

## HR 3534

Consolidated Land, Energy, and Aquatic Resources Act of 2010

**Congress:** 111 (2009–2011, Ended)

**Chamber:** House

**Policy Area:** Public Lands and Natural Resources

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### Sponsor

**Name:** Rep. Rahall, Nick J., II [D-WV-3]

**Party:** Democratic • **State:** WV • **Chamber:** House

### Cosponsors

*No cosponsors are listed for this bill.*

### Committee Activity

Committee	Chamber	Activity	Date
Agriculture Committee	House	Discharged From	Jul 28, 2010
Natural Resources Committee	House	Reported By	Jul 30, 2010

### Subjects & Policy Tags

#### Policy Area:

Public Lands and Natural Resources

### Related Bills

Bill	Relationship	Last Action
111 HR 6335	Related bill	<b>Oct 14, 2010:</b> Referred to the Subcommittee on Energy and Mineral Resources.
111 HRES 1574	Related bill	<b>Jul 30, 2010:</b> Motion to reconsider laid on the table Agreed to without objection.

Consolidated Land, Energy, and Aquatic Resources Act of 2010 - **Title I: Creation of New Department of the Interior Agencies** - (Sec. 101) Establishes within the Department of the Interior a Bureau of Energy and Resource Management (BERM) to administer a comprehensive program of nonrenewable and renewable energy and mineral resources management on the Outer Continental Shelf (OCS) and designated public lands.

Directs the Secretary of the Interior (Secretary) to create within the Bureau an independent office programmatically separate and distinct from leasing and permitting activities to: (1) carry out certain environmental studies of the impacts on the human, marine, and coastal environments of the OCS and the coastal areas which may be affected by oil and gas or other mineral development; and (3) conducts environmental analyses for BERM programs.

Instructs the BERM Director to implement programs for the collection, evaluation, assembly, analysis, and dissemination of data and information relevant to BERM duties.

(Sec. 102) Establishes within the Department a Bureau of Safety and Environmental Enforcement (BSEE) to perform functions, powers, and duties relating to safety and environmental enforcement related to nonrenewable and renewable energy and mineral resources on the OCS, federal public lands, and in the National Petroleum Reserve in Alaska.

Directs the Secretary to: (1) establish a National Oil and Gas Health and Safety Academy to train oil and gas inspectors; (2) work with educational institutions, operators, and representatives of oil and gas workers to develop adequate programs of administrative training and continuing education of inspectors or other Department personnel;

(Sec. 103) Establishes within the Department an Office of Natural Resources Revenue (ONRR) to administer all royalty and revenue management functions, powers, and duties previously assigned to the Minerals Management Service.

(Sec. 104) Requires the Secretary to certify annually that all Department personnel having regular, direct contact with lessees and operators as a function of their official duties are in full compliance with federal employee ethics laws and regulations.

(Sec. 106) Abolishes the Minerals Management Service.

(Sec. 108) Directs the Secretary to establish an Outer Continental Shelf Safety and Environmental Advisory Board, to provide independent scientific and technical advice on safe and environmentally compliant nonrenewable and renewable energy and mineral resource exploration, development, and production activities.

(Sec. 109) States that nothing in this title shall delay development of ocean renewable energy resource facilities, including: (1) offshore wind development; (2) planning, leasing, licensing, and fee and royalty collection for such development; and (3) the leasing and licensing process for ocean renewable energy resource facilities.

**Title II: Federal Oil and Gas Development - Subtitle A: Safety, Environmental, and Financial Reform of the Outer Continental Shelf Lands Act** - Outer Continental Shelf Lands Act Amendments of 2010 - (Sec. 203) Revises the Outer Continental Shelf Lands Act (OCSLA) regarding: (1) jurisdiction of laws on the OCS; (2) regulatory standards governing blowout preventers, well design, and cementing programs; (3) procedures and regular testing of the emergency backup control systems before commencement of drilling operations; (4) independent third-party certification requirements; and (5) submission of state regulatory regimes.

(Sec. 206) Requires the Secretary to: (1) review periodically the minimum financial responsibility requirements for leases;

and (2) implement a comprehensive review of all components of the federal offshore oil and gas fiscal system.

