

111TH CONGRESS
2^D SESSION

S. _____

To create a fair and efficient system to resolve claims of victims for economic injury caused by the Deepwater Horizon incident, to establish a Commission to investigate and report on corrective measures to prevent similar incidents, to improve the Oil Spill Liability Trust Fund, the Minerals Management Service, and Federal oil spill research, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To create a fair and efficient system to resolve claims of victims for economic injury caused by the Deepwater Horizon incident, to establish a Commission to investigate and report on corrective measures to prevent similar incidents, to improve the Oil Spill Liability Trust Fund, the Minerals Management Service, and Federal oil spill research, and for other purposes.

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

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

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Oil Spill Compensation Act of 2010”.

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

Sec. 1. Short title; table of contents.

TITLE I—DEEPWATER HORIZON CLAIMS RESOLUTION

Sec. 101. Findings and purpose.

Sec. 102. Definitions.

Subtitle A—Office of Deepwater Horizon Claims Compensation

Sec. 111. Establishment of Office of Deepwater Horizon Claims Compensation.

Sec. 112. Claimant assistance.

Sec. 113. Compensation program startup.

Sec. 114. Authority of Administrator.

Sec. 115. Advisory Committee on Deepwater Horizon Compensation.

Subtitle B—Deepwater Horizon Compensation Procedures

Sec. 121. Essential elements of eligible claim.

Sec. 122. General rule concerning no-fault compensation.

Sec. 123. Filing of claims.

Sec. 124. Eligibility determinations and claim awards.

Subtitle C—Awards

Sec. 131. Amount.

Sec. 132. Payment.

Sec. 133. Setoffs for collateral source compensation and prior awards.

Sec. 134. Subrogation.

Subtitle D—Judicial Review

Sec. 141. Judicial review of rules and regulations.

Sec. 142. Judicial review of award decisions.

Sec. 143. Other judicial challenges.

Subtitle E—Effect on Other Laws

Sec. 151. Effect on other laws.

**TITLE II—NATIONAL COMMISSION ON OUTER CONTINENTAL
SHELF OIL SPILL PREVENTION**

Sec. 201. Short title.

Sec. 202. Establishment of Commission.

Sec. 203. Purposes.

Sec. 204. Composition of Commission.

Sec. 205. Functions of Commission.

Sec. 206. Powers of Commission.

- Sec. 207. Public meetings and hearings.
- Sec. 208. Staff of Commission.
- Sec. 209. Compensation and travel expenses.
- Sec. 210. Security clearances for Commission members and staff.
- Sec. 211. Reports of Commission; adjournment.
- Sec. 212. Funding.
- Sec. 213. Nonapplicability of Federal Advisory Committee Act.

TITLE III—OIL SPILL LIABILITY

Subtitle A—Oil Pollution Act of 1990

- Sec. 301. Liability limits.
- Sec. 302. Advance payment.

Subtitle B—Oil Spill Liability Trust Fund

- Sec. 311. Rate of tax for Oil Spill Liability Trust Fund.
- Sec. 312. Limitations on expenditures and borrowing authority.

TITLE IV—FEDERAL OIL SPILL RESEARCH

- Sec. 401. Federal oil spill research.
- Sec. 402. National Academy of Science participation.
- Sec. 403. Technical and conforming amendments.
- Sec. 404. Oil spill response authority.

TITLE V—OIL AND GAS LEASING

- Sec. 501. Revenue sharing from outer Continental Shelf areas in certain coastal States.
- Sec. 502. Revenue sharing from areas in Alaska Adjacent zone.
- Sec. 503. Production of oil from certain Arctic offshore leases.

1 **TITLE I—DEEPWATER HORIZON** 2 **CLAIMS RESOLUTION**

3 **SEC. 101. FINDINGS AND PURPOSE.**

4 (a) FINDINGS.—Congress finds that—

5 (1) the oil spill resulting from the Deepwater
6 Horizon incident has caused major economic damage
7 to the residents of the States bordering the Gulf of
8 Mexico;

9 (2) the limits on strict liability imposed by the
10 Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.)

1 will be exceeded by the claims resulting from the
2 Deepwater Horizon incident; and

3 (3) while the Oil Pollution Act of 1990 (33
4 U.S.C. 2701 et seq.) places no restrictions on liabil-
5 ity for damages from the accident under State law,
6 litigation of such cases may take decades, and con-
7 sume in litigation expenses and contingent fees,
8 funds that could otherwise be used to quickly and ef-
9 ficiently compensate the citizens of the Gulf States
10 for damages resulting from the Deepwater Horizon
11 incident.

12 (b) PURPOSE.—The purpose of this title is to create
13 a fair and efficient system for the payment of legitimate
14 present and future claims for damages resulting from the
15 Deepwater Horizon incident.

16 **SEC. 102. DEFINITIONS.**

17 In this title:

18 (1) ADMINISTRATOR.—The term “Adminis-
19 trator” means the Administrator of the Office.

20 (2) ADVISORY COMMITTEE.—The term “Advi-
21 sory Committee” means the Advisory Committee on
22 Deepwater Horizon Compensation established under
23 section 115(a).

24 (3) CLAIM.—The term “claim” means any
25 claim, based on any theory, allegation, or cause of

1 action, for damages presented in a civil action or
2 bankruptcy proceeding, directly, indirectly, or deriva-
3 tively arising out of, based on, or related to, in whole
4 or in part, the effects of the Deepwater Horizon in-
5 cident.

6 (4) CLAIMANT.—The term “claimant” means a
7 person or State who files a claim under section 123.

8 (5) CIVIL ACTION.—

9 (A) IN GENERAL.—The term “civil action”
10 means a civil action filed in Federal or State
11 court, whether cognizable as a case at law, in
12 equity, or in admiralty.

13 (B) EXCLUSION.—The term “civil action”
14 does not include an action relating to any work-
15 ers’ compensation law.

16 (6) COLLATERAL SOURCE COMPENSATION.—
17 The term “collateral source compensation” means
18 the compensation that a claimant received, or is en-
19 titled to receive, from a responsible party as a result
20 of a final judgment, settlement, or other payment
21 for damages that are the source of a claim under
22 section 123, including payments made under the Oil
23 Pollution Act of 1990 (33 U.S.C. 2701 et seq.).

1 (7) COMPENSATION PROGRAM.—The term
2 “compensation program” means the compensation
3 program established under this title.

4 (8) DAMAGES.—The term “damages” means
5 damages specified in section 131(b), including the
6 cost of assessing those damages.

7 (9) DEEPWATER HORIZON INCIDENT.—The
8 term “Deepwater Horizon incident” means the blow-
9 out and explosion of the mobile offshore drilling unit
10 *Deepwater Horizon* that occurred on April 20, 2010,
11 and resulting hydrocarbon releases into the environ-
12 ment.

13 (10) DEPARTMENT.—The term “Department”
14 means the Department of the Interior.

15 (11) FUND.—The term “Fund” means the Oil
16 Spill Liability Trust Fund established by section
17 9509 of the Internal Revenue Code of 1986.

18 (12) LAW.—The term “law” includes all law,
19 judicial or administrative decisions, rules, regula-
20 tions, or any other principle or action having the ef-
21 fect of law.

22 (13) OFFICE.—The term “Office” means the
23 Office of Deepwater Horizon Claims Compensation
24 established under section 111.

1 (14) PARTIES.—The term “parties” means,
2 with respect to an individual claim, the claimant and
3 the responsible party.

4 (15) PERSON.—

5 (A) IN GENERAL.—The term “person”
6 means an individual, trust, firm, joint stock
7 company, partnership, association, insurance
8 company, reinsurance company, or corporation.

9 (B) EXCLUSIONS.—The term “person”
10 does not include—

11 (i) the United States;

12 (ii) a State; or

13 (iii) a political subdivision of a State.

14 (16) RESPONSIBLE PARTY.—The term “respon-
15 sible party” means a responsible party (as defined in
16 section 1001 of the Oil Pollution Act of 1990 (33
17 U.S.C. 2701)) for the Deepwater Horizon incident.

18 (17) SECRETARY.—The term “Secretary”
19 means the Secretary of the Interior.

20 (18) STATE.—The term “State” means

21 (A) each of the several States of the
22 United States;

23 (B) the District of Columbia;

24 (C) the Commonwealth of Puerto Rico;

25 (D) Guam;

- 1 (E) American Samoa;
- 2 (F) the Commonwealth of the Northern
- 3 Mariana Islands;
- 4 (G) the Federated States of Micronesia;
- 5 (H) the Republic of the Marshall Islands;
- 6 (I) the Republic of Palau; and
- 7 (J) the United States Virgin Islands..

8 (19) SUCCESSOR IN INTEREST.—The term

9 “successor in interest” means any person that ac-

10 quires assets, and substantially continues the busi-

11 ness operations, of a responsible party, considering

12 factors that include—

- 13 (A) retention of the same facilities or loca-
- 14 tion;
- 15 (B) retention of the same employees;
- 16 (C) maintaining the same job under the
- 17 same working conditions;
- 18 (D) retention of the same supervisory per-
- 19 sonnel;
- 20 (E) continuity of assets;
- 21 (F) production of the same product or
- 22 offer of the same service;
- 23 (G) retention of the same name;
- 24 (H) maintenance of the same customer
- 25 base;

1 (I) identity of stocks, stockholders, and di-
2 rectors between the asset seller and the pur-
3 chaser; or

4 (J) whether the successor holds itself out
5 as continuation of previous enterprise, but ex-
6 pressly does not include whether the person ac-
7 tually knew of the liability of the responsible
8 party under this title.

9 **Subtitle A—Office of Deepwater**
10 **Horizon Claims Compensation**

11 **SEC. 111. ESTABLISHMENT OF OFFICE OF DEEPWATER HO-**
12 **RIZON CLAIMS COMPENSATION.**

13 (a) IN GENERAL.—

14 (1) ESTABLISHMENT.—There is established
15 within the Department the Office of Deepwater Ho-
16 rizon Claims Compensation, which shall be headed
17 by the Administrator.

18 (2) PURPOSE.—The purpose of the Office shall
19 be to provide timely, fair compensation, under the
20 terms specified in this title, on a no-fault basis and
21 in a nonadversarial manner, to persons and State or
22 local governments that have incurred economic dam-
23 ages as a result of the Deepwater Horizon incident.

24 (3) TERMINATION OF THE OFFICE.—The Office
25 shall terminate effective not later than 1 year fol-

1 lowing the date of certification by the Administrator
2 that the Fund has neither paid a claim in the pre-
3 vious 1-year period nor has debt obligations remain-
4 ing to pay.

5 (4) EXPENSES.—The Fund shall be available to
6 the Secretary for expenditure, without further ap-
7 propriation and without fiscal year limitation, as
8 necessary for any and all expenses associated with
9 the Office, including—

10 (A) personnel salaries and expenses, in-
11 cluding retirement and similar benefits; and

12 (B) all administrative and legal expenses.

13 (b) APPOINTMENT OF ADMINISTRATOR.—

14 (1) IN GENERAL.—The Administrator of the
15 Office shall be appointed by the President, by and
16 with the advice and consent of the Senate.

17 (2) TERM.—The term of the Administrator
18 shall be 5 years.

19 (3) REPORTING.—The Administrator shall re-
20 port directly to the Assistant Secretary for Policy,
21 Management, and Budget of the Department.

