

**CONSOLIDATED LAND, ENERGY, AND AQUATIC RESOURCES (CLEAR) ACT**

**H.R. 3534**

**SECTION-BY-SECTION  
OF THE  
AMENDMENT IN THE NATURE OF A SUBSTITUTE**

**Sec. 1. Short Title.**—This section provides that this Act may be cited as the “Consolidated Land, Energy, and Aquatic Resources Act of 2010.”

**Sec. 2. Definitions.**— This section provides definitions for key terms used in the legislation.

*Title I – Creation of New Department of the Interior Agencies*

**Sec. 101. Bureau of Energy and Resource Management.**—This section would establish a Bureau of Energy and Resource Management (BERM), with a mandate to manage the leasing and permitting for renewable energy, non-renewable energy, and mineral resources on all onshore and offshore Federal lands in the United States, other than Indian lands. The BERM Director would be appointed by the President and subject to Senate confirmation. The Bureau of Land Management and Forest Service would retain their authorities as the multiple-use managers of lands under their jurisdiction.

**Sec. 102. Bureau of Safety and Environmental Enforcement.**—This section would establish a Bureau of Safety and Environmental Enforcement (BSEE), with a mandate to carry out all the safety and environmental regulatory activities, including inspections, on all onshore and offshore Federal lands in the United States. The BSEE Director would be appointed by the President and subject to Senate confirmation. The section would also require that BSEE inspectors be highly qualified and well-trained, and establishes a National Oil and Gas Health and Safety Academy (“Academy”) for training the national oil and gas inspector workforce.

**Sec. 103. Office of Natural Resources Revenue.**—This section would establish an Office of Natural Resources Revenue (ONRR), which would be responsible for collecting and disbursing all royalties and other revenues from energy and mineral related activities on onshore and offshore federal lands, auditing such collections, and promulgating regulations relevant to revenue collection and management. The ONRR would be headed by a Director appointed by the President and subject to Senate confirmation.

**Sec. 104. Ethics.**—This section would require that the Secretary of the Interior certify that Department of the Interior employees that interact with oil and gas companies are in full

compliance with all Federal employee ethics laws and regulations, as well as supplemental guidance that would be issued by the Secretary.

**Sec. 105. References.**—This section would ensure that all references to functions that previously existed in the Minerals Management Service or in the Bureau of Land Management energy program are transferred to the appropriate new entities created in this Act.

**Sec. 106. Abolishment of Minerals Management Service.**—This section would formally abolish the Minerals Management Service (MMS), and ensure that all completed administrative proceedings, pending administrative proceedings, and pending civil actions related to MMS are not affected by this abolishment.

**Sec. 107. Conforming Amendment.**—This section would add the titles of the heads of the new agencies to the appropriate pay scale section of the U.S. Code.

**Sec. 108. Outer Continental Shelf Safety and Environmental Advisory Board.**—This section would create a new safety and advisory board under the Federal Advisory Committee Act. This board would be composed of a balance of industry and non-industry members, and tasked with providing to the Secretary advice on safety and environmental issues surrounding energy and mineral development issues on the Outer Continental Shelf.

## *Title II – Federal Oil and Gas Development*

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

**Sec. 201. Short Title.**—This section provides that this subtitle may be cited as the “Outer Continental Shelf Lands Act Amendments of 2010.”

**Sec. 202. Definitions.**—This section would amend the Outer Continental Shelf Lands Act (OCSLA) to add a definition for “safety case”. A safety case is defined as a body of evidence that provides a basis for determining whether a system is adequately safe for a given application in a given operating environment, and requirements for its use in offshore drilling operations have been adopted by a number of countries around the world, including Norway and the United Kingdom.

**Sec. 203. National Policy for the Outer Continental Shelf.**—This section would amend Section 3 of the OCSLA to require a more balanced approach to energy development that acknowledges the other resources of the OCS, and to emphasize that energy-related activities should be conducted in a matter that minimizes impacts to the marine, coastal, and human environments.

**Sec. 204. Jurisdiction of Laws on the Outer Continental Shelf.**—This section would amend Section 4 of the OCSLA to ensure that the laws of the United States also apply to renewable

energy facilities on the OCS. Currently, U.S. laws clearly apply to oil and gas facilities, but court rulings indicate that renewable energy facilities, such as offshore windmills, may not be covered.

