

111TH CONGRESS
2D SESSION

S. _____

To amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Outer Continental Shelf Reform Act of 2010”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.
- Sec. 4. National policy for the outer Continental Shelf.

2

Sec. 5. Structural reform of outer Continental Shelf program management.

Sec. 6. Safety, environmental, and financial reform of the Outer Continental Shelf Lands Act.

Sec. 7. Reform of other laws.

Sec. 8. Savings provisions.

Sec. 9. Budgetary effects.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to rationalize and reform the responsibilities
4 of the Secretary of the Interior with respect to the
5 management of the outer Continental Shelf in order
6 to improve the management, oversight, account-
7 ability, safety, and environmental protection of all
8 the resources on the outer Continental Shelf;

9 (2) to provide independent development and en-
10 forcement of safety and environmental laws (includ-
11 ing regulations) governing—

12 (A) energy development and mineral ex-
13 traction activities on the outer Continental
14 Shelf; and

15 (B) related offshore activities; and

16 (3) to ensure a fair return to the taxpayer
17 from, and independent management of, royalty and
18 revenue collection and disbursement activities from
19 mineral and energy resources.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

1 (1) DEPARTMENT.—The term “Department”
2 means the Department of the Interior.

3 (2) OUTER CONTINENTAL SHELF.—The term
4 “outer Continental Shelf” has the meaning given the
5 term in section 2 of the Outer Continental Shelf
6 Lands Act (43 U.S.C. 1331).

7 (3) SECRETARY.—The term “Secretary” means
8 the Secretary of the Interior.

9 **SEC. 4. NATIONAL POLICY FOR THE OUTER CONTINENTAL**
10 **SHELF.**

11 Section 3 of the Outer Continental Shelf Lands Act
12 (43 U.S.C. 1332) is amended—

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

15 “(3) the outer Continental Shelf is a vital na-
16 tional resource reserve held by the Federal Govern-
17 ment for the public, which should be managed in a
18 manner that recognizes—

19 “(A) the need of the United States for do-
20 mestic sources of energy, food, minerals, and
21 other resources;

22 “(B) the potential impacts of development
23 of those resources on the marine and coastal
24 environment and on human health and safety;
25 and

1 “(C) the long-term economic value to the
2 United States of the balanced and orderly man-
3 agement of those resources that safeguards the
4 environment and respects the multiple values
5 and uses of the outer Continental Shelf;”;

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

8 (3) in paragraph (5), by striking “; and” and
9 inserting a semicolon;

10 (4) by redesignating paragraph (6) as para-
11 graph (7);

12 (5) by inserting after paragraph (5) the fol-
13 lowing:

14 “(6) exploration, development, and production
15 of energy and minerals on the outer Continental
16 Shelf should be allowed only when those activities
17 can be accomplished in a manner that provides rea-
18 sonable assurance of adequate protection against
19 harm to life, health, the environment, property, or
20 other users of the waters, seabed, or subsoil; and”;
21 and

22 (6) in paragraph (7) (as so redesignated)—

23 (A) by striking “should be” and inserting
24 “shall be”; and

1 (B) by adding “best available” after
2 “using”.

3 **SEC. 5. STRUCTURAL REFORM OF OUTER CONTINENTAL**
4 **SHELF PROGRAM MANAGEMENT.**

5 (a) IN GENERAL.—The Outer Continental Shelf
6 Lands Act (43 U.S.C. 1331 et seq.) is amended by adding
7 to the end the following:

8 **“SEC. 32. STRUCTURAL REFORM OF OUTER CONTINENTAL**
9 **SHELF PROGRAM MANAGEMENT.**

10 “(a) LEASING, PERMITTING, AND REGULATION BU-
11 REAUS.—

12 “(1) ESTABLISHMENT OF BUREAUS.—

13 “(A) IN GENERAL.—Subject to the discre-
14 tion granted by Reorganization Plan Number 3
15 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note),
16 the Secretary shall establish in the Department
17 of the Interior not more than 2 bureaus to
18 carry out the leasing, permitting, and safety
19 and environmental regulatory functions vested
20 in the Secretary by this Act and the Federal Oil
21 and Gas Royalty Management Act of 1982 (30
22 U.S.C. 1701 et seq.) related to the outer Conti-
23 nental Shelf.

24 “(B) CONFLICTS OF INTEREST.—In estab-
25 lishing the bureaus under subparagraph (A),

1 the Secretary shall ensure, to the maximum ex-
2 tent practicable, that any potential organiza-
3 tional conflicts of interest related to leasing,
4 revenue creation, environmental protection, and
5 safety are eliminated.

6 “(2) DIRECTOR.—Each bureau shall be headed
7 by a Director, who shall be appointed by the Presi-
8 dent, by and with the advice and consent of the Sen-
9 ate.

10 “(3) COMPENSATION.—Each Director shall be
11 compensated at the rate provided for level V of the
12 Executive Schedule under section 5316 of title 5,
13 United States Code.

14 “(4) QUALIFICATIONS.—Each Director shall be
15 a person who, by reason of professional background
16 and demonstrated ability and experience, is specially
17 qualified to carry out the duties of the office.

18 “(b) ROYALTY AND REVENUE OFFICE.—

19 “(1) ESTABLISHMENT OF OFFICE.—Subject to
20 the discretion granted by Reorganization Plan Num-
21 ber 3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note),
22 the Secretary shall establish in the Department of
23 the Interior an office to carry out the royalty and
24 revenue management functions vested in the Sec-
25 retary by this Act and the Federal Oil and Gas Roy-

1 alty Management Act of 1982 (30 U.S.C. 1701 et
2 seq.).

3 “(2) DIRECTOR.—The office established under
4 paragraph (1) shall be headed by a Director, who
5 shall be appointed by the President, by and with the
6 advice and consent of the Senate.

7 “(3) COMPENSATION.—The Director shall be
8 compensated at the rate provided for level V of the
9 Executive Schedule under section 5316 of title 5,
10 United States Code.