22 (c) DUTIES OF ADMINISTRATOR.—

23 (1) IN GENERAL.—The Administrator shall be
24 responsible for—

1 (A) processing claims for compensation for
2 damages to eligible claimants in accordance
3 with the criteria and procedures established
4 under subtitle B;

5 (B) appointing or contracting for the serv-
6 ices of such personnel, making such expendi-
7 tures, and taking any other actions as may be
8 necessary to carry out the responsibilities of the
9 Office, including entering into cooperative
10 agreements with other Federal or State agen-
11 cies and entering into contracts with nongovern-
12 mental entities;

13 (C) conducting such audits and additional
14 oversight as necessary to assure the integrity of
15 the compensation program;

16 (D) promulgating such rules, regulations,
17 and procedures as may be necessary to carry
18 out this title;

19 (E) making such expenditures as may be
20 necessary in carrying out this title;

21 (F) excluding evidence and disqualifying or
22 debarring any attorney or other individual or
23 entity who provide evidence in support of the
24 application of the claimant for compensation if
25 the Administrator determines that materially

1 false, fraudulent, or fictitious statements or
2 practices have been submitted or engaged in by
3 the individual or entity; and

4 (G) having all other powers incidental, nec-
5 essary, or appropriate to carrying out the func-
6 tions of the Office.

7 (2) CERTAIN ENFORCEMENT.—

8 (A) FALSE STATEMENTS.—For each in-
9 fraction described in paragraph (1)(F), the Ad-
10 ministrator may impose a civil penalty not to
11 exceed \$10,000 on any individual or entity
12 found to have submitted or engaged in a mate-
13 rially false, fraudulent, or fictitious statement
14 or practice under this title.

15 (B) OTHER POWERS.—The Administrator
16 shall issue appropriate regulations to carry out
17 paragraph (1)(G).

18 (d) AUDIT AND PERSONNEL REVIEW PROCE-
19 DURES.—The Administrator shall establish audit and per-
20 sonnel review procedures for evaluating the accuracy of
21 eligibility recommendations of agency and contract per-
22 sonnel.

1 **SEC. 112. CLAIMANT ASSISTANCE.**

2 (a) ESTABLISHMENT.—Not later than 180 days after
3 the date of enactment of this Act, the Administrator shall
4 establish a comprehensive claimant assistance program—

5 (1) to publicize and provide information to po-
6 tential claimants about—

7 (A) the availability of benefits for eligible
8 claimants under this title; and

9 (B) the procedures for filing claims and for
10 obtaining assistance in filing claims;

11 (2) to provide assistance to potential claimants
12 in preparing, substantiating, and submitting claims,
13 including assistance in obtaining the documentation
14 necessary to support a claim;

15 (3) to respond to inquiries from claimants and
16 potential claimants;

17 (4) to provide translation services to claimants
18 and potential claimants;

19 (5) to provide training with respect to the appli-
20 cable procedures for the preparation and filing of
21 claims to persons who provide assistance or rep-
22 resentation to claimants, including nonprofit organi-
23 zations and State and local government entities; and

24 (6) to provide for the establishment of a website
25 on which claimants may access all relevant forms
26 and information.

1 (b) RESOURCE CENTERS.—

2 (1) IN GENERAL.—The claimant assistance pro-
3 gram shall provide for the establishment of resource
4 centers in areas in which there are determined to be
5 large concentrations of potential claimants, including
6 at least 1 resource center in each affected State.

7 (2) LOCATION.—The centers shall be located, to
8 the maximum extent practicable, in facilities of the
9 Department or other Federal agencies.

10 (c) ATTORNEY'S FEES.—

11 (1) IN GENERAL.—Notwithstanding any other
12 provision of law, the representative of an individual
13 may not receive, for services rendered in connection
14 with the claim of an individual under this title, more
15 than 5 percent of a final award made (whether by
16 the Administrator initially or as a result of adminis-
17 trative review) on the claim.

18 (2) PENALTY.—Any representative of a claim-
19 ant who violates this subsection shall be fined not
20 more than the greater of—

21 (A) \$5,000; or

22 (B) twice the amount received by the rep-
23 resentative for services rendered in connection
24 with each violation.

1 **SEC. 113. COMPENSATION PROGRAM STARTUP.**

2 (a) INTERIM REGULATIONS.—Not later than 90 days
3 after the date of enactment of this Act, the Administrator
4 shall issue interim regulations and procedures for the
5 processing of claims under this title.

6 (b) INTERIM PERSONNEL.—

7 (1) IN GENERAL.—The Secretary and the As-
8 sistant Secretary for Policy, Management, and
9 Budget of the Department may make available to
10 the Administrator on a temporary basis such per-
11 sonnel and other resources as may be necessary to
12 facilitate the expeditious startup of the compensa-
13 tion program.

14 (2) CONTRACTS.—The Administrator may con-
15 tract with individuals or entities having relevant ex-
16 perience to assist in the expeditious startup of the
17 compensation program.

18 (c) EXTREME FINANCIAL HARDSHIP CLAIMS.—In
19 the final regulations promulgated under section 111(c),
20 the Administrator shall designate categories of claims to
21 be handled on an expedited basis as a result of extreme
22 financial hardship.

23 (d) INTERIM ADMINISTRATOR.—Until an Adminis-
24 trator is appointed and confirmed under section 111(b),
25 the responsibilities of the Administrator under this title
26 shall be performed by the Assistant Secretary for Policy,

1 Management, and Budget of the Department, who shall
2 have all the authority conferred by this title on the Admin-
3 istrator and who shall be considered to be the Adminis-
4 trator for purposes of this title.

5 (e) STAY OF CLAIMS; RETURN TO TORT SYSTEM.—

6 (1) STAY OF CLAIMS.—

7 (A) PENDING ACTIONS.—Notwithstanding
8 any other provision of this title, any claim for
9 damages pending in any Federal or State court
10 for monetary damages related to the Deepwater
11 Horizon incident as of the date of enactment of
12 this Act shall be subject to a stay.

13 (B) FUTURE ACTIONS.—Notwithstanding
14 any other provision of this title, any claim for
15 damages filed in any Federal or State court for
16 monetary damages related to the Deepwater
17 Horizon incident after the date of enactment of
18 this Act shall be subject to a stay 60 days after
19 the date of the filing of the claim, unless the
20 claimant has filed an election to pursue the
21 claim for damages in the Federal or State court
22 under paragraph (2).

23 (2) CLAIMS.—To be eligible for a claim, any
24 person or State that has filed a timely claim seeking
25 a judgment or order for monetary damages related

1 to the Deepwater Horizon incident in any Federal or
2 State court before, on, or after the date of enact-
3 ment of this Act, shall file with the Administrator
4 and serve on all defendants in the pending court ac-
5 tion an election to pursue the claim for damages
6 under this title or continue to pursue the claim in
7 the Federal or State court—

8 (A) not later than 60 days after the date
9 of enactment of this Act, if the claim was filed
10 in a Federal or State court before the date of
11 enactment of this Act; and

12 (B) not later than 60 days after the date
13 of the filing of the claim, if the claim is filed
14 in a Federal or State court on or after the date
15 of enactment of this Act.

16 (3) STAY.—Until the claimant files an election
17 under paragraph (2) to continue to pursue the claim
18 in the Federal or State court, the stay under para-
19 graph (1) shall remain in effect.

20 (4) EFFECT OF ELECTION.—

21 (A) IN GENERAL.—Any claimant that has
22 elected to pursue a claim for damages in Fed-
23 eral or State court under paragraph (2) shall
24 not be eligible for an award for those damages
25 under section 131.

1 (B) SECTION 131 CLAIMS.—Any claimant
2 that has been awarded damages for a claim
3 under section 131 shall not be eligible for an
4 award of damages for the same claim in Fed-
5 eral or State court.

6 (C) OSLTF CLAIMS.—Any claimant that
7 has received payment for damages from a re-
8 sponsible party or through the Oil Spill Liabil-
9 ity Trust Fund pursuant to chapter 40 of title
10 33, Code of Federal Regulations, (or a suc-
11 cessor regulation) shall not be eligible for an
12 award for those damages under section 131.

13 (5) EFFECT OF OPERATIONAL OR NON-
14 OPERATIONAL FUND.—

15 (A) REINSTATEMENT OF CLAIMS.—If,
16 after 270 days after the date of enactment of
17 this Act, the Administrator cannot certify to
18 Congress that the Office is operational and
19 awarding claims at a reasonable rate, each per-
20 son or State that has filed a claim stayed under
21 this subsection may continue the claims of the
22 person or State in the court in which the case
23 was pending prior to the stay.

24 (B) OPERATIONAL OFFICE.—If the Admin-
25 istrator subsequently certifies to Congress that

1 the Office has become operational and awarding
2 all valid claims at a reasonable rate, any claim
3 in a civil action in Federal or State court that
4 is not actually on trial before a jury that has
5 been impaneled and presentation of evidence
6 has commenced, but before deliberation, or be-
7 fore a judge and is at the presentation of evi-
8 dence, may, at the option of the claimant, be
9 considered a reinstated claim before the Admin-
10 istrator and the civil action before the Federal
11 or State court shall be null and void.

12 (C) NONOPERATIONAL OFFICE.—Notwith-
13 standing any other provision of this title, if the
14 Administrator certifies to Congress that the Of-
15 fice cannot become operational and awarding all
16 valid claims at a reasonable rate, all claims that
17 have a stay may be filed or reinstated.

18 **SEC. 114. AUTHORITY OF ADMINISTRATOR.**

19 On any matter within the jurisdiction of the Adminis-
20 trator under this title, the Administrator may—

- 21 (1) issue subpoenas for and compel the attend-
22 ance of witnesses within a radius of 200 miles;
23 (2) administer oaths;
24 (3) examine witnesses;

1 (4) require the production of books, papers,
2 documents, and other potential evidence; and

3 (5) request assistance from other Federal agen-
4 cies with the performance of the duties of the Ad-
5 ministrator under this title.

6 **SEC. 115. ADVISORY COMMITTEE ON DEEPWATER HORIZON**
7 **COMPENSATION.**

8 (a) ESTABLISHMENT.—

9 (1) IN GENERAL.—Not later than 120 days
10 after the date of enactment of this Act, the Adminis-
11 trator shall establish an Advisory Committee on
12 Deepwater Horizon Compensation.

13 (2) COMPOSITION AND APPOINTMENT.—

14 (A) IN GENERAL.—The Advisory Com-
15 mittee shall be composed of 24 members, ap-
16 pointed in accordance with this paragraph.

17 (B) LEGISLATIVE APPOINTMENTS.—

18 (i) IN GENERAL.—The Majority Lead-
19 er of the Senate, the Minority Leader of
20 the Senate, the Speaker of the House of
21 Representatives, and the Minority Leader
22 of the House of Representatives shall each
23 appoint 4 members to the Advisory Com-
24 mittee.

1 (ii) REPRESENTATION.—Of the 4
2 members appointed by each Member under
3 clause (i)—

4 (I) 2 members shall represent the
5 interests of claimants; and

6 (II) 2 members shall represent
7 the interests of responsible parties.

8 (C) APPOINTMENTS BY ADMINISTRATOR.—

9 The Administrator shall appoint 8 members to
10 the Advisory Committee, who shall be individ-
11 uals with qualifications and expertise relevant
12 to the compensation program, including experi-
13 ence or expertise in marine or coastal ecology,
14 oil spill remediation, fisheries management, ad-
15 ministering compensation programs, or audits.

16 (b) DUTIES.—The Advisory Committee shall advise
17 the Administrator on—

18 (1) claims filing and claims processing proce-
19 dures;

20 (2) claimant assistance programs;

21 (3) audit procedures and programs to ensure
22 the quality and integrity of the compensation pro-
23 gram;

1 (4) analyses or research that should be con-
2 ducted to evaluate past claims and to project future
3 claims under the compensation program; and

4 (5) such other matters related to the implemen-
5 tation of this title as the Administrator considers ap-
6 propriate.

7 (c) OPERATION OF COMMITTEE.—

8 (1) TERM.—The term of a member of the Advi-
9 sory Committee shall be 3 years.