**Sec. 205. Outer Continental Shelf Leasing Standard.**—This section would amend Section 5 of the OCSLA to require strong new safety and environmental regulations for offshore drilling. These include a set of minimum safety standards for blowout preventers, well designs, and cementing programs, and independent third-party review of these components or designs by certifiers chosen by the Secretary would be required. The blowout preventer, well design, and cementing regulations would be extended to wells drilled in State waters. This section would also require that the Secretary provide to the public, free of charge, any documents incorporated by reference into any OCS-related regulations.

**Sec. 206. Leases, Easements, and Rights-of-Way.**—This section would amend Section 8 of the OCSLA by adding three new subsections related to studies of royalties and financial assurances, and by mandating more involvement by the Secretary of Commerce in the lease-sale process. Companies that had egregiously bad safety or environmental records would be disqualified from obtaining new leases or drilling permits. The section would also provide for non-competitive offshore renewable energy authorizations if an applicant were seeking to carry out short-term meteorological or marine testing.

**Sec. 207. Disposition of Revenues.**—This section would amend Section 9 of the OCSLA to provide for yearly mandatory funding of \$900 million for the Land and Water Conservation Fund and \$150 million for the Historic Preservation Fund, and would deposit 10% of total offshore revenues into a new Ocean Resources Conservation and Assistance (ORCA) Fund, as created by Section 605 of this Act, for spending subject to appropriations.

**Sec. 208. Exploration Plans.**—This section would amend Section 11 of the OCSLA to strengthen and create new requirements for exploration plans, as well as eliminate the 30-day deadline for approval of those plans. Exploration plans would be required to include blowout scenarios with estimated timelines for drilling a potential relief well, and an analysis of the impact of a worst-case-scenario discharge from drilling. Categorical exclusions would no longer be allowed for approving plans, and plans and permits could only be approved if the applicant will be using best-available technology for drilling the well and responding to spills, and has demonstrated capability and technology to respond immediately to a worst-case-scenario oil spill. Subsection (d) would require a full engineering review of the well design and the existence of a safety and environmental management plan before a drilling permit could be issued. New provisions requiring the use of best-available technology during seismic surveys are also included.

**Sec. 209. Outer Continental Shelf Leasing Program.**—This section would amend Section 18 of the OCSLA to provide for additional consideration of environmental factors in the preparation of 5-year leasing plans. This section would also require consultation with the Secretary of Commerce during the preparation of those plans. In addition, a new subsection 18(i) is added, which would establish a research and development program designed to improve the ability to estimate oil and gas resources and address gaps in environmental data on the OCS.

**Sec. 210. Environmental Studies.**—This section would amend Section 20 of the OCSLA to require environmental studies, in cooperation with the Secretary of Commerce, at least once every three years of OCS areas where oil and gas lease sales are scheduled. Subsection (b) would direct the Secretary to conduct research on the impacts of deepwater oil spills and the use of dispersants.

**Sec. 211. Safety Regulations.**—This section would amend Section 21 of the OCSLA to require more frequent studies by the Secretaries of Interior and Homeland Security on the adequacy of health and safety regulations relevant to operations on the OCS. This section would also broaden the requirement to use best available and safest technologies, and require the Secretary to publish lists of the best available technologies for key areas of well design and operation, including blowout preventers and oil spill response technologies. New subsection 21(g) would mandate regulations requiring all operators to have safety cases before they could receive new permits to drill, and would mandate reviews of the effectiveness of safety case regulations. New subsection 21(h) would create an Offshore Technology Research and Risk Assessment Program designed to research and assess industry trends, new drilling technologies, and oil spill response technologies, among other topics.

**Sec. 212. Enforcement of Safety and Environmental Regulations.**—This section would amend Section 22 of the OCSLA to require monthly inspections of drilling rigs, more frequent investigations of safety-related incidents on the OCS, investigations of all allegations brought by employees of operators or contractors, and certifications from operators, operators' Chief Executive Officers, and independent third parties regarding compliance with safety and other regulations. Audits of safety cases and safety and environmental management plans would also be authorized. The section would also require a detailed certification statement from the CEO of the permit applicant regarding safety and spill response capabilities.

**Sec. 213. Judicial Review.**—This section would extend the timeframe for filing petitions against Secretarial actions pursuant to the OCSLA.