11 “(4) QUALIFICATIONS.—The Director shall be a
12 person who, by reason of professional background
13 and demonstrated ability and experience, is specially
14 qualified to carry out the duties of the office.

15 “(c) OCS SAFETY AND ENVIRONMENTAL ADVISORY
16 BOARD.—

17 “(1) ESTABLISHMENT.—The Secretary shall es-
18 tablish, under the Federal Advisory Committee Act
19 (5 U.S.C. App.), an Outer Continental Shelf Safety
20 and Environmental Advisory Board (referred to in
21 this subsection as the ‘Board’), to provide the Sec-
22 retary and the Directors of the bureaus established
23 under this section with independent scientific and
24 technical advice on safe and environmentally compli-

1 ant energy and mineral resource exploration, devel-
2 opment, and production activities.

3 “(2) MEMBERSHIP.—

4 “(A) SIZE.—

5 “(i) IN GENERAL.—The Board shall
6 consist of not more than 12 members, cho-
7 sen to reflect a range of expertise in sci-
8 entific, engineering, management, and
9 other disciplines related to safe and envi-
10 ronmentally compliant energy and mineral
11 resource exploration, development, and
12 production activities.

13 “(ii) CONSULTATION.—The Secretary
14 shall consult with the National Academy of
15 Sciences and the National Academy of En-
16 gineering to identify potential candidates
17 for membership on the Board.

18 “(B) TERM.—The Secretary shall appoint
19 Board members to staggered terms of not more
20 than 4 years, and shall not appoint a member
21 for more than 2 consecutive terms.

22 “(C) CHAIR.—The Secretary shall appoint
23 the Chair for the Board.

24 “(3) MEETINGS.—The Board shall—

1 “(A) meet not less than 3 times per year;
2 and

3 “(B) at least once per year, shall host a
4 public forum to review and assess the overall
5 safety and environmental performance of outer
6 Continental Shelf energy and mineral resource
7 activities.

8 “(4) REPORTS.—Reports of the Board shall—

9 “(A) be submitted to Congress; and

10 “(B) made available to the public in an
11 electronically accessible form.

12 “(5) TRAVEL EXPENSES.—Members of the
13 Board, other than full-time employees of the Federal
14 government, while attending a meeting of the Board
15 or while otherwise serving at the request of the Sec-
16 retary or the Director while serving away from their
17 homes or regular places of business, may be allowed
18 travel expenses, including per diem in lieu of subsist-
19 ence, as authorized by section 5703 of title 5,
20 United States Code, for individuals in the Federal
21 Government serving without pay.

22 “(d) SPECIAL PERSONNEL AUTHORITIES.—

23 “(1) DIRECT HIRING AUTHORITY FOR CRITICAL
24 PERSONNEL.—

1 “(A) IN GENERAL.—Notwithstanding sec-
2 tions 3104, 3304, and 3309 through 3318 of
3 title 5, United States Code, the Secretary may,
4 upon a determination that there is a severe
5 shortage of candidates or a critical hiring need
6 for particular positions, recruit and directly ap-
7 point highly qualified accountants, scientists,
8 engineers, or critical technical personnel into
9 the competitive service, as officers or employees
10 of any of the organizational units established
11 under this section.

12 “(B) REQUIREMENTS.—In exercising the
13 authority granted under subparagraph (A), the
14 Secretary shall ensure that any action taken by
15 the Secretary—

16 “(i) is consistent with the merit prin-
17 ciples of chapter 23 of title 5, United
18 States Code; and

19 “(ii) complies with the public notice
20 requirements of section 3327 of title 5,
21 United States Code.

22 “(2) CRITICAL PAY AUTHORITY.—

23 “(A) IN GENERAL.—Notwithstanding sec-
24 tion 5377 of title 5, United States Code, and
25 without regard to the provisions of that title

1 governing appointments in the competitive serv-
2 ice or the Senior Executive Service and chap-
3 ters 51 and 53 of that title (relating to classi-
4 fication and pay rates), the Secretary may es-
5 tablish, fix the compensation of, and appoint in-
6 dividuals to critical positions needed to carry
7 out the functions of any of the organizational
8 units established under this section, if the Sec-
9 retary certifies that—

10 “(i) the positions—

11 “(I) require expertise of an ex-
12 tremely high level in a scientific or
13 technical field; and

14 “(II) any of the organizational
15 units established in this section would
16 not successfully accomplish an impor-
17 tant mission without such an indi-
18 vidual; and

19 “(ii) exercise of the authority is nec-
20 essary to recruit an individual exceptionally
21 well qualified for the position.

22 “(B) LIMITATIONS.—The authority grant-
23 ed under subparagraph (A) shall be subject to
24 the following conditions:

1 “(i) The number of critical positions
2 authorized by subparagraph (A) may not
3 exceed 40 at any 1 time in either of the
4 bureaus established under this section.

5 “(ii) The term of an appointment
6 under subparagraph (A) may not exceed 4
7 years.

8 “(iii) An individual appointed under
9 subparagraph (A) may not have been an
10 employee of the Department of the Interior
11 during the 2-year period prior to the date
12 of appointment.

13 “(iv) Total annual compensation for
14 any individual appointed under subpara-
15 graph (A) may not exceed the highest total
16 annual compensation payable at the rate
17 determined under section 104 of title 3,
18 United States Code.

19 “(v) An individual appointed under
20 subparagraph (A) may not be considered
21 to be an employee for purposes of sub-
22 chapter II of chapter 75 of title 5, United
23 States Code.

24 “(C) NOTIFICATION.—Each year, the Sec-
25 retary shall submit to Congress a notification

1 that lists each individual appointed under this
2 paragraph.

3 “(3) REEMPLOYMENT OF CIVILIAN RETIR-
4 EES.—

5 “(A) IN GENERAL.—Notwithstanding part
6 553 of title 5, Code of Federal Regulations (re-
7 lating to reemployment of civilian retirees to
8 meet exceptional employment needs), or suc-
9 cessor regulations, the Secretary may approve
10 the reemployment of an individual to a par-
11 ticular position without reduction or termi-
12 nation of annuity if the hiring of the individual
13 is necessary to carry out a critical function of
14 any of the organizational units established
15 under this section for which suitably qualified
16 candidates do not exist.