10 (2) CHAIRPERSON AND VICE CHAIRPERSON.—
11 The Administrator shall designate a Chairperson
12 and Vice Chairperson of the Advisory Committee
13 from among the members appointed under sub-
14 section (a)(2)(C).

15 (3) MEETINGS.—The Advisory Committee shall
16 meet—

17 (A) at the call of the Chairperson or a ma-
18 jority of the members of the Advisory Com-
19 mittee; and

20 (B) at least—

21 (i) 4 times per year during the first 3
22 years of the compensation program; and

23 (ii) 2 times per year thereafter.

24 (4) INFORMATION.—

1 (A) IN GENERAL.—The Administrator
2 shall provide to the Advisory Committee such
3 information as is necessary and appropriate for
4 the Advisory Committee to carry out this sec-
5 tion.

6 (B) OTHER AGENCIES.—

7 (i) IN GENERAL.—On request of the
8 Advisory Committee, the Administrator
9 may secure directly from any Federal,
10 State, or local department or agency such
11 information as may be necessary to enable
12 the Advisory Committee to carry out this
13 section.

14 (ii) PROVISION OF INFORMATION.—
15 On request of the Administrator, the head
16 of the department or agency described in
17 clause (i) shall furnish such information to
18 the Advisory Committee.

19 (5) ADMINISTRATIVE SUPPORT.—The Adminis-
20 trator shall provide the Advisory Committee with
21 such administrative support as is reasonably nec-
22 essary to enable the Advisory Committee to carry
23 out this section.

24 (d) EXPENSES.—A member of the Advisory Com-
25 mittee, other than a full-time Federal employee, while at-

1 tending a meeting of the Advisory Committee or while oth-
2 erwise serving at the request of the Administrator, and
3 while serving away from the home or regular place of busi-
4 ness of the member, shall be allowed travel and meal ex-
5 penses, including per diem in lieu of subsistence, as au-
6 thorized by section 5703 of title 5, United States Code,
7 for individuals in the Federal Government serving without
8 pay.

9 **Subtitle B—Deepwater Horizon**
10 **Compensation Procedures**

11 **SEC. 121. ESSENTIAL ELEMENTS OF ELIGIBLE CLAIM.**

12 To be eligible for an award under this title for dam-
13 ages, a claimant shall—

14 (1) file a claim in a timely manner in accord-
15 ance with section 123; and

16 (2) prove, by a preponderance of the evidence,
17 that the claimant has suffered damages as a result
18 of the Deepwater Horizon incident.

19 **SEC. 122. GENERAL RULE CONCERNING NO-FAULT COM-**
20 **PENSATION.**

21 To be eligible for an award under this title for dam-
22 ages, a claimant shall not be required to demonstrate that
23 the damages for which the claim is being made resulted
24 from the negligence or other fault of any other person.

1 **SEC. 123. FILING OF CLAIMS.**

2 (a) **ELIGIBLE CLAIMANTS.**—

3 (1) **IN GENERAL.**—Any person or State that
4 has suffered monetary damage as a result of the
5 Deepwater Horizon incident may file a claim with
6 the Office for an award with respect to the damage.

7 (2) **LIMITATION.**—A claim may not be filed by
8 any person or State under this title for contribution
9 or indemnity.

10 (b) **STATUTE OF LIMITATIONS.**—Except as otherwise
11 provided in this subsection, if a person or State fails to
12 file a claim with the Office under this section during the
13 5-year period beginning on the date on which the person
14 or State first discovered facts that would have led a rea-
15 sonable person to conclude that damage had occurred, any
16 claim relating to the damage, and any other claim related
17 to that damage, shall be extinguished, and any recovery
18 on the damage shall be prohibited.

19 (c) **FUTURE CLAIMS NOT PRECLUDED.**—Filing of a
20 claim under subsection (a) shall not preclude the filing of
21 additional claims for damages arising from the Deepwater
22 Horizon incident that are manifested at a later date.

23 (d) **REQUIRED INFORMATION.**—A claim filed under
24 subsection (a) shall be in such form, and contain such in-
25 formation in such detail, as the Administrator shall by
26 regulation prescribe.

1 (e) DATE OF FILING.—A claim shall be considered
2 to be filed on the date that the claimant mails the claim
3 to the Office, as determined by postmark, or on the date
4 that the claim is received by the Office, whichever is the
5 earliest determinable date.

6 (f) INCOMPLETE CLAIMS.—

7 (1) IN GENERAL.—If a claim filed under sub-
8 section (a) is incomplete, the Administrator shall,
9 not later than 30 days after the date of receipt of
10 the incomplete claim, notify the claimant of the in-
11 formation necessary to complete the claim and in-
12 form the claimant of such services as may be avail-
13 able through the claimant assistance program estab-
14 lished under section 112 to assist the claimant in
15 completing the claim.

16 (2) TIME PERIODS.—

17 (A) IN GENERAL.—Except as provided in
18 subparagraph (B), any time period for the proc-
19 essing of the claim shall be suspended until
20 such time as the claimant submits the informa-
21 tion necessary to complete the claim.

22 (B) DEADLINE.—If the information de-
23 scribed in subparagraph (A) is not received dur-
24 ing the 1-year period beginning on the date of
25 the notification, the claim shall be dismissed.

1 **SEC. 124. ELIGIBILITY DETERMINATIONS AND CLAIM**
2 **AWARDS.**

3 (a) IN GENERAL.—

4 (1) REVIEW OF CLAIMS.—The Administrator
5 shall, in accordance with this section, determine
6 whether each claim filed satisfies the requirements
7 for eligibility for an award under this title and, if so,
8 the value of the award.

9 (2) FACTORS.—In making a determination
10 under paragraph (1), the Administrator shall con-
11 sider—

12 (A) the claim presented by the claimant;

13 (B) the factual evidence submitted by the
14 claimant in support of the claim; and

15 (C) the results of such investigation as the
16 Administrator may consider necessary to deter-
17 mine whether the claim satisfies the criteria for
18 eligibility established by this title.

19 (3) ADDITIONAL EVIDENCE.—

20 (A) IN GENERAL.—The Administrator may
21 request the submission of evidence in addition
22 to the minimum requirements of section 123 if
23 necessary to make a determination of eligibility
24 for an award.

25 (B) COST.—If the Administrator requests
26 additional evidence under subparagraph (A),

1 the cost of obtaining the additional evidence
2 shall be borne by the Office.

3 (b) PROPOSED DECISIONS.—

4 (1) IN GENERAL.—Not later than 90 days after
5 the date of the filing of a claim, the Administrator
6 shall provide to the parties a proposed decision—

7 (A) accepting or rejecting the claim in
8 whole or in part; and

9 (B) specifying the amount of any proposed
10 award.

11 (2) FORM.—The proposed decision shall—

12 (A) be in writing;

13 (B) contain findings of fact and conclu-
14 sions of law; and

15 (C) contain an explanation of the proce-
16 dure for obtaining review of the proposed deci-
17 sion.

18 (c) REVIEW OF PROPOSED DECISIONS.—

19 (1) RIGHT TO HEARING.—

20 (A) IN GENERAL.—Any party not satisfied
21 with a proposed decision of the Administrator
22 under subsection (b) shall be entitled, on writ-
23 ten request made not later than 90 days after
24 the date of the issuance of the decision, to a

1 hearing on the claim of the claimant before a
2 representative of the Administrator.

3 (B) TESTIMONY.—At the hearing, the
4 party shall be entitled to present oral evidence
5 and written testimony in further support of the
6 claim.

7 (C) CONDUCT OF HEARING.—

8 (i) IN GENERAL.—The hearing shall,
9 to the maximum extent practicable, be con-
10 ducted at a time and place convenient for
11 the claimant.

12 (ii) ADMINISTRATION.—Except as
13 otherwise provided in this title, in con-
14 ducting the hearing, the representative of
15 the Administrator shall conduct the hear-
16 ing in a manner that best determines the
17 rights of the parties and shall not be
18 bound by—

19 (I) common law or statutory
20 rules of evidence;

21 (II) technical or formal rules of
22 procedure; or

23 (III) section 554 of title 5,
24 United States Code.

1 (iii) EVIDENCE.—For purposes of
2 clause (ii), the representative of the Ad-
3 ministrator shall receive such relevant evi-
4 dence as the claimant adduces and such
5 other evidence as the representative deter-
6 mines necessary or useful in evaluating the
7 claim.

8 (D) REQUEST FOR SUBPOENAS.—

9 (i) IN GENERAL.—Subject to clause
10 (iv), a party may request a representative
11 of the Administrator to issue a subpoena
12 but the decision to grant or deny the re-
13 quest is within the discretion of the rep-
14 resentative.

15 (ii) SUBPOENAS.—Subject to clause
16 (iii), the representative may issue sub-
17 poenas for—

18 (I) the attendance and testimony
19 of witnesses; and

20 (II) the production of books,
21 records, correspondence, papers, or
22 other relevant documents.

23 (iii) PREREQUISITES.—Subpoenas
24 may be issued for documents under this
25 subparagraph only if —

1 (I) in the case of documents, the
2 documents are relevant and cannot be
3 obtained by other means; and

4 (II) in the case of witnesses, oral
5 testimony is the best way to ascertain
6 the facts.

7 (iv) REQUEST.—

8 (I) HEARING PROCESS.—A party
9 may request a subpoena under this
10 subparagraph only as part of the
11 hearing process.

12 (II) FORM.—To request a sub-
13 poena, the requester shall—

14 (aa) submit the request in
15 writing and send the request to
16 the representative as early as
17 practicable, but not later than 30
18 days, after the date of the origi-
19 nal hearing request; and

20 (bb) explain why the testi-
21 mony or evidence is directly rel-
22 evant to the issues at hand, and
23 a subpoena is the best method or
24 opportunity to obtain the evi-
25 dence because there are no other

1 means by which the documents
2 or testimony could have been ob-
3 tained.

4 (v) FEES AND MILEAGE.—

5 (I) IN GENERAL.—Any person re-
6 quired by a subpoena to attend as a
7 witness shall be allowed and paid the
8 same fees and mileage as are paid
9 witnesses in the district courts of the
10 United States.

11 (II) FUND.—The fees and mile-
12 age shall be paid from the Fund.

13 (2) REVIEW OF WRITTEN RECORD.—

14 (A) IN GENERAL.—Instead of a hearing
15 under paragraph (1), any party not satisfied
16 with a proposed decision of the Administrator
17 shall have the option, on written request made
18 not later than 90 days after the date of the
19 issuance of the decision, of obtaining a review
20 of the written record by a representative of the
21 Administrator.

22 (B) OPPORTUNITY TO BE HEARD.—If a re-
23 view is requested under subparagraph (A), the
24 parties shall be afforded an opportunity to sub-

1 mit any written evidence or argument that the
2 claimant believes relevant.

3 (d) FINAL DECISIONS.—

4 (1) IN GENERAL.—If the period of time for re-
5 questing review of the proposed decision expires and
6 no request has been filed, or if the parties waive any
7 objections to the proposed decision, the Adminis-
8 trator shall issue a final decision.

9 (2) VARIANCE FROM PROPOSED DECISION.—If
10 the decision materially differs from the proposed de-
11 cision, the parties shall be entitled to review of the
12 decision under subsection (c).

13 (3) TIMING.—If the parties request review of
14 all or part of the proposed decision the Adminis-
15 trator shall issue a final decision on the claim not
16 later than—

17 (A) 180 days after the date the request for
18 review is received, if a party requests a hearing;
19 or

20 (B) 90 days after the date the request for
21 review is received, if the claimant requests re-
22 view of the written record.

23 (4) CONTENT.—The decision shall be in writing
24 and contain findings of fact and conclusions of law.