**Sec. 214. Remedies and Penalties.**—This section would amend Section 24 of the OCSLA to increase civil penalties from \$20,000 per day to \$75,000 or \$150,000 per day, depending on the violation. Subsection (b) raises the maximum criminal fine under the Act from \$100,000 to \$10,000,000.

**Sec. 215. Uniform Planning for Outer Continental Shelf.**—This section would amend Section 25 of the OCSLA to strengthen and create new requirements for development and production plans, and to ensure that such requirements extend to all areas of the OCS, whereas in existing law the Gulf of Mexico is exempt. As with exploration plans, this section would require development and production plans to include blowout scenarios with estimated timelines for drilling a potential relief well, and an analysis of the impact of a worst-case-scenario discharge from drilling. Approval of plans through categorical exclusions would no longer be allowed. This section would also require applicants to provide a comprehensive survey of the marine and coastal environment within their proposed area of operations, and to use production platform as observation stations for collecting data for the Integrated Coastal and Ocean Observing System. Development and production plans would not be able to be approved unless the applicant has the

demonstrated ability to effectively remediate a worst-case release of oil from activities conducted under the plan.

**Sec. 216. Oil and Gas Information Program.**—This section would amend Section 26 of the OCSLA to require lessees to provide additional data on drilling operations to the Secretary, and to provide it in electronic format in real-time, or as quickly as possible if real-time is not feasible. This section would also delete provisions requiring the government to pay for data reproduction costs.

**Sec. 217. Limitation on Royalty-in-Kind Program.**—This section would amend Section 27 of the OCSLA to eliminate the authority for the Secretary to conduct a regular royalty-in-kind program.

**Sec. 218. Restrictions on Employment.**—This section strengthens “revolving door” prohibitions on employees of the Department of the Interior who carry out duties under the OCSLA, by broadening the scope of prohibited activities and adding a 2-year ban on accepting employment with certain companies. The section would also add new recusal requirements and provide stricter penalties for violations.

**Sec. 219. Repeal of Royalty Relief Provisions.**— This section would repeal the shallow-water-deep-gas, deep-water, and Alaskan OCS royalty relief provisions that were enacted in the Energy Policy Act of 2005 (EPAAct) (P.L. 109-58).

**Sec. 220. Manning and Buy- and Build-American Requirements.**—This section would amend Section 30 of the OCSLA to clarify that U.S. immigration laws apply to facilities on the OCS, and add an “intention of Congress” section that states that energy development activities on the OCS should be conducted in a way so as to support domestic industry and jobs.

**Sec. 221. National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling.**—This section would provide subpoena power to the existing Presidential commission on the Deepwater Horizon incident, and would clarify the goals for the Commission.

**Sec. 222. Coordination and Consultation with Affected State and Local Governments.**— This section would amend Section 19 of the OCSLA to allow states to comment on exploration drilling plans, and would broaden the definition of “national interest” to include protecting marine and coastal ecosystems and the economies dependent on those ecosystems.

**Sec. 223. Implementation.**—This Section provides the Secretary with authority to take the steps necessary to apply the provisions of Titles II and VII of this Act to existing OCS leases.

#### Subtitle B – Royalty Relief for American Consumers

**Sec. 241. Short Title.**—This section provides that this subtitle may be cited as the “Royalty Relief for American Consumers Act of 2010.”

**Sec. 242. Eligibility for New Leases and the Transfer of Leases.**—This section would prohibit companies from obtaining new oil and gas leases on the OCS if they hold any leases issued between 1996 and 2000 that provide royalty relief regardless of oil and gas prices. A recent court decision ruled that the 1995 Deep Water Royalty Relief Act did not provide authority for including price thresholds in leases – meaning that oil and gas production from those leases would be royalty-free regardless of the price of oil or gas. As a result, the federal Treasury will forgo up to \$53 billion in expected royalties. Companies that renegotiate their leases to include price thresholds would be eligible to bid for new leases.

**Sec. 243. Price Thresholds for Royalty Suspension Provisions.**—This section requires the Secretary to agree to any request by a leaseholder to renegotiate a 1996-2000 lease to include price thresholds.