17 “(B) LIMITATIONS.—An annuitant hired
18 with full salary and annuities under the author-
19 ity granted by subparagraph (A)—

20 “(i) shall not be considered an em-
21 ployee for purposes of subchapter III of
22 chapter 83 and chapter 84 of title 5,
23 United States Code;

1 “(ii) may not elect to have retirement
2 contributions withheld from the pay of the
3 annuitant;

4 “(iii) may not use any employment
5 under this paragraph as a basis for a sup-
6 plemental or recomputed annuity; and

7 “(iv) may not participate in the Thrift
8 Savings Plan under subchapter III of
9 chapter 84 of title 5, United States Code.

10 “(C) LIMITATION ON TERM.—The term of
11 employment of any individual hired under sub-
12 paragraph (A) may not exceed an initial term
13 of 2 years, with an additional 2-year appoint-
14 ment under exceptional circumstances.

15 “(e) CONTINUITY OF AUTHORITY.—Subject to the
16 discretion granted by Reorganization Plan Number 3 of
17 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), any reference
18 in any law, rule, regulation, directive, or instruction, or
19 certificate or other official document, in force immediately
20 prior to the date of enactment of this section—

21 “(1) to the Minerals Management Service that
22 pertains to any of the duties and authorities de-
23 scribed in this section shall be deemed to refer and
24 apply to the appropriate bureaus and offices estab-
25 lished under this section;

1 “(2) to the Director of the Minerals Manage-
2 ment Service that pertains to any of the duties and
3 authorities described in this section shall be deemed
4 to refer and apply to the Director of the bureau or
5 office under this section to whom the Secretary has
6 assigned the respective duty or authority; and

7 “(3) to any other position in the Minerals Man-
8 agement Service that pertains to any of the duties
9 and authorities described in this section shall be
10 deemed to refer and apply to that same or equiva-
11 lent position in the appropriate bureau or office es-
12 tablished under this section.”.

13 (b) CONFORMING AMENDMENT.—Section 5316 of
14 title 5, United States Code, is amended by striking “Direc-
15 tor, Bureau of Mines, Department of the Interior” and
16 inserting the following:

17 “Bureau Directors, Department of the Interior
18 (2).

19 “Director, Royalty and Revenue Office, Depart-
20 ment of the Interior.”.

1 **SEC. 6. SAFETY, ENVIRONMENTAL, AND FINANCIAL RE-**
2 **FORM OF THE OUTER CONTINENTAL SHELF**
3 **LANDS ACT.**

4 (a) DEFINITIONS.—Section 2 of the Outer Conti-
5 nental Shelf Lands Act (43 U.S.C. 1331) is amended by
6 adding at the end the following:

7 “(r) SAFETY CASE.—The term ‘safety case’ means
8 a body of evidence that provides a basis for determining
9 whether a system is adequately safe for a given application
10 in a given environment.”.

11 (b) ADMINISTRATION OF LEASING.—Section 5(a) of
12 the Outer Continental Shelf Lands Act (43 U.S.C.
13 1334(a)) is amended in the second sentence—

14 (1) by striking “The Secretary may at any
15 time” and inserting “The Secretary shall”; and

16 (2) by inserting after “provide for” the fol-
17 lowing: “operational safety, the protection of the ma-
18 rine and coastal environment,”.

19 (c) MAINTENANCE OF LEASES.—Section 6 of the
20 Outer Continental Shelf Lands Act (43 U.S.C. 1335) is
21 amended by adding at the end the following:

22 “(f) REVIEW OF BOND AND SURETY AMOUNTS.—
23 Not later than May 1, 2011, and every 5 years thereafter,
24 the Secretary shall—

25 “(1) review the minimum bond amounts for
26 mineral leases under subsection (a)(11); and

1 “(2) set any bonds, surety, or other evidence of
2 financial responsibility required in amounts adequate
3 to permit lessees to fulfill all obligations under this
4 Act or the Oil Pollution Act of 1990 (33 U.S.C.
5 2701 et seq.).

6 “(g) PERIODIC FISCAL REVIEWS AND REPORTS.—

7 “(1) ROYALTY RATES.—

8 “(A) IN GENERAL.—Not later than 1 year
9 after the date of enactment of this subsection
10 and every 3 years thereafter, the Secretary shall
11 carry out a review of, and prepare a report that
12 describes—

13 “(i) the royalty and rental rates in-
14 cluded in new offshore oil and gas leases
15 and the rationale for the rates;

16 “(ii) whether, in the view of the Sec-
17 retary, the royalty and rental rates de-
18 scribed in subparagraph (A) would yield a
19 fair return to the public while promoting
20 the production of oil and gas resources in
21 a timely manner; and

22 “(iii) whether, based on the review,
23 the Secretary intends to modify the royalty
24 or rental rates.

1 “(B) PUBLIC PARTICIPATION.—In carrying
2 out a review and preparing a report under sub-
3 paragraph (A), the Secretary shall provide to
4 the public an opportunity to participate.

5 “(2) COMPARATIVE REVIEW OF FISCAL SYS-
6 TEM.—

7 “(A) IN GENERAL.—Not later than 2 years
8 after the date of enactment of this subsection
9 and every 5 years thereafter, the Secretary in
10 consultation with the Secretary of the Treasury,
11 shall carry out a comprehensive review of all
12 components of the Federal offshore oil and gas
13 fiscal system, including requirements for bonus
14 bids, rental rates, royalties, oil and gas taxes,
15 and oil and gas fees.

