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BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES
U.S. SENATE

ON AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

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Chairman Bingaman, Ranking Member Murkowski and Members of the Committee, thank you for the opportunity to testify and comment on the legislation you have before you today. I will focus most of my testimony on S. 3516, the "Outer Continental Shelf Reform Act of 2010" and provide more general recommendations for Outer Continental Shelf (OCS) reform, many of which are relevant to the other bills under consideration by the Committee.

My name is Marilyn Heiman and I direct the Offshore Energy Reform Project and the US Arctic Program at the Pew Environment Group. I have 27 years of experience working on oil and gas policy issues. I served as Natural Resources Special Assistant to the Governor of Alaska and later as the Senior Advisor to the Secretary of Interior for Alaska, during the Clinton Administration. I also served as staff to the Exxon Valdez Oil Spill Commission.

As with the Exxon Valdez oil spill complacency by the government, industry and citizens appears to be one of the central causes of the BP Deep Water Horizon disaster. There has been a systematic breakdown in the safety and management by industry of offshore drilling operations and a breakdown in the government's oversight of these operations. Regulators accepted assurances that offshore drilling technology had become so advanced that a blowout was highly unlikely, if not impossible, and citizens had few tools with which to verify those assurances. We did not do what was necessary to prevent a catastrophic oil spill, and the Gulf and its communities will suffer for decades as a result.

For all these reasons, the President's decision to suspend offshore drilling in deep water and the Arctic show a great deal of leadership. New problems and shortcuts associated with the BP Deep Water Horizon operation are emerging daily. It is very responsible to wait for the Presidential Commission to make their recommendations prior to proceeding with any more drilling in deep water, the Arctic Ocean or any new areas of the OCS.

Congress has not enacted significant amendments to Outer Continental Shelf Lands Act (OCSLA) since 1978. In the 32 intervening years, advancements in technology have allowed extraction of oil and gas from ever-deeper waters. However, the technology for extraction appears to have far outstripped the quality of oil spill prevention and response capabilities. The Oil Pollution Act (OPA '90)—enacted in response to the Exxon Valdez oil spill— focused primarily on the direct cause of that spill: tanker accidents. This time we should not limit our attention only to the current disaster. It is time for a comprehensive updating and modernization of OCSLA and OPA '90, the laws that govern mineral extraction from our oceans, and oil spill

liability, response, and recovery. In our view there is little doubt that the flaws in these two statutes opened the door for a process that enabled the Gulf disaster to occur.

The structural reforms within the Department of Interior proposed by the Administration are an important step toward providing competent and independent oversight of oil and gas development but they are not sufficient to ensure that oil and gas development in ocean waters is safe and conducted in the nation's best interest. Congress must amend OCSLA to establish a new approach that fully and accurately assesses and manages the risks of offshore energy development.

The Pew Environment Group commends the Committee for taking a holistic look at the Outer Continental Shelf Lands Act and proposing important substantive changes.

We appreciate the opportunity to provide comments on S.3516, the "Outer Continental Shelf Reform Act of 2010". These comments were developed in coordination with the Ocean Conservancy. You will also find our general recommendations on OCS reform in Attachment A.

We support key concepts in the bill including:

1) Recognizing the need for protection of the marine environment;

2) Requiring the Secretary to acknowledge comments of other agencies such as the National Oceanic and Atmospheric Administration (NOAA), the U.S. Fish and Wildlife Service (USFWS) the U.S. Geological Survey (USGS), the Environmental Protection Agency (EPA), and the U.S. Coast Guard (USCG) in the development of the 5-year oil and gas leasing program;

3) Establishing new, independent science bodies charged with collecting baseline data before leasing, undertaking ecosystem research and addressing risk; and

4) Extending the time to allotted to review exploration plans; and

5) Requiring a complete description of a response plan to control any blowout and to manage the accompanying discharge of hydrocarbons including the timeline for regaining control of the well.

These steps will begin to address the causes of and help to prevent future spills like the BP Deepwater Horizon. However, Congress can and should do more. The following comments contain a series of recommendations on how this legislation should be strengthened. They also address some issues, including spill prevention and response that may fall outside the jurisdiction of this Committee but should be addressed in any comprehensive reform package.

I. Policy Statement and Substantive Standards

The nation's current OCS policy—set forth in OCSLA Section 3, 43 U.S.C. § 1332—does not place sufficient emphasis on protection of coastal and ocean ecosystem health. S. 3516 includes positive steps to address this problem, but the proposed changes do not go far enough. Congress should clarify OCS policy to underscore and prioritize protection of ecosystem health. We recommend the following changes:

A. Clarify OCS policy by adding Congressional findings and strengthening Section 4 of S.3516

(1) Add Congressional Findings:
Before setting forth a national policy for the OCS, Congress should articulate findings that place OCS oil and gas activities in a broader context. Congress should find that:

> • OCS lands are part of a complex and dynamic marine ecosystem that includes numerous resources that are of national importance including: fish species that support economically valuable commercial and sport fisheries as well as provide a critical source of food for the nation; marine mammals that provide subsistence food for certain coastal communities and support recreational businesses in other communities; and corals and other living organisms that are an essential part of a healthy, functioning marine ecosystem;
> • substantial questions exist regarding the complex nature of and functioning of marine ecosystems; and
> • development of OCS oil and gas resources must be undertaken with full recognition of the complexity and value of marine ecosystems and can proceed only when and where it can occur with the least possible risk of adverse impact on living marine and coastal resources.

(2) Strengthen Section 4 of S. 3516 to emphasize protection of the marine environment.

Although Section 4 of S. 3516 suggests positive changes to OCSLA's declaration of national OCS policy, additional changes are necessary to strengthen the protection of marine and coastal ecosystems in any oil and gas development.

> •OCSLA Section 3, paragraph 3, subparagraph (B) should be further amended to require that the OCS be managed in a way that *minimizes*—not just recognizes—the potential impacts associated with developing OCS resources. We recommend the following language:
>
> > "(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be managed in a manner that—
> > (A) recognizes the need of the United States for domestic sources of energy, food, minerals, and other resources;
> > (B) minimizes the potential impacts of develop of those resources on the marine and coastal environments and on human health and safety; and

> (C) acknowledges the long-term economic value to the United States of the balanced and orderly management of those resources that safeguards the environment and respects the multiple values and uses of the outer Continental Shelf."