### *Title III – Oil and Gas Royalty Reform*

**Sec. 301. Amendments to Definitions.**—This section would add additional detail to the definition of “mineral leasing law” in the Federal Oil and Gas Royalty Management Act of 1982, as amended (FOGRMA) (30 U.S.C. 1701 et seq.); would clarify the definition of “designee” under FOGRMA in order to allow the Secretary to correspond with a designee only, as opposed to having to contact each individual lessee (that has designated a designee) in writing as is required under current law; would allow penalties to be assessed for permit violations as opposed to just lease violations as is currently the case; would include a definition of “compliance review” (increasingly used reviews of royalty payments that are less intensive than audits) in FOGRMA; and would modify a definition of “marketing affiliate” that existed in regulation by no longer requiring that the affiliate’s sole function be the marketing of the lessee’s production.

**Sec. 302. Compliance Reviews.**—This section would provide statutory authority for the Secretary to conduct compliance reviews of royalty payments, and require any uncovered discrepancies to be referred to an auditor. The Secretary would have to provide notice to payors that a compliance review was being conducted.

**Sec. 303. Clarification of Liability for Royalty Payments.**—This section would clarify that designees would be liable for royalty payments under a lease, and that lease owners and operators would be liable for their pro-rated share of payment obligations under a lease.

**Sec. 304. Required Recordkeeping.**—This section would require oil and gas records to be kept by payors for seven years instead of the current six, which would align that timeframe with the statute of limitations for the government established under the Royalty Fairness and Simplification Act of 1995 (P.L. 104-185) to collect unpaid royalties.

**Sec. 305. Fines and Penalties.**—This section would amend FOGRMA to double fines for underpayment or late payment of royalties, and would also double the penalty for theft. These penalties have not been increased since 1983. The section would also extend the statute of limitations for oil and gas leases held by violators.

**Sec. 306. Interest on Overpayments.**—This section would eliminate the requirement, under current law, that the Federal government pay interest on royalty overpayments made by operators. This would eliminate the incentive that operators have to make errors in their favor on their royalty calculation and receive a guaranteed return of the payment made in error plus interest.

**Sec. 307. Adjustments and Refunds.**—This section would eliminate the opportunity for lessees to make adjustments to their royalty obligations after a compliance review or audit is completed on a lease in question, and would limit the ability to make adjustments to four years after the date royalties were initially due. Currently, lessees are allowed to make adjustments for a full six years even after MMS has already completely a compliance review or audit.

**Sec. 308. Conforming Amendment.**—This section would repeal a section of FOGRMA that related to a study on noncompetitive leases that was due in 1983.

**Sec. 309. Obligation Period.**—This section would establish that in the case of an adjustment made by a lessee that results in an underpayment, the lessee would be obligated to repay that amount (plus interest) from the date the lessee makes the adjustment, thus extending the statute of limitations on that royalty payment. This would enable OFEML to audit such lease during the ensuing six-year cycle.

**Sec. 310. Notice Regarding Tolling Agreements and Subpoenas.**—This section would allow the Secretary to correspond only with the lease designee in the case of subpoenas or agreements to pause the statute of limitations.

**Sec. 311. Appeals and Final Agency Action.**—This section would extend the timeframe for the Secretary to issue final decisions on any appeals on demands or orders to pay royalties or penalties to 48 months, from the current 33 months.

**Sec. 312. Assessments.**—This section would repeal a section of FOGRMA that prohibits the Secretary from imposing assessments on payors who chronically submit erroneous royalty reports.

**Sec. 313. Collection and Production Accountability.**—This section would establish a pilot project for the automated transmission of electronic data from offshore wellheads and meters to the federal government, in order to improve the accuracy and efficiency of data and royalty collection.

**Sec. 314. Natural Gas Reporting.**—This section would require the Secretary to implement the steps necessary to ensure accurate reporting of heat content values of natural gas, which is a key component to determining the amount of royalties owed..

**Sec. 315. Penalty for Late or Incorrect Reporting of Data.**—This section would establish a penalty for companies that file late or incorrect data, to be set at a level the Secretary would determine is sufficient to ensure that companies file correct data on time, but no less than \$10 per incorrect line of data. The filing of late or inaccurate reports creates considerable administrative

difficulties for the government, and charging a penalty for faulty reporting has shown in the past to incentivize the filing of fully accurate and on-time data. A similar penalty was previously imposed by regulation, but was repealed last year.

**Sec. 316. Required Recordkeeping.**—Section 103 of FOGRMA currently gives the Secretary of the Interior the authority to require lessees, operators, or anyone involved in developing, producing, transporting, purchasing, or selling oil or natural gas from federal lands to provide records to the federal government upon request, if the Secretary implements such authority by rule. The current regulations promulgated under section 103, however, apply only to lessees and operators, ignoring the federal government’s authority to audit natural gas *purchasers*. Section 216 would require the Secretary to amend existing regulations to encompass the full authority granted under FOGRMA.