1 (e) REPRESENTATION.—A party may authorize an
2 attorney or other individual to represent the party in any
3 proceeding under this title.

4 **Subtitle C—Awards**

5 **SEC. 131. AMOUNT.**

6 (a) IN GENERAL.—A claimant that meets the re-
7 quirements of section 121 shall be entitled to an award
8 in an amount equal to the damages specified in subsection
9 (b) sustained as a result of Deepwater Horizon incident.

10 (b) COVERED DAMAGES.—For purposes of subsection
11 (a), covered damages shall be 1 or more of the following
12 types of damages (if applicable):

13 (1) REAL OR PERSONAL PROPERTY.—Damages
14 for injury to, or economic losses resulting from de-
15 struction of, real or personal property, which shall
16 be recoverable by a claimant who owns or leases that
17 property.

18 (2) SUBSISTENCE USE.—Damages for loss of
19 subsistence use of natural resources, which shall be
20 recoverable by any claimant who so uses natural re-
21 sources that have been injured, destroyed, or lost,
22 without regard to the ownership or management of
23 the resources.

24 (3) REVENUES.—Damages equal to the net loss
25 of taxes, royalties, rents, fees, or net profit shares

1 due to the injury, destruction, or loss of real prop-
2 erty, personal property, or natural resources, which
3 shall be recoverable by a State or a political subdivi-
4 sion of a State.

5 (4) PROFITS AND EARNING CAPACITY.—Dam-
6 ages equal to the loss of profits or impairment of
7 earning capacity due to the injury, destruction, or
8 loss of real property, personal property, or natural
9 resources, which shall be recoverable by any claim-
10 ant.

11 (5) PUBLIC SERVICES.—Damages for net costs
12 of providing increased or additional public services
13 during or after removal activities, including protec-
14 tion from fire, safety, or health hazards, caused by
15 a discharge of oil, which shall be recoverable by a
16 State or a political subdivision of a State.

17 **SEC. 132. PAYMENT.**

18 (a) PAYMENTS.—Not later than 30 days after a final
19 determination of an award under this title, a claimant that
20 is entitled to an award under this title shall receive the
21 amount of the award through payments from the respon-
22 sible parties.

23 (b) LIMITATION ON TRANSFERABILITY.—A claim
24 filed under this title shall not be assignable or otherwise
25 transferable under this title.

1 (c) PAYMENT FROM FUND.—

2 (1) IN GENERAL.—If the responsible parties fail
3 to pay an award within the time period for payment
4 under subsection (a), the Administrator shall pay
5 any such award from the Fund not later than 15
6 days after the date of expiration of that time period.

7 (2) SUBROGATION OF CLAIMS.—Payment of
8 any claim from the Fund under this section shall be
9 subject to the acquisition, by the Federal Govern-
10 ment, of subrogation of rights of the claimant to re-
11 cover those damages for which the Federal Govern-
12 ment has compensated the claimant from the re-
13 sponsible parties.

14 (3) JUDICIAL ACTION.—

15 (A) IN GENERAL.—Upon request of the
16 Administrator, the Attorney General shall bring
17 a civil action on behalf of the Fund to recover
18 any compensation paid to any claimant pursu-
19 ant to this title, and, without regard to any lim-
20 itation of liability, all interest, administrative
21 and adjudicative costs, and attorney's fees in-
22 curred by the Fund by reason of the claim.

23 (B) LIABILITY.—A civil action may be
24 brought under subparagraph (A) against any
25 responsible party that is liable, pursuant to any

1 law, to the compensated claimant, for the dam-
2 ages or costs for which compensation was paid.

3 **SEC. 133. SETOFFS FOR COLLATERAL SOURCE COMPENSA-**
4 **TION AND PRIOR AWARDS.**

5 The amount of an award otherwise available to a
6 claimant under this title shall be reduced by the amount
7 of collateral source compensation.

8 **SEC. 134. SUBROGATION.**

9 Any person that pays compensation pursuant to this
10 title to any claimant for damages shall be subrogated to
11 all rights, claims, and causes of action the claimant has
12 under any other law.

13 **Subtitle D—Judicial Review**

14 **SEC. 141. JUDICIAL REVIEW OF RULES AND REGULATIONS.**

15 (a) **EXCLUSIVE JURISDICTION.**—The United States
16 Court of Appeals for the District of Columbia Circuit shall
17 have exclusive jurisdiction over any action to review rules
18 or regulations promulgated by the Administrator under
19 this title.

20 (b) **PERIOD FOR FILING PETITION.**—A petition for
21 review under this section shall be filed not later than 60
22 days after the date notice of the promulgation of the rules
23 or regulations appears in the Federal Register.

24 (c) **EXPEDITED PROCEDURES.**—The United States
25 Court of Appeals for the District of Columbia Circuit shall

1 provide for expedited procedures for reviews under this
2 section.

3 **SEC. 142. JUDICIAL REVIEW OF AWARD DECISIONS.**

4 (a) IN GENERAL.—Any claimant or responsible party
5 adversely affected or aggrieved by a final decision of the
6 Administrator awarding or denying compensation under
7 this title may petition for judicial review of the decision.

8 (b) PERIOD FOR FILING PETITION.—Any petition for
9 review under this section shall be filed not later than 90
10 days after the date of issuance of a final decision of the
11 Administrator.

12 (c) EXCLUSIVE JURISDICTION.—A petition for review
13 may only be filed in the United States Court of Appeals
14 for the circuit in which the claimant resides at the time
15 of the issuance of the final order.

16 (d) STANDARD OF REVIEW.—The court shall uphold
17 the decision of the Administrator unless the court deter-
18 mines, on review of the record as a whole, that the decision
19 is not supported by substantial evidence, is contrary to
20 law, or is not in accordance with procedure required by
21 law.

22 (e) EXPEDITED PROCEDURES.—The United States
23 Court of Appeals shall provide for expedited procedures
24 for reviews under this section.

1 **SEC. 143. OTHER JUDICIAL CHALLENGES.**

2 (a) **EXCLUSIVE JURISDICTION.**—The United States
3 District Court for the District of Columbia shall have ex-
4 clusive jurisdiction over any action for declaratory or in-
5 junctive relief challenging any provision of this title.

6 (b) **PERIOD FOR FILING PETITIONS.**—An action
7 under this section shall be filed not later than the later
8 of—

9 (1) the date that is 60 days after the date of
10 enactment of this Act; or

11 (2) the date that is 60 days after the final ac-
12 tion by the Administrator or the Office giving rise
13 to the action.

14 (c) **DIRECT APPEAL.**—

15 (1) **IN GENERAL.**—A final decision in the action
16 shall be reviewable on appeal directly to the Su-
17 preme Court.

18 (2) **ADMINISTRATION.**—The appeal shall be
19 taken by the filing of a notice of appeal not later
20 than 30 days, and the filing of a jurisdictional state-
21 ment not later than 60 days, after the date of the
22 entry of the final decision.

23 (d) **EXPEDITED PROCEDURES.**—It is the sense of
24 Congress that the Supreme Court and the United States
25 District Court for the District of Columbia are urged to
26 advance on the docket and otherwise expedite, to the max-

1 inum extent practicable, the disposition of an action cov-
2 ered by this section.

3 **Subtitle E—Effect on Other Laws**

4 **SEC. 151. EFFECT ON OTHER LAWS.**

5 This title shall supersede any Federal or State law
6 to the extent that the law relates to any claim for damages
7 compensated under this title.

8 **TITLE II—NATIONAL COMMISS-** 9 **SION ON OUTER CONTI-** 10 **NENTAL SHELF OIL SPILL** 11 **PREVENTION**

12 **SEC. 201. SHORT TITLE.**

13 This title may be cited as the “National Commission
14 on Outer Continental Shelf Oil Spill Prevention Act of
15 2010”.

16 **SEC. 202. ESTABLISHMENT OF COMMISSION.**

17 There is established in the Legislative branch the Na-
18 tional Commission on Outer Continental Shelf Oil Spill
19 Prevention (referred to in this title as the “Commission”).

20 **SEC. 203. PURPOSES.**

21 The purposes of the Commission are—

22 (1) to examine and report on the facts and
23 causes relating to the Deepwater Horizon explosion
24 and oil spill of 2010;

1 (2) to ascertain, evaluate, and report on the evi-
2 dence developed by all relevant governmental agen-
3 cies regarding the facts and circumstances sur-
4 rounding the incident;

5 (3) to build upon the investigations of other en-
6 tities, and avoid unnecessary duplication, by review-
7 ing the findings, conclusions, and recommendations
8 of—

9 (A) the Committees on Energy and Nat-
10 ural Resources and Commerce, Science, and
11 Transportation of the Senate;

12 (B) the Committee on Natural Resources
13 and the Subcommittee on Oversight and Inves-
14 tigations of the House of Representatives; and

15 (C) other Executive branch, congressional,
16 or independent commission investigations into
17 the Deepwater Horizon incident of 2010, other
18 fatal oil platform accidents and major spills,
19 and major oil spills generally;

20 (4) to make a full and complete accounting of
21 the circumstances surrounding the incident, and the
22 extent of the preparedness of the United States for,
23 and immediate response of the United States to, the
24 incident; and

1 (5) to investigate and report to the President
2 and Congress findings, conclusions, and rec-
3 ommendations for corrective measures that may be
4 taken to prevent similar incidents.

5 **SEC. 204. COMPOSITION OF COMMISSION.**

6 (a) MEMBERS.—The Commission shall be composed
7 of 10 members, of whom—

8 (1) 1 member shall be appointed by the Presi-
9 dent, who shall serve as Chairperson of the Commis-
10 sion;

11 (2) 1 member shall be appointed by the major-
12 ity or minority (as the case may be) leader of the
13 Senate from the Democratic Party, in consultation
14 with the majority or minority (as the case may be)
15 leader of the House of Representatives from the
16 Democratic Party, who shall serve as Vice Chair-
17 person of the Commission;

18 (3) 2 members shall be appointed by the senior
19 member of the leadership of the Senate from the
20 Democratic Party;

21 (4) 2 members shall be appointed by the senior
22 member of the leadership of the House of Represent-
23 atives from the Republican Party;

1 (5) 2 members shall be appointed by the senior
2 member of the leadership of the Senate from the Re-
3 publican Party; and

4 (6) 2 members shall be appointed by the senior
5 member of the leadership of the House of Represent-
6 atives from the Democratic Party.

7 (b) QUALIFICATIONS; INITIAL MEETING.—

8 (1) POLITICAL PARTY AFFILIATION.—Not more
9 than 5 members of the Commission shall be from
10 the same political party.

11 (2) NONGOVERNMENTAL APPOINTEES.—An in-
12 dividual appointed to the Commission may not be a
13 current officer or employee of the Federal Govern-
14 ment or any State or local government.

15 (3) OTHER QUALIFICATIONS.—It is the sense of
16 Congress that individuals appointed to the Commis-
17 sion should be prominent United States citizens,
18 with national recognition and significant depth of ex-
19 perience and expertise in such areas as—

20 (A) engineering;

21 (B) environmental compliance;

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

24 (D) oil spill insurance policies;

25 (E) public administration;

- 1 (F) oil and gas exploration and production;
2 (G) environmental cleanup; and
3 (H) fisheries and wildlife management.

4 (4) DEADLINE FOR APPOINTMENT.—All mem-
5 bers of the Commission shall be appointed on or be-
6 fore September 15, 2010.

7 (5) INITIAL MEETING.—The Commission shall
8 meet and begin the operations of the Commission as
9 soon as practicable after the date of enactment of
10 this Act.

11 (c) QUORUM; VACANCIES.—

12 (1) IN GENERAL.—After the initial meeting of
13 the Commission, the Commission shall meet upon
14 the call of the Chairperson or a majority of the
15 members of the Commission.

