U.S. and the globe, what impact might their exposure to oil have on the environmental quality of the environment in that part of the world?

There are many complicated questions that we must answer before we proclaim that we have a solution to protecting the environment to massive oil spill in one bill. It is impossible to accomplish, and at best any environmental strategy is merely a band-aid approach rather than the comprehensive environmentally policy we need to consider. For example we really need a major direct clean-up fund, and we have to provide for environmental inspections. I urge a sense of immediacy as it relates to the environment and to protect the people of the Gulf from the long-term health consequences of the spill.

As a person who has lived in, worked in, and knows the Gulf region well, I see the vibrant mixture of businesses there, from fishermen to oil workers, who represent the quintessential hardworking American. These Americans deserve applause for their contribution to our productivity. We owe it to them to demand of the oil companies the same high level of excellence that these hardworking men and women have demonstrated. We must provide for appropriate penalties for safety violations and breaches of compliance, while recognizing the importance of the industry to job creation and job growth. As we did in this tragic incident, we must come down hard on BP, but not eliminate them from the picture, lest the whole industry be penalized.

There are some good things in this bill, although some of my ideas were not adopted as part of the manager's amendment. For example, one amendment would have required that businesses applying for permits to drill and produce crude oil in the Gulf of Mexico submit detailed spill mitigation and recovery plans as part of the permitting process. Not only must they have recovery plans, but they will be required to have backup plans, in case their first response fails. Additionally, those plans must be vetted by impartial experts, rather than rubber-stamped by insufficiently vigilant regulators.

Most important Representative TEAGUE's amendment, which I cosponsored, will prevent small, independent oil companies from being driven out of the Gulf of Mexico. The problem with the current requirements for the Certificate of Oil Field Responsibility (COFR) is that smaller operators will be unable to establish the $300 million necessary COFR to even begin exploration and development. By allowing smaller companies—who frequently work together in joint ventures—to pool their resources for COFR purposes, we will prevent the Gulf from becoming the exclusive province of companies big enough to self-insure, and allow the small businesses of the Gulf Coast communities to continue to provide jobs and drive our economy.

Again, Mr. Chair, my central concern is that we promote job creation, ensure long term investment and fiscal discipline, guarantee safety, focus on the industry and accountability as we work to craft an effective energy policy, and utilize energy related to fossil fuels in a more responsible way, while we continue to make investments in research and development, rather than pitting industries against each other.

We just witnessed the development of a prescriptive policy related to the coal industry, as a result of a tragedy with the mines in West Virginia. That legislative business model is a useful example of how we can develop energy policy related to oil. We must also continue to promote new forms of green energy, while we keep our promise to the American people to protect jobs in the oil and gas industry.

Unfortunately, our job is made very difficult when we see major global energy companies and domestic industry excluded from a sensible national energy policy. We must promote a strong process that will help us deliver on these promises, both to the stakeholders and to the American people. Everyone needs to buy-in to a national energy policy in order for it to be successful.

Let me say that we must establish a seamless energy policy that all sectors of the energy industry can support, cementing the United States in the energy industry as the most independent producer globally, while making it the worlds' leader in green energy.

Mr. Chair, I look forward to working with my Colleagues on this approach to America's energy future. In addition, I strongly support the Buy America Provision in the bill and the American Worker Provision. As the CLEAR Act moves to the Senate, we must remember the interests of the communities of the Gulf Coast, and of all those affected by the devastation of the oil spill. We must remain committed to protecting lives, protecting jobs and protecting the environment.

Mr. MCNERNEY. Mr. Chair, I rise to express my support for H.R. 3534. The spill in the Gulf is a tragedy, and this important bill will help prevent future disasters. H.R. 3534 improves safety, prevents ethical misconduct at federal agencies, and closes royalty loopholes enjoyed by the oil and gas industry.

Some important provisions of H.R. 5626, the Blowout Prevention Act, are also included in H.R. 3534. I am disappointed, however, that the legislation before us today does not include a section of H.R. 5626 that authorizes the creation of expert review panels to provide technical advice on regulatory decisions. During committee consideration of H.R. 5626, I offered an amendment to clarify that experts serving on such panels can be drawn from diverse backgrounds, including industry, national laboratories, and academia.

I would like to note the particular importance of utilizing the expertise available at America's national laboratories. I am familiar with the work of the labs and the talents of lab employees through my personal experience working as a contractor at Sandia National Laboratories. Northern California is also the location

of three national laboratories that employ a number of my constituents.

Following the tragic explosion of the Deepwater Horizon, employees of the national laboratories were quickly deployed to the Gulf. The Department of Energy estimates that more than 200 lab employees have been involved in crisis response operations. The labs have provided an array of services such as developing pressure measurements and radiographic imaging of the blowout preventer. Lab employees have also provided technical services such as conducting flow and resistance calculations, evaluating pressure data, and providing independent analysis of BP's plans.

The national labs have a tremendous amount of technical expertise that can help our country prevent future spills and better respond if an unfortunate incident occurs. I look forward to working with members of both parties to incorporate the labs into future legislation.

Mr. VAN HOLLEN. Mr. Chair, I rise in strong support of today's oil spill response legislation, and I commend Chairmen RAHALL, MILLER, WAXMAN, OBERSTAR and CONYERS for bringing this package to the floor today.

The Consolidated Land, Energy and Aquatic Resources (CLEAR) Act corrects a number of major defects in current law that have come to light in the Deepwater Horizon disaster. First, and most importantly, it ensures BP—not the taxpayer—is held responsible for the full cost of the cleanup. Second, it strengthens offshore drilling standards and requires independent certification of critical safety equipment. Third, it provides desperately needed reform to the scandal ridden Mineral Management Service by separating its permitting, inspection and collection functions. Fourth, it eliminates royalty loopholes that allow oil companies to shortchange taxpayers when extracting resources from public lands. And finally, it makes good on a 45 year old promise to fully fund the Land Water and Conservation Fund so that Americans can enjoy our Nation's natural, historical and recreational resources for generations to come.

The Offshore Oil and Gas Worker Whistleblower Act (HR 5851) complements today's package by extending whistleblower protections to oil rig workers on the Outer Continental Shelf. Specifically, employers would be prohibited from discharging or otherwise discriminating against employees who report injuries, unsafe working conditions or alleged violations of the Outer Continental Shelf Lands Act. Had these protections been in place, the Deepwater Horizon workers with serious safety concerns about the operation of their rig could have had more confidence about coming forward prior to the explosion.

Mr. Chair, today's legislation is an important and necessary part of our Nation's response to the Deepwater Horizon disaster. I urge a yes vote and yield back the balance of my time.

Mr. MORAN of Virginia. Mr. Chair, I rise in support of the Consolidated Land, Energy and Aquatic Resources or ''CLEAR'' Act (H.R. 3534).

This measure will impose long overdue reforms in the way the federal government regulates oil and gas drilling operations off our coast.

Something the industry and their allies in Congress have long opposed.

The explosion of Deepwater Horizon and the uncontrolled flow of oil into the Gulf of Mexico render this opposition moot.

The American public has witnessed an ecological and economic catastrophe the likes of which this country has never seen nor should ever have to see again.

It has seen a company in the interest of boosting profits cut corners and take shortcuts that resulted in the death of 11 workers, a Gulf community in dire economic straights and untold loss of marine and animal life.

It has seen a weak regulatory system rubber stamp drilling permits, approving most in less than twenty-four hours and never reading or realizing the response plans to a blowout were fiction.

How else could it accept plans to save walruses in the Louisiana bayous and Alabama beaches?

More than 300 million gallons of crude oil have spilled into the Gulf of Mexico before the wellhead was finally capped.

Even if the cap holds and relief wells secure and permanently plug the well, the region will still have to deal with the millions of gallons of oil spread throughout the Gulf and along hundreds of miles of shoreline as the peak hurricane season approaches.

It will take decades for the region to recover.

It was a disaster waiting to happen and one we may now finally have the tools to prevent from occurring again.

Reforms that were once thought impossible are now before this House today.

This bill revamps the oil and gas royalty collection program, repeals liability limits on economic damages, separates the apparent conflict of interest between the federal government's royalty collection, leasing and enforcement offices, imposes new procedures for use of chemical dispersants, and mandates that the oil and gas industry include a worst-case scenario for oil spill response plans.

But now some claim this bill is ''overreach,'' that it goes beyond what is needed to address the failures of the industry and the regulatory agency.

In addition to reform of our offshore oil and gas leasing program, this bill breathes new life into a commitment proposed by John F. Kennedy and signed into law by Lyndon Johnson to take a share from a diminishing public resource, our offshore oil and gas reserves, and use the funds to conserve and protect natural resources onshore.

LWCF was a good idea then and remains a good and popular idea today.

Since its inception, millions of acres of land has been conserved and are in use today by the public. They are portions of our national parks, wildlife refuges, national forests and state and local parks and recreation areas.

They are responsible for saving endangered species from extinction, protecting fresh sources of drinking water for millions of Americans, and protecting valuable historic properties and landscapes from destruction.

Unfortunately, the federal commitment has fallen short of the goal.

In recent years, we have underfunded our commitment to the Land and Water Conservation Fund.

Over the past ten years, its funding level has been erratic, $672 million in fiscal 2001 and $253 million in fiscal 2007, but never at its authorized level of $900 million.

This bill imposes a $2 per barrel fee on oil extracted from the public's waters to allow us to fully fund the Land and Water Conservation Fund and not add to the federal budget deficit.

It would then ensure that the program is funded at $900 million annually. The additional funds this legislation will release will:

1. Ensure that areas protected by Congress can be more effectively and efficiently managed. LWCF provides for inholdings with high biological, historical or recreational values. These lands are available for a limited time before they're developed. Sufficient LWCF funding ensures agencies can take advantage of these opportunities. Real estate prices are lower now, ensuring more land can be purchased with each dollar invested.

2. Improve management by reducing fire danger and through other means. It allows access to these areas to perform important wildlife habitat management and facilitate public recreation. Fire danger, public safety and other threats are reduced, and hunting, fishing, wildlife watching and other recreation is improved and protected.

3. Ensure public access and quality recreation that has a substantial economic impact. The Outdoor Industry Association estimates that active outdoor recreation contributes $730 billion annually to the U.S. economy, supports nearly 6.5 million jobs across the U.S., generates $49 billion in annual national tax revenue, and produces $289 billion annually in retail sales and services.

4. Ensure efficient management and cost savings. 80 percent of lands acquired with LWCF funds lie within the existing boundaries of federal parks, refuges, forests, or recreation areas. When land management agencies purchase inholdings, internal boundary line surveying is reduced, as well as right-of-way conflicts and special use permits. Agencies generally tend to avoid acquisitions with burdensome infrastructure improvements that require significant capital investments. An added parcel generally does not increase management presence; rather, management is usually just absorbed within existing stewardship costs.

A recent national bipartisan poll shows strong support for the continued use of oil and gas fees for land and water protection and for fully funding the LWCF at $900 million annually.

An overwhelming majority of voters—86 percent—support committing funds from offshore drilling fees to LWCF (up 5 percent from June 2009). (Poll conducted by Public Opinion Strategies and FM3)

Many local communities are strong supporters of federal LWCF expenditures due to the economic benefits that accrue through recreational tourism and the additional visitation that occurs with improved public access and recreation opportunities.

LWCF protects places where people love to go, from famed national parks to historic sites, to local parks that ensure recreation. LWCF supports recreational access such as trailheads and river put-ins—that allow hunters, fishermen, mountain bikers, hikers and boaters to access America's recreation lands.

LWCF enjoys broad congressional support. LWCF has benefited every state and every congressional district. LWCF has enjoyed longstanding, widespread support not just among conservation champions but also among fiscal conservatives and many minority members. Over the past five years, letters urging the Appropriations Committee to provide

major increases to LWCF have been signed by a total of 36 Blue Dogs and 43 Republicans.

This is a way to fulfill the vision first stated by President Eisenhower and what our constituents still support today.

Support the CLEAR Act.

Mr. QUIGLEY. Mr. Chair, I rise today in support of the CLEAR Act, one of the most important measures we will pass this week, and perhaps, this Congress.

It has been said that with great adversity comes great opportunity—today, we are presented with great opportunity.

We are presented with the opportunity to ensure that what happened in the Gulf never happens again.

We are presented with the opportunity to ensure that we have the tools and the means to clean the Gulf Coast and make whole those whose very livelihoods are threatened by this disaster.

We are presented with the opportunity to ensure that our children are able to enjoy the great lands and waters of our lifetime.

I offered two amendments to the CLEAR Act that sought to shift our OCS policy from a presumption of oil and gas extraction, to focus on protection of the environment as our primary concern.

Additionally, the amendments required the Secretary to consider geographical, geological, and ecological characteristics of OCS areas before drilling, not after.

Ultimately, this bill does move us toward that goal—from an emphasis on the bottom line to a clear focus on our future.

I urge my colleagues to support the CLEAR Act.

Mr. LEVIN. Mr. Chair, I rise in strong support of the Consolidated Land, Energy and Aquatic Resources Act.

It is often said that experience is the best teacher. Unfortunately, it often seems that experience is the only teacher when it comes to developing common sense safeguards to prevent oil spills. As I speak, at least 800,000 gallons of oil has spilled from a pipeline into the Kalamazoo River in my home state of Michigan. We are just a few days into this crisis, but surely this accident could have been prevented.

In 1989, the Exxon Valdez ran aground in Alaska and spilled 11 million gallons of crude oil into Prince William Sound, fouling hundreds of miles of pristine coastline. In the months that followed, Congress responded by approving the Oil Pollution Act that strengthened the Federal Government's role in oil spill response and cleanup in the case of oil tankers. Among its many provisions, the Act required vessels carrying oil and operating in U.S. waters to have double hulls to prevent further accidents of this type. The law has been a success, but the damage to Alaska's environment was done.

We are more than 100 days into the oil spill crisis in the Gulf of Mexico. To date, between 90 million and 180 million gallons of oil has been released into the environment. The BP Deepwater Horizon spill might have been prevented if there had been some basic drilling safety standards in place, and if there had been effective oversight of BP's actions as it was drilling the well. We are creating these standards today with this bill.

The CLEAR Act before the House establishes new safety standards for offshore oil drilling. The legislation reforms the Federal Government's oversight of offshore drilling operations, holds BP and other oil companies accountable, and ensures that polluters pay the full cost of damage caused by the spills they create.

Experience is, indeed, the best teacher. But when it comes to preventing future oil spills, an ounce of prevention is worth a pound of cure. I urge passage of the CLEAR Act.

Mr. LANGEVIN. Mr. Chair, I rise in strong support of H.R. 3534, the Consolidated Land, Energy, and Aquatic Resources (CLEAR) Act and H.R. 5851, the Offshore Oil and Gas Worker Whistleblower Protection Act. Over 100 days ago, millions of gallons of oil began spilling into the Gulf Mexico after an explosion on a BP deepwater drilling rig, which tragically killed eleven workers. In the months since this accident, the Committees of jurisdiction in the House of Representatives have held numerous hearings to determine what went wrong and how to prevent similar disasters in the future. I believe both the CLEAR Act and Whistleblower Protection Act take critical steps to properly reform our oil and gas drilling policies, as well as to protect the safety of oil and gas workers.

This comprehensive legislation will end years of misaligned priorities at the Minerals Management Service (MMS) at the Department of the Interior (DOI) by dividing its responsibilities into three different departments: the Bureau of Energy and Resource Management to manage leasing and permitting; the Bureau of Safety and Environmental Enforcement to police health and safety regulations; and the Office of Natural Resource Revenue to collect the American people's energy revenues earned on public lands. The bill further addresses misconduct by the MMS by implementing strong ''revolving door'' provisions that would ban MMS employees from accepting employment with oil and gas companies for two years.

The CLEAR Act imposes strong new safety standards for offshore drilling, including increased inspections, stricter penalties for safety violations, and independent certifications of critical equipment. I am also pleased that this comprehensive legislation includes many provisions of legislation which I cosponsored after the spill; including the elimination of the liability limit on oil companies, subpoena power to enable the President's bipartisan Commission to fully investigate the Deepwater Horizon spill, and the establishment of a Gulf of Mexico Restoration Program.

Additionally, this bill will use the revenues received from energy development to provide full funding to the Land and Water Conservation Fund (LWCF) and the Historic Preservation Fund (HPF), both of which contribute greatly to conservation efforts and open space preservation in Rhode Island.

In addition to the modifications included in the CLEAR Act, it is vitally important to the workers in our country to ensure that they have access to safe working conditions, and when they do not, have the opportunity to report their concerns without fear of retribution. The Offshore Oil and Gas Worker Whistleblower Protection Act would strengthen whistleblower protections for oil and gas workers by prohibiting an employer from discriminating against an employee who reports a violation or testifies about an alleged violation. It also establishes a process for an employee to appeal an employer's retaliation by filing a complaint with the Secretary of Labor.

I have long said that our nation cannot drill its way out of our energy crisis. We can no longer sit idly by as greenhouse gas emissions increase, our ecosystem is harmed, and our public health deteriorates from increased pollution. It is long past time that our nation moves away from our reliance on fossil fuels, both foreign and domestic, and invests in renewable energy and energy efficient technologies. While I do not believe we needed any more evidence to move in this direction, it is my hope that we will learn from this tragedy and seek better and safer solutions that will preserve our ecosystem and protect the health and lives of our citizens by passing a comprehensive clean energy jobs bill, such as the American Clean Energy and Security (ACES) Act. But as we continue to move towards clean energy, I urge my colleagues to support both H.R. 3534 and H.R. 5851 to make vast improvements to our nation's domestic energy development and protect workers who put safety first.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

In lieu of the amendment in the nature of a substitute recommended by the Committee on Natural Resources printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute printed in part A of House Report 111–582. The amendment in the nature of a substitute shall be considered as read.

The amendment in the nature of a substitute is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Consolidated Land, Energy, and Aquatic Resources Act of 2010''.