**Sec. 317. Shared Civil Penalties.**—This section would eliminate a disincentive for states and tribes to diligently pursue royalty violators. Under current law, any civil penalties that are collected under FOGRMA due to the work of State or Tribal auditors are divided evenly between the states or tribes and the Federal government. The amount the state or tribe receives from the civil penalty is then subtracted from the amount of money they would have received under their cooperative agreements with MMS. This means that, currently, state and tribal auditors receive no benefit for any work they do in identifying royalty violators.

**Sec. 318. Applicability to Other Minerals.**—This section would extend the civil and criminal enforcement authority in FOGRMA, as amended to coal and other solid minerals on federal lands, as well as to solid mineral mining or alternative energy development on the Outer Continental Shelf.

**Sec. 319. Entitlements.**—This section would require the Secretary to publish final regulations regarding procedures for reporting royalties on entitled shares of production from unitized leases when lessees do not actually sell their share of production from that lease.

**Sec. 320. Limitation on Royalty-in-Kind Program.**—This section would eliminate the authority of the Secretary to establish a regular program of taking royalties in kind from onshore leases.

*Title IV – Full Funding for the Land and Water Conservation Fund*

*Subtitle A – Land and Water Conservation Fund*

**Sec. 401. Amendments to the Land and Water Conservation Fund Act of 1965.**—This section would establish that all language in this subtitle would amend the Land and Water Conservation Fund (LWCF) Act of 1965 (16 U.S.C. 4601-4 et seq.).

**Sec. 402. Extension of the Land and Water Conservation Fund.**—This section would extend the authorization of the LWCF until 2040.

**Sec. 403 Permanent Funding.**—This section would provide for \$900 million to be available to the LWCF each year out of OCS receipts without further appropriations, subject to the authority of the Congress, by law, to allocate the funds to eligible activities.

Subtitle B – National Historic Preservation Fund

**Sec. 411. Permanent Funding.**—This section would provide for \$150 million to be available to the Historic Preservation Fund (HPF) each year out of OCS receipts without further appropriations, and would extend the authorization of the HPF until 2040. Funding would be subject to the authority of the Congress, by law, to allocate the funds to eligible activities.

Title V – Gulf of Mexico Restoration

**Sec. 501. Gulf of Mexico Restoration Program.**—This section would establish a Gulf of Mexico Restoration Task Force, composed of the heads of the relevant Federal agencies and the Governors of the Gulf Coast States, to develop a long-term restoration plan within one year after the date of enactment. The Plan would identify processes and strategies for coordinating and implementing Federal, State, and local restoration programs and projects, using the best-available science.

**Sec. 502. Gulf of Mexico Long-Term Environmental Monitoring and Research program.**—This section would direct the Secretary through NOAA to establish a long-term, comprehensive marine environmental monitoring and research program on the impacts of the Deepwater Horizon oil spill on the marine and coastal environment of the Gulf of Mexico, to remain in effect for a minimum of 10 years. The program would be developed in cooperation with the USGS and in consultation with the National Oceanographic Leadership Council, the Gulf Coast States, academic institutions, and other monitoring experts. Data from the program would be available to governmental and non-governmental personnel and the public.

**Sec. 503. Gulf of Mexico Emergency Migratory Species Alternative Habitat Program.**—This section would establish an emergency migratory species alternative habitat program to support projects along the Northern coast of the Gulf of Mexico to ensure that migratory species have alternative habitat available for use outside of areas impacted by the oil spill.

Title VI – Outer Continental Shelf Coordination and Planning

**Sec. 601. Regional Coordination.**—This section would address the need for long-term, coordinated planning to guide sustainable development of renewable and non-renewable resources within the context of other activities occurring in oceans, coastal areas, and the Great Lakes. Nine coordination regions would be established by this section.

**Sec. 602. Regional Coordination Councils.**—This section establishes Regional Coordination Councils, designated by the Chairman of the Council on Environmental Quality, which are to include representatives of relevant federal agencies, coastal states, Regional Fishery Management Councils, interstate fisheries commissions, Regional Ocean Partnerships, affected

Tribes, and county and local governments. This section also requires each Regional Coordination Council to establish an Advisory Committee with balanced representation to give advice during the development of Regional Assessments and Regional Strategic Plans.