• OCSLA Section 3, redesignated paragraph 6 should be further amended to provide that "exploration, development, and production of energy and minerals on the outer Continental Shelf shall be allowed only when those activities can be accomplished in a manner that protects life, health, the marine and coastal environment, property, or other users of the waters, seabed, or subsoil; and

• OCSLA Section 3, redesignated paragraph 7 should be further changed by striking the words "or minimize the likelihood of."

B. Incorporate substantive standards to ensure protection of marine and coastal ecosystems.

As currently written, OCSLA lacks meaningful, substantive standards. For example, when developing a five-year leasing program, OCSLA requires the Secretary of the Interior to "consider[ ]" environmental values and "balance" impacts on the environment with oil and gas development. 43 U.S.C. § 1344(a). OCSLA should be amended so that environmental concerns and marine resources are not just "considered" or "balanced," but are protected pursuant to a discernable, enforceable standard.

(1) Make additional changes to OCSLA Section 6, 43 U.S.C. 1334(a), to require the Secretary to promulgate specific regulations designed to safeguard the marine environment.

The amended section 6 should require the Secretary to promulgate regulations to:

• establish procedures for participation in and compliance with any coastal and marine spatial planning process established by the President and/or Congress;
• identify (a) important ecological areas that will be excluded from oil and gas leasing and exploration and (b) measures necessary to preserve the integrity and function of important ecological areas;
• establish procedures for collecting baseline data concerning ocean water characteristics, wildlife, and the benthic environment that will be required before leasing can proceed in an area;
• establish procedures for involving other expert agencies in decision making concerning oil and gas leasing; and
• identify the most effective safety technology to be used for exploration and development

(2) Make additional changes to OCSLA Section 8, 43 U.S.C. § 1337, to ensure that OCS oil and gas leases are sold only when lessees can meet environmental standards.

Congress should amend OCSLA to require potential lessees to meet environmental standards before leases are sold. This will ensure that potential lessees do not acquire rights until they have demonstrated their ability to operate safely. Section III in Attachment A of this document, below, describes realistic response standards.

(3) Make additional changes to OCSLA Section 11, 43 U.S.C. § 1340, to ensure adequate time for environmental analyses and to remove compensation for disapproval of an exploration plan.

S. 3516 includes a number of amendments to OCSLA Section 11, subsection (e). While these changes are primarily positive, additional changes are necessary. Section 6(e) of the S. 3516 extends the deadline by which the Secretary must approve an exploration plan. In this section, the description of redesignated paragraph (5)(A)(ii) should be changed to read "(ii) if the Secretary makes a finding that additional time is necessary to complete any environmental, safety, or other reviews, a date not later than 30 days after the completion of the last such review." This will ensure that the Secretary has adequate time to complete the necessary reviews.

S. 3516 changes the circumstances under which the Secretary may disapprove an exploration plan. The proposed bill sets the bar much too high. The language should be changed to strike all three instances of the word "exceptional" from redesignated subsection (e)(1). In redesignated subsection (e)(1)(A), the words "would probably" should be changed to "could."

S. 3516 contains language that would compensate lessees in the event that their exploration plans are disapproved. This section should be deleted. An OCS lease is not a conditional right to conduct exploration and compensation is not due if the Secretary determines that exploration is inappropriate.

(4) Make additional changes to OCSLA Section 18, 43 U.S.C. § 1344, to incorporate substantive standards for environmental protection.

Currently, OCSLA gives the Secretary of the Interior broad discretion to develop five-year oil and gas leasing programs. In addition to the S.3516 amendments, Congress should amend OCSLA Section 18 to incorporate substantive, discernable standards that will guide the Secretary's decision-making and ensure that oil and gas activities will not adversely affect ecosystem health. These amendments should:

• guide the development of the five-year plan by stating that "management of the OCS shall be conducted in a manner that protects economic, social, and environmental values of the renewable and nonrenewable resources contained in the OCS and restricts to the greatest extent possible the potential impact of oil and gas exploration on other resource values of the OCS and the marine and coastal environments."

• require the identification of any important ecological areas (IEAs) within the areas proposed for inclusion in the program. Areas identified as IEAs should be excluded

from the five-year leasing program or—at the least—IEAs should be subject to specific, stringent precautions that must be satisfied before the sale of any leases wholly or partially within IEAs;

• require the collection of specific types of baseline science information on OCS areas before they can be included in a five-year program. For example, before an area of the OCS is included in a five-year program, Congress should require at least three years of baseline weather, water, wind, ocean chemistry, and other environmental data. It should require similar baseline studies for wildlife—including fish, birds, invertebrates, and marine mammals—and of the benthic environment. Unless and until such data is compiled for a given area of the OCS, that area should not be eligible for inclusion in a five-year program. In addition, Congress include specific requirements designed to ensure a more rigorous and meaningful evaluation of environmental sensitivity and marine productivity. This requirement should be integrated into and coordinated with baseline science information;

• require that the Secretary select a leasing schedule that best protects marine and coastal environments while helping to meet national energy needs from a range of alternatives.

II. Expert resource and safety agencies should have a much greater role in decisions about and preparation of environmental analyses for OCS oil and gas activities.

S.3516's requirement that the Secretary of the Interior respond to the concerns of the "heads of interested federal agencies" is a positive first step but not sufficient to address the inadequacies in the science and environmental review.

Congress should amend Section 18 of OCSLA to give the Secretary of Commerce, who has resource protection responsibilities under the Marine Mammal Protection Act, the Endangered Species Act, and the Magnuson-Stevens Fishery Conservation Act, a greater role in making initial decisions about if, when, where, and how to allow oil and gas leasing, exploration, and development on the OCS. For example, Congress could amend Section 18 so that the Secretaries of Commerce and of the Interior have joint and equal responsibility for preparing five-year oil and gas leasing programs. Alternatively, Congress could amend Section 18 to require the concurrence of the Secretary of Commerce before any five-year leasing program is finalized and implemented.

To ensure that environmental analyses for OCS oil and gas actions are sufficiently comprehensive, Congress should amend OCSLA to require that NOAA play a more significant role in the National Environmental Policy Act (NEPA) process for OCS oil and gas decisions. Congress could accomplish this by requiring MMS and NOAA to jointly prepare NEPA documents for OCS oil and gas activities. Or, Congress could require MMS to obtain the concurrence of NOAA before MMS issues any record of decision or finding of no significant impact concerning any OCS oil and gas action. With NOAA's broad ocean expertise and its role as a natural resource trustee, greater involvement by NOAA will help ensure that environmental analyses contain a proper range of reasonable alternatives and assess accurately the risks of oil and gas activities.