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

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

TITLE I—CREATION OF NEW DEPARTMENT OF THE INTERIOR AGENCIES

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

TITLE II—FEDERAL OIL AND GAS DEVELOPMENT

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

Sec. 201. Short title.
Sec. 202. Definitions.
Sec. 203. National policy for the Outer Continental Shelf.
Sec. 204. Jurisdiction of laws on the Outer Continental Shelf.
Sec. 205. Outer Continental Shelf leasing standard.

Sec. 206. Leases, easements, and rights-of-way.
Sec. 207. Disposition of revenues.
Sec. 208. Exploration plans.
Sec. 209. Outer Continental Shelf leasing program.
Sec. 210. Environmental studies.
Sec. 211. Safety regulations.
Sec. 212. Enforcement of safety and environmental regulations.
Sec. 213. Judicial review.
Sec. 214. Remedies and penalties.
Sec. 215. Uniform planning for Outer Continental Shelf.
Sec. 216. Oil and gas information program.
Sec. 217. Limitation on royalty-in-kind program.
Sec. 218. Restrictions on employment.
Sec. 219. Repeal of royalty relief provisions.
Sec. 220. Manning and buy- and build-American requirements.
Sec. 221. National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling.
Sec. 222. Coordination and consultation with affected State and local governments.
Sec. 223. Implementation.

Subtitle B—Royalty Relief for American Consumers

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

TITLE III—OIL AND GAS ROYALTY REFORM

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

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

Subtitle A—Land and Water Conservation Fund

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

Subtitle B—National Historic Preservation Fund

Sec. 411. Permanent funding.

TITLE V—GULF OF MEXICO RESTORATION

Sec. 501. Gulf of Mexico restoration program.
Sec. 502. Gulf of Mexico long-term environmental monitoring and research program.
Sec. 503. Gulf of Mexico emergency migratory species alternative habitat program.

TITLE VI—COORDINATION AND PLANNING

Sec. 601. Regional coordination.
Sec. 602. Regional Coordination Councils.
Sec. 603. Regional strategic plans.
Sec. 604. Regulations and savings clause.
Sec. 605. Ocean Resources Conservation and Assistance Fund.
Sec. 606. Waiver.

TITLE VII—OIL SPILL ACCOUNTABILITY AND ENVIRONMENTAL PROTECTION

Sec. 701. Short title.
Sec. 702. Repeal of and adjustments to limitation on liability.
Sec. 703. Evidence of financial responsibility for offshore facilities.
Sec. 704. Damages to human health.
Sec. 705. Clarification of liability for discharges from mobile offshore drilling units.
Sec. 706. Standard of review for damage assessment.
Sec. 707. Information on claims.
Sec. 708. Additional amendments and clarifications to Oil Pollution Act of 1990.
Sec. 709. Americanization of offshore operations in the Exclusive Economic Zone.
Sec. 710. Safety management systems for mobile offshore drilling units.
Sec. 711. Safety standards for mobile offshore drilling units.
Sec. 712. Operational control of mobile offshore drilling units.
Sec. 713. Single-hull tankers.
Sec. 714. Repeal of response plan waiver.
Sec. 715. National Contingency Plan.
Sec. 716. Tracking Database.
Sec. 717. Evaluation and approval of response plans; maximum penalties.
Sec. 718. Oil and hazardous substance cleanup technologies.
Sec. 719. Implementation of oil spill prevention and response authorities.
Sec. 720. Impacts to Indian Tribes and public service damages.
Sec. 721. Federal enforcement actions.
Sec. 722. Time required before electing to proceed with judicial claim or against the Fund.
Sec. 723. Authorized level of Coast Guard personnel.
Sec. 724. Clarification of memorandums of understanding.
Sec. 725. Build America requirement for offshore facilities.
Sec. 726. Oil spill response vessel database.
Sec. 727. Offshore sensing and monitoring systems.
Sec. 728. Oil and gas exploration and production.
Sec. 729. Leave retention authority.
Sec. 730. Authorization of appropriations.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Repeal of certain taxpayer subsidized royalty relief for the oil and gas industry.
Sec. 802. Conservation fee.
Sec. 803. Leasing on Indian lands.
Sec. 804. Outer Continental Shelf State boundaries.
Sec. 805. Liability for damages to national wildlife refuges.
Sec. 806. Strengthening coastal State oil spill planning and response.
Sec. 807. Information sharing.
Sec. 808. Limitation on use of funds.
Sec. 809. Environmental review.
Sec. 810. Federal response to State proposals to protect State lands and waters.

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 ecosystem 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 Energy and Resource Management; or

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

(12) OUTER CONTINENTAL SHELF.—The term ''Outer Continental Shelf'' has the same meaning given the term ''outer Continental Shelf'' has 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) Biomass or 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 ENERGY AND RESOURCE MANAGEMENT.

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

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

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

(D) in the National Petroleum Reserve in Alaska, pursuant to the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.);

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

(F) 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 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 and for nonrenewable and renewable energy and mineral resources managed by the Bureau of Land Management on the date of enactment of this Act, or any other Federal land management agency, 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, 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 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.);

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

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

(D) in the National Petroleum Reserve in Alaska, pursuant to the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.); and

(E) 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 and onshore federally managed lands.

(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 Energy and Resource 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—

(A) 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)); or

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

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

(A) 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)); or

(B) on onshore Federal lands, in accordance with section 302(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(c));

(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 individual operations, the Secretary shall give due consideration to the extent possible to their previous experience in the particular type of oil and gas operation in which such inspections are to be made.

(4) 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, 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 officers 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.

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 the royalty and revenue management functions pursuant to—

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

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

(iii) the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.);

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

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

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

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

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

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

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

(xi) 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—

(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—

(1) 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;

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

(3) assure prior consultation with those Indian tribes and States referred to in paragraph (2) in the formulation all policies, procedures, guidance, standards, and rules relating to the functions referred to in subsection (c).

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).

SEC. 105. REFERENCES.

(a) BUREAU OF ENERGY AND RESOURCE MANAGEMENT.—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 Energy and Resource 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 Energy and Resource Management;

(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 Energy and Resource Management;

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

(5) to the Director of the Bureau of Land Management 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 Energy and Resource Management; and

(6) to any other position in the Bureau of Land Management 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 Energy and Resource 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;

(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;

(4) to the Bureau of Land Management 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;

(5) to the Director of the Bureau of Land Management 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

(6) to any other position in the Bureau of Land Management 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 Energy and Resource 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 non-industry-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 whether existing well control regulations issued by the Secretary under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) adequately protect public health and safety and the environment; and

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

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 2010''.

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 Government 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 human health and 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.''; 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 re-certification by an independent third-party certifier, pursuant to paragraph (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 CERTIFIERS.—The Secretary shall 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.

''(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 public health and safety or the environment.

''(B) SUBMISSION OF STATE REGULATORY REGIME.—Any State may submit to the Secretary 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. 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 paragraph (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 exploration, 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 programs 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.—

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

(A) in paragraph (1)—

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

(ii) 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

(B) in paragraph (4)—

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

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

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

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

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

''(B) the lease, easement, right-of-way, or other authorization—

''(i) is for the placement and operation of a meteorological or marine data collection facility; and

''(ii) has a term of not more than 5 years; or

''(C) the Secretary determines, after providing public notice of a proposed lease, easement, right-of-way, or other authorization, that no competitive interest exists.''.

(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. 207. DISPOSITION OF REVENUES.

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

''SEC. 9. DISPOSITION OF REVENUES.

''(a) GENERAL.—Except as provided in subsections (b), (c), and (d), all rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

''(b) LAND AND WATER CONSERVATION FUND.—Effective for fiscal year 2011 and each fiscal year thereafter, $900,000,000 of the amounts referred to in subsection (a) shall be deposited in the Treasury of the United States and credited to the Land and Water Conservation Fund. These sums shall be available to the Secretary, without further appropriation or fiscal year limitation, for carrying out the purposes of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.).

''(c) HISTORIC PRESERVATION FUND.—Effective for fiscal year 2011 and each fiscal year thereafter, $150,000,000 of the amounts referred to in subsection (a) shall be deposited in the Treasury of the United States and credited to the Historic Preservation Fund. These sums shall be available to the Secretary, without further appropriation or fiscal year limitation, for carrying out the purposes of the National Historic Preservation Fund Act of 1966 (16 U.S.C. 470 et seq.).

''(d) OCEAN RESOURCES CONSERVATION AND ASSISTANCE FUND.—Effective for each fiscal year 2011 and thereafter, 10 percent of the amounts referred to in subsection (a) shall be deposited in the Treasury of the United States and credited to the Ocean Resources Conservation and Assistance Fund established by the Consolidated Land, Energy, and Aquatic Resources Act of 2010. These sums shall be available to the Secretary, subject to appropriation, for carrying out the purposes of section 605 of the Consolidated Land, Energy, and Aquatic Resources Act of 2010.

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

SEC. 208. EXPLORATION PLANS.

(a) 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)''.

(b) 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 oil spill in real-world conditions in the area of the proposed activity.''; 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.''.

(c) 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 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 and human health from hydrocarbons;

''(E) an analysis of the potential impacts of the worst-case-scenario discharge 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.''.

(d) 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.''.

(e) 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 demonstrated to be capable of effectively remediating a worst-case release of oil.''.

(f) ENVIRONMENTAL REVIEW OF PLANS; DEEPWATER PLAN; PLAN DISAPPROVAL.—Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended by adding at the end the following:

''(i) ENVIRONMENTAL REVIEW OF PLANS.—The Secretary shall treat the approval of an exploration plan, or a significant revision of such a 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.), and shall require that such plan—

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

''(2) contain a technical systems analysis of the safety of the proposed activity, the blowout prevention technology, and the blowout and spill response plans.

''(j) DISAPPROVAL OF PLAN.—

''(1) IN GENERAL.—The Secretary shall disapprove the plan if the Secretary determines, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine 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)(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 otherwise 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.''.

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.''.

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 2010 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 ''Not later than 6 months after the date of enactment of the Outer Continental Shelf Lands Act Amendments of 2010 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 Consolidated Land, Energy, and Aquatic Resources Act of 2010, 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 Lands Act Amendments of 2010, the Secretary shall promulgate regulations requiring a safety case be submitted along with each new application for a permit to drill on the outer Continental Shelf. Not later than 5 years after the date final regulations promulgated under this subsection go into effect, and not less than every 5 years thereafter, the Secretary shall enter into an arrangement with the National Academy of Engineering to conduct a study to assess the effectiveness of these regulations and to recommend improvements in their administration.

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

''(1) IN GENERAL.—The Secretary shall carry out a program of research, development, and risk assessment to address technology and development issues associated with exploration for, and development and production of, energy and mineral resources on the outer Continental Shelf, with the primary purpose of informing its role relating to safety, environmental protection, and spill response.

''(2) SPECIFIC FOCUS AREAS.—The program under this subsection shall include research and development 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;

''(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; and

''(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.

''(i) CEO STATEMENT.—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—

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

''(2) 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;

''(3) 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;

''(4) 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;

''(5) the well design is safe; and

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

''(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 and human health 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. NATIONAL COMMISSION ON THE BP DEEPWATER HORIZON OIL SPILL AND OFFSHORE DRILLING.

(a) TECHNICAL EXPERTISE.—

(1) NATIONAL ACADEMY OF ENGINEERING AND NATIONAL RESEARCH COUNCIL.—The National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling established under Executive Order No. 13543 of May 21, 2010 (referred to in this section as the ''Commission'') shall consult regularly, and in any event no less frequently than once per month, with the engineering and technology experts who are conducting the ''Analysis of Causes of the Deepwater Horizon Explosion, Fire, and Oil Spill to Identify Measures to Prevent Similar Accidents in the Future'' for the National Academy of Engineering and the National Research Council.

(2) OTHER TECHNICAL EXPERTS.—The Commission also shall consult with other United States citizens with experience and expertise in such areas as—

(A) engineering;

(B) environmental compliance;

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

(D) oil spill insurance policies;

(E) public administration;

(F) oil and gas exploration and production;

(G) environmental cleanup;

(H) fisheries and wildlife management;

(I) marine safety; and

(J) human factors affecting safety.

(3) COMMISSION STAFF AND TECHNICAL EXPERTISE.—The Commission shall retain, as either a full-time employee or a contractor, one or more science and technology expert-advisors with experience and expertise in petroleum engineering, rig safety, or drilling.

(b) SUBPOENAS.—

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

(2) ISSUANCE.—

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

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

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

(B) JUSTICE DEPARTMENT COORDINATION.—

(i) NOTIFICATION.—The Commission shall notify the Attorney General or the Attorney General's designee of the Commission's intent to issue a subpoena under this subsection, the identity of the recipient, and the nature of the testimony, documents, or other evidence (described in subparagraph (A)) sought before issuing such a subpoena. The form and content of such notice shall be set forth in the guidelines issued under clause (iv).

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

(I) Federal or State criminal investigation or prosecution;

(II) pending investigation under sections 3729 through 3732 of title 31, United States Code (commonly known as the ''Civil False Claims Act'');

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

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

(iii) NOTIFICATION OF OBJECTION.—The Attorney General or relevant United States Attorney shall notify the Commission of an objection raised under this subparagraph without unnecessary delay and as set forth in the guidelines issued under clause (iv).

(iv) GUIDELINES.—As soon as practicable, but no later than 30 days after the date of the enactment of this Act, the Attorney General, after consultation with the Commission, shall issue guidelines to carry out this paragraph.

(C) SIGNATURE AND SERVICE.—A subpoena issued under this subsection may be—

(i) issued under the signature of either Co-Chair of the Commission or any member designated by a majority of the Commission; and

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

(3) ENFORCEMENT.—

(A) REQUIRED PROCEDURES.—In the case of contumacy of any person issued a subpoena under this subsection or refusal by such person to comply with the subpoena, the Commission may request the Attorney General to seek enforcement of the subpoena. Upon such request, the Attorney General may seek enforcement of the subpoena in a court described in subparagraph (B). The court in which the Attorney General seeks enforcement of the subpoena may issue an order requiring the subpoenaed person to appear at any designated place to testify or to produce documentary or other evidence described in subparagraph (A) of paragraph (2), and may punish any failure to obey the order as a contempt of that court.

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

(c) RECOMMENDATIONS AND PURPOSES.—

(1) IN GENERAL.—The Commission shall develop recommendations for—

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

(i) ensure the effective oversight, inspection, monitoring, and response capabilities; and

(ii) protect the environment and natural resources; and

(B) organizational or other reforms of Federal agencies or processes, including the creation of new agencies, as necessary, to ensure that the improvements described in paragraph (1) are implemented and maintained.

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

(A) Ensuring the safe operation and maintenance of offshore drilling platforms or vessels.

(B) Protecting the overall environment and natural resources surrounding ongoing and potential offshore drilling sites.

(C) Developing and maintaining Federal agency expertise on the safe and effective use of offshore drilling technologies, including technologies to minimize the risk of release of oil from offshore drilling platforms or vessels.

(D) Encouraging the development and implementation of efficient and effective oil spill response techniques and technologies that minimize or eliminate any adverse effects on natural resources or the environment that result from response activities.

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

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

(ii) not subject to undue influence from regulated interests or political appointees; and

(iii) subject to strict regulation to prevent improper relationships with regulated interests and to eliminate real or perceived conflicts of interests.

(3) REPORT TO CONGRESS.—In coordination with its final public report to the President, the Commission shall submit to Congress a report containing the recommendations developed under paragraph (1).

SEC. 222. 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 shall 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. 223. 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.

Subtitle B—Royalty Relief for American Consumers

SEC. 241. SHORT TITLE.

This subtitle may be cited as the ''Royalty Relief for American Consumers Act of 2010''.

SEC. 242. 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 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. 243. 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 accounts 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 two 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 section 205 or such State under section 205.''.

SEC. 318. APPLICABILITY TO OTHER MINERALS.

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

''(e) APPLICABILITY TO OTHER MINERALS.—

''(1) Notwithstanding any other provision of law, sections 107, 109, and 110 of this Act and the regulations duly promulgated with respect thereto shall apply to any lease authorizing the development of coal or any other solid mineral on any Federal lands or Indian lands, to the same extent as if such lease were an oil and gas lease, on the same terms and conditions as those authorized for oil and gas leases.

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

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

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

''(3) For the purposes of this subsection, the term 'solid mineral' means any mineral other than oil, gas, and geo-pressured-geothermal resources, that is authorized by an Act of Congress to be produced from public lands (as that term is defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)).''.

SEC. 319. 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. 320. 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''.

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

Subtitle A—Land and Water Conservation Fund

SEC. 401. AMENDMENTS TO THE LAND AND WATER CONSERVATION FUND ACT OF 1965.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.).

SEC. 402. EXTENSION OF THE LAND AND WATER CONSERVATION FUND.

Section 2 (16 U.S.C. 4601–5) is amended by striking ''September 30, 2015'' both places it appears and inserting ''September 30, 2040''.

SEC. 403. PERMANENT FUNDING.

(a) IN GENERAL.—The text of section 3 (16 U.S.C. 4601–6) is amended to read as follows:

''(a) PERMANENT FUNDING.—Of the moneys covered into the fund, $900,000,000 shall be available each fiscal year for expenditure for the purposes of this Act without further appropriation.

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

(b) CONFORMING AMENDMENTS.—

(1) Section 2(c)(2) (16 U.S.C. 4601–5(c)(2)) is amended by striking '': *Provided*'' and all that follows through the end of the sentence and inserting a period.

(2) Section 7(a) (16 U.S.C. 4601–9) is amended to read as follows: ''Moneys from the fund for Federal purposes shall, unless allocated pursuant to section 3(b) of this Act, be allotted by the President to the following purposes and subpurposes:''.

Subtitle B—National Historic Preservation Fund

SEC. 411. PERMANENT FUNDING.

The text of section 108 of the National Historic Preservation Act (16 U.S.C. 470h) is amended to read as follows:

''(a) PERMANENT FUNDING.—To carry out the provisions of this Act, there is hereby established the Historic Preservation Fund (hereinafter referred to as the 'fund') in the Treasury of the United States. There shall be covered into the fund $150,000,000 for each of fiscal years 1982 through 2040 from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 1338) and/or under the Act of June 4, 1920 (41 Stat. 813), as amended (30 U.S.C.191), notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this Act and shall be available for expenditure without further appropriation.