16 “(B) INCLUSIONS.—The review shall in-
17 clude—

18 “(i) information and analyses com-
19 paring the offshore bonus bids, rents, roy-
20 alties, taxes, and fees of the Federal Gov-
21 ernment to the offshore bonus bids, rents,
22 royalties, taxes, and fees of other resource
23 owners (including States and foreign coun-
24 tries); and

1 “(ii) an assessment of the overall off-
2 shore oil and gas fiscal system in the
3 United States, as compared to foreign
4 countries.

5 “(C) INDEPENDENT ADVISORY COM-
6 MITTEE.—In carrying out a review under this
7 paragraph, the Secretary shall convene and seek
8 the advice of an independent advisory com-
9 mittee comprised of oil and gas and fiscal ex-
10 perts from States, Indian tribes, academia, the
11 energy industry, and appropriate nongovern-
12 mental organizations.

13 “(D) REPORT.—The Secretary shall pre-
14 pare a report that contains—

15 “(i) the contents and results of the re-
16 view carried out under this paragraph for
17 the period covered by the report; and

18 “(ii) any recommendations of the Sec-
19 retary and the Secretary of the Treasury
20 based on the contents and results of the
21 review.

22 “(3) REPORT DEADLINE.—Not later than 30
23 days after the date on which the Secretary completes
24 each report under this subsection, the Secretary
25 shall submit copies of the report to—

1 “(A) the Committee on Energy and Nat-
2 ural Resources of the Senate;

3 “(B) the Committee on Finance of the
4 Senate;

5 “(C) the Committee on Natural Resources
6 of the House of Representatives; and

7 “(D) the Committee on Ways and Means
8 of the House of Representatives.”.

9 (d) LEASES, EASEMENTS, AND RIGHTS-OF-WAY.—
10 Section 8 of the Outer Continental Shelf Lands Act (43
11 U.S.C. 1337) is amended by striking subsection (d) and
12 inserting the following:

13 “(d) DISQUALIFICATION FROM BIDDING.—No bid
14 for a lease may be submitted by any entity that the Sec-
15 retary finds, after notice and opportunity for a hearing—

16 “(1) is not meeting due diligence, safety, or en-
17 vironmental requirements on other leases; or

18 “(2)(A) is a responsible party for a vessel or a
19 facility from which oil is discharged, for purposes of
20 section 1002 of the Oil Pollution Act of 1990 (33
21 U.S.C. 2702); and

22 “(B) has failed to meet the obligations of the
23 responsible party under that Act to provide com-
24 pensation for covered removal costs and damages.”.

1 (e) EXPLORATION PLANS.—Section 11 of the Outer
2 Continental Shelf Lands Act (43 U.S.C. 1340) is amend-
3 ed—

4 (1) in subsection (c)—

5 (A) in the fourth sentence of paragraph
6 (1), by striking “within thirty days of its sub-
7 mission” and inserting “by the deadline de-
8 scribed in paragraph (5)”;

9 (B) by striking paragraph (3) and insert-
10 ing the following:

11 “(3) MINIMUM REQUIREMENTS.—

12 “(A) IN GENERAL.—An exploration plan
13 submitted under this subsection shall include,
14 in such degree of detail as the Secretary by reg-
15 ulation may require—

16 “(i) a complete description and sched-
17 ule of the exploration activities to be un-
18 dertaken;

19 “(ii) a description of the equipment to
20 be used for the exploration activities, in-
21 cluding—

22 “(I) a description of the drilling
23 unit;

1 “(II) a statement of the design
2 and condition of major safety-related
3 pieces of equipment;

4 “(III) a description of any new
5 technology to be used; and

6 “(IV) a statement demonstrating
7 that the equipment to be used meets
8 the best available technology require-
9 ments under section 21(b);

10 “(iii) a map showing the location of
11 each well to be drilled;

12 “(iv)(I) a scenario for the potential
13 blowout of the well involving the highest
14 potential volume of liquid hydrocarbons;
15 and

16 “(II) a complete description of a re-
17 sponse plan to control the blowout and
18 manage the accompanying discharge of hy-
19 drocarbons, including—

20 “(aa) the technology and timeline
21 for regaining control of the well; and

22 “(bb) the strategy, organization,
23 and resources necessary to avoid harm
24 to the environment and human health
25 from hydrocarbons; and

1 “(v) any other information determined
2 to be relevant by the Secretary.

3 “(B) DEEPWATER WELLS.—

4 “(i) IN GENERAL.—Before conducting
5 exploration activities in water depths
6 greater than 500 feet, the holder of a lease
7 shall submit to the Secretary for approval
8 a deepwater operations plan prepared by
9 the lessee in accordance with this subpara-
10 graph.

11 “(ii) TECHNOLOGY REQUIREMENTS.—
12 A deepwater operations plan under this
13 subparagraph shall be based on the best
14 available technology to ensure safety in
15 carrying out the exploration activity and
16 the blowout response plan.

17 “(iii) SYSTEMS ANALYSIS RE-
18 QUIRED.—The Secretary shall not approve
19 a deepwater operations plan under this
20 subparagraph unless the plan includes a
21 technical systems analysis of—

22 “(I) the safety of the proposed
23 exploration activity;

24 “(II) the blowout prevention
25 technology; and

1 “(III) the blowout and spill re-
2 sponse plans.”; and

3 (C) by adding at the end the following:

4 “(5) DEADLINE FOR APPROVAL.—

5 “(A) IN GENERAL.—In the case of a lease
6 issued under a sale held after March 17, 2010,
7 the deadline for approval of an exploration plan
8 referred to in the fourth sentence of paragraph
9 (1) is—

10 “(i) the date that is 90 days after the
11 date on which the plan or the modifica-
12 tions to the plan are submitted; or

13 “(ii) the date that is not later than an
14 additional 180 days after the deadline de-
15 scribed in clause (i), if the Secretary
16 makes a finding that additional time is
17 necessary to complete any environmental,
18 safety, or other reviews.