Congress should also specify that other administrative agencies with relevant expertise, including USFWS, USGS, EPA, USCG, and others, contribute to the NEPA process, at a minimum, as cooperating agencies. The statute should also require that the Secretary solicit and take into account local and traditional knowledge from affected communities. This would ensure that expert concerns are heard from the outset, and could help avoid complications later in the process. Affected local governments and tribes must also be partners in preparation of the NEPA analyses.

III. Narrowing the Area for Lease Sales

As a matter of policy, over the past several decades, the Secretary of Interior has defined the scope of the five-year leasing schedule far too broadly. Rather than narrowly targeting leasing on areas with the highest potential for oil and gas production coupled with the least risk to the marine environment, the Secretary's plans define "planning areas" that encompass tens or even hundreds of millions of acres. Because of the enormous scope of these planning areas, environmental analyses are too generalized to support informed decisions about where to authorize oil and gas development. S. 3516 should address this issue by amending OCSLA to require that five-year programs identify, with greater precision, the portions of planning areas that will be open to oil and gas leasing.

In order to narrow the scope of planning areas, the Secretary should be required to seek information and defer to the recommendations of agencies, with expertise in marine resources and safety including as NOAA, USFWS and the USCG as to which areas should be excluded from the planning process due to their importance to marine or coastal resources or because of the safety risks involved in developing those areas. Narrowly tailoring planning and leasing decisions will lead to smaller areas being offered for lease and will enable environmental analyses to be more targeted, specific and capable of reasonably supporting decisions as to where development should occur. OCSLA should include standards that place an upper limit on the percentage of a planning area that may be included in any one five-year leasing program. Alternatively, OCSLA could be amended to require the Secretary to focus individual lease sales on specific lease tracts, rather than offering enormous portions of planning areas.

IV. Independent Science

One of the principal challenges confronting managers and decision-makers is the lack of information about the composition, structure, and functioning of marine ecosystems. Decisions regarding oil and gas development in the outer continental shelf should be part of a comprehensive, ecosystem-based management plan that ensure the health of the marine ecosystem, coastal economies and opportunities for a subsistence way of life.

We are pleased that S.3516 directs the Secretary to develop and carry out a comprehensive research program that includes the collection of baseline data and monitoring. To ensure that the program meets its stated goals and is truly independent and programmatically separate and distinct from the leasing program, we believe that it should be housed under the USGS biological services division.

Membership of the safety and environmental advisory board created by S. 3516 should include not only Department of Interior employees from USGS and USFWS but also employees from NOAA and the EPA, as well as members from academia. The board should also be charged with reviewing research and other scientific work of the comprehensive and independent studies program. In addition the board should review the science included in NEPA analyses associated with oil and gas activities to ensure analyses are complete, accurate and do not contain information gaps that preclude an accurate assessment of the risk and scope of harm to the environment from any oil and gas activities. Any deficiencies in the NEPA analyses identified by the board must be resolved before those analyses are finalized.

V. Best Available Technology

Section 6(h) of S. 3516 rewrites OCSLA's best available technology standard. While the new language is a step forward, it still falls short of that what is necessary to ensure that offshore oil and gas operations are as safe as possible. S.3516 should be further amended to describe a more rigorous standard as follows:
"(b) BEST AVAILABLE TECHNOLOGIES AND PRACTICES—
"(1) IN GENERAL.—
"(A) In exercising respective responsibilities under this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require
"(i) the use of the best available and safest technologies and practices whenever equipment failure may have an effect on safety, health, or the environment; and
"(ii) the use of technologies and practices that have been proven safe and effective under the site-specific conditions in which they will be used.
"(B) For all new drilling and production operations, the requirements described in subparagraph (A) apply as of the date this bill takes effect.
"(C) For drilling and production operations already in existence on the date this bill takes effect, the requirements described in subparagraph (A) will apply not later than September 1, 2015 unless
"(i) the operator of the existing drilling or production operation submits to the Secretary documentation showing that converting the operation to comply the requirements of subparagraph (A) is impossible or dangerous; and
"(ii) the Secretary issues a written determination that converting the operation to comply with the requirements of subparagraph (A) is in fact impossible or dangerous."

VI. Regional Citizens Advisory Councils

Congress could help prevent future oil spills by authorizing and funding citizens' oversight councils for all areas of the country with existing or proposed oil and gas development .. These councils should follow the model of the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC). In Prince William Sound, the RCAC has proven to be effective at ensuring the best spill response and prevention capabilities have stayed in place since the *Exxon Valdez* oil spill. Preventing complacency and maintaining vigilance by citizens has proven to be one of the most important methods for preventing oil spills and ensuring that proven, well-maintained response capability is in place should a major spill occur.

In the aftermath of the 1989 Exxon Valdez oil spill in Prince William Sound, Congress established citizens' councils as part of OPA '90 to help combat the complacency in industry oversight that was identified as a major factor in the 1989 spill, and to provide a needed layer of scrutiny to increase public confidence in the safety of the Alaska oil transportation system. The PWS RCAC has kept in place key requirements for spill prevention since the *Exxon Valdez* oil spill including the stationing/escort of 2 powerful tractor tugs in Prince William Sound and an emergency response/firefighting vessel that escorts all tankers to open water. The RCAC also performs an important independent oversight function by reviewing oil spill contingency plans.

In areas where oil and gas development exists or is proposed, RCACs could provide advice and recommendations to the Secretary of Interior and the industry on development activity as well as associated pipelines and tankers in the region. They would also provide advice to the Department of Interior regarding the 5 year leasing schedule, lease sales, and exploration and production in the region.

VII. Coastal Conservation and Restoration

The Deepwater Horizon spill provides a harsh reminder of the impacts of human activities on the health of marine ecosystems. To address these threats, Congress should establish permanently appropriated, dedicated funding for ocean, coastal, and Great Lakes conservation and management. The proposed trust fund would be used to support three classes of activities for protection, maintenance and restoration of marine ecosystem health: grants to states based on a formula similar to that used to allocate funds under the Coastal Zone Management Act; competitive grants for ocean conservation and management available to public and private entities; and grants to support regional ocean partnerships.