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

TITLE V—GULF OF MEXICO RESTORATION

SEC. 501. GULF OF MEXICO RESTORATION PROGRAM.

(a) PROGRAM.—There is established a Gulf of Mexico Restoration Program for the purposes of coordinating Federal, State, and local restoration programs and projects to maximize efforts in restoring biological integrity, productivity and ecosystem functions in the Gulf of Mexico.

(b) GULF OF MEXICO RESTORATION TASK FORCE.—

(1) ESTABLISHMENT.—There is established a task force to be known as the Gulf of Mexico Restoration Task Force (in this section referred to as the ''Restoration Task Force'').

(2) MEMBERSHIP.—The Restoration Task Force shall consist of the Governors of each of the Gulf Coast States and the heads of appropriate Federal agencies selected by the President. The chairperson of the Restoration Task Force (in this subsection referred to as the ''Chair'') shall be appointed by the President. The Chair shall be a person who, as the result of experience and training, is exceptionally well-qualified to manage the work of the Restoration Task Force. The Chair shall serve in the Executive Office of the President.

(3) ADVISORY COMMITTEES.—The Restoration Task Force may establish advisory committees and working groups as necessary to carry out is its duties under this Act.

(c) GULF OF MEXICO RESTORATION PLAN.—

(1) IN GENERAL.—Not later than nine months after the date of enactment of this Act, the Restoration Task Force shall issue a proposed comprehensive, multi-jurisdictional plan for long-term restoration of the Gulf of Mexico that incorporates, to the greatest extent possible, existing restoration plans. Not later than 12 months after the date of enactment and after notice and opportunity for public comment, the Restoration Task Force shall publish a final plan. The Plan shall be updated every five years in the same manner.

(2) ELEMENTS OF RESTORATION PLAN.—The Plan shall—

(A) identify processes and strategies for coordinating Federal, State, and local restoration programs and projects to maximize efforts in restoring biological integrity, productivity and ecosystem functions in the Gulf of Mexico region;

(B) identify mechanisms for scientific review and input to evaluate the benefits and long-term effectiveness of restoration programs and projects;

(C) identify, using the best science available, strategies for implementing restoration programs and projects for natural resources including—

(i) restoring species population and habitat including oyster reefs, sea grass beds, coral reefs, tidal marshes and other coastal wetlands and barrier islands and beaches;

(ii) restoring fish passage and improving migratory pathways for wildlife;

(iii) research that directly supports restoration programs and projects;

(iv) restoring the biological productivity and ecosystem function in the Gulf of Mexico region;

(v) improving the resilience of natural resources to withstand the impacts of climate change and ocean acidification to ensure the long-term effectiveness of the restoration program; and

(vi) restoring fisheries resources in the Gulf of Mexico that benefit the commercial and recreational fishing industries and seafood processing industries throughout the United States.

(3) REPORT.—The Task Force shall annually provide a report to Congress about the progress in implementing the Plan.

(d) DEFINITIONS.—For purposes of this section, the term—

(1) ''Gulf Coast State'' means each of the States of Texas, Louisiana, Mississippi, Alabama, and Florida; and

(2) ''restoration programs and projects'' means activities that support the restoration, rehabilitation, replacement, or acquisition of the equivalent, of injured or lost natural resources including the ecological services and benefits provided by such resources.

(e) RELATIONSHIP TO OTHER LAW.—Nothing in this section affects the ability or authority of the Federal Government to recover costs of removal or damages from a person determined to be a responsible party pursuant to the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) or other law.

SEC. 502. GULF OF MEXICO LONG-TERM ENVIRONMENTAL MONITORING AND RESEARCH PROGRAM.

(a) IN GENERAL.—To ensure that the Federal Government has independent, peer-reviewed scientific data and information to assess long-term direct and indirect impacts on trust resources located in the Gulf of Mexico

and Southeast region resulting from the *Deepwater Horizon* oil spill, the Secretary, through the National Oceanic and Atmospheric Administration, shall establish as soon as practicable after the date of enactment of this Act, a long-term, comprehensive marine environmental monitoring and research program for the marine and coastal environment of the Gulf of Mexico. The program shall remain in effect for a minimum of 10 years, and the Secretary may extend the program beyond this initial period based upon a determination that additional monitoring and research is warranted.

(b) SCOPE OF PROGRAM.—The program established under subsection (a) shall at a minimum include monitoring and research of the physical, chemical, and biological characteristics of the affected marine, coastal, and estuarine areas of the Gulf of Mexico and other regions of the exclusive economic zone of the United States affected by the *Deepwater Horizon* oil spill, and shall include specifically the following elements:

(1) The fate, transport, and persistence of oil released during the spill and spatial distribution throughout the water column.

(2) The fate, transport, and persistence of chemical dispersants applied in-situ or on surface waters.

(3) Identification of lethal and sub-lethal impacts to fish and wildlife resources that utilize habitats located within the affected region.

(4) Impacts to regional, State, and local economies that depend on the natural resources of the affected area, including commercial and recreational fisheries, and other wildlife-dependent recreation.

(5) Other elements considered necessary by the Secretary to ensure a comprehensive marine research and monitoring program to comprehend and understand the implications to trust resources caused by the *Deepwater Horizon* oil spill.

(c) COOPERATION AND CONSULTATION.—In developing the research and monitoring program established under subsection (a), the Secretary shall cooperate with the United States Geological Survey, and shall consult with—

(1) the Council authorized under subtitle E of title II of Public Law 104–201;

(2) appropriate representatives from the Gulf Coast States;

(3) academic institutions and other research organizations; and

(4) other experts with expertise in long-term environmental monitoring and research of the marine environment.

(d) AVAILABILITY OF DATA.—Data and information generated through the program established under subsection (a) shall be managed and archived to ensure that it is accessible and available to governmental and non-governmental personnel and to the general public for their use and information.

(e) REPORT.—No later than one year after the establishment of the program under subsection (a), and biennially thereafter, the Secretary shall forward to the Congress a comprehensive report summarizing the activities and findings of the program and detailing areas and issues requiring future monitoring and research.

(f) DEFINITIONS.—For the purposes of this section, the term—

(1) ''trust resources'' means the living and nonliving natural resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States, any State, an Indian tribe, or a local government;

(2) ''Gulf coast State'' means each of the states of Texas, Louisiana, Mississippi, Alabama and Florida; and

(3) ''Secretary'' means the Secretary of Commerce.

SEC. 503. GULF OF MEXICO EMERGENCY MIGRATORY SPECIES ALTERNATIVE HABITAT PROGRAM.

(a) IN GENERAL.—In order to reduce the injury or death of many populations of migratory species of fish and wildlife, including threatened and endangered species and other species of critical conservation concern, that utilize estuarine, coastal, and marine habitats of the Gulf of Mexico that have been impacted, or are likely to be impacted, by the *Deepwater Horizon* oil spill, and to ensure that migratory species upon their annual return to the Gulf of Mexico find viable, healthy, and environmentally-safe habitats to utilize for resting, feeding, nesting and roosting, and breeding, the Secretary of the Interior shall establish as soon as practicable after date of enactment of this Act, an emergency migratory species alternative habitat program.

(b) SCOPE OF PROGRAM.—The program established under subsection (a) shall at a minimum support projects along the Northern coast of the Gulf of Mexico to—

(1) improve wetland water quality and forage;

(2) restore and refurbish diked impoundments;

(3) improve riparian habitats to increase fish passage and breeding habitat;

(4) encourage conversion of agricultural lands to provide alternative migratory habitat for water fowl and other migratory birds;

(5) transplant, relocate, or rehabilitate fish and wildlife; and

(6) conduct other activities considered necessary by the Secretary to ensure that migratory species have alternative habitat available for their use outside of habitat impacted by the oil spill.

(c) NATIONAL FISH AND WILDLIFE FOUNDATION.—In implementing this section the Secretary may enter into an agreement with the National Fish and Wildlife Foundation to administer the program.

TITLE VI—COORDINATION AND PLANNING

SEC. 601. 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. 602. 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 representatives 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 serve on the Council in addition to any Federal or State appointments.

(5) TRIBAL REPRESENTATION.—An appropriate tribal official selected by affected Indian tribes situated in the affected Coordination Region may elect to appoint a representative of such tribes collectively to serve as a member of the Regional Coordination Council for that Region.

(6) LOCAL REPRESENTATION.—The Chairman of the Council on Environmental Quality shall, in consultation with the Governors of the coastal States within each Coordination Region, identify and appoint representatives of county and local governments, as appropriate, to serve as members of the Regional Coordination Council for that Region.

(c) ADVISORY COMMITTEE.—Each Regional Coordination Council shall establish advisory committees for the purposes of public and stakeholder input and scientific advice, made up of a balanced representation from the energy, shipping, transportation, commercial and recreational fishing, and recreation industries, from marine environmental nongovernmental organizations, and from scientific and educational authorities with expertise in the conservation and management of ocean, coastal, and 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. 603. 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 decision-making 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;

(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 submit to the Chairman of the Council on Environmental Quality a multiobjective, science- and ecosystem-based, spatially explicit, integrated Strategic Plan in accordance with this subsection for the Council's Coordination Region.

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

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

(A) be based on the initial regional assessment and updates for the Coordination Region under subsections (a) and (c), respectively;

(B) foster the sustainable and integrated development and use of ocean, coastal, and Great Lakes resources in a manner that protects the health of marine ecosystems;

(C) identify areas with potential for siting and developing renewable and nonrenewable energy resources in the Coordination Region covered by the Strategic Plan;

(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) is consistent with the Outer Continental Shelf Lands Act;

(B) complies with subsection (b); and

(C) 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. 604. 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. 605. 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 amounts as specified in section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), as amended by section 207 of this Act.

(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) 1/2 shall be used to make grants to coastal States and affected Indian tribes under subsection (b); and

(ii) 1/2 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, nongovernment, 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 comment on the plans from stakeholders and the general public.

(5) ENERGY PLANNING GRANTS.—For each of the fiscal years 2011 through 2015, the Secretary may use funds allocated for grants under this subsection to make grants to coastal States and affected tribes under section 320 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), as amended by this Act.

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

(c) OCEAN AND COASTAL COMPETITIVE GRANTS PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall use amounts allocated under subsection (a)(3)(A)(I)(II) to make competitive grants for conservation and management of ocean, coastal, and Great Lakes ecosystems and marine resources.

(2) OCEAN, COASTAL, AND GREAT LAKES REVIEW PANEL.—

(A) IN GENERAL.—The Secretary shall establish an Ocean, Coastal, and Great Lakes Review 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. 606. WAIVER.

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

TITLE VII—OIL SPILL ACCOUNTABILITY AND ENVIRONMENTAL PROTECTION

SEC. 701. SHORT TITLE.

This title may be cited as the ''Oil Spill Accountability and Environmental Protection Act of 2010''.

SEC. 702. 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)—

(i) by striking ''$800,000,,'' and inserting ''$800,000,''; and

(ii) 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 2010, 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. 703. 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 required 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 2010, 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.''; and

(2) 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. 704. 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 injury 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. 705. 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. 706. 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. 707. INFORMATION ON CLAIMS.

(a) IN GENERAL.—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.''.

(b) 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.''.

(c) 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. 708. 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: ''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); and

(2) by striking ''; and'' at the end of subparagraph (B) and inserting a period; and

(3) by striking subparagraph (C).

(e) 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. 709. 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. 710. SAFETY MANAGEMENT SYSTEMS FOR MOBILE OFFSHORE DRILLING UNITS.

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

(1) by redesignating subsection (b) as subsection (c); 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. 711. SAFETY STANDARDS FOR MOBILE OFFSHORE DRILLING UNITS.

Section 3306 of title 46, United States Code, is amended by adding at the end the following:

''(k) In prescribing regulations for mobile offshore drilling units, the Secretary shall develop standards to address a worst-case event on the vessel.''.

SEC. 712. 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 7114 as sections 7105 through 7115, 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 demonstrated 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 7114 and inserting the following:

''7104. Licenses for masters of mobile offshore drilling units.
''7105. Certificates for medical doctors and nurses.
''7106. Oaths.
''7107. Duration of licenses.
''7108. Duration of certificates of registry.
''7109. Termination of licenses and certificates of registry.
''7110. Review of criminal records.
''7111. Exhibiting licenses.
''7112. Oral examinations for licenses.
''7113. Licenses of masters or mates as pilots.
''7114. Exemption from draft.
''7115. Fees.''.

(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. 713. 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. 714. 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. 715. 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 modify 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 the public disclosure of the specific chemical identity, including the chemical and common name of any ingredients contained in, and specific chemical formulas or mixtures of, any such dispersant, chemical, or substance; 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, 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 the public disclosure of the specific chemical identity of (including the chemical and common name of any ingredients contained in and the specific chemical formula or mixture of) any such dispersant, chemical, or substance; 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 device based on any information made available to the Administrator that demonstrates that such device poses a significant risk or impact to water quality, 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, the environment, or any other factor the Administrator determines appropriate, including acute and chronic risks, 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 such risks and impacts—

''(I) on a representative sample of biota and types of oil from locations where such dispersants, chemicals, or substances may potentially be used; and

''(II) that result from any by-products created from the use of such dispersants, chemicals, or substances.

''(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, 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 byproducts 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 on the oils and locations where such dispersants, chemicals, or substances may potentially be used; and

''(bb) if appropriate, an assessment of application and impacts from subsea use of the dispersant, chemical, or substance, including the potential long term effects of such use on water quality 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 on an ongoing basis thereafter (and at least once every 5 years), 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, 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 minimum effectiveness value 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 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 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 preventing 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 evaluating 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.

''(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) TEMPORARY MORATORIUM ON APPROVAL OF USE OF DISPERSANTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Administrator of the Environmental Protection Agency may not approve the use of a dispersant under section 311(d) of the Oil Pollution Act of 1990 (33 U.S.C. 1321(d)), and shall withdraw any approval of such use made before the date of enactment of this Act, until the date on which the rulemaking and study required by subparagraphs (A) and (D) of section 311(d)(5) of such Act (as added by subsection (b) of this section) are complete.

(2) CONDITIONAL APPROVAL.—The Administrator may approve the use of a dispersant under section 311(d) of such Act (33 U.S.C. 1321(d)) for the period of time before the date on which the rulemaking and study required by subparagraphs (A) and (D) of section 311(d)(5) of such Act (as added by subsection (b) of this section) are complete if the Administrator determines that such use will not have a negative impact on water quality, the environment, or any other factor the Administrator determines appropriate.

(3) INFORMATION.—In approving the use of a dispersant under paragraph (2), the Administrator may require the manufacturer of the dispersant to provide such information as the Administrator determines necessary to satisfy the requirements of that paragraph.

(d) 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. 716. 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 Deepwater 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. 717. 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 response 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 appropriate 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. 718. 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. 719. 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. 720. 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. 721. 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. 722. 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. 723. 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. 724. 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. 725. 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. 726. 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. 727. 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. 728. 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. 729. LEAVE RETENTION AUTHORITY.

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

''§ 426. Emergency leave retention authority

''(a) IN GENERAL.—A duty assignment for an active duty member of the Coast Guard in support of a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or in response to a spill of national significance shall be treated, for the purpose of section 701(f)(2) of title 10, as a duty assignment in support of a contingency operation.

''(b) DEFINITIONS.—In this section:

''(1) SPILL OF NATIONAL SIGNIFICANCE.—The term 'spill of national significance' means a discharge of oil or a hazardous substance that is declared by the Commandant to be a spill of national significance.

''(2) DISCHARGE.—The term 'discharge' has the meaning given that term in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701).''.

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

''426. Emergency leave retention authority.''.

SEC. 730. 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.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. 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. 802. CONSERVATION FEE.

(a) ESTABLISHMENT.—The Secretary shall, within 180 days after the date of enactment of this Act, issue regulations to establish an annual conservation fee for all oil and gas leases on Federal onshore and offshore lands.

(b) AMOUNT.—The amount of the fee shall be, for each barrel or barrel equivalent produced from land that is subject to a lease from which oil or natural gas is produced in a calendar year, $2 per barrel of oil and 20 cents per million BTU of natural gas in 2010 dollars.

(c) ASSESSMENT AND COLLECTION.—The Secretary shall assess and collect the fee established under this section.

(d) REGULATIONS.—The Secretary may issue regulations to prevent evasion of the fee under this section.

(e) SUNSET.—This section and the fee established under this section shall expire on December 31, 2021.

SEC. 803. 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. 804. 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. 805. 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 an act or omission of a third party, and the person acted with due care;

''(ii) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

''(iii) the destruction, loss, or injury was negligible.

''(D) LIMITS TO LIABILITY.—Nothing in sections 30501 to 30512 or section 30706 of title 46, United States Code, shall limit the liability of any person under this section.

''(2) RESPONSE ACTIONS.—The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction or loss of, or injury to, refuge resources, or to minimize the imminent risk of such destruction, loss, or injury.

''(3) CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.—

''(A) IN GENERAL.—The Attorney General, upon request of the Secretary, may commence a civil action against any person or instrumentality who may be liable under paragraph (1) for response costs and damages. The Secretary, acting as trustee for refuge resources for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

''(B) JURISDICTION AND VENUE.—An action under this subsection may be brought in the United States district court for any district in which—

''(i) the defendant is located, resides, or is doing business, in the case of an action against a person;

''(ii) the instrumentality is located, in the case of an action against an instrumentality; or

''(iii) the destruction of, loss of, or injury to a refuge resource occurred.

''(4) USE OF RECOVERED AMOUNTS.—Response costs and damages recovered by the Secretary under this subsection shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)) and used as follows:

''(A) RESPONSE COSTS.—Amounts recovered by the United States for costs of response 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.