16 (2) QUORUM.—6 members of the Commission
17 shall constitute a quorum.

18 (3) VACANCIES.—Any vacancy in the Commis-
19 sion shall not affect the powers of the Commission,
20 but shall be filled in the same manner in which the
21 original appointment was made.

22 **SEC. 205. FUNCTIONS OF COMMISSION.**

23 (a) IN GENERAL.—The functions of the Commission
24 are—

25 (1) to conduct an investigation that—

1 (A) investigates relevant facts and cir-
2 cumstances relating to the Deepwater Horizon
3 incident of April 20, 2010, and the associated
4 oil spill thereafter, including any relevant legis-
5 lation, Executive order, regulation, plan, policy,
6 practice, or procedure; and

7 (B) may include relevant facts and cir-
8 cumstances relating to—

9 (i) permitting agencies;

10 (ii) environmental and worker safety
11 law enforcement agencies;

12 (iii) national energy requirements;

13 (iv) deepwater and ultradeepwater oil
14 and gas exploration and development;

15 (v) regulatory specifications, testing,
16 and requirements for offshore oil and gas
17 well explosion prevention;

18 (vi) regulatory specifications, testing,
19 and requirements offshore oil and gas well
20 casing and cementing regulation;

21 (vii) the role of congressional over-
22 sight and resource allocation; and

23 (viii) other areas of the public and
24 private sectors determined to be relevant to

1 the Deepwater Horizon incident by the
2 Commission;

3 (2) to identify, review, and evaluate the lessons
4 learned from the Deepwater Horizon incident of
5 April 20, 2010, regarding the structure, coordina-
6 tion, management policies, and procedures of the
7 Federal Government, and, if appropriate, State and
8 local governments and nongovernmental entities, and
9 the private sector, relative to detecting, preventing,
10 and responding to those incidents; and

11 (3) to submit to the President and Congress
12 such reports as are required under this title con-
13 taining such findings, conclusions, and recommenda-
14 tions as the Commission determines to be appro-
15 priate, including proposals for organization, coordi-
16 nation, planning, management arrangements, proce-
17 dures, rules, and regulations.

18 (b) RELATIONSHIP TO INQUIRY BY CONGRESSIONAL
19 COMMITTEES.—In investigating facts and circumstances
20 relating to energy policy, the Commission shall—

21 (1) first review the information compiled by,
22 and any findings, conclusions, and recommendations
23 of, the committees identified in subparagraphs (A)
24 and (B) of section 203(3); and

1 (2) after completion of that review, pursue any
2 appropriate area of inquiry, if the Commission deter-
3 mines that—

4 (A) those committees have not investigated
5 that area;

6 (B) the investigation of that area by those
7 committees has not been completed; or

8 (C) new information not reviewed by the
9 committees has become available with respect to
10 that area.

11 **SEC. 206. POWERS OF COMMISSION.**

12 (a) **HEARINGS AND EVIDENCE.**—The Commission or,
13 on the authority of the Commission, any subcommittee or
14 member of the Commission, may, for the purpose of car-
15 rying out this title—

16 (1) hold such hearings, meet and act at such
17 times and places, take such testimony, receive such
18 evidence, and administer such oaths; and

19 (2) require, by subpoena or otherwise, the at-
20 tendance and testimony of such witnesses and the
21 production of such books, records, correspondence,
22 memoranda, papers, documents, tapes, and mate-
23 rials;

24 as the Commission or such subcommittee or member con-
25 siders to be advisable.

1

2 (b) SUBPOENAS.—

3 (1) ISSUANCE.—

4 (A) IN GENERAL.—A subpoena may be
5 issued under this subsection only—6 (i) by the agreement of the Chair-
7 person and the Vice Chairperson; or8 (ii) by the affirmative vote of 6 mem-
9 bers of the Commission.

10 (B) SIGNATURE.—Subject to subparagraph

11 (A), a subpoena issued under this subsection—

12 (i) shall bear the signature of the
13 Chairperson or any member designated by
14 a majority of the Commission;15 (ii) and may be served by any person
16 or class of persons designated by the
17 Chairperson or by a member designated by
18 a majority of the Commission for that pur-
19 pose.

20 (2) ENFORCEMENT.—

21 (A) IN GENERAL.—In the case of contu-
22 macy or failure to obey a subpoena issued
23 under paragraph (1), the United States district
24 court for the district in which the subpoenaed
25 person resides, is served, or may be found, or

1 where the subpoena is returnable, may issue an
2 order requiring the person to appear at any
3 designated place to testify or to produce docu-
4 mentary or other evidence.

5 (B) JUDICIAL ACTION FOR NONCOMPLI-
6 ANCE.—Any failure to obey the order of the
7 court may be punished by the court as a con-
8 tempt of that court.

9 (C) ADDITIONAL ENFORCEMENT.—In the
10 case of any failure of any witness to comply
11 with any subpoena or to testify when sum-
12 moned under authority of this section, the Com-
13 mission may, by majority vote, certify a state-
14 ment of fact constituting such failure to the ap-
15 propriate United States attorney, who may
16 bring the matter before the grand jury for ac-
17 tion, under the same statutory authority and
18 procedures as if the United States attorney had
19 received a certification under sections 102
20 through 104 of the Revised Statutes (2 U.S.C.
21 192 through 194).

22 (c) CONTRACTING.—The Commission may, to such
23 extent and in such amounts as are provided in appropria-
24 tion Acts, enter into contracts to enable the Commission
25 to discharge the duties of the Commission under this title.

1 (d) INFORMATION FROM FEDERAL AGENCIES.—

2 (1) IN GENERAL.—The Commission may secure
3 directly from any Executive department, bureau,
4 agency, board, commission, office, independent es-
5 tablishment, or instrumentality of the Federal Gov-
6 ernment, information, suggestions, estimates, and
7 statistics for the purposes of this title.

8 (2) COOPERATION.—Each Federal department,
9 bureau, agency, board, commission, office, inde-
10 pendent establishment, or instrumentality shall, to
11 the extent authorized by law, furnish information,
12 suggestions, estimates, and statistics directly to the
13 Commission, upon request made by the Chairperson,
14 the Chairperson of any subcommittee created by a
15 majority of the Commission, or any member des-
16 ignated by a majority of the Commission.

17 (3) RECEIPT, HANDLING, STORAGE, AND DIS-
18 SEMINATION.—Information shall be received, han-
19 dled, stored, and disseminated only by members of
20 the Commission and the staff of the Commission in
21 accordance with all applicable laws (including regu-
22 lations and Executive orders).

23 (e) ASSISTANCE FROM FEDERAL AGENCIES.—

24 (1) GENERAL SERVICES ADMINISTRATION.—
25 The Administrator of General Services shall provide

1 to the Commission on a reimbursable basis adminis-
2 trative support and other services for the perform-
3 ance of the functions of the Commission.

4 (2) OTHER DEPARTMENTS AND AGENCIES.—In
5 addition to the assistance prescribed in paragraph
6 (1), departments and agencies of the United States
7 may provide to the Commission such services, funds,
8 facilities, staff, and other support services as are de-
9 termined to be advisable and authorized by law.

10 (f) GIFTS.—The Commission may accept, use, and
11 dispose of gifts or donations of services or property, in-
12 cluding travel, for the direct advancement of the functions
13 of the Commission.

14 (g) POSTAL SERVICES.—The Commission may use
15 the United States mails in the same manner and under
16 the same conditions as departments and agencies of the
17 United States.

18 **SEC. 207. PUBLIC MEETINGS AND HEARINGS.**

19 (a) PUBLIC MEETINGS AND RELEASE OF PUBLIC
20 VERSIONS OF REPORTS.—The Commission shall—

21 (1) hold public hearings and meetings, to the
22 extent appropriate; and

23 (2) release public versions of the reports re-
24 quired under subsections (a) and (b) of section 211.

1 (b) PUBLIC HEARINGS.—Any public hearings of the
2 Commission shall be conducted in a manner consistent
3 with the protection of proprietary or sensitive information
4 provided to or developed for or by the Commission as re-
5 quired by any applicable law (including a regulation or Ex-
6 ecutive order).

7 **SEC. 208. STAFF OF COMMISSION.**

8 (a) IN GENERAL.—

9 (1) APPOINTMENT AND COMPENSATION.—

10 (A) IN GENERAL.—The Chairperson, in
11 consultation with the Vice Chairperson and in
12 accordance with rules agreed upon by the Com-
13 mission, may, without regard to the civil service
14 laws (including regulations), appoint and fix the
15 compensation of a staff director and such other
16 personnel as are necessary to enable the Com-
17 mission to carry out the functions of the Com-
18 mission.

19 (B) MAXIMUM RATE OF PAY.—No rate of
20 pay fixed under this paragraph may exceed the
21 equivalent of that payable for a position at level
22 V of the Executive Schedule under section 5316
23 of title 5, United States Code.

24 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

1 (A) IN GENERAL.—The staff director and
2 any personnel of the Commission who are em-
3 ployees shall be considered to be employees
4 under section 2105 of title 5, United States
5 Code, for purposes of chapters 63, 81, 83, 84,
6 85, 87, 89, and 90 of that title.

7 (B) MEMBERS OF COMMISSION.—Subpara-
8 graph (A) shall not apply to members of the
9 Commission.

10 (b) DETAILEES.—

11 (1) IN GENERAL.—An employee of the Federal
12 Government may be detailed to the Commission
13 without reimbursement.

14 (2) CIVIL SERVICE STATUS.—The detail of the
15 employee shall be without interruption or loss of civil
16 service status or privilege.

17 (c) PROCUREMENT OF TEMPORARY AND INTERMIT-
18 TENT SERVICES.—The Chairperson of the Commission
19 may procure temporary and intermittent services in ac-
20 cordance with section 3109(b) of title 5, United States
21 Code, at rates for individuals that do not exceed the daily
22 equivalent of the annual rate of basic pay prescribed for
23 level V of the Executive Schedule under section 5316 of
24 that title.

1 **SEC. 209. COMPENSATION AND TRAVEL EXPENSES.**

2 (a) COMPENSATION OF MEMBERS.—

3 (1) NON-FEDERAL EMPLOYEES.—A member of
4 the Commission who is not an officer or employee of
5 the Federal Government shall be compensated at a
6 rate equal to the daily equivalent of the annual rate
7 of basic pay prescribed for level IV of the Executive
8 Schedule under section 5315 of title 5, United
9 States Code, for each day (including travel time)
10 during which the member is engaged in the perform-
11 ance of the duties of the Commission.

12 (2) FEDERAL EMPLOYEES.—A member of the
13 Commission who is an officer or employee of the
14 Federal Government shall serve without compensa-
15 tion in addition to the compensation received for the
16 services of the member as an officer or employee of
17 the Federal Government.

18 (b) TRAVEL EXPENSES.—A member of the Commis-
19 sion shall be allowed travel expenses, including per diem
20 in lieu of subsistence, at rates authorized for an employee
21 of an agency under subchapter I of chapter 57 of title
22 5, United States Code, while away from the home or reg-
23 ular place of business of the member in the performance
24 of the duties of the Commission.

1 **SEC. 210. SECURITY CLEARANCES FOR COMMISSION MEM-**
2 **BERS AND STAFF.**

3 (a) IN GENERAL.—Subject to subsection (b), the ap-
4 propriate Federal agencies or departments shall cooperate
5 with the Commission in expeditiously providing to the
6 members and staff of the Commission appropriate security
7 clearances, to the maximum extent practicable, pursuant
8 to existing procedures and requirements.

9 (b) PROPRIETARY INFORMATION.—No person shall
10 be provided with access to proprietary information under
11 this title without the appropriate security clearances.