In addition, as the events of the last two months have revealed, the technology and capacity to prevent, respond to and restore damage from oil spills is woefully inadequate. We need to find balance between extraction capability and response and recovery capability. Congress should revitalize the Oil Spill Liability Trust Fund by increasing revenue going into it, and by making substantial funding available for research and development of oil spill prevention, response and recovery technologies and techniques.

VIII. Conclusion

The Committee should be commended for introducing S. 3516. This legislation goes a long way toward improving oversight of activities in the Outer Continental Shelf. S. 3516's amendments to OCSLA in addition to our recommendations detailed in this document will help minimize to the maximum extent practicable the threat of future catastrophic spills. We are more than happy to work with the Committee to assist in any way possible to ensure the necessary improvements to OCSLA are made. Thank you again for the opportunity to testify.

Please see Attachment A for more specific recommendations regarding changes to OCSLA and OPA 90.

ATTACHMENT A

RECOMMENDED REVISIONS TO THE OUTER CONTINENTAL SHELF LANDS ACT AND OIL POLLUTION ACT OF 1990

PROBLEM STATEMENT

The *Deepwater Horizon* tragedy has demonstrated vividly that our nation's oversight and regulation of offshore oil and gas activities is fundamentally flawed. Under the Outer Continental Shelf Lands Act (OCSLA), the Department of Interior (DOI) has responsibility for managing offshore oil and gas planning and activities. That authority has been delegated largely to Minerals Management Service (MMS). There is evidence that MMS has granted approvals when permits required from other agencies have not been in place, that oversight has been lax or nonexistent, and that pressure from agency officials has been used to suppress scientific concerns.

MMS has proved incapable of effective planning, regulation, and oversight, and federal law governing oil and gas activities on the Outer Continental Shelf (OCS) does too little to ensure that coastal and ocean ecosystems—including living coastal and marine resources and habitat—receive adequate protection. There are several key problems with the current statutory regime:

Single-sector approach: Decisions about oil and gas activities on the OCS have not been integrated with other ocean management decisions.

Focus on expeditious development: In planning and administering OCS oil and gas activities, existing law requires MMS to balance oil and gas development with protection of human, marine, and coastal environments. In practice, however, MMS prioritizes resource extraction, often at the expense of these other concerns as demonstrated by the current spill.

Lack of substantive standards: Under OCSLA MMS need only consider environmental impacts and then can balance potential harms and benefits with oil and gas development however it wants. But OCSLA does not include substantive, enforceable standards mandating protection to which decision-makers can be held accountable.

Decision-making in the hands of Minerals Management Service (MMS) alone: Resource agencies with expertise and management responsibility over marine and coastal resources such as NOAA, USGS, USFWS and EPA have only a limited role in decisions regarding oil and gas planning, leasing, exploration, and development.

Inadequate environmental analyses: Current law allows MMS to avoid preparing full and comprehensive analyses at both the programmatic and site-specific project stage as contemplated by the National Environmental Policy Act.

Inadequate response capability: Current law does not mandate that response plans be effective, or that response capacity and technical standards for safety and efficacy of response methods be quantitative or adequately proven.

RECOMMENDATIONS

The current system for planning, analyzing, and overseeing oil and gas activities on the OCS must be reformed. Ideally, OCS oil and gas decision-making should be integrated into a comprehensive ocean governance structure. Until such an approach can be developed and implemented, targeted amendments to OCSLA and OPA 90[1] are necessary to improve the OCS oil and gas planning and development process and reduce the likelihood of future offshore oil spills and other environmental impacts.

I. ESTABLISH A MISSION AND SUBSTANTIVE STANDARDS THAT PROTECT MARINE AND COASTAL RESOURCES AND ENVIRONMENT

MMS's[2] focus on resource extraction, and its failure to ensure protection of coastal and ocean ecosystems, can be traced directly to the policy set forth in OCSLA. Section 3 states in part that the OCS should be made available for "expeditious and orderly development, subject to environmental safeguards." 43 U.S.C. § 1332(3). This policy has allowed MMS to treat protection of the environment as a secondary consideration. Moreover, although certain of OCSLA's provisions address environmental concerns, they lack meaningful and substantive standards. As a result, the statute gives enormous discretion to MMS bureaucrats, who routinely tip the balance in favor of industry. To address these issues, Congress should (1) change the nation's OCS policy and/or make Congressional findings to prioritize protection of coastal and marine ecosystem health; and (2) reduce agency discretion by setting forth meaningful, substantive standards designed to reduce environmental impacts.

A. Amend OCSLA's OCS policy and/or add Congressional findings

Under OCSLA, the nation's OCS policy does not place sufficient emphasis on protection of coastal and ocean ecosystem health. Congress should clarify that OCS oil and gas activities can occur only when it is proven such development poses minimal environmental risk. To that end Congress should amend the nation's existing OCS policy to state that protection, maintenance, and (where appropriate) restoration of coastal and ocean ecosystems is the paramount OCS policy objective; development of mineral resources is permissible only if it will not compromise that objective. The amended policy should provide that oil and gas activities on the OCS are appropriate only:

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[1] In many instances, statutory changes would require corresponding changes to agency regulations. For example, changes to OCSLA would likely require DOI to revise the regulations that implement OCSLA. In the absence of legislative action, DOI can also make substantial revisions to the OCSLA regulations on its own.

[2] On May 19, 2010, Secretary of the Interior Ken Salazar signed a Secretarial Order that calls for MMS to be reorganized into three separate administrative entities. In this document, "MMS" refers to Minerals Management Service or its successor agencies.

- in those areas of the OCS, where science shows that oil and gas activities can proceed with minimal risk to the health of ocean ecosystems;
- when regulators have a thorough understanding of the ecosystem and environmental baseline, the risks of exploration or development, and the potential consequences of accidents;
- when risks are minimal, rigorous safety measures are in place and enforced, and there is a demonstrated ability to mount an effective response to accidents in real-world conditions;
- when oil and gas activities would not impede the development and production of non-extractive energy; and
- when such activities use the best available technology in order to ensure the highest levels of protection for human life and marine resources.

This policy can be amplified in Congressional findings that recognize the value of the marine and coastal resources such as:

- healthy coastal and ocean ecosystems are of vital importance to the nation;
- these ecosystems provide jobs, food, recreational opportunities, and subsistence resources, and they support and provide habitat for fish, marine mammals, birds, and other wildlife;
- they provide myriad other ecosystem services; and
- the OCS surface/seabed may be important for new, non-extractive energy sources.