''(5) DEFINITIONS.—In this subsection, the term—

''(A) 'damages' includes—

''(i) compensation for—

''(I)(aa) the cost of replacing, restoring, or acquiring the equivalent of a refuge resource; and

''(bb) the value of the lost use of a refuge resource pending its restoration or replacement or the acquisition of an equivalent refuge resource; or

''(II) the value of a refuge resource if the refuge resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired;

''(ii) the cost of conducting damage assessments;

''(iii) the reasonable cost of monitoring appropriate to the injured, restored, or replaced refuge resource; and

''(iv) the cost of enforcement actions undertaken by the Secretary in response to the destruction or loss of, or injury to, a 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. 806. 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. 807. 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. 808. 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. 809. ENVIRONMENTAL REVIEW.

Section 390 of the Energy Policy Act of 2005 (Public Law 109–58; 42 U.S.C. 15942) is repealed.

SEC. 810. FEDERAL RESPONSE TO STATE PROPOSALS TO PROTECT STATE LANDS AND WATERS.

Any State shall be entitled to timely decisions regarding permit applications or other approvals from any Federal official, including the Secretary of the Interior or the Secretary of Commerce, for any State or local government response activity to protect State lands and waters that is directly related to the discharge of oil determined to be a spill of national significance. Within 48 hours of the receipt of the State application or request for approval, the Federal official shall provide a clear determination on the permit application or approval request to the State, or provide a definite date by which the determination shall be made to the State. If the Federal official fails to meet either of these deadlines, the permit application is presumed to be approved or other approval granted.

The CHAIR. No amendment to that amendment in the nature of a substitute is in order except those printed in part B of the report. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. RAHALL

The CHAIR. It is now in order to consider amendment No. 1 printed in part B of House Report 111–582.

Mr. RAHALL. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 150, strike lines 15 and 16 (and redesignate the subsequent subparagraphs accordingly).

Page 37, line 7, strike ''public health and''.

Page 37, line 11, strike ''public health and''.

Page 39, line 8, strike ''human health and''.

Page 47, line 15, strike ''public health and''.

Page 66, line 11, strike ''and human health''.

Page 87, line 15, strike ''and human health''.

Page 180, strike lines 17 through 23 and insert the following:

''(V) require the public disclosure of all ingredients, including the chemical and common name of such ingredients, contained in any such dispersant, chemical, or substance; and

Page 181, strike lines 17 through 23 and insert the following:

''(II) require the public disclosure of all ingredients, including the chemical and common name of such ingredients, contained in any such dispersant, chemical, or substance; and

Page 169, line 18, insert ''**PROCEDURES FOR CLAIMS AGAINST FUND;**'' before ''**INFORMATION ON CLAIMS**'' (and conform the table of contents accordingly).

Page 169, after line 18, insert the following:

(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.''.

Page 169, line 19, strike ''(a) IN GENERAL.—'' and insert ''(b) INFORMATION ON CLAIMS.—''.

Page 170, line 10, strike ''(b)'' and insert ''(c)''.

Page 170, line 14, strike ''(c)'' and insert ''(d)''.

Add at the end of title VII the following:

SEC. 731. 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 (d) the following:

''(e) LIMITATION ON RELEASE OF LIABILITY.—No release of liability in connection with compensation received by a claimant under this Act shall apply to liability for any tope 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(e), affect, or be construed or interpreted to affect or modify in any way, the obligations or liabilities of any person under other Federal law.''.

Page 223, after line 13, insert the following (and conform the table of contents of the bill accordingly):

SEC. 732. 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''.

Page 23, line 4, insert ''safety training firms,'' after ''labor organizations,''.

Page 8, line 7, strike ''Biomass or landfill'' and insert ''Landfill''.

Page 238, after line 19, insert the following:

SEC. 811. 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).

Page 24, after line 12, insert the following:

(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.

Page 238, after line 19, insert the following new section:

SEC. 812. 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.

Page 223, after line 13, insert the following (and conform the table of contents accordingly):

SEC. 733. 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.''.

Add at the end the following new title:

TITLE ____—STUDY OF ACTIONS TO IMPROVE THE ACCURACY OF COLLECTION OF ROYALTIES

SEC. ___1. 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 2010''.

SEC. ___2. 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 temperature 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 deducting 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 nonpayment 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. ___3. 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.

At the end of subtitle A of title II, add the following new section:

SEC. 224. 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.

At the end of title III add the following new section:

SEC. 321. 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.''.

Page 82, line 24, before ''The Secretary'' insert the following:

(1) IN GENERAL.—

Page 83, line 4, strike ''(1)'' and insert ''(A)''.

Page 83, line 7, strike ''(2)'' and insert ''(B)''.

Page 83, line 11, strike ''(3)'' and insert ''(C)''.

Page 83, line 15, strike ''(4)'' and insert ''(D)''.

Page 83, line 19, strike ''(5)'' and insert ''(E)''.

Page 83, line 20, strike ''(6)'' and insert ''(F)''.

Page 83, after line 22, insert the following:

''(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.

Page 129, after line 19, insert the following:

(4) CITIZEN ADVISORY COUNCIL.—

(A) IN GENERAL.—The Gulf Coast Restoration Task Force shall create a Citizen Advisory Council made up of individuals who—

(i) are local residents of the Gulf of Mexico region;

(ii) are stakeholders who are not from the oil and gas industry or scientific community;

(iii) include business owners, homeowners, and local decisionmakers; and

(iv) are a balanced representation geographically and in diversity among the interests of its members.

(B) FUNCTION.—The Council shall provide recommendations to the Task Force regarding its work.

At the end of subtitle A of title II add the following new section:

SEC. 225. 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.''.

Page 145, line 3, insert '', except for the assessment for the Great Lakes Coordination Region, for which the Regional Coordination Council for such Coordination Region shall only identify the Great Lakes Coordination Region's renewable energy resources, including current and potential renewable energy resources'' after ''potential energy resources''.

Page 147, line 23, insert '', 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'' after ''Strategic Plan''.

The CHAIR. Pursuant to House Resolution 1574, the gentleman from West Virginia (Mr. RAHALL) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. RAHALL. I yield myself such time as I may consume.

Mr. Chairman, the amendment incorporates a number of constructive proposals from my colleagues which I believe significantly improve the CLEAR Act. Some of these proposals affect the provisions of the bill under our Natural Resources Committee's jurisdiction while others address the title of the bill that was added by Chairman OBERSTAR's T&I Committee.

In addition to a number of technical changes, this amendment also contains language that will improve the management of the new training academy for oil and gas inspectors that has been established in this bill. It holds CEOs more accountable for the actions of their companies. It ensures that, even when you spill the public's oil, you still pay the royalties that are due to the American people, and it also leads to a more accurate collection of royalties for natural gas. This amendment also studies the issue of potentially requiring relief wells to be drilled at the same time as the primary well. These are noncontroversial, good government, and good policy provisions. I urge my colleagues to support them.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I rise to claim the time in opposition.

The CHAIR. The gentleman is recognized for 10 minutes.

Mr. HASTINGS of Washington. I yield myself 3 minutes.

Mr. Chairman, this amendment consolidates 17 Democrat amendments and one Republican amendment. Inside this lengthy amendment are a number of significant changes to oil and gas policies, royalties, collections, and studies. That might be fine, but I am not aware that any of these provisions have been subject to hearings in our Committee on Natural Resources, and I think that we should certainly have a better understanding of the impacts before we pass this on the House floor.

□ 1450

I want to point out two provisions in this amendment. There is one provision stripping biomass from the regulation from the bureau. Now this, I think, is a fine amendment, but I think it would have been better accomplished if we had simply made in order the Lummis amendment. The gentlelady from Wyoming had an amendment to take out all of the language on onshore activity. That would have been a much, much better way to do it, especially in light of the fact that the administration in this regard says that, and I quote, It would be most effective if this reorganization focused exclusively on the OCS at this time, end quote. But, of course, that wasn't done. So this is, I suppose, a small victory.

The second, however, is a much more insidious amendment that includes a cumulative impact of oil and gas on marine mammals. Now I don't know exactly—and I don't think anybody really knows—how to measure what those impacts are, plus or minus, good or bad. I think it would be good for us, from the standpoint of making policy, to know the full impact of that. And, really, the only way you can know the full impact of that is to have hearings on this subject. To my knowledge, we have not had any hearings on that.

So all in all, I would say, Mr. Chairman, this seems to be a pattern that we see on a regular basis on this floor where there are amendments—we saw this earlier today. We saw a whole bill, for example, brought to the floor today that was introduced literally minutes before it was debated. That is not the way the American people think we ought to do business here. We ought to look at these things in a way that we can make the proper decisions. And these two issues that I highlight in this manager's amendment, in my view, fall within that category. So I am disappointed in the way this is being done, probably more than what is the content of the manager's amendment. Therefore, I am left only to oppose the manager's amendment.

I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield 1 minute to the gentlelady from Wisconsin, Ms. GWEN MOORE, who has been very helpful to us in drafting this bill.

Ms. MOORE of Wisconsin. Mr. Chair, I want to thank Chairman RAHALL for yielding and including in his manager's amendment a provision I authored that would ensure that citizens living in the gulf coast region will be able to have input into the work of the Gulf Coast Restoration Task Force. The Citizens Advisory Board, called for in my amendment, would not be filled with energy industry representatives and scientists but, rather, with individuals, such as the fishermen who have been put out of business, the hotel owner along the beach which now has more tar balls than tourists, and citizens in Alabama, Mississippi, Louisiana, Florida who simply want to have their beaches, wetlands, waters back to support their livelihoods, their health, and their enjoyment.

Restoring the environmental and natural resources in the gulf will be a long and arduous task. My amendment simply makes it clear that the input of those most impacted by this disaster, the residents of the States and the region, should be a priority.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Georgia (Mr. GRAVES), one of the newer Members of our House and a very valuable member of our Republican Conference.

Mr. GRAVES of Georgia. Mr. Chairman, 46 days ago, I was sworn in right down here before the House, and since that time, constituents have asked, What has been the biggest surprise since your time being sworn in? And I will tell you what it is. I have seen it here today. I have seen it over the past several weeks, and that is the fear and the lack of trust in this leadership to allow their own Members to vote on amendments.

It is clear that there is bipartisan opposition to this measure. In fact, 88 amendments were offered. Only nine were accepted. No Republicans from the gulf coast region had an accepted amendment, and only two Democrats from the region had amendments accepted. Only 14 percent of the Democrat amendments offered were accepted, meaning a large, large portion were not; and only 4 percent of Republican amendments were accepted to even be voted on here today. That means that over 50 million American voices did not get their representation right here today because the amendments of more than 80 Members of Congress were ignored by this Democrat majority. There has got to be a better way, and maybe in about 6 months we will find out.

Mr. RAHALL. Mr. Chairman, I am very happy to yield 2½ minutes at this point to the gentleman from Maryland, Mr. ELIJAH CUMMINGS, the chairman of the Subcommittee on the Coast Guard of our Transportation and Infrastructure Committee, a gentleman who has been so instrumental in helping to bring this legislation to the floor.

Mr. CUMMINGS. Thank you very much.

I rise in strong support of the manager's amendment. I express strong support for the underlying text, including the extensive provisions authored by the Transportation Committee to correct regulatory failures that contributed to the Deepwater Horizon accident and to strengthen the role of the Coast Guard in oil spill response planning and safety management.

The manager's amendment includes a number of provisions that improve the underlying text. For example, it imposes civil penalties on chief executive

officers who certify information that misrepresents a company's ability to respond to or contain an oil spill. BP wrote in its exploration plan for the Mississippi Canyon 252 site that ''in the event of an anticipated blowout resulting in an oil spill, it is unlikely to have an impact based on the industry-wide standards for using proven equipment and technology for such responses, implementation of BP's Regional Oil Spill Response Plan which address available equipment and personnel, techniques for containment and recovery and removal of oil spill.''

Obviously that was a false statement. There were no proven equipment or technologies to respond to the kind of oil spill that occurred in the gulf.

The manager's amendment also requires redundancy in accident and spill response plans, something critically needed, given our current lack of proven response equipment and technologies. Further, the amendment authorizes a study of economic, safety and environmental impacts of requiring a relief well to be drilled in tandem with the drilling of some or all wells.

The manager's amendment clarifies the liability provisions in the Oil Pollution Act to protect claimants from signing broad liability releases. This will help protect the rights of those in the gulf who have been so devastated by the spill. The manager's amendment also includes a provision that I offered that would exempt discharges resulting from salvage activities from liability, consistent with the National Contingency Plan or as directed by the President.

I applaud Chairman RAHALL and I applaud Chairman OBERSTAR for their excellent work on the CLEAR Act, and I urge the adoption of the manager's amendment.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Texas (Mr. GOHMERT), a member of the Natural Resources Committee.

Mr. GOHMERT. Mr. Chair, you know, at a time when 42 cents out of every dollar we are spending, we are allocating here in this body is having to be borrowed and someday paid back by children and the children's children, some of whom may be watching right now, it is absolutely critical we do it right.

Here we have got all of these amendments lumped into one so we can't debate them, and we can't take one thing out. That's not right. And when I heard my friend from West Virginia saying, There they go again, apologizing for BP, I will challenge anybody to find any comment by anybody on this side of the aisle in this debate today who has apologized for, to, or about BP. Some of us think they ought to be strung up when we find out who's most responsible.

So I know my friend from West Virginia would never intentionally misrepresent the facts, but whoever prepared that statement that he read sure did.

Mr. RAHALL. I yield 2 minutes to the gentleman from Florida (Mr. BOYD).

(Mr. BOYD asked and was given permission to revise and extend his remarks.)

Mr. BOYD. I thank Chairman RAHALL for offering this manager's amendment and giving me time to speak.

Mr. Chairman, in this manager's amendment, there's a provision that is very important to the folks in the district I represent in northwest Florida. Ladies and gentlemen, our local economy has been significantly impacted by the BP oil spill. Many of our people are out of work as a result of this man-made disaster that they had no hand in creating. Fortunately, we have been successful in setting up the BP Oil Spill Victims Compensation Fund which will help speed relief to the victims of this tragedy and help respond to one of the gulf coast's greatest needs.

This amendment that is being offered by Chairman RAHALL will ensure that gulf residents will have the right of first refusal for the job opportunities processing the claims filed for the oil spill.

□ 1500

It emphasizes the importance of gulf residents serving their neighbors by processing these claims and ensuring that they receive the consideration for the ramifications of this spill.

I have already spoken with Mr. Ken Feinberg, the administrator of the BP Deepwater Horizon Victims Fund, about employing local residents to process claims, and he agrees with me that there is no one better suited to perform this essential task. In fact, I told him that in north Florida we have a ready and willing workforce ready to go. These workers, who unfortunately are looking for work as a result of their corporations' closing their facility, have the skill and the talent that directly align with the skills needed to process oil spill claims. They should be considered first in line to beef up the newly established claims fund and ensure a high quality response for fellow gulf coast residents.

I recommend a ''yes'' vote on the chairman's manager's amendment.

Mr. HASTINGS of Washington. I reserve the balance of my time.

Mr. RAHALL. I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR. Thank you, Chairman RAHALL, for yielding.

Mother Earth, wake up. Today's the day that Congress is going to show some leadership. Leadership is about getting results. And last week, the President of the United States enacted, by Executive order, a government oceans plan, a governance plan to look at our oceans in totality. Today, Congress is going to enact the ability to govern the oceans and to think about the totality of how this Earth survives with 73 percent of the Earth being covered by oceans.

Too bad that so many people get up and talk about, in a crisis, oh, if it was just a little bit better we could support half the bill, we could support a little bit of this, something's wrong. That's not leadership. Leadership's about getting results. And the only way you get results today is to vote ''aye.'' It solves a lot of problems. Voting ''no'' solves nothing. Nothing. The planet can't stand nothing.

For too long there has not been leadership. That side is the side that gave us James Watt, ''Drill, baby drill,'' gave us Richard Pombo, chair of the Resources Committee, the Darth Vader of environmental legislation. Nothing ever came out of that committee. And today what do they want? We don't want this bill because it's not perfect.

Ladies and gentlemen, today's the day that we respect Mother Earth and give her a chance to help our dying oceans stop dying. And the only way to do that is to vote ''aye.''

Mr. RAHALL. Madam Chair, I yield the remainder of my time to the gentleman from Massachusetts (Mr. MARKEY), who has been so instrumental in this legislation as well on this issue.

The Acting CHAIR (Ms. JACKSON LEE of Texas). The gentleman from Massachusetts is recognized for 2 minutes.

Mr. MARKEY of Massachusetts. I thank Mr. RAHALL for his great leadership working with Chairman WAXMAN and Chairman STUPAK and I on the Energy and Commerce Committee to include new safety procedures.

This bill takes lessons learned and will turn them into laws. That's what we need to do. Included in this bill is a provision which is going to collect $53 billion from the oil industry, where they are drilling in American waters without paying any royalties to the American people. And in this bill we reclaim those $53 billion from the oil companies, and we will reduce the Federal deficit by $53 billion. That's in this bill. And it is going to be the dues which the oil companies should be paying to the American people for using American waters.

At $80 a barrel, for the American people to be subsidizing Big Oil to drill, it would be like subsidizing a fish to swim or a bird to fly, to subsidize the oil industry to drill for oil at $80 a barrel. You just don't have to do it.

So with this bill we cut the deficit and we stop Big Oil from cutting corners on safety. This is BP's spill, but it is America's ocean. That's what this bill is all about. That's what this vote is on today. Are we going to reclaim the oceans of America so that they are not polluted, so that BP and the oil companies pay the royalties that they owe to our people and not avoid them, that we reduce the Federal deficit and we make sure that we never again see a day where the American people for 100 days have to watch oil flow into our oceans?

Vote ''aye'' on this very important legislation.

Mr. HASTINGS of Washington. I yield myself the balance of my time.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. Madam Chairman, the last speaker made an interesting point when he was talking about the oceans and how this bill is going to save the oceans. I don't think there is anybody in this body that doesn't want to make sure that our oceans are in a healthy, robust way. But it begs the question why are there restrictions, if this is an oceans bill, and if it's a gulf oil bill, why does this bill deal with onshore oil and gas regulation and restrictions? That question, honestly, has not come up once in the debate even though that reference has been made many times by Members on this side of the aisle.