12 **SEC. 211. REPORTS OF COMMISSION; ADJOURNMENT.**

13 (a) INTERIM REPORTS.—The Commission may sub-
14 mit to the President and Congress interim reports con-
15 taining such findings, conclusions, and recommendations
16 for corrective measures as have been agreed to by a major-
17 ity of members of the Commission.

18 (b) FINAL REPORT.—Not later than 180 days after
19 the date of the enactment of this Act, the Commission
20 shall submit to the President and Congress a final report
21 containing such findings, conclusions, and recommenda-
22 tions for corrective measures as have been agreed to by
23 a majority of members of the Commission.

24 (c) TEMPORARY ADJOURNMENT.—

25 (1) IN GENERAL.—The Commission, and all the
26 authority provided under this title, shall adjourn and

1 be suspended, respectively, on the date that is 60
2 days after the date on which the final report is sub-
3 mitted under subsection (b).

4 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-
5 MINATION.—The Commission may use the 60-day
6 period referred to in paragraph (1) for the purpose
7 of concluding activities of the Commission, includ-
8 ing—

9 (A) providing testimony to committees of
10 Congress concerning reports of the Commission;
11 and

12 (B) disseminating the final report sub-
13 mitted under subsection (b).

14 (3) RECONVENING OF COMMISSION.—The Com-
15 mission shall stand adjourned until such time as the
16 President or the Secretary of Homeland Security de-
17 clares an oil spill of national significance to have oc-
18 curred, at which time—

19 (A) the Commission shall reconvene in ac-
20 cordance with section 204(c); and

21 (B) the authority of the Commission under
22 this title shall be of full force and effect.

23 **SEC. 212. FUNDING.**

24 (a) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to carry out this title—

1 (1) \$10,000,000 for the first fiscal year in
2 which the Commission convenes; and

3 (2) \$3,000,000 for each fiscal year thereafter in
4 which the Commission convenes.

5 (b) AVAILABILITY.—Amounts made available to carry
6 out this title shall be available—

7 (1) for transfer to the Commission for use in
8 carrying out the functions and activities of the Com-
9 mission under this title; and

10 (2) until the date on which the Commission ad-
11 journs for the fiscal year under section 211(e).

12 **SEC. 213. NONAPPLICABILITY OF FEDERAL ADVISORY COM-**
13 **MITTEE ACT.**

14 The Federal Advisory Committee Act (5 U.S.C. App.)
15 shall not apply to the Commission.

16 **TITLE III—OIL SPILL LIABILITY**
17 **Subtitle A—Oil Pollution Act of**
18 **1990**

19 **SEC. 301. LIABILITY LIMITS.**

20 (a) PRESIDENTIAL ESTABLISHMENT OF LIMITS.—
21 Section 1004 of the Oil Pollution Act of 1990 (33 U.S.C.
22 2704) is amended by adding at the end the following:

23 “(e) LIMITS FOR STRICT LIABILITY.—

24 “(1) IN GENERAL.—For the purpose of sub-
25 section (a)(3), after a 60-day period of public notice

1 and comment beginning on the date of enactment of
2 this subsection, and from time to time thereafter,
3 the President shall establish a set of limits for strict
4 liability for damages for incidents occurring from
5 offshore facilities (other than deepwater ports) cov-
6 ered by Outer Continental Shelf leases issued after
7 the date of enactment of the Oil Spill Compensation
8 Act of 2010.

9 “(2) REQUIREMENTS.—The limits for strict li-
10 ability established under paragraph (1) shall—

11 “(A) take into account the availability of
12 insurance products for offshore facilities; and

13 “(B) be otherwise based equally on and
14 categorized by—

15 “(i) the water depth of the lease;

16 “(ii) the minimum projected well
17 depth of the lease;

18 “(iii) the proximity of the lease to oil
19 and gas emergency response equipment
20 and infrastructure;

21 “(iv) the likelihood of the offshore fa-
22 cility covered by the lease to encounter
23 broken sea ice;

24 “(v) the record and historical number
25 of regulatory violations of the leaseholder

1 under the Outer Continental Shelf Lands
2 Act (43 U.S.C. 1331 et seq.) or the Fed-
3 eral Water Pollution Control Act (33
4 U.S.C. 1251 et seq.) (or the absence of
5 such a record or violations);

6 “(vi) the estimated hydrocarbon re-
7 serves of the lease;

8 “(vii) the estimated well pressure, ex-
9 pressed in pounds per square inch, of the
10 reservoir associated with the lease;

11 “(viii) the availability and projected
12 availability of funds in the Oil Spill Liabil-
13 ity Trust Fund established by section 9509
14 of the Internal Revenue Code of 1986;

15 “(ix) other available remedies under
16 law;

17 “(x) the estimated economic value of
18 nonenergy coastal resources that may be
19 impacted by a spill of national significance
20 involving the offshore facility covered by
21 the lease;

22 “(xi) whether the offshore facility cov-
23 ered by the lease employs a subsea or sur-
24 face blowout preventer stack; and

1 “(xii) the availability of industry pay-
2 ments under subsection (f).

3 “(f) LIABILITY OF INDUSTRY.—

4 “(1) IN GENERAL.—If an incident on the Outer
5 Continental Shelf results in claims exceeding the
6 maximum amount for strict liability for damages to
7 be paid by the responsible party under subsection
8 (a)(3), the claims in excess of the maximum amount
9 for strict liability for damages under subsection
10 (a)(3) shall be paid by all other entities for all off-
11 shore facilities operating on the Outer Continental
12 Shelf on the date of the incident, as determined by
13 the Secretary of the Interior, in accordance with
14 paragraph (2).

15 “(2) PROPORTIONAL PAYMENT.—The amount
16 of liability claims to be paid under paragraph (1) by
17 an entity described in that paragraph shall be deter-
18 mined by the Secretary of the Interior based on the
19 proportion that—

20 “(A) the number of offshore facilities oper-
21 ated by the entity on the Outer Continental
22 Shelf; bears to

23 “(B) the total number of offshore facilities
24 operated by all entities on the Outer Conti-
25 nental Shelf.”.

1 (b) CONFORMING AMENDMENT; LIMIT FOR OFF-
2 SHORE FACILITIES.—Section 1004(a) of the Oil Pollution
3 Act of 1990 (33 U.S.C. 2704(a)) is amended—

4 (1) in paragraph (2), by striking “,” and in-
5 serting a comma; and

6 (2) by striking paragraph (3) and inserting the
7 following:

8 “(3) for an offshore facility (except a deepwater
9 port) covered by an Outer Continental Shelf lease—

10 “(A) if the lease was issued prior to the
11 date of enactment of the Oil Spill Compensation
12 Act of 2010, the total of all removal costs plus
13 \$75,000,000; and

14 “(B) if the lease was issued on or after the
15 date of enactment of the Oil Spill Compensation
16 Act of 2010, the total of all removal costs plus
17 the limit for strict liability for damages for that
18 offshore facility established by the President
19 under subsection (e); and”.

20 **SEC. 302. ADVANCE PAYMENT.**

21 Section 1012 of the Oil Pollution Act of 1990 (33
22 U.S.C. 2712) is amended by adding at the end the fol-
23 lowing:

24 “(l) ADVANCE PAYMENTS.—The President shall pro-
25 mulgate regulations that allow advance payments to be

1 made from the Fund to States and political subdivisions
2 of States for actions taken to prepare for and mitigate
3 substantial threats from the discharge of oil.”.

4 **Subtitle B—Oil Spill Liability Trust**
5 **Fund**

6 **SEC. 311. RATE OF TAX FOR OIL SPILL LIABILITY TRUST**
7 **FUND.**

8 (a) IN GENERAL.—Section 4611 of the Internal Rev-
9 enue Code of 1986 (relating to the imposition of tax) is
10 amended—

11 (1) in subsection (c)—

12 (A) in paragraph (2), by striking subpara-
13 graph (B) and inserting the following:

14 “(B) except as provided in paragraph (3),
15 the Oil Spill Liability Trust Fund financing
16 rate is 21 cents a barrel.”; and

17 (B) by adding at the end the following new
18 paragraph:

19 “(3) TEMPORARY SUSPENSION OF OIL SPILL LI-
20 ABILITY TRUST FUND FINANCING RATE.—In the
21 case of any calendar quarter in which the Secretary
22 estimates that, as of the close of the previous quar-
23 ter, the unobligated balance in the Oil Spill Liability
24 Trust Fund is greater than \$10,000,000,000, the

1 Secretary may reset the Oil Spill Liability Trust
2 Fund financing rate at 0 cents a barrel.”; and

3 (2) by striking subsection (f).

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply on and after the first day of the
6 first calendar quarter after the date of enactment of this
7 Act.

8 **SEC. 312. LIMITATIONS ON EXPENDITURES AND BOR-**
9 **ROWING AUTHORITY.**

10 (a) LIMITATIONS ON EXPENDITURES.—Section
11 9509(c) of the Internal Revenue Code of 1986 (relating
12 to expenditures from the Oil Spill Liability Trust Fund)
13 is amended—

14 (1) by striking paragraph (2);

15 (2) by striking “EXPENDITURES” in the sub-
16 section heading and all that follows through
17 “Amounts in” in paragraph (1) and inserting “EX-
18 PENDITURES.—Amounts in”; and

19 (3) by redesignating subparagraphs (A) through
20 (F) as paragraphs (1) through (6), respectively, and
21 indenting appropriately.

22 (b) AUTHORITY TO BORROW.—Section 9509(d) of
23 the Internal Revenue Code of 1986 (relating to authority
24 to borrow from the Oil Spill Liability Trust Fund) is
25 amended—

1 (1) in paragraph (2), by striking
2 “\$1,000,000,000” and inserting “\$10,000,000,000”;
3 and

4 (2) in paragraph (3)—

5 (A) by striking subparagraph (B); and

6 (B) by redesignating subparagraph (C) as
7 subparagraph (B).

8 **TITLE IV—FEDERAL OIL SPILL**
9 **RESEARCH**

10 **SEC. 401. FEDERAL OIL SPILL RESEARCH.**

11 (a) IN GENERAL.—Title VII of the Oil Pollution Act
12 of 1990 is amended—

13 (1) by inserting before section 7001 (33 U.S.C.
14 2761) the following:

15 **“SEC. 7000. DEFINITIONS.**

16 “In this title:

17 “(1) ASSESSMENT.—The term ‘assessment’
18 means the research assessment on the status of the
19 oil spill prevention and response capabilities con-
20 ducted under section 7004.

21 “(2) COMMITTEE.—The term ‘Committee’
22 means the Interagency Committee established under
23 section 7001.

1 “(3) PLAN.—The term ‘plan’ means the Fed-
2 eral oil spill research plan developed under section
3 7005.

4 “(4) PROGRAM.—The term ‘program’ means
5 the Federal oil spill research program established
6 under section 7003.”;

7 (2) by redesignating section 7002 (33 U.S.C.
8 2762) as section 7009;

9 (3) in section 7001 (33 U.S.C. 2761), by strik-
10 ing subsections (b) through (e) and inserting the fol-
11 lowing:

12 “(b) REGIONAL SUBCOMMITTEES.—

13 “(1) IN GENERAL.—The Committee shall estab-
14 lish—

15 “(A) a regional subcommittee for each of
16 the Gulf of Mexico and Arctic regions of the
17 United States; and

18 “(B) such other regional subcommittees as
19 the Committee determines to be necessary.