19 “(B) EXISTING LEASES.—In the case of a
20 lease issued under a sale held on or before
21 March 17, 2010, the Secretary, with the con-
22 sent of the holder of the lease, may extend the
23 deadline applicable to the lease for such addi-
24 tional time as the Secretary determines is nec-

1 essary to complete any environmental, safety, or
2 other reviews.”;

3 (2) by redesignating subsections (e) through
4 (h) as subsections (f) through (i), respectively; and

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

7 “(d) DRILLING PERMITS.—

8 “(1) IN GENERAL.—The Secretary shall, by
9 regulation, require that any lessee operating under
10 an approved exploration plan obtain a permit—

11 “(A) before the lessee drills a well in ac-
12 cordance with the plan; and

13 “(B) before the lessee significantly modi-
14 fies the well design originally approved by the
15 Secretary.

16 “(2) ENGINEERING REVIEW REQUIRED.—The
17 Secretary may not grant any drilling permit until
18 the date of completion of a full engineering review
19 of the well system, including a determination that—

20 “(A) critical safety systems (including
21 blowout prevention) will use best available tech-
22 nology; and

23 “(B) blowout prevention systems will in-
24 clude redundancy and remote triggering capa-
25 bility.

“(3) MODIFICATION REVIEW REQUIRED.—The Secretary may not approve any modification of a permit without a determination, after an additional engineering review, that the modification will not degrade the safety of the well system previously approved.

“(4) OPERATOR SAFETY AND ENVIRONMENTAL
MANAGEMENT REQUIRED.—The Secretary may not
grant any drilling permit or modification of the per-
mit until the date of completion and approval of a
safety and environmental management plan that—

12 “(A) is to be used by the operator during
13 all well operations; and

14 “(B) includes—

15 “(i) a description of the expertise and
16 experience level of crew members who will
17 be present on the rig; and

18 “(ii) designation of at least 2 environ-
19 mental and safety managers that—

20 “(I) are employees of the oper-
21 ator;

22 “(II) would be present on the rig
23 at all times; and

24 “(III) have overall responsibility
25 for the safety and environmental man-

1 agement of the well system and spill
2 response plan; and

3 “(C) not later than May 1, 2012, requires
4 that all employees on the rig meet the training
5 and experience requirements under section
6 21(b)(4).

7 “(e) DISAPPROVAL OF EXPLORATION PLAN.—

8 “(1) IN GENERAL.—The Secretary shall dis-
9 approve an exploration plan submitted under this
10 section if the Secretary determines that, because of
11 exceptional geological conditions in the lease areas,
12 exceptional resource values in the marine or coastal
13 environment, or other exceptional circumstances,
14 that—

15 “(A) implementation of the exploration
16 plan would probably cause serious harm or
17 damage to life (including fish and other aquatic
18 life), property, mineral deposits, national secu-
19 rity or defense, or the marine, coastal or human
20 environments;

21 “(B) the threat of harm or damage would
22 not disappear or decrease to an acceptable ex-
23 tent within a reasonable period of time; and

1 “(C) the advantages of disapproving the
2 exploration plan outweigh the advantages of ex-
3 ploration.

4 “(2) COMPENSATION.—If an exploration plan is
5 disapproved under this subsection, the provisions of
6 subparagraphs (B) and (C) of section 25(h)(2) shall
7 apply to the lease and the plan or any modified plan,
8 except that the reference in section 25(h)(2)(C) to a
9 development and production plan shall be considered
10 to be a reference to an exploration plan.”.

11 (f) OUTER CONTINENTAL SHELF LEASING PRO-
12 GRAM.—Section 18 of the Outer Continental Shelf Lands
13 Act (43 U.S.C. 1344) is amended—

14 (1) in subsection (a)—

15 (A) in the second sentence, by inserting
16 after “national energy needs” the following:
17 “and the need for the protection of the marine
18 and coastal environment and resources”;

19 (B) in paragraph (1), by striking “con-
20 siders” and inserting “gives equal consideration
21 to”; and

22 (C) in paragraph (3), by striking “, to the
23 maximum extent practicable,”;

24 (2) in subsection (b)—

1 (A) in paragraph (3), by striking “and” at
2 the end;

3 (B) in paragraph (4), by striking the pe-
4 riod at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(5) provide technical review and oversight of
7 the exploration plan and a systems review of the
8 safety of the well design and other operational deci-
9 sions;

10 “(6) conduct regular and thorough safety re-
11 views and inspections, and;

12 “(7) enforce all applicable laws (including regu-
13 lations).”;

14 (3) in the second sentence of subsection (d)(2),
15 by inserting “, the head of an interested Federal
16 agency,” after “Attorney General”;

17 (4) in the first sentence of subsection (g), by in-
18 serting before the period at the end the following: “,
19 including existing inventories and mapping of ma-
20 rine resources previously undertaken by the Depart-
21 ment of the Interior and the National Oceanic and
22 Atmospheric Administration, information provided
23 by the Department of Defense, and other available
24 data regarding energy or mineral resource potential,
25 navigation uses, fisheries, aquaculture uses, rec-

1 reational uses, habitat, conservation, and military
2 uses on the outer Continental Shelf”; and

3 (5) by adding at the end the following:

4 “(i) RESEARCH AND DEVELOPMENT.—

5 “(1) IN GENERAL.—The Secretary shall carry
6 out a program of research and development to en-
7 sure the continued improvement of methodologies for
8 characterizing resources of the outer Continental
9 Shelf and conditions that may affect the ability to
10 develop and use those resources in a safe, sound,
11 and environmentally responsible manner.

12 “(2) INCLUSIONS.—Research and development
13 activities carried out under paragraph (1) may in-
14 clude activities to provide accurate estimates of en-
15 ergy and mineral reserves and potential on the outer
16 Continental Shelf and any activities that may assist
17 in filling gaps in environmental data needed to de-
18 velop each leasing program under this section.

19 “(3) LEASING ACTIVITIES.—Research and de-
20 velopment activities carried out under paragraph (1)
21 shall not be considered to be leasing or pre-leasing
22 activities for purposes of this Act.”.