Requires a certification of responsible stewardship meeting specified due diligence, safety, and environmental requirements as a prerequisite for submission of bids or requests for leases, easements, rights-of-way, or drilling permits.

Requires the Secretary, at least 60 days before any lease sale, to request a review by the Secretary of Commerce regarding any impacts on the marine and coastal environment of the proposed sale.

(Sec. 207) Requires all sums paid either to the Secretary of the Interior or to the Secretary of the Navy under any OCS lease between June 5, 1950, and the enactment of this Act to be deposited in the Treasury and credited to miscellaneous receipts in specified allocations to: (1) the Land and Water Conservation Fund, (2) the Ocean Resources Conservation and Assistance Fund, and (3) the Historic Preservation Fund.

(Sec. 208) Modifies the process for approving OCS geological and geophysical exploration plans. Requires approval of a plan within 90 days (currently 30 days) after its submission if certain criteria are met.

Requires a plan to include a scenario for the potential blowout of the well involving the highest potential volume of liquid hydrocarbons, along with a complete description of a response plan to both control the blowout and to manage the accompanying discharge of hydrocarbons, including the likelihood for surface intervention to stop the blowout, the availability of a rig to drill a relief well, an estimate of the time it would take to drill a relief well, a description of other technology to regain control of the well or capture escaping hydrocarbons and the potential timeline for using that technology for its intended purpose, and the strategy, organization, and resources necessary to avoid harm to the environment and human health from hydrocarbons. Requires a plan also to analyze the potential impacts of the worst-case-scenario discharge of hydrocarbons upon marine, coastal, and human environments.

Directs the Secretary to require that any lessee operating under an approved exploration plan obtain a permit before: (1) drilling any well in accordance with the plan; and (2) any significant modification of the well design as originally approved by the Secretary.

Prohibits the Secretary from granting any drilling permit or modification of the permit before completion of: (1) a full engineering review of the well system, including a determination that critical safety systems, including blowout prevention, will utilize best available technology and include redundancy and remote triggering capability; or (2) a safety and environmental management plan that will be utilized by the operator during all well operations.

Conditions the issuance of drilling permits upon a determination by the Secretary that the applicant has available oil spill response and clean-up equipment and technology capable of effectively remediating a worst-case release of oil.

Requires the Secretary to treat either the approval or a significant revision of an exploration plan as an agency action requiring an environmental assessment or environmental impact statement in accordance with the National Environmental Policy Act of 1969 (NEPA).

Requires the Secretary to disapprove an exploration plan if: (1) exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments; (2) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and (3) the advantages of disapproving the plan outweigh the advantages of exploration.

(Sec. 209) Requires consideration of the availability of infrastructure to support oil spill response in the timing and location of oil and gas exploration, development, and production among OCS oil- and gas-bearing physiographic regions. Revises other specified requirements.

Directs the Secretary to implement a research and development program to ensure continued improvement of methodologies for characterizing both OCS resources and the conditions that may affect the ability to develop and use them in a safe, sound, and environmentally responsible manner.

(Sec. 210) Changes from once only to at least once every three years the requirement that the Secretary study any area or region included in any oil and gas lease sale or other lease in order to establish information needed for assessment and management of environmental impacts on the human, marine, and coastal environments of the OCS and the coastal areas which may be affected by oil and gas or other mineral development in such area or region. Requires the Secretary, in addition, to conduct these triennial studies in cooperation with the Secretary of Commerce.

Directs the Secretary to conduct research to identify and reduce data gaps regarding impacts of certain deepwater hydrocarbon spills; (2) identify and publish an updated list of the best available technologies for key areas of well design and operation, including blowout prevention and blowout and oil spill response and mitigation; (3) promulgate regulations requiring a safety case to be submitted along with each new application for an OCS drilling permit; and (4) implement an offshore technology research, development, and risk assessment program to address safety, environmental protection, and spill response issues.

(Sec. 212) Revises requirements for enforcement of safety and environmental regulations. Requires such regulations to provide for: (1) scheduled onsite inspection, at least once a month, of each OCS facility engaged in drilling operations which is subject to any environmental or safety regulation; and (2) periodic audits of each required safety and environmental management plan, and any associated safety case, whether on the OCS or onshore.