20 “(2) COORDINATION.—In accordance with the
21 program, each regional subcommittee established
22 under this subsection shall coordinate with the Com-
23 mittee and other relevant State, national, and inter-
24 national bodies with expertise in the region to re-
25 search and develop technologies for use in the pre-

1 vention, detection, recovery, mitigation, and evalua-
2 tion of effects of incidents in the regional environ-
3 ment.”; and

4 (4) by inserting after section 7001 (33 U.S.C.
5 2761) the following:

6 **“SEC. 7002. FUNCTIONS OF THE COMMITTEE.**

7 “‘The Committee shall—

8 “(1) coordinate a comprehensive Federal oil
9 spill research and development program in accord-
10 ance with section 7003 to coordinate oil pollution re-
11 search, technology development, and demonstration
12 among the Federal agencies, in cooperation and co-
13 ordination with industry, institutions of higher edu-
14 cation, research institutions, State and tribal govern-
15 ments, and other relevant stakeholders;

16 “(2) conduct a research assessment on the sta-
17 tus of the oil spill prevention and response capabili-
18 ties in accordance with section 7004; and

19 “(3) develop a Federal oil spill research plan in
20 accordance with section 7005.

21 **“SEC. 7003. FEDERAL OIL SPILL RESEARCH PROGRAM.**

22 “(a) IN GENERAL.—The Committee shall establish a
23 program for conducting oil pollution research, develop-
24 ment, and demonstration.

1 “(b) PROGRAM ELEMENTS.—The program estab-
2 lished under subsection (a) shall provide for research, de-
3 velopment, and demonstration technologies, practices, and
4 procedures that provide for effective and direct response
5 to prevent, detect, recover, or mitigate oil discharges, in-
6 cluding—

7 “(1) new technologies to detect accidental or in-
8 tentional overboard oil discharges;

9 “(2) models and monitoring capabilities to pre-
10 dict the transport and fate of oil, including trajec-
11 tory and behavior predictions due to location, weath-
12 er patterns, hydrographic data, and water condi-
13 tions, including Arctic sea ice environments;

14 “(3) containment and well-control capabilities,
15 including drilling of relief wells, containment struc-
16 tures, and injection technologies;

17 “(4) response capabilities, such as improved
18 dispersants, biological treatment methods, booms, oil
19 skimmers, containment vessels, and offshore and on-
20 shore storage capacity;

21 “(5) research and training, in coordination with
22 the National Response Team, to improve the re-
23 moval of oil discharge quickly and effectively;

24 “(6) decision support systems for contingency
25 planning and response;

1 “(7) improvement of options for oily or oiled
2 waste dispersal;

3 “(8) technologies, methods, and standards for
4 use in protecting personnel and for volunteers that
5 may participate in incident responses, including—

6 “(A) training;

7 “(B) adequate supervision;

8 “(C) protective equipment;

9 “(D) maximum exposure limits; and

10 “(E) decontamination procedures; and

11 “(9) technologies and methods to prevent, de-
12 tect, recover, and mitigate oil discharges in polar en-
13 vironments.

14 “(c) STUDY OF ENVIRONMENTAL EFFECTS OF RE-
15 SPONSE TECHNIQUES.—Notwithstanding any other provi-
16 sion of law, the Coast Guard shall conduct reasonable en-
17 vironmental studies of oil discharge prevention or mitiga-
18 tion technologies, including the use of small quantities of
19 oil for testing of in situ burning, chemical dispersants, and
20 herding agents, upon and within navigable waters of the
21 United States, if the Coast Guard, in consultation with
22 the Committee, determines that the information to be ob-
23 tained cannot be adequately obtained through a laboratory
24 or simulated experiment.

1 **“SEC. 7004. FEDERAL RESEARCH ASSESSMENT.**

2 “Not later than 1 year after the date of enactment
3 of the Oil Spill Compensation Act of 2010, the Committee
4 shall submit to Congress an assessment of the status of
5 oil spill prevention and response capabilities that—

6 “(1) identifies research programs conducted
7 and technologies developed by governments, institu-
8 tions of higher education, and industry;

9 “(2) assesses the status of knowledge on oil pol-
10 lution prevention, response, and mitigation tech-
11 nologies;

12 “(3) identifies regional oil pollution research
13 needs and priorities for a coordinated program of re-
14 search at the regional level developed in consultation
15 with State, local, and tribal governments;

16 “(4) assesses the status of spill response equip-
17 ment and determines areas in need of improvement,
18 including quantity, age, quality, effectiveness, or
19 necessary technological improvements;

20 “(5) assesses the status of real-time data avail-
21 able to mariners, researchers, and responders, in-
22 cluding weather, hydrographic, and water condition
23 data, and the impact of incomplete and inaccessible
24 data on preventing, detecting, or mitigating oil dis-
25 charges; and

1 “(6) is subject to a 90-day public comment pe-
2 riod and addresses suggestions received and incor-
3 porates public input received, as appropriate.

4 **“SEC. 7005. FEDERAL INTERAGENCY RESEARCH PLAN.**

5 “(a) IN GENERAL.—

6 “(1) PLAN.—Not later than 60 days after the
7 date on which the President submits to Congress,
8 pursuant to section 1105 of title 31, United States
9 Code, a budget for fiscal year 2012, and for each
10 fiscal year thereafter, the Committee shall submit to
11 Congress a plan that establishes the priorities for
12 Federal oil spill research and development.

13 “(2) RECOMMENDATIONS.—In the development
14 of the plan, the Committee shall consider rec-
15 ommendations by the National Academy of Sciences
16 and information from State, local, and tribal govern-
17 ments.

18 “(b) PLAN REQUIREMENTS.—The plan shall—

19 “(1) make recommendations to improve tech-
20 nologies and practices to prevent oil spills;

21 “(2) suggest changes to the program to improve
22 the rates of oil recovery and spill mitigation;

23 “(3) make recommendations to improve tech-
24 nologies, practices, and procedures to provide for ef-
25 fective and direct response to oil spills;

1 “(4) make recommendations to improve the
2 quality of real-time data available to mariners, re-
3 searchers, and responders; and

4 “(5) be subject to a 90-day public comment pe-
5 riod and address suggestions received and incor-
6 porate public input received, as appropriate.

7 **“SEC. 7006. EXTRAMURAL GRANTS.**

8 “(a) IN GENERAL.—In carrying out the program, the
9 Committee shall—

10 “(1) award competitive grants to institutions of
11 higher education or other research institutions to
12 carry out projects—

13 “(A) to advance research and development;
14 and

15 “(B) to demonstrate technologies for pre-
16 venting, detecting, or mitigating oil discharges
17 that are relevant to the goals and priorities of
18 the plan; and

19 “(2) incorporate a competitive, merit-based
20 process for awarding grants that may be conducted
21 jointly with other participating agencies.

22 “(b) REGIONAL RESEARCH PROGRAM.—

23 “(1) DEFINITION OF REGION.—In this sub-
24 section, the term ‘region’ means a Coast Guard dis-
25 trict as described in part 3 of subchapter A of chap-

1 ter I of title 33, Code of Federal Regulations
2 (1989).

3 “(2) PROGRAM.—Consistent with the program,
4 the Committee shall coordinate the provision of com-
5 petitive grants to institutions of higher education or
6 other research institutions (or groups of those insti-
7 tutions) for the purpose of conducting a coordinated
8 research program relating to the aspects of oil pollu-
9 tion with respect to each region, including research
10 on such matters as—

11 “(A) prevention;

12 “(B) removal mitigation; and

13 “(C) the effects of discharged oil on re-
14 gional environments.

15 “(3) PUBLICATION.—

16 “(A) IN GENERAL.—The Committee shall
17 coordinate the publication by the agencies rep-
18 resented on the Committee of a solicitation for
19 grants under this subsection.

20 “(B) FORM AND CONTENT.—The applica-
21 tion for a grant under this subsection shall be
22 in such form and contain such information as
23 shall be required in the published solicitation.

1 “(C) REVIEW OF APPLICATIONS.—Each
2 application for a grant under this subsection
3 shall be—

4 “(i) reviewed by the Committee; and

5 “(ii) at the option of the Committee,
6 included among applications recommended
7 by the Committee for approval in accord-
8 ance with paragraph (5).

9 “(D) PROVISION OF GRANTS.—

10 “(i) IN GENERAL.—A granting agency
11 represented on the Committee shall provide
12 the grants recommended by the Committee
13 unless the granting agency—

14 “(I) decides not to provide the
15 grant due to budgetary or other com-
16 pelling considerations; and

17 “(II) publishes in the Federal
18 Register the reasons for such a deter-
19 mination.

20 “(ii) FUNDS FOR GRANTS.—No grants
21 may be provided by any agency under this
22 subsection from any funds authorized to
23 carry out this paragraph unless the grant
24 award has first been recommended by the
25 Committee under subparagraph (C)(ii).

1 “(4) ELIGIBLE APPLICANTS.—

2 “(A) IN GENERAL.—Any institution of
3 higher education or other research institution
4 (or a group of those institutions) may apply for
5 a grant for the regional research program es-
6 tablished under this subsection.

7 “(B) LOCATION OF APPLICANT.—An appli-
8 cant described in subparagraph (A) shall be lo-
9 cated in the region, or in a State a part of
10 which is in the region, for which the project
11 covered by the grant application is proposed to
12 be carried out as part of the regional research
13 program.

14 “(C) GROUP APPLICATIONS.—With respect
15 to an application described in subparagraph (A)
16 from a group of institutions referred to in that
17 subparagraph, the 1 or more entities that will
18 carry out the substantial portion of the pro-
19 posed project covered by the grant shall be lo-
20 cated in the region, or in a State a part of
21 which is in the region, for which the project is
22 proposed as part of the regional research pro-
23 gram.

24 “(5) RECOMMENDATIONS.—

1 “(A) IN GENERAL.—The Committee shall
2 make recommendations on grants in such a
3 manner as to ensure an appropriate balance
4 within a region among the various aspects of oil
5 pollution research, including—

6 “(i) prevention;

7 “(ii) removal;

8 “(iii) mitigation; and

9 “(iv) the effects of discharged oil on
10 regional environments.

11 “(B) ADDITIONAL CRITERIA.—In addition
12 to the requirements described in subparagraph
13 (A), the Committee shall make recommenda-
14 tions for the approval of grants based on
15 whether—

16 “(i) there are available to the appli-
17 cant for use in carrying out this paragraph
18 demonstrated research resources;

19 “(ii) the applicant demonstrates the
20 capability of making a significant contribu-
21 tion to regional research needs; and

22 “(iii) the projects that the applicant
23 proposes to carry out under the grant—

24 “(I) are consistent with the plan
25 under section 7005; and

1 “(II) would further the objectives
2 of the program established under sec-
3 tion 7003.

4 “(6) TERM OF GRANTS; REVIEW; COST-SHAR-
5 ING.—A grant provided under this subsection
6 shall—

7 “(A) be for a period of up to 3 years;

8 “(B) be subject to annual review by the
9 granting agency; and

10 “(C) provide not more than 80 percent of
11 the costs of the research activities carried out
12 in connection with the grant.

13 “(7) PROHIBITION ON USE OF GRANT FUNDS.—
14 No funds made available to carry out this subsection
15 may be used for—

16 “(A) the acquisition of real property (in-
17 cluding buildings); or

18 “(B) the construction of any building.

19 “(8) EFFECT ON OTHER AUTHORITY.—Nothing
20 in this paragraph alters or abridges the authority
21 under existing law of any Federal agency to provide
22 grants, or enter into contracts or cooperative agree-
23 ments, using funds other than those authorized in
24 this Act for the purpose of carrying out this sub-
25 section.

1 “(9) FUNDING.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), for each of fiscal years 2011
4 through 2015, not less than \$32,000,000 of
5 amounts in the Fund shall be available to carry
6 out the regional research program under this
7 subsection, to be available in equal amounts for
8 the regional research program in each region.