23 (g) ENVIRONMENTAL STUDIES.—Section 20 of the
24 Outer Continental Shelf Lands Act (43 U.S.C. 1346) is
25 amended—

1 (1) by redesignating subsections (a) through (f)
2 as subsections (b) through (g), respectively;

3 (2) by inserting before subsection (b) (as so re-
4 designated) the following:

5 “(a) COMPREHENSIVE AND INDEPENDENT STUD-
6 IES.—

7 “(1) IN GENERAL.—The Secretary shall develop
8 and carry out programs for the collection, evalua-
9 tion, assembly, analysis, and dissemination of envi-
10 ronmental and other resource data that are relevant
11 to carrying out the purposes of this Act.

12 “(2) SCOPE OF RESEARCH.—The programs
13 under this subsection shall include—

14 “(A) the gathering of baseline data in
15 areas before energy or mineral resource devel-
16 opment activities occur;

17 “(B) ecosystem research and monitoring
18 studies to support integrated resource manage-
19 ment decisions; and

20 “(C) the improvement of scientific under-
21 standing of the fate, transport, and effects of
22 discharges and spilled materials, including deep
23 water hydrocarbon spills, in the marine environ-
24 ment.

1 “(3) USE OF DATA.—The Secretary shall en-
2 sure that information from the studies carried out
3 under this section—

4 “(A) informs the management of energy
5 and mineral resources on the outer Continental
6 Shelf including any areas under consideration
7 for oil and gas leasing; and

8 “(B) contributes to a broader coordination
9 of energy and mineral resource development ac-
10 tivities within the context of best available
11 science.

12 “(4) INDEPENDENCE.—The Secretary shall cre-
13 ate a program within the appropriate bureau estab-
14 lished under section 32 that shall—

15 “(A) be programmatically separate and
16 distinct from the leasing program;

17 “(B) carry out the environmental studies
18 under this section;

19 “(C) conduct additional environmental
20 studies relevant to the sound management of
21 energy and mineral resources on the outer Con-
22 tinental Shelf;

23 “(D) provide for external scientific review
24 of studies under this section, including through

1 appropriate arrangements with the National
2 Academy of Sciences; and

3 “(E) subject to the restrictions of sub-
4 sections (g) and (h) of section 18, make avail-
5 able to the public studies conducted and data
6 gathered under this section.”; and

7 (3) in the first sentence of subsection (b)(1) (as
8 so redesignated), by inserting “every 3 years” after
9 “shall conduct”.

10 (h) SAFETY RESEARCH AND REGULATIONS.—Section
11 21 of the Outer Continental Shelf Lands Act (43 U.S.C.
12 1347) is amended—

13 (1) in the first sentence of subsection (a), by
14 striking “Upon the date of enactment of this sec-
15 tion,” and inserting “Not later than May 1, 2011,
16 and every 3 years thereafter,”;

17 (2) by striking subsection (b) and inserting the
18 following:

19 “(b) BEST AVAILABLE TECHNOLOGIES AND PRAC-
20 TICES.—

21 “(1) IN GENERAL.—In exercising respective re-
22 sponsibilities under this Act, the Secretary, and the
23 Secretary of the Department in which the Coast
24 Guard is operating, shall require, on all new drilling
25 and production operations and, to the maximum ex-

1 tent practicable, on existing operations, the use of
2 the best available and safest technologies and prac-
3 tices, if the failure of equipment would have a sig-
4 nificant effect on safety, health, or the environment.

5 “(2) IDENTIFICATION OF BEST AVAILABLE
6 TECHNOLOGIES.—Not later than May 1, 2011, and
7 not later than every 3 years thereafter, the Secretary
8 shall identify and publish an updated list of best
9 available technologies for key areas of well design
10 and operation, including blowout prevention and
11 blowout and oil spill response.

12 “(3) SAFETY CASE.—Not later than May 1,
13 2011, the Secretary shall promulgate regulations re-
14 quiring a safety case be submitted along with each
15 new application for a permit to drill on the outer
16 Continental Shelf.

17 “(4) EMPLOYEE TRAINING.—

18 “(A) IN GENERAL.—Not later than May 1,
19 2011, the Secretary shall promulgate regula-
20 tions setting standards for training for all
21 workers on offshore facilities (including mobile
22 offshore drilling units) conducting energy and
23 mineral resource exploration, development, and
24 production operations on the outer Continental
25 Shelf.

1 “(B) REQUIREMENTS.—The training
2 standards under this paragraph shall require
3 that employers of workers described in subpara-
4 graph (A)—

5 “(i) establish training programs ap-
6 proved by the Secretary; and

7 “(ii) demonstrate that employees in-
8 volved in the offshore operations meet
9 standards that demonstrate the aptitude of
10 the employees in critical technical skills.

11 “(C) EXPERIENCE.—The training stand-
12 ards under this section shall require that any
13 offshore worker with less than 5 years of ap-
14 plied experience in offshore facilities operations
15 pass a certification requirement after receiving
16 the appropriate training.

17 “(D) MONITORING TRAINING COURSES.—
18 The Secretary shall ensure that Department
19 employees responsible for inspecting offshore fa-
20 cilities monitor, observe, and report on training
21 courses established under this paragraph, in-
22 cluding attending a representative number of
23 the training sessions, as determined by the Sec-
24 retary.”; and

25 (3) by adding at the end the following:

1 “(g) TECHNOLOGY RESEARCH AND RISK ASSESS-
2 MENT PROGRAM.—

3 “(1) IN GENERAL.—The Secretary shall carry
4 out a program of research, development, and risk as-
5 sessment to address technology and development
6 issues associated with outer Continental Shelf en-
7 ergy and mineral resource activities, with the pri-
8 mary purpose of informing the role of research, de-
9 velopment, and risk assessment relating to safety,
10 environmental protection, and spill response.