**Sec. 603. Regional strategic plans.**—Section 603 authorizes the Regional Coordination Councils to prepare and complete Strategic Plans, within 3 years after completion of an initial regional assessment, to foster comprehensive, integrated, and sustainable development and use of ocean, coastal, and Great Lakes resources, while protecting marine ecosystem health and sustaining the long-term economic and ecosystem values of the oceans.

**Sec. 604. Regulations and Savings Clause.**— This section authorizes the Chair of the Council on Environmental Quality to issue regulations necessary to administer Sections 601-603. The section also clarifies that nothing in this Title shall be construed to affect existing authorities under Federal law.

**Sec. 605. Ocean Resources Conservation and Assistance Fund.**—This section establishes an Ocean Resources Conservation and Assistance (ORCA) Fund. A percentage of all OCS revenues would be deposited into Fund and be available subject to appropriations. The Fund would be used to provide grants to coastal states and Regional Ocean Partnerships and the Regional Coordination Councils for activities that contribute to the protection, maintenance, and restoration of ocean, coastal and Great Lakes ecosystems including: the development and implementation of comprehensive, science-based plans for monitoring and managing the wide variety of uses affecting the oceans, coasts and Great Lakes ecosystems; activities to improve the ability of those ecosystems to become more resilient and adapt to and withstand the impacts of climate change and ocean acidification; planning for and managing coastal development to minimize the loss of life and property associated with sea-level rise and the coastal hazards resulting from it; research, education, assessment and monitoring that contribute to these purposes; and the rescue, rehabilitation and recovery of injured marine mammals, birds and sea turtles. Grants will also be available for coastal States to improve their oil spill response planning, and for the implementation and operation of an integrated ocean observation system.

**Sec. 606. Waiver.**—This section would exempt the Regional Coordination Councils from the Federal Advisory Committee Act.

#### *Title VII –Oil Spill Accountability and Environmental Protection*

**Sec. 701. Short title; table of contents.**—This section designates that this title may be cited as the “Oil Spill Accountability and Environmental Protection Act of 2010”.

**Sec.702. Repeal of and Adjustment to Limitations on Liability.**—This section amends section 1004 of OPA to remove the existing statutory limitation on liability for damages of a responsible party for an offshore facility, and directs the President to review, and revise as necessary, other limitations on liability. Under the bill, any responsible party for an offshore facility is liable for all removal costs plus all damages related to a discharge, or a substantial threat of discharge, of oil. The section also directs the President to review liability limits at least once every three years, and revise them upwards if necessary.

**Sec.703. Evidence of Financial Responsibility for Offshore Facilities.**—This section amends section 1016 of OPA to increase the minimum amount of evidence of financial responsibility that a responsible party for an offshore facility must demonstrate to comply with OPA. The financial responsibility requirement is raised to \$300 million for an offshore facility.

**Sec.704. Damages to human health.**—This section amends OPA to authorize an individual to seek compensation for damages to human health resulting from a discharge of oil.

**Sec. 705. Clarification of liability for discharges from mobile offshore drilling units.**—This section clarifies that MODUs are liable for a discharge of oil into the EEZ.

**Sec.706. Standard of review for damage assessment.**—This section amends OPA to ensure that the standard of judicial review for assessment of damages to natural resources is consistent with that established in the Administrative Procedures Act.

**Sec. 707. Information on claims.**—This section authorizes the President, in the event of a spill of national significance, to require a responsible party to provide information on or related to claims.

**Sec. 708. Additional Amendments and clarifications to Oil Pollution Act of 1990.**—This section changes the definition of “removal costs” under OPA to clarify that such costs include the costs of enforcement activities, and also clarifies the definition of “responsible party”.

**Sec. 709. Americanization of offshore operations in the exclusive economic zone.**—This section requires offshore energy-related vessels to be U.S.-flag vessels owned by U.S. citizens. This section ensures that these vessels are subject to U.S. safety regulations, employ U.S. citizens on board the vessel, and that U.S. taxes are paid on the operations of the vessel and by the personnel engaged on the vessel. This section only applies to activities that begin after June 30, 2011.

**Sec. 710. Safety management systems for mobile offshore drilling units.** —This section amends 46 U.S.C. § 3203 to require the safety management plan for a MODU operating in waters subject to the jurisdiction of the United States to include processes, procedures, and policies related to the safe operation and maintenance of the machinery and systems on board the vessel that may affect the seaworthiness of the vessel in a worst-case event.