Requires investigations and reports on each loss of oil well control and any other accident that presented a serious risk to human or environmental safety. Requires holders of leases or permits to cooperate in any investigation as a condition of the lease or the permit. Requires investigation of any allegation from an employee of the lessee or any subcontractor of a violation of a safety regulation.

Requires the Secretary to make available promptly to all lessees and the public all technical information about incident causes and corrective actions taken.

Instructs the Secretary to require operators of drilling and production operations to certify annually that their operations are in compliance with applicable law and regulations.

Prohibits the Secretary from approving any application for a permit to drill a well unless it is accompanied by specified written attestations by the chief executive officer (CEO), including that the applicant has the capability and technology to respond immediately and effectively to a worst-case oil spill in real-world conditions in the area of the proposed activity.

Subjects to a civil penalty any CEO who makes a false certification.

Requires all operators that modify or upgrade emergency equipment to prevent blow-outs or other well control events to obtain independent third party certification that: (1) the equipment will operate as originally designed, and (2) modifications or upgrades conducted after delivery have not compromised equipment design, performance or functionality. Subjects noncompliance with this requirement to suspension of the lease.

(Sec. 214) Increases civil penalties for noncompliance, up to \$75,000 for each day of continued failure (\$150,000 if the failure threatens harm or damage to life, property, any mineral deposit, or environment). Increases criminal fines for knowing and willful violations from \$100,000 to \$10 million. Subjects corporate officers and agents to civil penalties for willful disregard in authorizing, ordering, or carrying out proscribed activities.

Requires the Secretary to treat the approval of a development and production plan, or a significant revision of a development and plan, as an agency action requiring preparation of an environmental assessment or environmental impact statement.

(Sec. 215) Places within the purview of the OCSLA all oil and gas development and production in the Gulf of Mexico.

Expands the scope and contents of mandatory oil and gas development plans to include a scenario for the potential blowout of each well to be drilled as part of the plan involving the highest potential volume of liquid hydrocarbons, along with a complete description of a response plan to both control the blowout and manage the accompanying discharge of hydrocarbons.

(Sec. 216) Requires lessees engaged in drilling operations to provide to the Secretary, within 24 hours in electronic format, all daily reports regarding drilling operations on the lease and documentation of blowout preventer maintenance and repair. Requires prompt or real-time transmission of the electronic log from a blowout preventer control system.

(Sec. 217) Prohibits the Secretary from conducting a regular program to take oil and gas lease royalties in oil or gas.

(Sec. 218) Revises conflict-of-interest employment restrictions governing former Department of the Interior personnel.

Prohibits separated officers or employees of the Department within two years after separation from accepting employment or compensation from any party that has a direct and substantial interest: (1) that was pending under the officer's or employee's official responsibility at any point during the two-year period preceding termination of that responsibility; or (2) in which the officer or employee participated personally and substantially as a Department officer or employee.

Extends conflict-of-interest prohibitions to certain prior dealings of full-time officers or employees in which they or their spouse, minor child, or general partner has a financial interest.

Prohibits full-time Department officers or employees who directly or indirectly discharge duties or responsibilities under OCSLA from soliciting or accepting, directly or indirectly, any gift in violation of certain regulations.

Specifies criminal penalties for violations of conflict-of-interest prohibitions..

(Sec. 219) Amends the Energy Policy Act of 2005 to repeal authority for: (1) royalty incentives for natural gas production from deep wells in shallow waters of the Gulf of Mexico; and (2) royalty relief for deep water production in the Gulf of Mexico.

Amends OCSLA to repeal the Secretary's authority to reduce or eliminate any royalty or net profit share set forth in leases within the Planning Areas Offshore Alaska.

(Sec. 220) Revises manning and buy-and-build-American requirements to require the Secretary of the Department in which the Coast Guard is operating to issue regulations that are supplemental to, and complementary with, but not a substitute for provisions of the U.S. Constitution and federal laws extended to the OCS subsoil and seabed, except with

respect to individuals with extraordinary ability in the sciences, arts, education, or business, which has been demonstrated by sustained national or international acclaim.

Expresses the intent of Congress to monitor deployment of personnel and material on the OCS in order to encourage development of American technology and manufacturing and enable U.S. workers to benefit from the OCSLA.