11 “(2) SPECIFIC AREAS OF FOCUS.—The program
12 under this subsection shall include research, develop-
13 ment, and other activities related to—

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

17 “(B) analysis of industry trends in tech-
18 nology, investment, and interest in frontier
19 areas;

20 “(C) analysis of incidents investigated
21 under section 22;

22 “(D) reviews of best available technologies,
23 including technologies associated with pipelines,
24 blowout preventer mechanisms, casing, well de-

1 sign, and other associated infrastructure related
2 to offshore energy development;

3 “(E) oil spill response and mitigation;

4 “(F) risks associated with human factors;

5 and

6 “(G) renewable energy operations.

7 “(3) INFORMATION SHARING ACTIVITIES.—

8 “(A) DOMESTIC ACTIVITIES.—The Sec-
9 retary shall carry out programs to facilitate the
10 exchange and dissemination of scientific and
11 technical information and best practices related
12 to the management of safety and environmental
13 issues associated with energy and mineral re-
14 source exploration, development, and produc-
15 tion.

16 “(B) INTERNATIONAL COOPERATION.—

17 The Secretary shall carry out programs to co-
18 operate with international organizations and
19 foreign governments to share information and
20 best practices related to the management of
21 safety and environmental issues associated with
22 energy and mineral resource exploration, devel-
23 opment, and production.

24 “(4) REPORTS.—The program under this sub-
25 section shall provide to the Secretary, each Bureau

1 Director under section 32, and the public quarterly
2 reports that address—

3 “(A) developments in each of the areas
4 under paragraph (2); and

5 “(B)(i) any accidents that have occurred in
6 the past quarter; and

7 “(ii) appropriate responses to the acci-
8 dents.

9 “(5) INDEPENDENCE.—The Secretary shall cre-
10 ate a program within the appropriate bureau estab-
11 lished under section 32 that shall—

12 “(A) be programmatically separate and
13 distinct from the leasing program;

14 “(B) carry out the studies, analyses, and
15 other activities under this subsection;

16 “(C) provide for external scientific review
17 of studies under this section, including through
18 appropriate arrangements with the National
19 Academy of Sciences; and

20 “(D) make available to the public studies
21 conducted and data gathered under this section.

22 “(6) USE OF DATA.—The Secretary shall en-
23 sure that the information from the studies and re-
24 search carried out under this section inform the de-

1 velopment of safety practices and regulations as re-
2 quired by this Act and other applicable laws.”.

3 (i) ENFORCEMENT.—Section 22 of the Outer Conti-
4 nental Shelf Lands Act (43 U.S.C. 1348) is amended—

5 (1) in subsection (d)—

6 (A) in paragraph (1)—

7 (i) in the first sentence, by inserting
8 “, each loss of well control, blowout, activa-
9 tion of the blowout preventer, and other
10 accident that presented a serious risk to
11 human or environmental safety,” after
12 “fire”; and

13 (ii) in the last sentence, by inserting
14 “as a condition of the lease” before the pe-
15 riod at the end;

16 (B) in the last sentence of paragraph (2),
17 by inserting “as a condition of lease” before the
18 period at the end;

19 (2) in subsection (e)—

20 (A) by striking “(e) The” and inserting the
21 following:

22 “(e) REVIEW OF ALLEGED SAFETY VIOLATIONS.—

23 “(1) IN GENERAL.—The”; and

24 (B) by adding at the end the following:

1 “(2) INVESTIGATION.—The Secretary shall in-
2 vestigate any allegation from any employee of the
3 lessee or any subcontractor of the lessee made under
4 paragraph (1).”; and

5 (3) by adding at the end of the section the fol-
6 lowing:

7 “(g) INDEPENDENT INVESTIGATION.—

8 “(1) IN GENERAL.—At the request of the Sec-
9 retary, the National Transportation Safety Board
10 may conduct an independent investigation of any ac-
11 cident, occurring in the outer Continental Shelf and
12 involving activities under this Act, that does not oth-
13 erwise fall within the definition of an accident or
14 major marine casualty, as those terms are used in
15 chapter 11 of title 49, United States Code.

16 “(2) TRANSPORTATION ACCIDENT.—For pur-
17 poses of an investigation under this subsection, the
18 accident that is the subject of the request by the
19 Secretary shall be determined to be a transportation
20 accident within the meaning of that term in chapter
21 11 of title 49, United States Code.

22 “(h) INFORMATION ON CAUSES AND CORRECTIVE
23 ACTIONS.—

24 “(1) IN GENERAL.—For each incident inves-
25 tigated under this section, the Secretary shall

1 promptly make available to all lessees and the public
2 technical information about the causes and correc-
3 tive actions taken.

4 “(2) PUBLIC DATABASE.—All data and reports
5 related to an incident described in paragraph (1)
6 shall be maintained in a database that is available
7 to the public.

8 “(i) INSPECTION FEE.—

9 “(1) IN GENERAL.—The Secretary shall collect
10 a non-refundable inspection fee, which shall be de-
11 posited in the Ocean Energy Enforcement Fund es-
12 tablished under paragraph (3), from the designated
13 operator for facilities subject to inspection under
14 subsection (c).

15 “(2) ESTABLISHMENT.—The Secretary shall es-
16 tablish, by rule, inspection fees—

17 “(A) at an aggregate level equal to the
18 amount necessary to offset the annual expenses
19 of inspections of outer Continental Shelf facili-
20 ties (including mobile offshore drilling units) by
21 the Department of the Interior; and

22 “(B) using a schedule that reflects the dif-
23 ferences in complexity among the classes of fa-
24 cilities to be inspected.

1 “(3) OCEAN ENERGY ENFORCEMENT FUND.—

2 There is established in the Treasury a fund, to be
3 known as the ‘Ocean Energy Enforcement Fund’
4 (referred to in this subsection as the ‘Fund’), into
5 which shall be deposited amounts collected under
6 paragraph (1) and which shall be available as pro-
7 vided under paragraph (4).