9 “(B) ADDITIONAL GRANTS.—If the agen-
10 cies represented on the Committee determine
11 that regional research needs exist that cannot
12 be addressed by the amount of funds made
13 available under subparagraph (A), the agencies
14 may use authority under subsection (a) to make
15 additional grants to meet those needs.

16 **“SEC. 7007. ANNUAL REPORT.**

17 “Concurrent with the submission of the Federal
18 interagency research plan pursuant to section 7005, the
19 Committee shall submit to Congress an annual report that
20 describes the activities and results of the program during
21 the previous fiscal year and described the objectives of the
22 program for the next fiscal year.

23 **“SEC. 7008. FUNDING.**

24 “(a) IN GENERAL.—Of the amounts in the Fund for
25 each fiscal year, not more than \$50,000,000 shall be avail-

1 able to carry out this section (other than section 7006(b))
2 for the fiscal year.

3 “(b) APPROPRIATIONS.—All activities authorized
4 under this title, including under section 7006(b), shall be
5 subject to the availability of appropriations.”.

6 **SEC. 402. NATIONAL ACADEMY OF SCIENCE PARTICIPA-**
7 **TION.**

8 The Commandant of the Coast Guard shall enter into
9 an arrangement with the National Academy of Sciences
10 under which the Academy shall—

11 (1) not later than 1 year after the date of en-
12 actment of this Act, assess and evaluate the status
13 of Federal oil spill research and development as of
14 the day before the date of enactment of this Act;

15 (2) submit to Congress and the Federal Oil
16 Spill Research Committee established under section
17 7002 of the Oil Pollution Act of 1990 a report eval-
18 uating the conclusions and recommendations from
19 the Federal research assessment under section 7004
20 of that Act to be used in the development of the
21 Federal oil spill research plan under section 7005 of
22 that Act; and

23 (3) not later than 1 year after the Federal
24 interagency research plan is submitted to Congress

1 under section 7005 of that Act, evaluate, and report
2 to Congress on, the plan.

3 **SEC. 403. TECHNICAL AND CONFORMING AMENDMENTS.**

4 (a) USE OF FUNDS.—Section 1012(a)(5)(A) of the
5 Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)(A)) is
6 amended by striking “\$25,000,000” and inserting
7 “\$50,000,000”.

8 (b) TABLE OF CONTENTS.—The table of contents in
9 section 2 of the Oil Pollution Act of 1990 (33 U.S.C. prec.
10 2701) is amended by striking the items relating to sections
11 7001 and 7002 and inserting the following:

- “Sec. 7000. Definitions.
- “Sec. 7001. Oil pollution research and development program.
- “Sec. 7002. Functions of the Committee.
- “Sec. 7003. Federal oil spill research program.
- “Sec. 7004. Federal research assessment.
- “Sec. 7005. Federal interagency research plan.
- “Sec. 7006. Extramural grants.
- “Sec. 7007. Annual report.
- “Sec. 7008. Funding.
- “Sec. 7009. Submerged oil program.”.

12 **SEC. 404. OIL SPILL RESPONSE AUTHORITY.**

13 Notwithstanding any other provision of law, the Inci-
14 dent Commander of the Coast Guard may authorize the
15 use of dispersants in response to a spill of oil from—

16 (1) any facility or vessel located in, on, or under
17 any of the navigable waters of the United States;
18 and

1 “(B) COASTAL STATE.—The term ‘coastal
2 State’ means a State with a coastal seaward
3 boundary within 300 statute miles distance of
4 the geographic center of a leased tract in an
5 outer Continental Shelf planning area that—

6 “(i) as of January 1, 2000, had no oil
7 or natural gas production; and

8 “(ii) is not a Gulf producing State (as
9 defined in section 102 of the Gulf of Mex-
10 ico Energy Security Act of 2006 (43
11 U.S.C. 1331 note; Public Law 109–432)).

12 “(C) DISTANCE.—The terms ‘distance’ and
13 ‘distances’ mean minimum great circle distance
14 and distances, respectively.

15 “(D) LEASED TRACT.—The term ‘leased
16 tract’ means a tract leased under this Act for
17 the purpose of drilling for, developing, and pro-
18 ducing oil or natural gas resources.

19 “(E) OUTER CONTINENTAL SHELF
20 AREA.—The term ‘outer Continental Shelf area’
21 means—

22 “(i) any area withdrawn from dispo-
23 sition by leasing by the ‘Memorandum on
24 Withdrawal of Certain Areas of the United
25 States Outer Continental Shelf from Leas-

1 ing Disposition’, from 34 Weekly Comp.
2 Pres. Doc. 1111, dated June 12, 1998; or

3 “(ii) any area of the outer Continental
4 Shelf as to which Congress has denied the
5 use of appropriated funds or other means
6 for preleasing, leasing, or related activities.

7 “(F) SOUTHEASTERN STATE.—The term
8 ‘Southeastern State’ means each of the States
9 of Georgia, North Carolina, South Carolina,
10 and Virginia.

11 “(2) POST LEASING REVENUES.—If the Gov-
12 ernor or the Legislature of a coastal State requests
13 the Secretary to allow leasing in an outer Conti-
14 nental Shelf area and the Secretary allows the leas-
15 ing, in addition to any bonus bids, the coastal State
16 shall, without further appropriation or action, re-
17 ceive, from leasing of the area, 37.5 percent of—

18 “(A) any lease rental payments;

19 “(B) any lease royalty payments;

20 “(C) any royalty proceeds from a sale of
21 royalties taken in kind by the Secretary; and

22 “(D) any other revenues from a bidding
23 system under section 8.

24 “(3) ALLOCATION AMONG COASTAL POLITICAL
25 SUBDIVISIONS OF STATES.—

1 “(A) IN GENERAL.—The Secretary shall
2 pay 20 percent of the allocable share of each
3 coastal State, as determined under this sub-
4 section, directly to certain coastal political sub-
5 divisions of the coastal State.

6 “(B) ALLOCATION.—

7 “(i) IN GENERAL.—For each leased
8 tract used to calculate the allocation of a
9 coastal State, the Secretary shall pay the
10 coastal political subdivisions within 300
11 miles of the geographic center of the leased
12 tract based on the relative distance of such
13 coastal political subdivisions from the
14 leased tract in accordance with this sub-
15 paragraph.

16 “(ii) DISTANCES.—For each coastal
17 political subdivision described in clause (i),
18 the Secretary shall determine the distance
19 between the point on the coastal political
20 subdivision coastline closest to the geo-
21 graphic center of the leased tract and the
22 geographic center of the tract.

23 “(iii) PAYMENTS.—The Secretary
24 shall divide and allocate the qualified outer
25 Continental Shelf revenues derived from

1 the leased tract among coastal political
2 subdivisions described in clause (i) in
3 amounts that are inversely proportional to
4 the applicable distances determined under
5 clause (ii).

6 “(4) CONSERVATION ROYALTY.—After making
7 distributions under paragraphs (1) and (2) and sec-
8 tion 31, the Secretary shall, without further appro-
9 priation or action, distribute a conservation royalty
10 equal to 12.5 percent of Federal royalty revenues de-
11 rived from an area leased under this section from all
12 areas leased under this section for any year, into the
13 land and water conservation fund established under
14 section 2 of the Land and Water Conservation Fund
15 Act of 1965 (16 U.S.C. 460l-5) to provide financial
16 assistance to States under section 6 of that Act (16
17 U.S.C. 460l-8).

18 “(5) DEFICIT REDUCTION.—

19 “(A) IN GENERAL.—After making distribu-
20 tions in accordance with paragraphs (1) and (2)
21 and in accordance with section 31, the Sec-
22 retary shall, without further appropriation or
23 action, distribute an amount equal to 50 per-
24 cent of Federal royalty revenues derived from

1 all areas leased under this section for any year,
2 into direct Federal deficit reduction.

3 “(B) BUDGETARY TREATMENT.—Any
4 amounts distributed into direct Federal deficit
5 reduction under this paragraph shall not be in-
6 cluded for purposes determining budget levels
7 under section 201 of S. Con. Res. 21 (110th
8 Congress).”.

9 **SEC. 502. REVENUE SHARING FROM AREAS IN ALASKA AD-
10 JACENT ZONE.**

11 Section 18 of the Outer Continental Shelf Lands Act
12 (43 U.S.C. 1344) (as amended by section 601) is amended
13 by adding at the end the following:

14 “(j) REVENUE SHARING FROM AREAS IN ALASKA
15 ADJACENT ZONE.—

16 “(1) IN GENERAL.—Except as provided in para-
17 graph (2), effective beginning on the date that is 5
18 years after the date of enactment of this subsection,
19 revenues from production that derives from an area
20 in the Alaska Adjacent Zone shall be distributed in
21 the same proportion and for the same uses as pro-
22 vided in subsection (i).

23 “(2) ALLOCATION AMONG REGIONAL CORPORA-
24 TIONS.—

1 “(A) IN GENERAL.—The Secretary shall
2 pay 33 percent of any allocable share of the
3 State of Alaska, as determined under this sec-
4 tion, directly to certain Regional Corporations
5 established under section 7(a) of the Alaska
6 Native Claims Settlement Act (43 U.S.C.
7 1606(a)).

8 “(B) ALLOCATION.—

9 “(i) IN GENERAL.—For each leased
10 tract used to calculate the allocation of the
11 State of Alaska, the Secretary shall pay
12 the Regional Corporations, after deter-
13 mining those Native villages within the re-
14 gion of the Regional Corporation which are
15 within 300 miles of the geographic center
16 of the leased tract based on the relative
17 distance of such villages from the leased
18 tract, in accordance with this paragraph.

19 “(ii) DISTANCES.—For each such vil-
20 lage, the Secretary shall determine the dis-
21 tance between the point in the village clos-
22 est to the geographic center of the leased
23 tract and the geographic center of the
24 tract.

1 “(iii) PAYMENTS.—The Secretary
2 shall divide and allocate the qualified outer
3 Continental Shelf revenues derived from
4 the leased tract among the qualifying Re-
5 gional Corporations in amounts that are
6 inversely proportional to the distances of
7 all of the Native villages within each quali-
8 fying region.

9 “(iv) REVENUES.—All revenues re-
10 ceived by each Regional Corporation shall
11 be—

12 “(I) treated by the Regional Cor-
13 poration as revenue subject to the dis-
14 tribution requirements of section
15 7(i)(1)(A) of the Alaska Native
16 Claims Settlement Act (43 U.S.C.
17 1606(i)(1)(A)); and

18 “(II) divided annually by the Re-
19 gional Corporation among all 12 Re-
20 gional Corporations in accordance
21 with section 7(i) of that Act.

22 “(v) FURTHER DISTRIBUTION.—A Re-
23 gional Corporation receiving revenues
24 under clause (iv)(II) shall further dis-
25 tribute 50 percent of the revenues received

1 in accordance with section 7(j) of the Alas-
2 ka Native Claims Settlement Act (43
3 U.S.C. 1606(j).”.

4 **SEC. 503. PRODUCTION OF OIL FROM CERTAIN ARCTIC**
5 **OFFSHORE LEASES.**

6 Section 5 of the Outer Continental Shelf Lands Act
7 (43 U.S.C. 1334) is amended by adding at the end the
8 following:

9 “(k) OIL TRANSPORTATION IN ARCTIC WATERS.—

10 The Secretary shall—

11 “(1) require that oil produced from Federal
12 leases in Arctic waters in the Chukchi Sea planning
13 area, Beaufort Sea planning area, or Hope Basin
14 planning area be transported by pipeline to onshore
15 facilities; and

16 “(2) provide for, and issue appropriate permits
17 for, the transportation of oil from Federal leases in
18 Arctic waters in preproduction phases (including ex-
19 ploration) by means other than pipeline.”.