(Sec. 221) Requires the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling to: (1) consult monthly with engineering and technology experts who are analyzing causes of the oil spill for the National Academy of Engineering and the National Research Council; and (2) report recommendations for improvements to federal laws, regulations, and industry practices applicable to offshore drilling. Grants the Commission subpoena powers.

(Sec. 223) Applies this title and title VII to new leases under the OCSLA, and requires the Secretary to take action to apply their requirements to existing leases, consistent with the terms of those leases.

(Sec. 224) Instructs the Secretary to report on the costs of baseline environmental studies that gather, analyze, and characterize resource data necessary to implement the OCSLA.

(Sec. 225) Requires the Secretary of Commerce or of the Interior to incorporate any takings of marine mammal species or stock from any other reasonably foreseeable activities administered under the OCSLA in determining whether takings from specified activities administered under OCSLA will: (1) have a negligible impact on a marine mammal species or stock, and (2) not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses.

**Subtitle B: Royalty Relief for American Consumers** - Royalty Relief for American Consumers Act of 2010 - (Sec. 232) Prohibits the Secretary from issuing a new oil or natural gas production lease to certain lessees unless they have renegotiated each covered lease to modify the lessee's payment responsibilities to require payment of royalties if the price of oil and natural gas is greater than or equal to specified OCSLA price thresholds.

Extends such renegotiation requirements to a lessee or any other person who has any direct or indirect interest in, or who derives a benefit from, a lease in order to be eligible to obtain by sale or other transfer (including through a swap, spinoff, servicing, or other agreement) any covered lease, the economic benefit of any covered lease, or any other lease for the production of oil or natural gas in the Gulf of Mexico under the OCSLA.

(Sec. 233) Directs the Secretary to agree to a lessee's request to amend certain leases issued for the Central and Western Gulf of Mexico tract to incorporate price thresholds applicable to royalty suspension requirements that are equal to or less than specified OCSLA price thresholds. Declares that existing lease provisions shall prevail through FY2010.

**Subtitle C: Limitation on Moratorium** - (Sec. 241) Shields certain drilling permit applicants from the drilling moratorium dated July 12, 2010, and any consequent suspension of operations on the OCS, if the applicant has complied with a specified notice and recommended additional safety measures and has completed all required safety inspections.

Prohibits any federal entity from suspending the active consideration of, or preparatory work for, permits required to resume or advance activities suspended in connection with the moratorium.

Directs the Secretary to report on the status of: (1) evidence regarding the potential causes of the April 20, 2010, explosion and sinking of the Deepwater Horizon offshore drilling rig; (2) implementation of specified safety reforms; (3) the ability of operators in the Gulf of Mexico to respond effectively to an oil spill in light of the Deepwater Horizon incident; and (4) industry and government efforts to engineer, design, construct and assemble wild well intervention and blowout

containment resources necessary to contain an uncontrolled release of hydrocarbons in deep water should another blowout occur.

**Title III: Oil and Gas Royalty Reform** - (Sec. 302) Amends the Federal Oil and Gas Royalty Management Act of 1982 to authorize the Secretary, as an adjunct to audits of accounts for leases, to utilize compliance reviews of accounts. States that the reviews neither constitute nor substitute for audits of lease accounts. Requires any disparity uncovered in a compliance review to be referred immediately to a program auditor.

(Sec. 303) Modifies the terms of liability for royalty payments. Treats as the lessee's designee any person who pays, offsets, or credits monies, makes adjustments, requests and receives refunds, or submits reports with respect to payments the lessee must make under such Act. Makes such a designee liable for any payment obligation of any lessee on whose behalf the designee pays royalty under the lease. Eliminates the primary liability for royalty payment obligations of the person owning operating rights in a lease, and the secondary liability of a person owning legal record title in the lease. Makes each such person liable for that person's pro rata share of payment obligations.

(Sec. 305) Doubles civil penalties for violations of such Act. Subjects to these penalties any person who knowingly or willfully fails to make prescribed royalty payments, or who fails to provide correct, timely reports on requisite operations or financial records.

Tolls the statute of limitations for certain violations committed by oil and gas lessees.

(Sec. 306) Prohibits the allowance, payment, or crediting of interest on royalty overpayments.