8 “(4) AVAILABILITY OF FEES.—Notwithstanding
9 section 3302 of title 31, United States Code, all
10 amounts collected by the Secretary under this sec-
11 tion—

12 “(A) shall be credited as offsetting collec-
13 tions;

14 “(B) shall be available for expenditure only
15 for purposes of carrying out inspections of
16 outer Continental Shelf facilities (including mo-
17 bile offshore drilling units) and the administra-
18 tion of the inspection program;

19 “(C) shall be available only to the extent
20 provided for in advance in an appropriations
21 Act; and

22 “(D) shall remain available until expended.

23 “(5) ANNUAL REPORTS.—

24 “(A) IN GENERAL.—Not later than 60
25 days after the end of each fiscal year beginning

1 with fiscal year 2011, the Secretary shall sub-
2 mit to the Committee on Energy and Natural
3 Resources of the Senate and the Committee on
4 Natural Resources of the House of Representa-
5 tives a report on the operation of the Fund dur-
6 ing the fiscal year.

7 “(B) CONTENTS.—Each report shall in-
8 clude, for the fiscal year covered by the report,
9 the following:

10 “(i) A statement of the amounts de-
11 posited into the Fund.

12 “(ii) A description of the expenditures
13 made from the Fund for the fiscal year, in-
14 cluding the purpose of the expenditures.

15 “(iii) Recommendations for additional
16 authorities to fulfill the purpose of the
17 Fund.

18 “(iv) A statement of the balance re-
19 maining in the Fund at the end of the fis-
20 cal year.”.

21 (j) REMEDIES AND PENALTIES.—Section 24 of the
22 Outer Continental Shelf Lands Act (43 U.S.C. 1350) is
23 amended—

24 (1) by striking subsection (b) and inserting the
25 following:

1 “(b) CIVIL PENALTY.—

2 “(1) IN GENERAL.—Subject to paragraphs (2)
3 through (3), if any person fails to comply with this
4 Act, any term of a lease or permit issued under this
5 Act, or any regulation or order issued under this
6 Act, the person shall be liable for a civil administra-
7 tive penalty of not more than \$75,000 for each day
8 of continuance of each failure.

9 “(2) ADMINISTRATION.—The Secretary may as-
10 sess, collect, and compromise any penalty under
11 paragraph (1).

12 “(3) HEARING.—No penalty shall be assessed
13 under this subsection until the person charged with
14 a violation has been given the opportunity for a
15 hearing.

16 “(4) ADJUSTMENT.—The penalty amount speci-
17 fied in this subsection shall increase each year to re-
18 flect any increases in the Consumer Price Index for
19 All Urban Consumers published by the Bureau of
20 Labor Statistics of the Department of Labor.”;

21 (2) in subsection (c)—

22 (A) in the first sentence, by striking
23 “\$100,000” and inserting “\$10,000,000”; and

24 (B) by adding at the end the following:

25 “The penalty amount specified in this sub-

1 section shall increase each year to reflect any
2 increases in the Consumer Price Index for All
3 Urban Consumers published by the Bureau of
4 Labor Statistics of the Department of Labor.”;
5 and

6 (3) in subsection (d), by inserting “, or with
7 reckless disregard,” after “knowingly and willfully”.

8 (k) OIL AND GAS DEVELOPMENT AND PRODUC-
9 TION.—Section 25 of the Outer Continental Shelf Lands
10 Act (43 U.S.C. 1351) is amended by striking “, other than
11 the Gulf of Mexico,” each place it appears in subsections
12 (a)(1), (b), and (e)(1).

13 **SEC. 7. REFORM OF OTHER LAWS.**

14 (a) COORDINATED MAPPING INITIATIVE.—Section
15 388(b) of the Energy Policy Act of 2005 (43 U.S.C. 1337
16 note; Public Law 109–58) is amended by adding at the
17 end the following:

18 “(4) FEDERAL AGENCIES.—Any head of a Fed-
19 eral department or agency shall, on request of the
20 Secretary, provide to the Secretary all data and in-
21 formation that the Secretary determines to be nec-
22 essary for the purpose of including the data and in-
23 formation in the mapping initiative, except that no
24 Federal department or agency shall be required to

1 provide any data or information that is privileged or
2 proprietary.”.

3 (b) DEDICATED FUNDING FOR OUTER CONTINENTAL
4 SHELF RESEARCH ACTIVITIES.—Section 999H(d) of the
5 Energy Policy Act of 2005 (42 U.S.C. 16378(d)) is
6 amended by striking paragraph (4) and inserting the fol-
7 lowing:

8 “(4) 25 percent shall be used for research ac-
9 tivities required under sections 20 and 21 of the
10 Outer Continental Shelf Lands Act (43 U.S.C. 1346,
11 1347).”.

12 **SEC. 8. SAVINGS PROVISIONS.**

13 (a) EXISTING LAW.—All regulations, rules, stand-
14 ards, determinations, contracts and agreements, memo-
15 randa of understanding, certifications, authorizations, ap-
16 pointments, delegations, results and findings of investiga-
17 tions, or any other actions issued, made, or taken by, or
18 pursuant to or under, the authority of any law (including
19 regulations) that resulted in the assignment of functions
20 or activities to the Secretary, the Director of the Minerals
21 Management Service (including by delegation from the
22 Secretary), or the Department (as related to the imple-
23 mentation of the purposes referenced in this Act) that
24 were in effect on the date of enactment of this Act shall
25 continue in full force and effect after the date of enact-

1 ment of this Act unless previously scheduled to expire or
2 until otherwise modified or rescinded by this Act or any
3 other Act.

4 (b) EFFECT ON OTHER AUTHORITIES.—This Act
5 does not amend or alter the provisions of other applicable
6 laws, unless otherwise noted.

7 **SEC. 9. BUDGETARY EFFECTS.**

8 The budgetary effects of this Act, for the purpose of
9 complying with the Statutory Pay-As-You-Go-Act of 2010,
10 shall be determined by reference to the latest statement
11 titled “Budgetary Effects of PAYGO Legislation” for this
12 Act, submitted for printing in the Congressional Record
13 by the Chairman of the Senate Budget Committee, pro-
14 vided that such statement has been submitted prior to the
15 vote on passage.