This amendment, of course, is on the manager's amendment. As I mentioned, it is 17 Democrat amendments and one Republican amendment. There may be some good things involved with this amendment. In fact, there are. But why is there always this tendency to throw so much more into these amendments when many of the subjects that are covered in them have not been fully vetted throughout the committee process? That's the concern. And it's a pattern that we see over and over and over again. And frankly, it's a pattern that I think the American people see and respond to when asked about how they feel this body is in a favorable or unfavorable way. Because this body has very low favorable ratings. I think this is part—not the only thing—but this is certainly part of that.

So I urge my colleagues to vote against the manager's amendment. I am certainly going to ask them to vote against the underlying bill because the underlying bill, while it's purported to be in response to the gulf oil spill, we saw it was expanded just a moment ago, at least in remarks by the gentleman from Massachusetts, to all of the oceans. In fact, the gentleman from California said the same thing come to think of it.

But yet what this bill really is all about, when you look at the substance and how it affects the American people, is another gigantic tax increase, and an addition of mandatory spending on top of the mandatory spending we have within our government right now. We all know, all of us in this body knows that the mandatory spending in this Congress and our Federal Government is unsustainable over time. And yet here we are, albeit on a small level, adding to mandatory spending.

I urge my colleagues to oppose the Rahall amendment and the underlying bill.

Ms. JACKSON LEE of Texas. Mr. Chair, I rise in support of the manager's amendment to H.R. 3534, "The Consolidated Land, Energy and Aquatic Resources (CLEAR) Act." The manager's amendment provides a number of provisions that will ensure that there is greater chance of preventing an incident such as the April 30, 2010 Deepwater Horizon explosion and oil spill.

The Manager's amendment includes my amendment which requires redundancy in accident and spill response plans as part of the permitting process under the Outer Continental Shelf Lands Act.

Specifically, my amendment will require that businesses applying for permits to drill and produce crude oil in the Gulf of Mexico submit detailed spill mitigation and recovery plans as part of the permitting process. Not only must they have recovery plans, but they will be required to have backup plans, in case their first response fails. Additionally, those plans must be vetted by impartial experts, rather than rubber-stamped by insufficiently vigilant regulators. With this additional layer of response planning, there is a better chance that we will be better prepared to respond to future incidents like the Gulf oil spill.

The Manager's amendment also includes provisions that do the following:

Clarifies that the Secretary of the Interior may enter into cooperative education and training agreements with safety training firms in establishing the National Oil and Gas Health and Safety Academy.

Clarifies that the Secretary is permitted to consult with industry representatives regarding training program curricula, but is not authorized to utilize industry representatives as instructional personnel for the trainings.

Imposes civil penalties on CEO's who certify to false information about a company's capability to prevent or contain an oil spill.

Establishes a Citizen's Advisory Committee composed of non-energy industry individuals to assist the Gulf Coast Restoration Task Force in its work.

Clarifies that the Regional Assessment and Regional Strategic Plan created by the Great Lakes Regional Coordination Council shall include only renewable and not non-renewable energy resources.

Ensures that Gulf residents would have the right of first refusal for processing the claims filed due to the oil spill.

Replaces the requirement for dispersant manufacturers to disclose their product's chemical formula with a requirement to disclose dispersant products' ingredients.

Provides that discharges resulting from salvage activities consistent with the National Contingency Plan or as directed by the President are exempt from liability under the Federal Water Pollution Control Act.

Authorizes a study of the economic, safety, and environmental impacts of requiring a relief well be drilled in tandem with the drilling of some or all wells.

Requires the GAO to complete a study to determine whether the reforms to the Department of the Interior mandated in this legislation have increased oversight and decreased conflicts of interest within the department.

Includes in the Environmental Study an analysis of the cumulative impact of drilling on the Outer Continental Shelf.

Requires oil and gas companies to pay royalties on all oil that is discharged from a well, including spilled oil.

Directs GAO to study the impact of assessing a fee on the processing of oil and gas leases and using the proceeds to fund the gathering of baseline environmental data necessary for the permitting process.

Directs the Secretary of the Interior to arrange with the National Academy of Engineering to 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 would be improved by implementing certain prescribed measures; and

Amends the liability provisions in the Oil Pollution Act to protect claimants from signing broad liability releases, and to clarify that the new cause of action under OPA for damages to human health does not supersede remedies under other federal law.

Mr. Chair, I support this manager's amendment which includes my amendment that will require redundancy in accident and spill response plans as part of the permitting process under the Outer Continental Shelf Lands Act. I urge my colleagues to support this amendment.

Mr. HASTINGS of Washington. I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from West Virginia (Mr. RAHALL).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from West Virginia will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. CASTLE

The CHAIR. It is now in order to consider amendment No. 2 printed in part B of House Report 111–582.

Mr. CASTLE. Mr. Chairman, I seek recognition to present amendment No. 2.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title I add the following new section:

SEC. ____. 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.

The CHAIR. Pursuant to House Resolution 1574, the gentleman from Delaware (Mr. CASTLE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Delaware.

Mr. CASTLE. I yield myself such time as I may consume.

I rise today to urge support for amendment No. 2 to the CLEAR Act, which will help ensure that there is no delay in the development of ocean renewable energy resources, including offshore wind, under the MMS reorganization called for under title I.

The actions to reform MMS following the devastating oil spill are necessary and commendable.

□ 1510

While the new bureaus and office are focused on the critical task of transforming the agency into a more effective, transparent agency, this will require significant organizational and cultural alterations. Under this restructuring, it would be a great disappointment to lose ground in our efforts to prepare a workable comprehensive offshore energy plan for our Nation.

If we are serious about advancing new clean sources of power, which I sincerely hope we are, an important goal of the MMS reorganization must continue to facilitate, not hinder, the development of offshore renewable energy development in the waters of the United States.

For offshore renewable energy projects already underway, like the wind project off the coast of Delaware, progress must continue. While I continue to believe there is value in establishing a separate office for ocean renewable energy development, which we can perhaps continue to work on in our discussions with the Senate, this amendment would, at a minimum, ensure appropriate attention is paid to advancing ocean renewable energy development and protecting against bottlenecks that could result in unnecessary delays.

Offshore wind farms alone present a significant and rapidly growing source of emissions-free electrical power for our constituents. And recent Department of the Interior-U.S. Department of Energy reports confirm that winds off the coast of the United States are a promising source of clean, renewable electrical power.

My amendment is simple and calls attention to the need to ensure that targeted efforts to support offshore wind and renewable energy development continue without delay. I hope my colleagues on both sides of the aisle will support its adoption.

Mr. RAHALL. Will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from West Virginia.

Mr. RAHALL. We are prepared to accept the gentleman from Delaware's amendment on this act and commend him for bringing it to us.

Mr. HASTINGS of Washington. Will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Washington.

Mr. HASTINGS of Washington. We are more than happy to accept it on our side.

Mr. CASTLE. I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Delaware (Mr. CASTLE).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. KIND

The CHAIR. It is now in order to consider amendment No. 3 printed in part B of House Report 111–582.

Mr. KIND. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 127, line 6, strike the closing quotation marks and the final period.

Page 127, after line 6, insert the following:

''(c) RECREATIONAL ACCESS FUNDING.—Notwithstanding subsection (b), not less than 1.5 percent of the amounts made available under subsection (a) for each fiscal year shall be made available for projects that secure recreational public access to Federal land under the jurisdiction of the Secretary of the Interior for hunting, fishing, and other recreational purposes through easements, rights-of-way, or fee title acquisitions, from willing sellers.''.

The CHAIR. Pursuant to House Resolution 1574, the gentleman from Wisconsin (Mr. KIND) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. KIND. I yield myself 1 minute.

(Mr. KIND asked and was given permission to revise and extend his remarks.)

Mr. KIND. This is a very simple amendment. One of the strengths of the CLEAR Act is that it asks public companies that are extracting resources from our public lands to contribute to a fund, a fund called the Land and Water Conservation Fund that was established in the mid-1960s to help preserve and conserve the vital natural resources that we have throughout the United States. But the problem is that so much of the public lands that are available are inaccessible. They're not accessible for the hunters, the fisherman, the outdoor recreationists, those who enjoy shooting sports to gain access to the lands.

In fact, a recent study showed that close to 35 million acres that currently exist in public lands are inaccessible to hunters and fishermen throughout the country. This amendment would direct just 1½ percent out of the Land and Water Conservation Fund that would be used in order to purchase easements or right-of-ways from willing, voluntary sellers so that the hunters and fishermen have access to these public lands.

The inaccessibility is one of the contributing causes of why so many people are not hunting or not involved in shooting sports. This amendment would go a long way to addressing that, and it's consistent with the underlying philosophy of the Land and Water Conservation Fund. I'd ask my colleagues to support it.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I ask unanimous consent to claim the time in opposition, though I'm not opposed to the amendment.

The CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. HASTINGS of Washington. I yield myself such time as I may consume.

Mr. Chairman, our main purpose here today is supposed to be, as I've said several times, to be addressing the gulf oil spill and ensuring that offshore drilling is the safest in the world. Unfortunately, as I have mentioned again many times, the Democrats have used this vehicle to put extraneous material on this particular bill.

One of the most glaring unrelated items that I had mentioned several times, also, is the $30 billion in new mandatory spending. An oil spill is not an excuse to spend more money, especially when the money is going towards provisions that are completely unrelated to the gulf oil spill. Regardless of your views of the Land and Water Conservation Fund and the Historic Preservation Fund—and I know I would probably disagree if it were my friend from Wisconsin on that—everyone should agree that that bill has no business being here in this particular bill.

However, I fully support our Nation's sportsmen and would like to see more of our public land open for a variety of purposes such as hunting, fishing, recreation, and economic development. Given that the Democrat majority and the Obama administration continually are looking for ways to lock up our land and block public access, it's encouraging to me to see some of my colleagues across the aisle supporting increased access, and I thank the gentleman for that. I hope that we will work with this in the future to ensure that all Americans, including sportsmen, have greater access to public lands.

However, as I had mentioned, this bill is not the appropriate vehicle to address this issue. I think we can do it in a much more ordered way if we take this up on its own, because there is some merit to the gentleman's proposal. But I will not stand in the way of this amendment.

I yield back the balance of my time.

Mr. KIND. Mr. Chairman, at this time, I would like to yield 1 minute to a very strong supporter of the hunting and fishing community, the gentleman from Maryland (Mr. KRATOVIL).

Mr. KRATOVIL. Thank you, Mr. KIND, for your leadership on this amendment.

I rise in strong support of the amendment so that we can increase, as was said, access to federally protected lands for hunters and anglers through the Land and Water Conservation Fund. Our amendment will simply refocus a very small portion of the Land and Water Conservation Fund to enhance access to existing public lands, specifically for easements or right-of-ways that open access to Federal land which is currently inaccessible or significantly restricted.

Specifically, the amendment directs the Secretary to dedicate no less than 1.5 percent of the funds to increase recreational public access to existing lands for hunting, fishing, or other recreational purposes. Our amendment stays very true to the very intent of the fund, which is stated in the statute, to assist in preserving, developing, and

assuring accessibility to outdoor recreation resources.

I urge my colleagues to support the amendment on behalf of the sportsmen and -women throughout the country and communities that rely on these activities to generate and create jobs.

Mr. KIND. Mr. Chairman, at this time I would like to yield 1 minute to a real champion of recreational sportsmen and -women throughout the country, the gentleman from New Mexico (Mr. HEINRICH).

Mr. HEINRICH. Mr. Chairman, as an avid hunter and sportsman, I am very proud to cosponsor this recreational access funding amendment. Too many families, sportsmen, outdoor enthusiasts across our Nation continue to be locked out of public lands because of lack of legal access. New Mexico's Sabinoso Wilderness is an example. I've personally spent hours on horseback riding through Sabinoso's high mesas and deep canyons.

But without permission from adjacent private landowners, which usually requires an escort from the Bureau of Land Management, legal access to the Sabinoso is not available.

This amendment would dedicate a small percentage of the Land and Water Conservation Fund to acquire those rights-of-way for the public from willing sellers. Public lands like the Sabinoso belong to every American, and this amendment will help ensure that future generations of Americans can hunt and fish, hike and camp on these lands.

I urge my colleagues to support this amendment and to support the underlying legislation.

Mr. KIND. Mr. Chairman, I yield 1 minute to a champion of outdoor recreationists throughout the country and in the State of Nevada, the gentlelady from Nevada (Ms. TITUS).

Ms. TITUS. Mr. Chairman, I rise in strong support of this amendment to enhance access to public lands by acquiring right-of-ways from willing sellers.

The Federal Government owns more than 85 percent of the land in my State of Nevada, which includes some of the most spectacular landscapes in the Nation. Outdoor recreation supports nearly 20,000 jobs in Nevada, and it generates $116 million in annual State taxes. By increasing public access to these Federal lands for hunting, fishing, camping, hiking, and other recreational purposes, we would be doing something that would not only help our economy but would be welcomed by enthusiasts throughout the State.

Mr. KIND. At this time, I would like to yield 1 minute to the gentleman from Virginia, a champion for hunting and fishermen in Virginia and throughout the country, Mr. PERRIELLO.

□ 1520

Mr. PERRIELLO. I rise in strong support of this amendment to give 1.5 percent in the Land and Water Conservation Fund for recreational public access, including hunting and fishing. Thirteen million hunters in the United States generate $67 billion in economic activity every year and account for 1 million jobs. But beyond the dollars and cents, this is about a way of life, about heritage, and about time with families spent together.

So for our sportsmen, it's not enough just to ensure their rights, but to ensure there's a place to exercise those rights; and this is a huge step forward to make sure that those recreational activities have a place for us across the United States.

Mr. KIND. Mr. Chairman, I yield 15 seconds to the chairman of the Natural Resources Committee, Mr. RAHALL.

Mr. RAHALL. Mr. Chairman, I thank the gentleman from Wisconsin for yielding and certainly support his amendment. I commend him for his leadership and for his efforts and discussions that have been held long and on many occasions in regard to his amendment and support his bill.

Mr. KIND. I yield myself the remainder of the time.

Mr. Chairman, I also want to thank, who wrote a letter in support of this amendment, the American Wildlife Conservation Partners. It's a group of 45 outdoor recreational organizations from hunting to fishing to shooting sports to conservation groups throughout the country. They see the value of increased access to our public lands.

But, Mr. Chairman, this is also an amendment about jobs because outdoor recreation, hunting, fishing, shooting sports, they contribute over $730 billion to the national economy every year. They support 6.5 million jobs. Almost one of every 20 jobs is associated with some outdoor recreational activity. And they stimulate close to 8 to 9 percent of all consumer spending in this country. So increasing access so more people have the opportunity to get to the public lands to do this is going to create jobs and strengthen our economy.

I encourage my colleagues to support the amendment.

The CHAIR. The question is on the amendment offered by the gentleman from Wisconsin (Mr. KIND).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. KIND. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Wisconsin will be postponed.

AMENDMENT NO. 4 OFFERED BY MS. SHEA-PORTER

The CHAIR. It is now in order to consider amendment No. 4 printed in part B of House Report 111–582.

Ms. SHEA-PORTER. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 28, line 16, insert at the end the following new sentence: ''The Secretary shall update the supplementary ethics guidance not less than once every three years thereafter.''.

Page 78, strike line 16, and insert the following:

''(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;' ''.

Page 82, line 18, strike ''and''.

Page 82, line 23, strike the period and insert ''; and''.

Page 82, after line 23, add the following:

''(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.

The CHAIR. Pursuant to House Resolution 1574, the gentlewoman from New Hampshire (Ms. SHEA-PORTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New Hampshire.

Ms. SHEA-PORTER. First, I would like to thank Chairman RAHALL and his staff for this very good piece of legislation before us today. It is a product of months of hard work. I believe it is a transformative bill that will go a long way to ensuring responsible energy development and better environmental protection.

The tragedy in the Gulf of Mexico has reminded us of what can happen if we are not vigilant and constantly improving our safety and environmental protection. It has also reminded us that when we put our lands and oceans at risk for energy development in one area, we should be putting land aside and protecting it in another area.

The underlying bill makes good on a promise to fully fund the Land and Water Conservation Fund. That program has protected more than 5 million acres of land across this country. Fully funding LWCF is long overdue, and I thank the chairman for his leadership on this issue.

Mr. Chair, among other things, the bill before us makes needed improvements to the way that our offshore energy leasing is carried out. During my time on the Natural Resources Committee, I have been particularly troubled by the reports of unethical behavior at the government agency that was previously overseeing energy leasing. That outrageous conduct must never be allowed to happen again in any agency. This bill puts in place strong ethics requirements and training. My amendment take this a step further by requiring that the ethics guidelines developed by the Interior Secretary be updated every 3 years.

Mr. Chair, another lesson we've learned over the past 3 years is that oil companies do not necessarily use the best available technology and that they are not fully prepared for a spill. Immediately after the spill, BP turned to solutions that had been around for 20 years, solutions from the Exxon Valdez disaster. It was painfully clear that they had not spent time or money

to develop new technologies to clean up a spill. The bill before us creates an offshore technology research and risk assessment program to conduct research and development of new drilling and spill response technologies. My amendment adds language to ensure that we study the best available spill response technology and its availability in regions where drilling is taking place. This is to make certain that we have in place the best technology and equipment needed to respond when there is an accident.

Finally, Mr. Chair, it's also critical that this new technology we're developing be integrated into exploration and response plans. My amendment requires companies to certify as part of their annual certification for offshore drilling that those plans include the best available technology. When the BP executives testified before the Natural Resources Committee, it was clear to me they were more concerned with cutting corners and shaving costs than making sure they had the safest operation with the best technology. Requiring these companies to take into account the best available technology and its availability just makes sense.

Again, Mr. Chair, this is a very strong bill we are considering today, and I thank Chairman RAHALL for all his hard work. I urge my colleagues to support this amendment and the underlying bill.

I reserve the balance of my time.

Mr. LAMBORN. Mr. Chairman, I ask unanimous consent to claim time in opposition to the amendment, although I do not intend to oppose it.