B. Reduce agency discretion by enacting meaningful, substantive standards

Although some provisions of OCSLA address environmental concerns, those provisions do not contain meaningful, substantive standards. For example, when developing a five-year leasing program, OCSLA requires the Secretary of the Interior to "consider [ ]" environmental values and "balance" impacts on the environment with oil and gas development. 43 U.S.C. § 1344(a). OCSLA should be amended so that environmental concerns and marine resources are not just "considered" or "balanced," but are protected pursuant to a discernable, enforceable standard. Specifically, amendments should include the following substantive standards:

- In developing five-year oil and gas leasing programs, Congress should require the lead agencies to identify any important ecological areas (IEAs) within the areas proposed for inclusion in the program.[3] Areas identified as IEAs should be excluded from the five-

[3] Congress could define IEAs as geographically delineated areas which by themselves or in a network have distinguishing ecological characteristics, are important for maintaining habitat heterogeneity or the viability of a species, or contribute disproportionately to an ecosystem's health, including its biodiversity, function, structure, or resilience. For example, important ecological areas could include areas of high productivity or diversity; areas that are important for feeding, migration, or the lifecycle of species; or areas of biogenic habitat, structure forming habitat, or habitat for endangered or threatened species.

year leasing program. At the least, IEAs should be subject to specific, stringent precautions that must be satisfied before the sale of any leases wholly or partially within IEAs.

- Congress should require the collection of specific types of baseline science information on OCS areas before they can be included in a five-year program. For example, before an area of the OCS is included in a five-year program, Congress should require at least three years of baseline weather, water, wind, ocean chemistry, and other environmental data. It should require similar baseline studies for wildlife—including fish, birds, invertebrates, and marine mammals—and of the benthic environment. Unless and until such data is compiled for a given area of the OCS, that area should not be eligible for inclusion in a five-year program. In addition, Congress should enact requirements designed to ensure a more rigorous and meaningful evaluation of environmental sensitivity and marine productivity. This requirement should be integrated and coordinated with baseline science information.

- Under OCSLA, MMS "sells" leases, which give oil companies the conditional right to explore for and develop oil on certain tracts of the ocean floor. History shows that the mere existence of these rights—whatever their scope—may skew government decision-making toward allowing oil and gas exploration and development to go forward, even if there are legitimate reasons not to proceed. To guard against this imbalance, Congress should require potential lessees to meet specific standards *before* OCS lease tracts are sold. For example, Congress should prohibit the sale of oil and gas leases in an area unless and until operators have demonstrated their ability to respond effectively to an oil spill in real-world conditions in that area. Congress should ensure safety and limit discretion by imposing a quantitative standard that is rigorous, but realistic. Congress could, for example, prohibit lease sales unless and until potential operators demonstrate that they can remove a specific percentage of spilled oil from the area of the OCS proposed for leasing.

- Congress should also require all OCS leases to include more rigorous safety and technology provisions. For example, Congress could require all OCS leases to provide that no exploration or development is allowed unless OCS operators demonstrate that they are using the most effective safety technology, regardless of cost. Congress should also require MMS to incorporate into all OCS leases the most environmentally protective timing and location stipulations and terms so as to reduce the potential for environmental damage and the potential for adverse impact on the coastal zone.

- Congress should also eliminate the provision of OCSLA that requires approval of an exploration plan within thirty days of that date the exploration plan is submitted. Currently, this requirement does not preclude MMS from conducting a thorough environmental analysis; MMS could complete a NEPA analysis before it deems an exploration plan submitted, for example. However, the thirty-day requirement has caused confusion and given MMS an excuse to rush its environmental analyses or skip them altogether through the use of categorical exclusions. Congress should eliminate the 30-

day deadline under which MMS must approve a "submitted" exploration plan to facilitate more rigorous NEPA analysis.

- At the exploration and development and production plan stages, NOAA and FWS must issue permits and/or consult under the Marine Mammal Protection Act (MMPA), Magnuson-Stevens Fisheries Conservation and Management Act (MSA) and/or the Endangered Species Act (ESA). Similarly, EPA may have responsibilities under the Clean Air Act and/or Clean Water Act. NOAA, FWS, and EPA should conduct their reviews jointly with MMS to facilitate more comprehensive analysis of potential impacts.

II. AMEND PROCESS FOR OCS ENVIRONMENTAL REVIEW, PLANNING AND DEVELOPMENT

The current process for administering oil and gas activities on the OCS can be improved by a series of targeted changes. First, expert agencies beyond MMS should have a much greater role in decisions about and preparation of environmental analyses for OCS oil and gas activities. Second, both five-year programs and individual lease sales should identify with greater precision areas of the OCS that will be subject to leasing; area-wide lease sales should be eliminated. And third, the statute should include explicit requirements governing the type of NEPA analysis that must be prepared at each stage of the OCSLA process.

A. The Secretary of Commerce should have a more significant role in the development and preparation of five-year oil and gas leasing programs.

Congress should change Section 18 of OCSLA to give the Secretary of Commerce, who has resource protection responsibilities under the Marine Mammal Protection Act, the Endangered Species Act, and the Magnuson-Stevens Fishery Conservation Act, a greater role in making initial decisions about if, when, where, and how to allow oil and gas leasing, exploration, and development on the OCS. For example, Congress could amend Section 18 so that the Secretaries of Commerce and of the Interior have joint and equal responsibility for preparing five-year oil and gas leasing programs. Alternatively, Congress could amend Section 18 to require the concurrence of the Secretary of Commerce before any five-year leasing program is finalized and implemented. The U.S. Coast Guard (USCG) should play a role in identifying how oil and gas activities on the OCS proceed.

B. NOAA should have a more significant role in the preparation of NEPA documents for all OCS oil and gas activities, and there should be greater consideration of input from other resource agencies and local experts.

To ensure that environmental analyses for OCS oil and gas actions are sufficiently comprehensive, Congress should amend OCSLA to require that NOAA play a more significant role in the NEPA process for OCS oil and gas decisions. Congress could accomplish this by requiring MMS and NOAA to jointly prepare NEPA documents for OCS oil and gas activities. *See* 40 C.F.R. § 1501.5(b) ("Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an environmental impact statement …"). Or, Congress could require MMS to obtain the concurrence of NOAA before MMS issues any record

of decision or finding of no significant impact concerning any OCS oil and gas action. With NOAA's broad ocean expertise and its role as a natural resource trustee, greater involvement by NOAA will help ensure that environmental analyses contain a proper range of reasonable alternatives and assess accurately the risks of oil and gas activities.