(Sec. 313) Directs the Secretary to: (1) complete an OCS pilot project assessing the costs and benefits of automatic transmission of oil and gas volume and quality data produced under federal leases; (2) implement actions to ensure accurate determination and reporting of BTU values of natural gas from federal oil and gas leases; (3) establish a civil penalty for late or incorrect reporting of data; and (4) publish final regulations for mandatory recordkeeping of natural gas measurement data to include persons involved in the transporting, purchasing, or selling of gas.

(Sec. 318) Subjects to investigations, hearings, and specified civil and criminal penalties any lease authorizing the development of coal or any other solid mineral on federal or Indian lands, as well as any lease, easement, right-of-way, or other agreement, regardless of form under the OCSLA or the Geothermal Steam Act, to the same extent as if the lease were an oil and gas lease.

(Sec. 319) Directs the Secretary to publish final regulations prescribing when a federal lessee or designee must report and pay royalties on the volume of oil and gas: (1) it takes under either a federal or Indian lease, or (2) to which it is entitled based upon its ownership interest in the federal or Indian lease.

(Sec. 320) Amends the Mineral Leasing Act to prohibit the Secretary from conducting a regular program to take oil and gas lease royalties in oil or gas.

(Sec. 321) Amends the OCSLA to apply specified royalties under a lease to all oil that is saved, removed, sold, or discharged, without regard to whether the oil is unavoidably lost or used on, or for the benefit of, the lease.

**Title IV: Full Funding for the Land and Water Conservation and Historic Preservation Funds - Subtitle A: Land and Water Conservation Fund** - (Sec. 401) Amends the Land and Water Conservation Fund Act of 1965 to extend the Land and Water Conservation Fund through FY2040 and make funding for it permanent.

**Subtitle B: National Historic Preservation Fund** - (Sec. 411) Amends the National Historic Preservation Act to cover into the Historic Preservation Fund through FY2040 funds from revenues under the OCSLA.

**Title V: Gulf of Mexico Restoration** - (Sec. 501) Establishes: (1) the Gulf of Mexico Restoration Program to coordinate federal, state, and local restoration programs and projects to maximize efforts in restoring biological integrity, productivity, and ecosystem functions in the Gulf of Mexico; and (2) the Gulf of Mexico Restoration Task Force to issue a comprehensive, multi-jurisdictional plan for long-term restoration of the Gulf of Mexico, including fisheries resources, that incorporates existing restoration plans.

(Sec. 502) Directs the Secretary to establish: (1) a long-term, comprehensive marine environmental monitoring and research program for the marine and coastal environment of the Gulf of Mexico; and (2) an emergency migratory species alternative habitat program.

(Sec. 504) Establishes the Gulf of Mexico Restoration Account.

Amends the Federal Water Pollution Control Act to establish additional penalties for large spills in the Gulf of Mexico.

**Title VI: Coordination and Planning** - (Sec. 601) Designates Pacific, Gulf of Mexico, North Atlantic, Mid Atlantic, South Atlantic, Alaska, Pacific Islands, Caribbean, and Great Lakes Coordination Regions whose efforts shall achieve greater communication and coordination among federal, coastal state, and affected tribal governments concerned with conservation, sustainable development, and use of federal renewable and nonrenewable resources of the oceans, coasts, and Great Lakes.

(Sec. 602) Directs the Chairman of the Council on Environmental Quality to establish or designate a Regional Coordination Council for each of the Coordination Regions.

(Sec. 603) Requires each Regional Coordination Council to prepare: (1) an initial assessment of its Coordination Region; and (2) within three years a multiobjective, science- and ecosystem-based, spatially explicit, integrated Strategic Plan.

(Sec. 605) Establishes the Ocean Resources Conservation and Assistance Fund (ORCA Fund). Authorizes the Secretary of Commerce to make grants from the ORCA Fund to: (1) coastal states and affected tribes, and (2) Regional Ocean Partnerships and the Regional Coordination Councils.

Directs the Secretary to: (1) use ORCA funds to make competitive grants for conservation and management of ocean, coastal, and Great Lakes ecosystems and marine resources; and (2) establish an Ocean, Coastal, and Great Lakes Review Panel to review and make recommendations on grant applications.