**Sec. 711. Safety standards for mobile offshore drilling units.**—This section requires the Secretary of Homeland Security, in prescribing regulations for MODUs, to develop standards to address a worst-case event on the vessel.

**Sec. 712. Operational control of mobile offshore drilling units.**—Current law requires that U.S.-flag vessels are under the command of a U.S. citizen that is operating under the authority of a license issued by the Coast Guard. This section adds additional requirements for an individual to obtain a license as master of a MODU. The amendments made by this section shall take effect six months after the date of enactment of this Act.

**Sec.713. Single-hull tankers.**—This section prohibits single-hull tankers from offloading at the Louisiana Offshore Oil Platform or U.S. lightering areas beginning on January 1, 2011, instead of the current law deadline of January 1, 2015.

**Sec. 714. Repeal of response plan waiver.**—This section amends section 311(j)(5)(G) of the Clean Water Act to prohibit an onshore facility, offshore facility, or tank vessel from operating without an approved plan for responding to a worst-case discharge.

**Sec. 715. National Contingency Plan.**—This section amends section 311(d) of the Clean Water Act to require: (1) the President to develop guidelines for the use of oil spill containment booms; (2) the Administrator of the Environmental Protection Agency (EPA) to update the regulations for use of chemical dispersants; and (3) the President to develop criteria, as part of the National Contingency Plan, for ceasing and removing a worst-case discharge of oil or hazardous substances, or for mitigating and preventing a substantial threat of such a discharge.

**Sec. 716. Tracking Database.**—This section amends section 311(b) of the Clean Water Act to require the President to create a comprehensive, publicly accessible national database to track all discharges of oil or hazardous substances into U.S. waters or that might affect U.S. natural resources.

**Sec.717. Evaluation and approval of response plans; maximum penalties.**—This section amends section 311 of the Clean Water Act to clarify and strengthen Federal oversight of oil spill response plans, and to update the level of administrative and civil penalties for failure to develop or implement an oil spill response plan. This section would also require the Coast Guard to review and concur in any response plan for a MODU.

**Sec.718. Oil and hazardous substance cleanup technologies.**—This section requires the Secretary of Homeland Security, in coordination the Secretary of the Interior and with the heads of other appropriate Federal agencies, to establish a process for quickly and effectively soliciting, assessing, and deploying offshore oil and hazardous substance cleanup technologies in the event of a discharge of oil in U.S. waters. This section also requires the Secretary of Homeland Security, in coordination with the Secretary of the Interior, to maintain a database on best available oil and hazardous substance cleanup technologies. In addition, this section requires the Secretary to effectively coordinate with other appropriate agencies, industry, academia, small businesses, and others to ensure that the best technology available is implemented in the event of a discharge or threat of a discharge of oil of hazardous substance in U.S. waters.

**Sec. 719. Implementation of oil spill prevention and response authorities.**—This section amends the Clean Water Act to more explicitly describe the authorities of various Federal agencies with respect to section 311 of the Clean Water Act.

**Sec. 720. Impacts to Indian Tribes.**—This section clarifies that Indian tribes are eligible claimants for damages resulting from a discharge of oil.

**Sec. 721. Federal enforcement actions.**—This section allows independent Federal and State actions, including the assessment of penalties, in relation to the discharge of oil or hazardous substances under section 311 of the Clean Water Act.

**Sec. 722. Time required before electing to proceed with judicial claim or against the Fund.**—This section decreases the time from 90 days to 45 days for a claimant to commence an action in court against the responsible party or to present the claim to the Trust Fund if unpaid.

**Sec. 723. Authorized level of Coast Guard personnel.**—This section authorizes an end-of-year strength for active-duty Coast Guard personnel to be increased by 300.

**Sec. 724. Clarification of memorandums of understanding.**—This section requires the President to implement or revise, as appropriate, memorandums of understanding by September 30, 2011, to clarify the roles and jurisdictional responsibilities of EPA, the Coast Guard, the Department of the Interior, DOT, and other Federal agencies relating to the prevention of oil discharges from tank vessels, nontank vessels, and facilities.