Congress should also specify that other administrative agencies with relevant expertise, including USFWS, USGS, EPA, USCG, and others, contribute to the NEPA process as cooperating agencies. *See* 40 C.F.R. § 1506 (describing role of coordinating agencies). All agencies participating in the process should identify areas, such IEAs that must be off-limits to oil and gas activities or subject to stringent restrictions due to unavoidable and unacceptable impacts on other marine resources or lack of response capacity and infrastructure. The lead agency or agencies should adopt the expert agencies' recommendations as to these areas and disputes between or among agencies should be referred to CEQ for resolution.

The statute should also require that the Secretary solicit and take into account local and traditional knowledge from affected communities.[4] This would ensure that expert concerns are heard from the outset, and could help avoid complications later in the process. Affected states and local governments must also be partners in preparation of the NEPA analyses.

C. The agencies should narrowly tailor planning and leasing decisions.

As a matter of policy, in developing five-year leasing programs during the past several decades, the Secretary of Interior has defined "planning areas" that encompass tens or even hundreds of millions of acres. These planning areas are much larger than specific areas with high oil and gas development potential, and it is impossible to conduct meaningful environmental analyses on planning areas of that scale. Congress should amend section 18 of OCSLA to require five-year programs to identify with greater precision the portions of planning areas that will be open to oil and gas leasing by, for example, placing an upper limit on the percentage of a planning area that may be included in any one five-year leasing program. Alternatively, Congress could require MMS to focus individual lease sales on specific lease tracts, rather than offering enormous portions of planning areas.[5] It is also possible require government oversight of seismic data collection so that the data can be used to more precisely define areas to be offered for lease.

D. Congress should mandate that the environmental review that is conducted adequately considers every stage of the oil and gas leasing and development process.

[4] This requirement is particularly necessary in the Arctic, because of the cultural importance of ocean resources, the value of local and traditional knowledge, and the difficulty in engaging with Arctic communities.

[5] Including the recommendations of NOAA and other expert entities as to areas where oil and gas activities should not occur due to unacceptable impacts to living marine and coastal resources will also serve to narrow the scale of the 5-year plan offerings.

Under current law, agency practice, and judicial interpretation, MMS has misused the segmented nature of the OCSLA process to avoid rigorous NEPA analysis. At the five-year plan and lease sale phases, MMS's broad, generalized NEPA documents gloss over important issues and potential environmental impacts. Instead of filling in those gaps with detailed, site-specific information, later NEPA analyses—if any—largely recapitulate the information contained in previous documents. MMS's analytical shell game results in a failure to analyze important effects on the human environment and missed opportunities to develop alternatives to the proposed actions. Congress should prevent this by mandating specific requirements for environmental analysis at each stage in the OCSLA process and requiring full, site-specific analysis of exploration and production as early as possible.

OCSLA should state explicitly that preparation of a national five-year program is a major federal action significantly affecting the quality of the human environment that requires the preparation of a programmatic EIS. The NEPA analyses must assess fully the effects of oil and gas development and specifically must include an assessment of the effect of a 5-year schedule on any potential future alternative energy source or use of the OCS.

Congress should also explicitly require that a site-specific EIS be prepared at the lease-sale stage. As noted above, Congress should foster more meaningful environmental analysis by limiting lease sales so that they are targeted toward specific lease tracts rather than large sections of planning areas. Smaller lease sales will allow for site-specific analysis in lease-sale EISs. These site-specific lease sale EISs must include a full assessment of the effects of exploration and development. Current interpretation of OCSLA has allowed MMS to follow a fiction that the stages of oil and gas production are separate and as a result, MMS's NEPA analyses fail to address fully the effects of all aspects of oil and gas operations. For NEPA purposes, agencies should assume that exploration and development will follow the lease sale stage, and should assess all impacts from such exploration and development before leases are sold.

In addition to analyzing site-specific impacts of exploration and development, lease sale EISs must include rigorous cumulative impact analyses to avoid the potential for geographic segmentation. They must also include an analysis of the potential impacts of a catastrophic oil spill—even if such an event is perceived to be unlikely—from the activities that could flow from the lease sale. NEPA analyses must also include a meaningful consideration of local and traditional knowledge. Categorical exclusions under NEPA must not be allowed for any OCS activity.

At the exploration or development stage, any changes that have occurred since the lease sale EIS, or any new information about projected impacts, will require preparation of a new or supplemental EIS to ensure that the full effects of all aspects of oil and gas operations are assessed in an EIS. This is especially likely in frontier areas, or when operators intend to use new technologies. If the effects of exploration and development have been assessed fully at the leasing stage and there are no changes or new information, an EA should be prepared to assess impacts and determine whether an EIS is necessary or whether a finding of no significant impact is adequate.

III. REQUIRE EFFECTIVE SPILL PREVENTION AND RESPONSE

PROBLEM STATEMENT

Lack of Accountability, Standards or Specific Criteria

In OPA, Congress directed the President to "issue regulations which require an owner or operator of a tank vessel or facility … to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance." 33 U.S.C. § 1321(j)(5)(A)(i). Spill plans must "identify, and ensure by contract or other means approved by the President the availability of, private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge." 33 U.S.C. § 1321(j)(5)(D)(iii) (emphasis added).

MMS regulations do not make clear how MMS will ensure it meets the requirement to "remove" a worst case discharge "to the maximum extent practicable." 33 U.S.C. § 1321(j)(5)(D)(iii). MMS defines the term "remove" at 30 CFR 254.6 to mean:

> "Remove means containment and cleanup of oil from water and shorelines or the taking of other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, public and private property, shorelines, and beaches."

MMS currently defines the phrase "maximum extent practicable" at 30 C.F.R. § 254.6. as follows:

> "Maximum extent practicable means within the limitations of available technology, as well as the physical limitations of personnel, when responding to a worst case discharge in adverse weather conditions."