The Acting CHAIR (Mr. OBEY). Without objection, the gentleman from Colorado is recognized for 5 minutes.

There was no objection.

Mr. LAMBORN. I yield myself such time as I may consume.

Mr. Chairman, updating the supplemental guidelines on ethics every 3 years will help the Department of the Interior keep current with new issues as they arise and will focus the government employees' attention on appropriate ethical behavior as they deal with the private sector.

The Horizon disaster has focused everyone's attention on the lack of any contingency plan that could be implemented expeditiously to address a blowout in deepwater conditions. We basically watched a 3-month ongoing experiment with various devices being fabricated to cap the well or capture the oil as it's spewing out. We also found out that we didn't have enough boom in place to protect the shoreline and that new boom had to be manufactured to meet the requirements in the State oil spill response plans. And we discovered that some of the plans underestimated how much boom might be required to protect the shoreline from a major spill.

Using the best available technology is crucial in keeping the public's trust going forward with offshore oil and gas development. Both Republicans and Democrats have broad agreement on the need to protect and improve offshore production safety and environmental protection. This amendment is an example of our agreement, and I urge my colleagues to support it.

What I don't agree with is going beyond the gulf to encompass all energy production in the entire United States in order to raise energy taxes by $22 billion. Raising energy taxes in a recession will kill jobs.

Mr. Chairman, I reserve the balance of my time.

Ms. SHEA-PORTER. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. HALL), a leading environmentalist.

Mr. HALL of New York. Mr. Chairman, I thank the gentlelady and the chairman.

I rise today in support of this amendment, as well as the underlying bill.

The Deepwater Horizon explosion on April 20 cost our Nation tens of billions of dollars in economic damages and caused widespread devastation of our natural resources. It did not have to happen. This was a disaster that was preventable.

Over the last few months, we have learned that BP consistently made choices to sacrifice safety for profit. They testified that they did not use vital safety technology like acoustic sensing devices because U.S. law did not require it. It is time for us to change that.

I recently introduced legislation to require oil companies to use the best available technology, and I'm proud to support this amendment which also requires oil companies to include the best available technology in their exploration and spill response plans.

Mr. Chairman, the cost of using state-of-the-art technology is much less than the cost of cleanup and the tragic loss of life.

I urge my colleagues to support this amendment and the underlying bill.

Mr. LAMBORN. I continue to reserve the balance of my time.

Ms. SHEA-PORTER. I yield 1 minute to the chairman, Mr. RAHALL.

□ 1530

Mr. RAHALL. I thank the gentlelady for yielding, and I certainly do support her amendment. I commend her for her leadership on our Committee on Natural Resources in helping to develop this legislation. It is a commonsense amendment that deserves the support of every Member of this body, and it certainly makes the bill better. I appreciate her effort.

Mr. LAMBORN. Mr. Chairman, I yield back the balance of my time.

Ms. SHEA-PORTER. Mr. Chair, again I urge my colleagues to support this amendment and the bill, and I yield back the balance of my time.

The Acting CHAIR (Mr. OBEY). The question is on the amendment offered by the gentlewoman from New Hampshire (Ms. SHEA-PORTER).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. TEAGUE

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in part B of House Report 111–582.

Mr. TEAGUE. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 167, line 2, strike ''and''.

Page 167, after line 2, insert the following:

(2) in subsection (e) by striking ''self-insurer,'' and inserting ''self-insurer, participation in cooperative arrangements such as pooling or joint insurance,''; and

Page 167, line 3, strike ''(2)'' and insert ''(3)''.

The Acting CHAIR. Pursuant to House Resolution 1574, the gentleman from New Mexico (Mr. TEAGUE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. TEAGUE. Mr. Chairman, I rise today to offer a simple but important amendment.

My amendment would add another means by which facilities may demonstrate compliance with the financial responsibility provisions of the Oil Pollution Act of 1990.

The amendment enables two or more companies to meet individual financial responsibility requirements by pooling resources or obtaining joint insurance coverage. Such arrangements would avoid redundant coverage, reduce insurance costs, and enhance access to insurance.

In the event of a liability incident, any party to such an arrangement would have access to the full coverage amount. Provisions would be made in a joint insurance plan for automatic reinstatement, by the parties, of the original coverage amount.

This amendment does not substitute or change current provisions for meeting financial responsibility. Rather, it simply adds another method for meeting financial responsibility requirements. There is no reduction in protection of the public interest, and no reduction in protection for the environment.

Mr. Chairman, ever since I arrived in Congress, I made it my mission to fight for the little guys—the companies whose names you don't see in television commercials, but that provide jobs for millions of Americans and produce so much of our Nation's domestic energy. You find a lot of those companies around my hometown of Hobbs, New Mexico, and you find a lot of those hardworking companies operating in the Gulf of Mexico.

Having independent oil and gas producers providing American energy in the Gulf of Mexico is critical to moving away from foreign oil. The big oil companies are generally interested in producing only the biggest plays with the biggest potential payoffs. It's the independent companies that are going in and producing American energy that would not get produced otherwise.

According to a recent report, independent oil and natural gas companies currently account for about half of the nearly 400,000 jobs and $20 billion in Federal, State and local revenues generated by the industry in 2009.

This amendment simply allows smaller independent companies the flexibility they need to meet financial responsibility requirements. I ask for broad, bipartisan support of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. LAMBORN. Mr. Chairman, I ask unanimous consent to claim time in opposition to this amendment, although I don't intend to oppose it.

The CHAIR. Without objection, the gentleman from Colorado is recognized for 5 minutes.

There was no objection.

Mr. LAMBORN. I yield myself such time as I may consume.

Mr. Chairman, Republicans have no problem with this amendment. The fact that the bill will force small companies to now band together simply to meet threshold requirement activities in the offshore is a sad statement on the rest of the bill.

Although this provision may help small companies meet their certificate of financial responsibility requirements, nothing in this amendment solves the liability problem and nothing in this amendment solves the $22 billion tax increase in this bill. Unlimited liability will cripple domestic production by removing all but the largest companies from offshore drilling. There should be reasonable liability, but unlimited or infinite liability goes too far. It will kill jobs. Republicans support this amendment, but it's simply like putting a Band-Aid on a broken leg. I suppose it doesn't hurt anything, but it doesn't cure the underlying problem; and it might even lull someone into thinking we're doing something.

Anyone who votes for the Teague amendment and the underlying bill together is putting the people they are purporting to help out of business. The Teague amendment does absolutely nothing to cure unlimited liability.

Mr. Chairman, I would now like to yield 1 minute to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. I thank the gentleman for yielding.

I rise in support of the amendment. The underlying amendment in the nature of a substitute would raise from the current $150 million to $300 million the amount of financial responsibility that offshore facilities must demonstrate. This is a significant increase.

I strongly believe that this increased level of financial responsibility is appropriate, given the risks associated with offshore energy production—risks that the Deepwater Horizon spill have made so clear.

Importantly, however, the President can lower the amount of financial responsibility offshore facilities must demonstrate if certain criteria are met, albeit the level for offshore facilities seaward of a State boundary cannot be below $105 million.

I strongly support the amendment.

Mr. TEAGUE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. I thank the gentleman from New Mexico and I thank him for working together with me on this amendment and for his leadership. I offered a similar amendment and was very pleased to join this amendment as the Teague-Jackson Lee amendment. It is important to note that this is a fair amendment that does something. It really does do something for the small, independent companies. This amendment would allow the financial responsibility required to operate in the gulf to be pooled among companies working together. It means that we give them the opportunity because of the $300 million necessary COFR to be able to do business in the gulf and not go out of business. What it really means is preserving thousands of jobs.

First of all, the U.S. independent operators in the gulf because of their operations, they have a major contribution to energy security and energy supply providing reasonably priced fuels for our families and economy. Eighty-one percent of oil producing in the gulf is in the independent leases and 46 percent of the gulf's producing deepwater leases as well. Independents have drilled 1,298 wells in the deepwater and safely. Independents operate an average of 70 percent of the farmed-out acreage that originally were in the hands of the majors over the past 10 years. Almost 3 billion barrels of oil equivalent in reserves that were originally found by the majors are now operated by independents; small companies that create a lot of jobs. This is an amendment that will allow them to work together, pool their resources, and do the right thing, not put the burden on the taxpayers.

Let me also acknowledge that I am glad my requirement to have redundancies in actions and fuel resources plans was also included in the manager's amendment.

I thank the gentleman from New Mexico for his leadership. It's my pleasure to be able to work with you for an amendment that is doing something, is helping the independents stay in business and create jobs, and it is helping them do the work that will allow for the American people to have quality oil for cheap prices.

I rise to speak in support of the Teague/Jackson Lee Amendment to H.R. 3534, The Consolidated Land, Energy and Aquatic Resources (CLEAR Act). The Jackson Lee Amendment would allow the financial responsibility required to operate in the Gulf of Mexico to be pooled among the companies working together.

With the potential of unlimited liability looming large over the smaller independent companies, this amendment will prevent small, independent oil companies from being driven out of business and out of the Gulf of Mexico. The problem with the current requirements for the Certificate of Oil Field Responsibility (COFR) is that smaller operators will be unable to establish the $300 million necessary COFR to even begin exploration and development. By allowing smaller companies—who frequently work together in joint ventures—to pool their resources for COFR purposes, we will prevent the Gulf from becoming the exclusive province of companies big enough to self-insure, and allow the small businesses of the Gulf Coast Community to continue to provide jobs and drive our economy.

I urge my colleagues to vote for this amendment and vote for small businesses, saving jobs, and the American people.

The CHAIR. The gentleman from New Mexico has 30 seconds remaining. The gentleman from Colorado has 2½ minutes remaining and has the right to close.

Mr. TEAGUE. I have no further requests for time, and I yield back the balance of my time.

Mr. LAMBORN. Mr. Chairman, I would just reiterate that we have no objection to this amendment. I wish it really accomplished something, because the deeper things that are problems in this bill are going to kill offshore production in large part; and we don't need to be killing jobs and raising taxes in the time of a recession.

We have no objection to the amendment because it doesn't do any harm.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from New Mexico (Mr. TEAGUE).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. CUMMINGS. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Mexico will be postponed.

□ 1540

AMENDMENT NO. 6 OFFERED BY MR. OBERSTAR

The CHAIR. It is now in order to consider amendment No. 6 printed in part B of House Report 111–582.

Mr. OBERSTAR. Mr. Chairman, as the designee of the gentleman from Connecticut (Mr. HIMES), I offer amendment No. 6.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 172, after line 8, insert the following:

(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.''.

Page 172, line 9, strike ''(e)'' and insert ''(f)''.

The CHAIR. Pursuant to House Resolution 1574, the gentleman from Minnesota (Mr. OBERSTAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I yield myself 3 minutes.

The amendment addresses two important issues on restoration of natural resources damaged as a result of release or threatened release of oil under OPA, the Oil Pollution Act.

The first issue is acquisition of additional natural resources as part of a potential remedy for damages in instances where the existing resource cannot be or is unlikely to be successfully restored. In OPA, section 1006, provides that damages to natural resources can be addressed either through restoration, rehabilitation, replacement or acquisition of equivalent resources, where other measures are unlikely or impossible to be implemented.

The Himes amendment, which I offer on his behalf, emphasizes that acquisition of a natural equivalent resource can be an acceptable alternative to restoration or rehabilitation. Consistent with current law, the acquisition of an equivalent natural resource should be used only when restoration is likely to be unsuccessful or the acquisition provides a substantially greater likelihood of improving resilience of the lost or damaged resource and supports local ecological processes.

The second part of the amendment will ensure that natural resource damage assessments and implementation emphasize restoring the entire damaged ecosystem rather than dealing simply with specific, discrete segments thereof. The gulf coast is such a unique resource with countless species of fish, shellfish, marine life, wildlife, all integrated, and it really needs to be treated as an overall cohesive ecosystem.

This amendment addresses two important issues related to the restoration of any natural resources damaged as a result of the release or threatened of oil under the Oil Pollution Act, OPA.

The first issue deals with the acquisition of additional natural resources as part of a potential remedy for damages, in those instances where the existing resource cannot, or is unlikely to be, successfully restored. Section 1006 of OPA provides that damages to natural resources can be addressed either through restoration, rehabilitation, replacement, or the acquisition of the equivalent resources where other measures are unlikely or impossible to be successfully implemented.

The Himes amendment emphasizes that acquisition of an equivalent natural resource can be an acceptable alternative to restoration or rehabilitation; however, consistent with current law, the acquisition of an equivalent natural resource should be utilized only when restoration or rehabilitation of the existing, damaged resource is likely to be unsuccessful, and the acquisition provides a ''substantially greater likelihood of improving the resilience of the lost or damaged resource and supports local ecological processes.''

The second portion of the Himes amendment will ensure that natural resource damage assessments and implementation emphasize restoring the entire damage ecosystem, rather than dealing with individual, specific locations. The Gulf of Mexico is unique in that it serves as a focal point for countless species of fish, shellfish, marine life, and wildlife.

The Gulf of Mexico coastal area contains more than half of the coastal wetlands within the lower 48 states, as well as numerous recreational opportunities in the States of Texas, Louisiana, Mississippi, Alabama, and Florida. According to the National Oceanic and Atmospheric Administration, NOAA, 97 percent of the commercial fish and shellfish landings come from the Gulf, and depend on the estuaries and their wetlands at some point in their life cycle. The Gulf also serves as vital habitat to many species of breeding, wintering, and migrating waterfowl, songbirds, and other marine mammals and reptiles. According to the U.S. Fish and Wildlife Service, the Gulf supports a ''disproportionately high number of beach-nesting bird species'' that relay on the beaches, barrier islands, and similar habitats as part of their annual breeding cycle.

I applaud the gentleman's amendment because it stresses the importance of addressing damaged natural resources in a holistic ecosystem approach. I urge my colleagues to support this amendment.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, let's be pretty specific on what this particular fund is all about, and I will explain why I think it is a very, very bad idea.

The fundamental goal of the Natural Resources Damages Act, that's the fund we are talking about, is to ensure the protection and restoration of all resources on Federal lands, water and land. This includes restoration of damages caused by fires, invasive species, oil spills, ship groundings and vandalism.

What this amendment attempts to do is to shift funds from the restoration of our national parks and national wildlife refuges to the purchase of non-impacted land.

Now, Mr. Chairman, I just find this amendment ironic. Since the legislation, the underlying legislation that we are debating, already mandates—let me emphasize that, Mr. Chairman, mandates—up to $30 billion, with a ''B,'' dollars to spend on land acquisition for the next 30 years, why do we need this amendment?

Why, for goodness sakes, will we take a fund, the Natural Resources Damages Fund, if you will, and say, okay, now you can use that for land acquisition.

Is $30 billion not enough? Is $30 billion not enough?

Let me put it in a different way, Mr. Chairman. One of the issues that we have in our country with public lands is a maintenance backlog. This is analogous to maintenance backlog.

We talk about we haven't got enough money to maintain our natural resources. In fact, that figure, last I heard it, was $9 billion. Here is a fund that is, in part, part of the restoration and one could say maintenance of our Federal lands, and we want to take money away from that and acquire more land.

What is the goal here? Is the goal here to increase the $9 billion to 10, 11? Who knows how high we can't maintain.

Is there not enough? This amendment, in my view, ought to be defeated. It's not well intentioned at all. It has taken another tragedy, using the tragedy of the Gulf of Mexico and simply saying, aha, another opportunity to take a fund and buy more Federal land.

This doesn't make any sense at all to me, Mr. Chairman. I urge my colleagues to vote ''no.''

I reserve the balance of my time.

Mr. OBERSTAR. I yield 1 minute to the gentleman from Colorado (Mr. POLIS).

Mr. POLIS. Mr. Chairman, I rise today in support of the Himes amendment and on behalf of its sponsor, as he has been called away for a short time to attend the funeral of a fallen firefighter. Our hearts are with those who are grieving today with my colleague, Mr. HIMES.

Mr. HIMES' amendment builds upon other lessons learned from the Exxon Valdez spill. The Himes amendment improves an existing environmental restoration provision that authorizes a program to protect wildlife habitats similar to those ruined by a spill and have the responsible party cover the cost of purchasing or preserving such areas.

I would also like to thank the Natural Resources Committee and Transportation Committee for working with me and incorporating provisions that address a number of my priorities in the manager's amendment; namely, including language that will better ensure that the Department of the Interior follows the law as it is supposed to.

Mr. Chairman, I rise in strong support of the Himes amendment and the underlying bill. The CLEAR Act is good and desperately needed policy to help prevent taxpayer bailouts for Big Oil's failures.

The CLEAR Act is a model of transparency, fiscal responsibility and good stewardship. I call upon my colleagues to join me in supporting the Himes amendment and the underlying bill.

Mr. HASTINGS of Washington. I understand I have the right to close, Mr. Chairman?

The CHAIR. The gentleman from Washington has the right to close.

Mr. HASTINGS of Washington. I reserve the balance of my time.

Mr. OBERSTAR. I yield myself the balance of my time.

The CHAIR. The gentleman from Minnesota is recognized for 2 minutes.

Mr. OBERSTAR. The gentleman from Washington is mistaken in his understanding or his reading of the amendment that I offer.

It's an amendment to OPA. It is not an amendment to the dollar amounts and does not reference dollar amounts. Under OPA, of which I was a coauthor in 1990, quote, the State and local officials designated under this subsection shall develop and implement a plan for the restoration, rehabilitation, replacement or acquisition of the equivalent of the natural resources under their trusteeship.

The language of OPA does not clearly enough refer to the level of replacement resources that may be damaged. What we do with this language is clarify the ability to restore those resources that have been damaged with an equivalent resource. That's all it does. It does not have a dollar amount in it.

I yield to the gentleman if he has a question.

Mr. HASTINGS of Washington. I thank the gentleman for yielding.

In due respect, you acknowledged that this could be used to buy additional land with a damage fund, is that correct?