**Sec. 725. Build America Requirement for Offshore Facilities.**—This section states that a person may not use an offshore facility for oil and gas activities on the EEZ unless the facility was built in the United States. Subsection (b) provides for the ability to waive that requirement if: (1) an offshore facility was built in a foreign country and is under contract, on the date of enactment of this section; (2) an offshore facility built in the United States is not available within a reasonable period of time, or of sufficient quality to perform drilling operations required under a contract; or (3) an emergency requires the use of a an offshore facility built in a foreign country.

**Sec. 726. Oil spill response vessel database.**—This section requires the Coast Guard to complete an inventory of all vessels operating in the waters of the United States that are capable of meeting oil spill response needs designated in the National Contingency Plan.

**Sec.727. Offshore sensing and monitoring systems.**—This section requires that offshore facilities located water deeper than 500 feet be equipped with physical, biological, geological, and environmental sensing and monitoring systems, which can feed data into the Integrated Coastal and Ocean Observing System.

**Sec.728. Oil and gas exploration and production.**—This section restores the authority to address stormwater runoff associated with construction-related activities at oil and gas facilities.

**Sec. 729. Leave retention authority.**—This section provides that any Coast Guard personnel who work in support of a major disaster or emergency can retain up to 90 days of accrued leave at the end of the fiscal year.

**Sec. 730. Authorization of appropriations.**—This section authorizes appropriations from the Oil Spill Liability Trust Fund for the Coast Guard, EPA, and DOT to carry out this Act.

*Title VIII – Miscellaneous Provisions*

**Sec. 801. Repeal of Certain Taxpayer Subsidized Royalty Relief for the Oil and Gas Industry.**—This section would repeal Alaskan OCS royalty relief provisions that were enacted in the Energy Policy Act of 2005 (EPAcT) (P.L. 109-58). Subsection (b) would repeal language from EPAcT that provided for lease extensions and royalty relief in the National Petroleum Reserve-Alaska.

**Sec. 802. Conservation Fee.**—This section would impose a fee of \$2 per barrel of oil, or 20 cents per million Btu of natural gas, for production from all new and existing federal onshore and offshore leases. This fee would expire on December 31, 2021.

**Sec. 803. Leasing on Indian Lands.**—This section would ensure that nothing in the bill would amend or modify leasing as it is currently carried out on Indian lands by the Bureau of Indian Affairs.

**Sec. 804. Outer Continental Shelf State Boundaries.**—This section would direct the Secretary to carry out the OCSLA Section 4(a)(2)(A) mandate to determine the seaward boundaries of the states to the outer margin of the OCS. The original mandate was included in 1953, and a 1977 House Committee report included language reinforcing the mandate. In 2006, the Minerals Management Service published administrative boundaries between states in the OCS, but it did so without any notice or comment period, nor with any method for resolving disputes between states.

**Sec. 805. Liability for Damages to National Wildlife Refuges.**— This section would amend the National Wildlife Refuge System Administration Act of 1966 to hold any person or instrumentality which destroys, causes the loss of, or injures a refuge resource, or any living or nonliving resource of the refuge system or marine national monument, liable to the United States. This section authorizes the Secretary to use the amounts recovered for costs of response actions and damage assessments. This type of liability standard already applies to National Parks and National Marine Sanctuaries.

**Sec. 806. Strengthening Coastal State Oil Spill Planning and Response.**—This section would amend the Coastal Zone Management Act of 1972 to add a new section 320 that would provide grants, not to exceed \$750,000, to eligible coastal States to revise relevant plans of management programs to ensure sufficient oil spill response capabilities.

**Sec. 807. Information Sharing.**—This section would amend Section 388(b) of the Energy Policy Act of 2005 (Public Law 109-58) to require other federal agencies to provide data and information to the Secretary of the Interior in support of the Coordinated OCS Mapping Initiative.

**Sec. 808. Savings Clause.**—This section would ensure that no funds from this Act would be able to pay any cost that any responsible party under the Oil Pollution Act of 1990 is liable for.

**Sec. 809. Environmental Review.**—This section would repeal Section 390 of the Energy Policy Act of 2005 (EPACT) (42 U.S.C. 15942), which established five statutory categorical exclusions for oil and gas operations.

**Sec. 810. Federal Response to State Proposals to Protect State Lands and Waters.**— This section would require that when States apply for a permit to undertake a project in response to an oil spill of national significance, Federal agencies must either decide on the application within 48 hours or provide a definitive date by which the application will be decided by. Failure by the Federal agency to meet deadlines under this section results in the application being deemed approved.