According to OPA's legislative history, "[t]he phrase 'to the maximum extent practicable' should be construed to require the President to consider the technological limitations associated with oil spill removal, and the practical and technical [sic] limits of the spill response capabilities of individual owners and operators." H.R. CONF. REP. 101-653, 150 (1990). "This should not be construed to prevent a significant increase in commercial removal resources in each area for which a response plan is required, if the President determines an increase is needed to comply with the national planning and response system." H.R. CONF. REP. 101-653, 150 (1990).

In light of this history, the definition should be changed to remove the terms to the "maximum extent practicable" and with "available" technology. The definition should require oil spill technology that is proven to work and should require companies to advance oil spill technologies not rest on solely on existing technology. The definition should be revised to read:

> *Spill plans must identify, and ensure by contract, or other means approved by the President the availability of, trained and qualified personnel and equipment necessary to meet a performance standard of removing at least 65% of the worst case discharge (including a discharge resulting from fire or explosion) from the environment, and mitigate or prevent a substantial threat of such a discharge.*

The definition also should clarify that a company cannot limit spill response based on financial concerns. Companies should be required to have the necessary trained personnel available to respond to an oil spill regardless of how many people it takes; not the constraints of an oil company's human resources budget.

The Operator must be required to demonstrate the proposed spill response equipment and procedures are capable of meeting the federal oil spill cleanup performance standard set, under the range of environmental conditions expected in the leased area. A company must demonstrate that it has considered the most contemporary research regarding various aspects of spill response readiness and recovery in adopting its response tactics and equipment.

The Timor Sea and the Deepwater Horizon spills show that the existing planning standard of responding to a worst case scenario spill in 30 days is unrealistic for an offshore well blowout. The existing planning standards have left the Operator unprepared. The law should be changed to require Operators to meet a performance standard based on the worst case scenario oil spill. For an exploration well the worst case oil spill scenario time frame should be increased to at least 90 days (the time it takes to drill a relief well). The worst-case oil spill volume should be based on that 90-day period multiplied by a maximum flow rate of 60,000 barrels of oil per day, unless the Operator can provide reservoir and engineering data to prove the Absolute Open Flow Potential (AOFP)[6] is less. A production well worst case oil spill scenario should be based on the production well AOFP multiplied by a 90-day time period.

Law and regulation should be revised to include realistic conditions similar to what we saw in the 2009 Timor Sea and 2010 BP Deepwater Horizon well blowouts.

RECOMMENDATIONS FOR SPILL PREVENTION AND RESPONSE

In developing spill response needs for specific geographic areas the following steps should be conducted:

> **1) Worst Case Oil Spill Discharge Assessment**. A spill contingency plan holder should be required to (a) provide a comprehensive list of worst-case oil spill volumes from its oil and gas activity; and (b) identify oil spill prevention measures and source control strategies that can be implemented to reduce oil volume of oil spilled. This analysis should be certified by an independent 3rd party. Additionally the applicant should be required to list oil spill prevention measures and source control methods.

[6] The maximum AOFP for each well is a critical data point for oil production engineers to optimize well production and can be readily provided by the applicant.

2) Response Performance Standards and Independent Technical Experts E&P contingency plan holders should be required to have equipment and personnel in place or on contract to respond to a worst –case blowout discharge of 60,000 barrels a day spill for at least 90 days, unless the applicant can prove that the AOFP is less and/or a relief well can be drilled in a shorter period of time. Reductions in the worst case scenario and the AOFP for each well must be certified by an independent 3rd party. The response planning for the Deepwater Horizon was based on an assumption the well would be plugged in 30 days. Instead, BP should have been required to plan for the worst case oil spill and demonstrate that they had sufficient equipment and resources to respond to that case. The agency should require a company to identify in one table the total number of vessels (including firefighting vessels and other resources to respond including personnel and boom, skimmers and other equipment.) This table should provide the skimming and storage capacity and the total number of feet of boom available.

Legislation should fund and develop an entity to provide independent 3rd party assessments of the maximum well blowout flow rate, review the proposed oil spill prevention measures and provide technical assistance on inspections and audits.]

[Note: An independent panel of experts could be formed to develop a mechanical equipment list performance standard for various levels of oil spill response. Tables could be produced at a variety of worst-case oil spill volumes, specifying the equipment and personnel requirements to meet a performance standard (e.g. there would be a table at 10,000 bpd, 20,000 bpd, etc.)}

3) Conduct an Oil Spill Response Gap Analysis. A "response gap" exists whenever environmental conditions exceed the operating limits of oil spill cleanup equipment. Contingency plan holders should be required to conduct a site-specific oil spill response gap analysis that quantifies the operating limits of the oil spill response systems available and calculates how frequently those operating limits are reached. The gap analysis would be used to ascertain whether the oil spill removal performance standard of 65% can be met year-round. In cases where the oil spill removal performance standard can only be met during certain times of the year, operations would be limited to only those periods when the oil spill removal performance standard can be met.

[Note: For example, in the Beaufort Sea, most wells are prohibited from drilling during broken ice and fall freeze up conditions, when oil spill response measures are ineffective.(Northstar operates year-round but drilling is limited to the winter season to prevent a blowout during broken ice or fall freeze up.)

4) Plan Review and Approval. Remove the authority for approving oil spill contingency plans for offshore exploration and production facilities from MMS. The role can be assigned to the US Coast Guard or the Environmental Protection Agency with environmental and resource consultation from the USF&WS and NOAA. (The Coast Guard presently inspects and reviews vessel contingency plans and EPA inspects and reviews oil spill contingency plans for onshore facilities).

5) Oil Spill Removal Performance Standard. The applicant would be required to meet an oil spill removal performance standard, rather than just an oil spill planning standard. The performance standard would set a clear expectation on the amount of oil that the plan

holder is required to remove from the environment, and the time frame for removing that oil. Some have suggested at 65% oil removal standard in a 90 day period.

Equipment must be designed to operate in the OCS area, and under environmental conditions) where the exploration or production operations are located (e.g. arctic-grade equipment capability in operating in ice and -40F temperatures, subsea equipment capable of operating at maximum anticipated depths, etc.)

> [Note: Current federal regulations are established based on a planning standard rather than a performance standard. Current plans are approved with the understanding that only +/-20% of the oil may be removed from the environment. As evidenced by the public reaction to the GOM spill, the public has rejected a 20% cleanup standard. A higher oil spill cleanup performance standard is needed. A removal performance standard of 65% would substantially increase the removal rate.]