Mr. OBERSTAR. Well, it is to replace what has been destroyed. It's really just clarifying what is already available under OPA, but making it clear that the funds can be used for those resources that have been damaged so badly they can't be restored.

Mr. HASTINGS of Washington. Yes, it clarifies, but it adds a very important part. It allows land acquisition.

□ 1550

Mr. OBERSTAR. Reclaiming my time, it does not add. That is current law. That is available under OPA.

The CHAIR. The time of the gentleman has expired.

Mr. HASTINGS of Washington. Mr. Chairman, may I inquire as to how much time I have remaining?

The CHAIR. The gentleman has 2½ minutes remaining.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself the balance of my time.

I yield to the gentleman from Minnesota to finish his remark.

Mr. OBERSTAR. Again, the acquisition of replacement land is available and authorized under OPA 90. What this amendment does is clarify that in that replacement you can replace that part of the ecosystem that has been irresponsibly damaged with better land. It doesn't add new acquisition authority.

Mr. HASTINGS of Washington. Reclaiming my time, I appreciate the gentleman's trying to clarify that.

I have to say, in my reading of this, that this will lend itself to more acquisition, and I will simply say this, reading the language here, ''provides a substantially greater likelihood of improving the resilience of whatever is lost.'' Now, having said that, let me put this analogous to at least my part of the country as it relates to refuges. If a refuge burns in my area and it might damage something, the way I envision the interpretation of this is the refuge manager can say, boy, this is irreparably lost and there might be some private land right next door, I think I will buy that private land.

Now, in due respect, that is the way I interpret it. Listen, I hope I'm wrong and I hope you're right, but I have a very strong wariness of any attempt—especially in a bill, I say to my friend, the Transportation chairman, especially when we are authorizing $30 billion of land acquisition. Surely, surely there must be a way to massage that to satisfy at least what the gentleman's amendment purports to do. But I have to say, for this Member, I am always weary when I see we are taking another fund and using that to acquire even an extension of Federal lands.

Mr. OBERSTAR. Will the gentleman yield?

Mr. HASTINGS of Washington. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I appreciate the gentleman yielding.

I, too, have natural resources—national forests, national parks, wildlife refuges. When fire, as it does regularly, strikes the national forest, that land regenerates. The oil destroys. It likely cannot be restored by itself or by human intervention, but replacing it with other land—and the language is tailored very narrowly limited to that purpose of replacing what cannot be replaced.

Mr. HASTINGS of Washington. Reclaiming my time, which I don't have, I appreciate the gentleman's trying to help me through this. I still urge my colleagues to vote ''no.''

The CHAIR. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Minnesota will be postponed.

AMENDMENT NO. 7 OFFERED BY MR. CONNOLLY OF VIRGINIA

The CHAIR. It is now in order to consider amendment No. 7 printed in part B of House Report 111–582.

Mr. CONNOLLY of Virginia. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title VII add the following new section:

SEC. ___. 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.

The CHAIR. Pursuant to House Resolution 1574, the gentleman from Virginia (Mr. CONNOLLY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. CONNOLLY of Virginia. I want to thank Chairman RAHALL and Chairman OBERSTAR, in particular, for their hard work on this bill and for their collaboration on this amendment.

I am joined by Congressman HOLT and Congressman WELCH, who co-introduced this amendment to ensure that oil companies cannot shift oil cleanup costs onto taxpayers by allowing subsidiary companies to go bankrupt.

Under current law, if an oil subsidiary is responsible for a spill, it can declare bankruptcy and not sell its assets, in which case the parent company would not inherit cleanup liabilities. A profit-maximizing parent company would allow a subsidiary to go bankrupt and not sell liabilities if the value of cleanup and liability costs exceed the value of the subsidiary's assets. This is a realistic scenario given the high cost of the cleanup of oil spills. Even a well capitalized company worth several billions could be responsible for an oil spill costing tens of billions. The Exxon Valdez spill cost more than $2 billion to clean up, and that was just 10.9 million gallons of oil. The Deepwater Horizon spill already has cost $3 billion, with total cleanup cost in the tens of billions at the very least. Through this act, oil companies could be responsible for much greater costs.

The fishing industry in the gulf is worth $5.5 billion annually. Losing 50 percent of western Florida's tourism would cost that State $10 billion. If Congress eliminates the private liability cap under OPA, then an oil company responsible for a spill could be liable for tens of billions to reimburse property owners and workers for lost property and wages.

Given the extraordinarily high cleanup and private liability costs of oil spills, we must close this loophole. Our amendment would ensure that BP and other oil companies are not able to escape their cleanup responsibilities. Without passage of this amendment, BP and other oil companies could avoid paying for cleanup costs entirely.

I urge my colleagues to support the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I rise to claim the time in opposition, although I am not opposed to the amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have no problem with this amendment. From the beginning we have said that the first priority is stopping the leak, cleaning up the gulf, and making the communities and the people of the gulf States whole, and BP needs to be held accountable for this disaster. Having said that, we need to be cognizant that our actions taken here or the actions of the administration do not in and of themselves jeopardize American jobs and domestic energy production.

Part of holding BP accountable in this case, should BP America file for bankruptcy, is to ensure that the parent company that shares in the profits cover whatever debts that may not be covered by BP America. That is what this amendment does, and I am pleased to join my support for this.

Mr. Chairman, I yield back the balance of my time.

Mr. CONNOLLY of Virginia. Mr. Chairman, I yield 1 minute to my colleague from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chairman, I thank the gentleman from Virginia and join with him in our concern for the workers, the restaurateurs, the small business owners, all those who depend on the Gulf of Mexico for their livelihoods. This gives us ample motivation to close this loophole which allows oil companies to shift the cost for cleanup from the oil company to the taxpayers. Current law would allow an oil company subsidiary that is responsible for an oil spill to declare bankruptcy.

We must not depend just on the good word of the oil companies. We have been given ample reason to question that good word. Even today, the new CEO of BP says he's entertaining the idea of scaling back the cleanup in the gulf. We must close every loophole. This amendment of Mr. CONNOLLY, Mr. WELCH and I, and others, would ensure that companies like BP pay every last cent that they are liable for, that the spill not spill over to the taxpayer.

Mr. CONNOLLY of Virginia. I yield 1 minute to my colleague from the great State of Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. I thank the gentleman for yielding.

This amendment states that any entity—other than an individual person—with an ownership interest in a vessel, offshore or onshore facility, deepwater port, or pipeline of more than 25 percent is a responsible party under the Oil Pollution Act if the assets of the vessel or facility are insufficient to pay claims arising from oil spilled by the vessel or facility. I applaud Mr. CONNOLLY, Mr. HOLT, and Mr. WELCH, and I support this amendment, which will ensure that parent companies with ownership stakes in subsidiaries to offshore facility ventures bear the costs owed by these subsidiaries for spills from the facilities if the facilities lack adequate assets to pay the claims. This will prevent such costs from being shifted to the Oil Spill Liability Trust Fund. I urge my colleagues to support the amendment.

□ 1600

Mr. CONNOLLY of Virginia. Mr. Chairman, I want to thank my colleagues.

I also want to thank the following staff for their assistance on this amendment: Dave Heymsfeld, Stacie Soumbeniotis, Ryan Seiger, Navis Bermudez, Susan Jensen, George Slover, and David Lachman.

We want to ensure that this amendment only affects the relationship of parent and subsidiary companies.

With that, Mr. Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Virginia (Mr. CONNOLLY).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. MELANCON

The CHAIR. It is now in order to consider amendment No. 8 printed in part B of House Report 111–582.

Mr. MELANCON. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title II add the following:

Subtitle C—Limitation on Moratorium

SEC. 231. LIMITATION OF MORATORIUM ON CERTAIN PERMITTING AND DRILLING ACTIVITIES.

(a) IN GENERAL.—The moratorium set forth in the decision memorandum of the Secretary of the Interior entitled ''Decision memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf'' and dated July 12, 2010, and any suspension of operations issued in connection with the moratorium, shall not apply to an application for a permit to drill submitted on or after the effective date of this Act if the Secretary determines that the applicant—

(1) has complied with the notice entitled ''National Notice to Lessees and Operators of Federal Oil and Gas Leases, Outer Continental Shelf (OCS)'' dated June 8, 2010 (NTL No. 2010–N05) and the notice entitled ''National Notice to Lessees and Operators of Federal Oil and Gas Leases, Outer Continental Shelf (OCS)'' dated June 18, 2010 (NTL No. 2010–N06);

(2) has complied with additional safety measures recommended by the Secretary as of the date of the enactment of this Act; and

(3) has completed all required safety inspections.

(b) DETERMINATION ON PERMIT.—Not later than 30 days after the date on which the Secretary makes a determination that an applicant has complied with paragraphs (1), (2), and (3) of subsection (a), the Secretary shall make a determination on whether to issue the permit.

(c) NO SUSPENSION OF CONSIDERATION.—No Federal entity shall suspend the active consideration of, or preparatory work for, permits required to resume or advance activities suspended in connection with the moratorium.

(e) REPORT TO CONGRESS.—Not later than October 31, 2010, the Secretary shall report to the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources on the status of (1) the collection and analysis of evidence regarding the potential causes of the April 20, 2010 explosion and sinking of the Deepwater Horizon offshore drilling rig, including information collected by the Presidential Commission and other investigations (2) implementation of safety reforms described in the May 27, 2010, Departmental report entitled ''Increased Safety Measures for Energy Development on the Outer Continental Shelf,'' (3) the ability of operators in the Gulf of Mexico to respond effectively to an oil spill in light of the Deepwater Horizon incident; and (4) industry and government efforts to engineer, design, construct and assemble wild well intervention and blowout containment resources necessary to contain an uncontrolled release of hydrocarbons in deep water should another blowout occur.

(f) SAVINGS CLAUSE.—Nothing herein affects the Secretary's authority to suspend offshore drilling permitting and drilling operations based on the threat of significant, irreparable or immediate harm or damage to life, property, or the marine, coastal or human environment pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 133 et. seq.).

UNANIMOUS-CONSENT REQUEST

Mr. BOUSTANY. Mr. Chairman, I have a unanimous consent request.

The CHAIR. The gentleman will state his request.

Mr. BOUSTANY. I ask unanimous consent that we extend the time of debate equally between the two sides for a total of 30 minutes on this very important issue affecting our State and other States on the gulf coast. We are really talking about jobs, and I think having this extra time of debate will be very important.

The CHAIR. Is there an objection to the request?

Mr. RAHALL. I reserve the right to object.

Mr. Chairman, I know a lot of Members are under time pressures because of airline schedules, et cetera. I feel compelled to object.

The CHAIR. Objection is heard.

Mr. RAHALL. Plus, if the gentleman would yield further, I am prepared to accept the amendment.

The CHAIR. Objection is heard.

Mr. BOUSTANY. We would like to extend the debate. We ask unanimous consent to extend it for 20 minutes, equally divided.

The CHAIR. Is there objection?

Mr. MELANCON. In light of the concern of the chairman of the committee and the whole of the bill, which is his jurisdiction, I respectfully yield to his opinion on how he wants that handled.

The CHAIR. Is there an objection to the request of the gentleman to extend the time of the debate?

Mr. MELANCON. I would accept the time.

The CHAIR. Is the gentleman objecting to the extension of the debate?

Mr. RAHALL. It is 20 minutes; is that correct?

Mr. BOUSTANY. Ten minutes on each side.

Mr. RAHALL. I still have to object.

The CHAIR. The gentleman's objection is heard.

Pursuant to House Resolution 1574, the gentleman from Louisiana (Mr. MELANCON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana.

Mr. MELANCON. I would like to thank my colleague from West Virginia for his help on this amendment.

Mr. Chairman, I urge my colleagues to support this amendment to lift the deepwater moratorium for companies that meet the new safety requirements and guidelines recently set in place by Secretary Salazar.

Make no mistake, BP was a bad player. As we have discovered through numerous congressional hearings, this company took dangerous shortcuts to save money. They ignored warning signs and the advice of their own workers who were concerned about the stability of the well, and they continued to drill even when they knew that the safety mechanisms in place to prevent a blowout were not working properly. Eleven good men died because of their greed.

The tragedy on Deepwater opened our eyes to the need for tougher safety regulations for offshore drilling, to the need to strengthen the enforcement of both new and existing laws, and to the need to protect workers who report their companies' dangerous and even illegal practices to regulators so that we can stop another accident before it happens.

Yet an indiscriminate blanket moratorium punishes the innocent along with the guilty for the actions and the poor judgment of one reckless company. If a rig meets all of the tough new safety requirements issued by the Department of the Interior, if it has been fully inspected and deemed safe, why should it sit idle? The workers of that rig, why should they go jobless until the arbitrary 6-month period is over?

People in Louisiana understand that it doesn't make any sense. Louisianans, more than any other people, want to prevent another disaster from happening in our waters, but the irresponsible decisions and the dangerous actions of one company shouldn't shut down an entire sector of our economy, sending thousands of workers to the unemployment line. We need to fix the problems that led to this disaster in the gulf without paralyzing America's domestic energy industry in the process.

That is what my amendment does. Instead of a blanket moratorium, my amendment would allow drilling permits to be approved for those rigs that meet the new tougher safety requirements issued by the Department of the Interior in the wake of the explosion. Those 31 stalled drilling rigs directly employ some 1,400 workers. Hundreds of small businesses in Louisiana service those rigs or are, in some way, supported by the offshore oil and gas industry.

According to research by Dr. Joseph Mason of Louisiana State University, under the current 6-month moratorium, the gulf coast region will lose more than 8,000 jobs, nearly $500 million in wages and over $2.1 billion in economic activity, as well as nearly $100 million in State and local tax revenue—and that's only if the drilling will start back immediately in 6 months.

You don't need to be an economist to see the impact of the moratorium on south Louisiana. You just need to drive through coastal parishes like Lafourche, Terrebonne, or Grand Isle, Louisiana. Talk to people like Shelly Landry, who owns and operates a family grocery store there on Grand Isle. She told me, with tears in her eyes, that the moratorium was shutting down the coast and that it was hurting her business more than the actual oil spill. People like Ms. Landry are still learning to cope with the impact of the oil disaster, and now they feel they are being dealt a second blow—this time by their own government.

Louisiana has a working coast where people make good paychecks producing domestic energy that drives our Nation. They want to get back to work doing the jobs they love, the jobs that provide good lives for their families.

The Childers-Melancon amendment will lift the moratorium in a responsible way and allow our workers to continue producing energy. It will still hold companies accountable for higher safety standards so that we never again experience a disaster such as that like Deepwater.

On behalf of the workers of the gulf coast, on behalf of the small businesses, and on behalf of all of the people of my State who thought they had made it through the worst part of this disaster, I urge my colleagues to vote for this amendment to lift this administration's offshore drilling moratorium to make life better and as normal as possible for an area that has been devastated several times over the last several years.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I rise to claim time in opposition.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. Mr. Chairman, I am very pleased to yield 4 minutes to the gentleman from Louisiana (Mr. SCALISE).

Mr. SCALISE. I appreciate the gentleman from Washington for yielding time.

Mr. Chairman, I share in many of the comments that were expressed by my colleague from Louisiana, Mr. MELANCON.

In fact, when you talk to people on the ground in Louisiana, most will tell you that this moratorium that was arbitrarily issued by the President has actually got the potential to do more long-term damage to our State than the oil spill, itself. Unfortunately, we are already seeing the consequences in terms of lost jobs.

If you look at what would happen, not if this would go 6 months—as Secretary Salazar wants to go—but if this just goes another few weeks, we will lose up to 40,000 high-paying jobs that will go overseas. If anybody is wondering whether or not that is just talk, you can look at what is already happening.

Just 2 days ago, Baker Hughes, a big oilfield service company, sent 300 jobs overseas. It laid off 300 Louisiana workers. These are jobs that have gone overseas because of this moratorium. It is already having a devastating impact. That is why it is so important that we pass an amendment that actually ends this current moratorium.

If you look at the language in the amendment, there are a number of components that I do agree with, and I think the intent was there to actually address those problems; but if you go to page 2, there are a few sections that got added in. In fact, I am a cosponsor with my colleague from Louisiana on an amendment that would actually end the moratorium in its current form. Unfortunately, there was some language added in that allows the Secretary to have statutory authority that he does not have today that actually extends his ability to issue more moratoriums even if this current one is stopped.

So what the industry is dealing with today is this kind of uncertainty. That is why you are already seeing rigs leave. In fact, three rigs have already left. One is going to Egypt. These are all going to foreign countries. So we have got to get this right.

□ 1610

In fact, later today we're going to have a motion to recommit that will actually encompass those things that are necessary to be done to end the moratorium without the damaging language that's in this bill that gives the Secretary even more authority, in fact, even if a company complies with all of the safety requirements, as they should, and they should comply with all the safety recommendations. But even if they do, under this language, the Secretary is given power to decide whether or not to issue that permit. That shouldn't be arbitrary once a company meets all the safety recommendations. BP didn't meet them all. But if a company does, the Secretary can't continue to keep this job-killing moratorium going on. So we have to fix that language. And, in fact, our motion to recommit does that.

If you look, our Louisiana Oil and Gas Association, which is not a representative of the Big Oil companies—in fact, it's a lot of the mom and pop of the independent oil and gas companies throughout Louisiana. They have

strong concerns. In fact, they say, We have concerns that this may codify—they're talking about this extra language and power that's given to the Secretary to deny permits—they say, We have concerns that this may codify the Secretary's authority to suspend offshore drilling permitting and drilling operations.

It is our position that the Secretary does not have the right to do so; and, in fact, a Federal judge has agreed with that by trying to stop this moratorium. Unfortunately, the administration ignored that. And they further go on to say, It is our position that applicants who apply for a permit and meet the proper safety requirements should be issued the permit. The Secretary shouldn't be able to decide arbitrarily if he wants to continue to shut down domestic oil production in this country, as we're seeing today. And we're seeing the consequences of it.