6) Unannounced Drills, Inspections and Audits. Assign the USCG or EPA with participation from NOAA, the role of conducting unannounced drills, inspections and audits, supported by technical experts. At least one unannounced deployment drill, two unannounced oil spill response equipment inspections, and one audit of training and procedures would be conducted per facility per year. All oil spill plans should be conditioned with the requirement for the plan holder to demonstrate that it has the equipment and personnel required to meet the oil spill removal performance standard in #2 above. To obtain this certification, the plan holder would need to demonstrate through an open water oil spill response exercise that it has the capability, knowledge, expertise and resources to carry out its plan. Certification would be obtained initially prior to operation, and at 5-year intervals thereafter. Presently spill drills are only required for an existing operations. So there is little assurance that an effective spill response could take place in a frontier area until the rig is there and operating even if it has already been approved. Formal written reports and findings of each would be issued in 60 days, along with any required compliance action to remedy deficiencies found.

7) Public Review. Each oil spill prevention and response plan would be subject to a 30 day public review and comment process. Multiple wells and projects could be bundled for efficiency into one plan, if located in the same geographic area. All meetings, reports, and work products should be available for public and stakeholder review and input. It is also imperative that any robust R&D process, develop a standard for peer review. All research projects should be developed using peer-reviewed methodologies, and all results should also be peer reviewed.

8) Trajectory Analyses for Worst Case Scenario. The applicant should be required to provide oil spill trajectory maps representing the maximum distance and extent the worst case discharge would travel during each month of the drilling season (assuming no spill response). The applicant should then be required to provide oil spill trajectory maps representing the maximum distance and extent the worst case discharge would travel during each month of the drilling season (assuming 65% of the oil was removed from the environment as it was spilled – assuming the plan will not be approved unless the applicant can demonstrate it meets the 65% oil spill removal performance standard).

This mapping exercise will show the location and the extent of the oil spill damage that would result from the remaining 35% oil the oil that will not be cleaned up with current technology. These maps will provide the public with information to better understand the potential consequences of the proposed OCS project, and the information needed to decide whether to approve or oppose a project. The applicant must use government developed (NOAA) or government approved models to create the trajectory maps.
The purpose of developing worst-case oil spill trajectories is to determine: the impacted resources, the amount and type of resources needed to respond to the oil spill, and where to pre-stage equipment to rapidly respond.

9) Pre-fabricated Containment Structure. MMS should require a company to have a containment dome or other structure available (already constructed) prior to beginning drilling.

10) Same Season Relief Well. A company should be required to demonstrate it could start and complete a relief well within 90 days. In Canada, this policy is called "same-season relief well capability." Companies do not have to drill the relief well unless there is a blowout, but must have the resources and personnel available in advance. In the Arctic, this means that a minimum of two rigs must be located in the drilling area, one to provide relief well assistance to the other (and vice-a-versa). In the Arctic, this might mean prohibiting drilling late in the season, if a relief well could not be completed before freeze up. In the event of a blowout, MMS could require relief well drilling to commence immediately, rather than allowing the company to rely solely on other techniques.

[Note: MMS regulations at 30 CFR 254. 35 currently requires evidence of contracts with oil spill response organizations but not well control experts, relief well rigs, or other well control equipment vendors.]

11) Contingency Plan should be required to contain a blowout plan and have contracts in place to support the plan. The applicant would be required to submit a written Well Blowout Control Plan, evidence of a contract with a Well Control Expert, a Relief Well Rig and evidence that it either owns or holds under contract the equipment necessary to implement at least one other well control method in addition to drilling a relief well.

12) Full Time Inspector on Board. Each offshore rig/facility should be required to have a full time independent inspector onboard to verify compliance with MMS regulations at 30 CFR 250 (drilling and production) and 30 CFR 254 (oil spill prevention). Inspectors should be fully trained and qualified, and work for an independent 3rd party certified by the Federal Government

13) Redundancy. Companies should not be allowed to rely on a single point of failure. For example, Shell has only one oil storage tanker for the Chukchi and Beaufort seas. Shell has no plan for responding if this tanker is unavailable, broken, damaged, etc. The single tanker constitutes approximately 90% of Shell's storage capacity. MMS should require companies to have redundant spill response capacity.

14) Independent Citizens' Oversight of Oil and Gas Activities. Congress could help prevent the next Gulf oil spill tragedy by passing legislation to authorize citizens' oversight councils for all areas of the country with existing or proposed oil and gas drilling operations. These councils should follow the model of the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC). In Prince William Sound the RCAC has proven to be effective at ensuring the best spill response and prevention capabilities have stayed in place since the Exxon Valdez oil spill. Preventing complacency and maintaining vigilance by citizens has proven to be one of the most important methods of preventing oil spills and making sure that there is proven, well maintained response capability in place should a major spill occur.

In the aftermath of the 1989 Exxon Valdez oil spill in Prince William Sound, Congress in the Oil Pollution Act of 1990 (OPA 90) established citizens' councils to help combat the complacency seen as responsible for the 1989 spill and provide a needed layer of scrutiny to increase public confidence in the safety of the Alaska oil transportation system. The PWSRCAC has kept in place key requirements for spill prevention since the Exxon Valdez oil spill including the stationing/escort of 2 powerful tractor tugs in Prince William Sound and an emergency response/firefighting vessel that escorts all tankers to Hinchinbrook Entrance. PWSRCAC has a very important role in reviewing oil spill contingency plans.

Duties of RCACs in areas where there is proposed and existing oil and gas drilling operations would be to provide advice and recommendations to the Secretary of Interior and the industry on spill prevention and response for existing and proposed oil and gas drilling operations and associated pipelines and tankers in the region as well as on decisions made by the Department of Interior regarding the 5 year leasing schedule, lease sales, and exploration and production in the region.

Funding

The Oil Spill Liability Trust Fund should be increase in the Oil Pollution Act of 1990 **s**hould be amended to provide funding for:

A) NOAA to conduct scientific research and monitoring dedicated to better understanding the vulnerability of marine ecosystems to, and the effects of, oil leasing, exploration, and development and ways to implement ecosystem-based management such as environmental sensitivity index mapping and spill trajectory analyses; and
B) The Coast Guard to bring response and rescue equipment new areas such as the Arctic where oil and gas development is being proposed and have the infrastructure in place to respond to a spill.

The per barrel tax that funds the Oil Spill Liability Trust Fund should be increased.