As I said earlier this week, we already lost 300 jobs. And this wasn't the first time; and, unfortunately, it won't be the last. Many companies you talk to are already having conversations about moving jobs overseas, if they haven't already. And as I mentioned, three of the rigs have already decided they have got to leave the country because of this moratorium. That is why it is so important that we get it right. We can't just pass something that sounds good but ultimately ends up giving the Secretary more authority to keep the moratorium going and run more jobs out of our country. So hopefully we will pass the motion to recommit later but not give the Secretary more authority. This does.

Mr. MELANCON. I yield 30 seconds to the gentleman from West Virginia, Chairman RAHALL.

Mr. RAHALL. I appreciate the gentleman from Louisiana's yielding, and I commend him for his commonsense amendment here.

This, of course, would end the moratorium on drilling in the gulf on rigs that have met the safety requirements prescribed in two notices to lessees issued by the DOI as well as other safety standards described by enactment of this legislation. This legislation is about safety on these rigs, and we do put in some new language that does certify and verify that there is necessary safety in place. I urge support.

The CHAIR. The time of the gentleman has expired.

Mr. HASTINGS of Washington. Mr. Chairman, I am very, very pleased to yield the balance of my time to the gentleman from Louisiana (Mr. BOUSTANY).

Mr. BOUSTANY. Mr. Chair, I appreciate the efforts on the part of my colleague from Louisiana (Mr. MELANCON). But what we have seen is, we have a current moratorium on deepwater drilling and a de facto moratorium on shallow water drilling. And I'm afraid that this amendment doesn't fully address the issue. It doesn't address the current moratorium, whereby we are hemorrhaging jobs. The 300 jobs my colleague over here, Mr. SCALISE, just referenced were from Baker Hughes in my district, and those don't count the shallow water jobs that we are losing daily from companies I have been hearing about each day.

So the problem we have is with the section on page 2, which continues to allow the Secretary this wide latitude beyond the normal permitting process. So we have a real problem with this. We think our motion to recommit that we are going to offer later will actually give a clean break on getting rid of this moratorium, which is killing American energy production jobs, making us more dependent on foreign oil. It's not the kind of policy that we need. I know my colleague from Louisiana (Mr. MELANCON) wants to solve this problem, but we have concerns about this specific language.

Mr. CHILDERS. Mr. Chair, I rise today in support of the amendment I introduced with my friend and colleague from Louisiana, Mr. MELANCON. The amendment would lift the moratorium on deepwater drilling for the responsible actors who meet strict safety requirements for their drilling operations. The Deepwater Horizon oil spill has been a tragedy for the Gulf Coast, one we can ill afford as our nation works toward economic recovery. However, in the state of Mississippi, thousands of workers are employed by the deepwater drilling industry. Because of the moratorium these hard-working Americans will struggle to make ends meet in an already difficult economic environment. The Gulf Coast, from Florida to Texas, is suffering from this disaster and in Mississippi we cannot afford to lose even more jobs due to this tragedy. The path to recovery from the Deepwater Horizon disaster will be long; we should not stand in the way of safe and responsible employers and the families they support.

I applaud the reorganization of the ethics plagued Minerals Management Service by the Department of the Interior in the underlying bill. It is my hope that the new regulatory structure will be an effective tool for ensuring safe drilling practices so that lives are not lost and moratoriums are not needed. Deepwater drilling is not only a source of American jobs but also an important source of domestic energy production in our fight for energy independence.

I ask my colleagues to join me today in supporting this amendment to save jobs and help the entire Gulf Coast region to recover.

The CHAIR. All time has expired.

PARLIAMENTARY INQUIRY

Mr. MELANCON. Parliamentary inquiry.

The CHAIR. The gentleman from Louisiana is recognized for a parliamentary inquiry.

Mr. MELANCON. I would like to thank my colleagues and ask for unanimous consent to consider a revised amendment which addresses the issues they are concerned about.

Mr. HASTINGS of Washington. Mr. Chairman, I object.

The CHAIR. Object is heard.

The question is on the amendment offered by the gentleman from Louisiana (Mr. MELANCON).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Louisiana will be postponed.

AMENDMENT NO. 9 OFFERED BY MR. MELANCON

The CHAIR. It is now in order to consider amendment No. 9 printed in part B of House Report 111–582.

Mr. MELANCON. Mr. Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title V, add the following new section (and conform the table of contents accordingly):

SEC. 504. GULF OF MEXICO RESTORATION ACCOUNT.

(a) ESTABLISHMENT OF SPECIAL ACCOUNT.—There is established in the Treasury of the United States a separate account to be known as the ''Gulf of Mexico Restoration Account''.

(b) FUNDING.—The Gulf of Mexico Restoration Account shall consist of such amounts as may be appropriated or credited to such Account by section 311A of the Federal Water Pollution Control Act.

(c) EXPENDITURES.—Amounts in the Gulf of Mexico Restoration Account shall be available, as provided in appropriations Acts, to carry out projects, programs, and activities as recommended by the Gulf of Mexico Restoration Task Force established in this title.

(d) AMENDMENT TO THE FEDERAL WATER POLLUTION CONTROL ACT.—

(1) IN GENERAL.—Title III of the Federal Water Pollution Control Act is amended by inserting after section 311 the following:

''SEC. 311A. ADDITIONAL PENALTIES FOR LARGE SPILLS IN THE GULF OF MEXICO.

''(a) IN GENERAL.—In the case of an offshore facility from which more than 1,000,000 barrels of oil or a hazardous substance is discharged into the Gulf of Mexico in violation of section 311(b)(3), any person who is the owner or operator of the facility shall be subject to a civil penalty of $200,000,000 for each 1,000,000 barrels discharged.

''(b) RELATIONSHIP TO OTHER PENALTIES.—The civil penalty under subsection (a) shall be in addition to any other penalties to which the owner or operator of the facility is subject, including those under section 311.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on April 1, 2010.

The CHAIR. Pursuant to House Resolution 1574, the gentleman from Louisiana (Mr. MELANCON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana.

Mr. MELANCON. Mr. Chair, I urge my colleagues to support the Gulf Coast Restoration Amendment for one simple reason: responsible oil-spill response legislation must include funding to address the rapid deterioration of our crumbling coast.

Coastal erosion has chipped away at our barrier islands, beaches and marshes for decades. Louisiana alone loses a football field of coast every 38 minutes and is set to lose another 500 square miles by 2050. But the BP oil

spill will accelerate land loss as our marshes die from exposure to oil and chemicals from the cleanup. This disaster has effectively hit the fast forward button on an already terrible problem.

BP will foot the bill for the cleanup effort. We will hold them to their responsibility and their word, but they are not legally bound to address the accelerated land loss as a result of the spill. My amendment will make certain they don't simply clean the water and walk away from the long-term damage to our coast and marshes.

My amendment would create a new civil penalty on gulf coast spills of more than 1 million barrels. The owner or operator of the rig would be responsible for paying $200 million per 1 million barrels spilled to fund environmental restoration projects to save the gulf coast. Restoration projects would be spread across the Gulf Coast States and would be overseen by the Gulf Coast Coordination Council, a task force of Federal, State and local stakeholders, created by this bill. My amendment is deficit-neutral and comes at no cost to taxpayers or to the Federal Government.

Survival of the gulf coast's fragile ecosystem and the fishing and tourism industries that rely on them hinges upon successful restoration of our wetlands. Without them, many gulf communities will vanish, and the rest of the country will lose access to the seafood and recreation they have enjoyed for decades.

The gulf coast is America's working coast. We contribute $3 trillion annually to the economy. Seven of our country's top 10 ports are located in the gulf, and 40 percent of our Nation's seafood is harvested from its waters. President Obama has charged the oil spill response team with finding long-term solutions for repairing our coast. Our families back home are depending on Congress to restore their livelihoods, and we have that opportunity today.

Earlier this month, just after news broke that BP had finally capped their well, Bob Marshall of The Times-Picayune wrote a lengthy column about the long road ahead for south Louisiana and this cleanup. He wrote: ''We need to remember this is a temporary problem on top of a permanent disaster. Long after BP's oil is gone, we'll still be fighting for survival against a much more serious enemy—our sinking, crumbling delta. Our coast is like a cancer patient who has come down with pneumonia. That's serious, but curable. After the fever breaks, he'll still have cancer. Our officials' focus should remain on stopping the activities that continue to destroy our marshes and getting national support for projects that can protect what we have left.'' He's right. And make no mistake, this is that time.

Five years after Hurricanes Katrina and Rita, our country is again focused on a tragedy in south Louisiana. For the past 102 days, every time you opened your paper or turned on the evening news, you saw the well, our oiled marshes and wildlife, and our people, struggling to get through the day and unable to imagine a better tomorrow.

We are staring at a cleanup that will take a decade or more to complete. We will only get there if we address our disappearing coasts. Mr. Chair, I urge my colleagues to support my Gulf Coast Restoration Amendment. This is that time, and we can't wait another day.

I reserve the balance of my time.

□ 1620

Mr. HASTINGS of Washington. Mr. Chairman, I ask unanimous consent to claim the time in opposition, although I don't intend to oppose the amendment.

The CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would establish a new fine on spills larger than 1 million barrels, and has a retroactive date of April 1, 2010. Now, I won't debate the fact that making this fine retroactive means that it will likely face a constitutional challenge.

But I will debate the fact that once fines are paid by violators to the Federal Government, that money becomes taxpayer money. If we then spend that money on gulf restoration to clean up the mess caused by BP, we would be spending taxpayer dollars to clean up the BP spill.

Mr. Chairman, the taxpayers should not be on the hook for the cleanup of the BP disaster. If there are projects in the gulf that demand restoration because of damage from the spill, then BP must be held accountable. If the gentleman has projects that demand greater attention, then I offer to work with him, just as I am working with other members of our committee from Louisiana, to ensure that the Federal oversight gets the gulf cleaned up and the gulf made whole. But I reject the premise that we must use taxpayer dollars to clean up the mess made by BP.

I reserve the balance of my time.

Mr. MELANCON. I yield 1 minute to Mr. OBERSTAR.

Mr. OBERSTAR. I thank the gentleman for yielding.

I have worked with the gentleman and our committee staff to craft this language. It's important to note that these are not taxpayer dollars paying for restoration, but rather proceeds from a penalty provided in this provision that is very clearly spelled out, and which revenue goes into the Gulf of Mexico restoration account, and then is further subject to appropriations. So that keeps the Congress in control of the outlay of funds. Rather than just imposing a civil penalty and allowing those funds to go into an agency, there will be very clear control.

So the proceeds are used from the penalty for a legitimate public purpose to pay for the projects, programs, and activities out of the restoration fund to clean up the destruction from oil spilled.

To paraphrase previous speakers on the other side of the aisle, the explosion and blowout of the BP drilling operation in the Gulf is a "textbook case" on killing jobs and wildlife and destruction of the marine environment; putting 300,000 jobs at risk in travel, tourism, fishing, commercial and recreational fishing, catching, harvesting, processing fish and shellfish, jobs destroyed by the uncontrolled oil spill.

The safety provisions of our bill will protect those jobs in the future. The liability provisions will assure that there will be compensation for those who lose jobs and livelihood because of an oil spill. The penalties imposed in this Melancon amendment will assure that damage to the natural resources of the Gulf will have the money needed to restore more resources.

A penalty whose proceeds will be used for a legitimate public purpose—to pay for projects, programs, and activities out of the GM Restoration Fund.

Mr. HASTINGS of Washington. Could I inquire how much time I have?

The CHAIR. The gentleman has 4 minutes remaining.

Mr. HASTINGS of Washington. I yield 2 minutes to the gentleman from Louisiana (Mr. SCALISE).

Mr. SCALISE. I thank the gentleman from Washington for yielding.

I rise in support of this amendment by my colleague from Louisiana (Mr. MELANCON). As we all know, this is an unprecedented disaster. It's already extracted a human toll, it's extracting an environmental toll, and of course now with the moratorium it's extracting an economic toll.

So when you look at what this amendment does, it says if somebody breaks the law, if they actually have a spill that's at this level, a million barrels or more, then they actually get hit with heavier penalties. And those penalties would be dedicated to restoring our coast. Because as we can all see, people all across the country who have expressed so much appreciation and support for what we're doing to try to battle this disaster, they also understand just how fragile this ecosystem is. And they've seen the destruction to our ecosystem.

And of course it hasn't just started. Our coast has been eroding for years. In fact, we lose a football field of land along the gulf coast of Louisiana every 37 minutes. So just in the time we have been debating this legislation, the Gulf Coast of Louisiana has lost a football field of land. And this goes on every single day.

So by dedicating these funds that are only generated if somebody spills a million barrels or more into our gulf to this fund to restore our coast, I think it's the right thing to do. It helps us battle this environmental disaster, and then hopefully we can continue to move forward so that we can stop the economic disaster that's also occurring. I appreciate the gentleman from

Louisiana for bringing this amendment.

Mr. MELANCON. I yield 30 seconds to the chairman.

Mr. RAHALL. Just to clarify for my colleague from Washington, my ranking member, if his concern was about the taxpayer ending up paying for something that BP should be liable for under the gentleman from Louisiana's amendment, we do have a catch-all provision in the legislation that applies to not only the entire legislation, but would apply to the gentleman from Louisiana's amendment as well that says none of the funds that are authorized or made available by this act may be used to carry out any activity or pay any cost for removal or damages for which a responsible party, BP, is liable under the OPA.

Mr. HASTINGS of Washington. I yield myself the balance of my time.

I simply make the point that, yes, I understand these dollars come from the affected party. But if it gets into the Federal Government Treasury, then the Federal Government is the government of the people, it becomes taxpayer dollars. That's the only point I am making.

I support the amendment. I think it makes perfectly good sense. It has broad support of those Members that are affected by this spill. But I just wanted to simply make that point, probably more to emphasize than anything else that BP is truly responsible for this, and we all recognize that.

I urge support of the amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Louisiana (Mr. MELANCON).

The amendment was agreed to.

Mr. RAHALL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. OBEY) having assumed the chair, Mr. JACKSON of Illinois, Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3534) to provide greater efficiencies, transparency, returns, and accountability in the administration of Federal mineral and energy resources by consolidating administration of various Federal energy minerals management and leasing programs into one entity to be known as the Office of Federal Energy and Minerals Leasing of the Department of the Interior, and for other purposes, had come to no resolution thereon.

APPOINTMENT AS INSPECTOR GENERAL FOR THE U.S. HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Pursuant to section 2(b) of rule VI, and the order of the House of January 6, 2009, the Chair announces that the Speaker, majority leader and minority leader jointly appoint Ms. Theresa M. Grafenstine, Manassas, Virginia, to the position of Inspector General for the U.S. House of Representatives effective July 30, 2010.

OFFSHORE OIL AND GAS WORKER WHISTLEBLOWER PROTECTION ACT OF 2010

The SPEAKER pro tempore. Pursuant to clause 1(c) of rule XIX, proceedings will resume on the bill (H.R. 5851) to provide whistleblower protections to certain workers in the offshore oil and gas industry.

The Clerk read the title of the bill.

MOTION TO RECOMMIT

Mr. KLINE of Minnesota. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. KLINE of Minnesota. I am, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Kline of Minnesota moves to recommit the bill, H.R. 5851, to the Committee on Education and Labor with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Whistleblower Parity Act''.

SEC. 2. WHISTLEBLOWER PROTECTION FOR CERTAIN OFFSHORE WORKERS.

(a) PROHIBITION ON RETALIATION.—No person shall discharge or in any manner discriminate against any covered employee because such covered employee has filed any complaint or instituted or caused to be instituted any proceeding related to any workplace safety and health regulation issued pursuant to section 21 of the Outer Continental Shelf Lands Act (43 U.S.C. 1347) or has testified or is about to testify in any such proceeding or because of the exercise by such covered employee on behalf of himself or herself or others of any right afforded by such Act.

(b) COMPLAINT PROCEDURE.—Any covered employee who believes that he or she has been discharged or otherwise discriminated against by any person in violation of this section may, within 30 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as the Secretary determines appropriate. If upon such investigation, the Secretary determines that the provisions of this section have been violated, the Secretary shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown to restrain violations of subsection (a) of this subsection and order all appropriate relief including rehiring or reinstatement of the employee to his or her former position with back pay.

(c) NOTIFICATION.—Within 90 days of the receipt of a complaint filed under this section the Secretary shall notify the complainant of the Secretary's determination under subsection (b) of this section.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term ''covered employee'' means an individual engaged in activities on or in waters above the Outer Continental Shelf related to supporting or carrying out exploration, development, production, processing, or transportation of oil on behalf of an employer;

(2) the term ''employer'' has the meaning given such term in section 3 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652);

(3) the term ''Outer Continental Shelf'' has the meaning that the term ''outer Continental Shelf'' has in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331); and

(4) the term ''Secretary'' means the Secretary of Labor.

SEC. 4. CONSTRUCTION.

Nothing in this Act shall be construed to affect any rights, protections, or remedies available to covered employees under section 2114 of title 46, United States Code.

Mr. KLINE of Minnesota (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. KLINE of Minnesota. Mr. Speaker, like every Member of Congress, I am deeply concerned for the safety of offshore oil rig workers. No worker who sees a hazard to health and safety in violation of the law should fear reporting the violation to the proper authorities. Effective workplace safety starts with compliance, and is enhanced by alert workers who help ensure appropriate safety rules are being followed. That is why I am asking all my colleagues to support this motion to recommit.

This proposal extends the whistleblower protections in the Occupational Safety and Health Act to workers on offshore oil rigs. As I noted earlier, there are a number of concerns with the Democrats' proposal. It creates an entirely new whistleblower protection framework for workers directly or indirectly involved with offshore oil drilling, departing from the long-standing protections in existing health and safety laws.

The majority also fails to focus on oil rig workers, extending their untested form of whistleblower protections to various workers on land who are already protected by existing, and possibly conflicting, statutes.

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Legal confusion and uncertainty are never good when it comes to workplace safety. Last month, the Education and Labor Committee heard from Federal officials who could not answer whether offshore oil rig workers have access to basic whistleblower protections. To date, the committee has not received a response to a request for clarification. Virtually every American worker enjoys these important protections, yet Federal officials did not know whether maritime law, Federal safety and health law, or some other law was fully protecting oil rig workers.