**Title VII: Oil Spill Accountability and Environmental Protection** - Oil Spill Accountability and Environmental Protection Act of 2010 - (Sec. 702) Amends the Oil Pollution Act of 1990 to: (1) repeal the limits on liability for certain vessels and offshore facilities; (2) direct the President to adjust triennially the liability limits upward to reflect either the amount of liability commensurate with the risk of a discharge of oil presented by a particular category of vessel, facility, or port or any increase in the Consumer Price Index (as under current law), whichever is greater.

(Sec. 703) Increases the amount of financial responsibility required for an offshore facility to \$300 million. Prescribes evidentiary criteria for an alternative amount of financial responsibility, if the President determines that an amount less than \$300 million is justified. Sets mandatory minimum amounts at: (1) \$105 million for an offshore facility located seaward of a state's seaward boundary, and (2) \$30 million for one located landward.

(Sec. 704) Expands the kinds of oil pollution liability to include damages to human health, including fatal injuries.

(Sec. 705) Declares that, with respect to treatment of a mobile offshore drilling unit as an offshore facility for excess liability purposes, the circumstance triggering such treatment is any discharge of oil, or substantial threat of a discharge of oil, into or upon the water.

(Sec. 706) Subjects to judicial review under the Administrative Procedure Act any federal, state, or tribal determination or assessment of damages to natural resources resulting from a discharge of oil. (Currently such a determination has the force and effect of a rebuttable presumption.)

(Sec. 707) Declares that, with respect to procedures for claims for removal costs or damages against the Oil Spill Liability Trust Fund, in the event of a spill of national significance, the President may exercise specified authorities to ensure that the presentation, filing, processing, settlement, and adjudication of claims occurs within the states and local governments affected by the spill to the greatest extent practicable.

Authorizes the President, furthermore, in such an event, to require a responsible party or a guarantor of a discharge or threat-of-discharge source to provide the President with any information on or related to claims, either individually, in the aggregate, or both, that the President requests.

(Sec. 708) States that, with respect to the measure of natural resource damages from an oil discharge, federal officials acting as trustees for natural resources shall: (1) give equal and full consideration to restoration, rehabilitation, replacement, and the acquisition of the equivalent of the natural resources under their trusteeship; and (2) consider restoration, rehabilitation, replacement, and the acquisition of the equivalent of the natural resources under their trusteeship in a holistic ecosystem context, using, where available, eco-regional or natural resource plans. Requires acquisition to be given full and equal consideration only if it provides a substantially greater likelihood of improving the resilience of the lost or damaged resource and supports local ecological processes.

(Sec. 709) Amends federal maritime law to limit to a vessel with a registry endorsement in its certificate of documentation that is owned by a U.S. citizen any support of exploration, development, or production of resources in, on, above, or below the exclusive economic zone (EEZ).

(Sec. 710) Requires the safety management system for a mobile offshore drilling unit operating in waters subject to U.S. jurisdiction (including the EEZ) to include processes, procedures, and policies related to the safe operation and maintenance of the machinery and systems on board the vessel that may affect its seaworthiness in a worst-case event.

(Sec. 711) Requires the Secretary, prescribing regulations for mobile offshore drilling units, to develop standards to address a worst-case event on the vessel.

(Sec. 712) Limits issuance of a license as master of a mobile offshore drilling unit to any applicant with a merchant seaman's master license who has demonstrated the knowledge, understanding, proficiency, and sea service for all the industrial business or functions of a mobile offshore drilling unit.

(Sec. 714) Amends the Federal Water Pollution Control Act to: (1) declare a mobile offshore drilling unit ineligible to operate without an approved response plan; and (2) require the President to issue a revised regulation for the development of a schedule for the use of dispersants, other chemicals, and other spill mitigating devices and substances.

Directs the EPA Administrator to study the potential risks and impacts to water quality, the environment, or any other appropriate factor, including acute and chronic risks, from the use of dispersants, other chemicals, and other spill

mitigating substances, if any, that may be used to carry out the National Contingency Plan. Requires the Administrator to impose a temporary moratorium on approval of the use of dispersants until the study is complete.

Requires area contingency plans to list containment booms.

(Sec. 716) Directs the President to create a database to track discharges of oil or hazardous substances.

(Sec. 717) Requires the President to issue regulations that ensure that the owner, operator, or person in charge of a tank vessel, nontank vessel, or an offshore or onshore facility submits for approval a response plan that will provide for an adequate response to a worst case discharge of oil or a hazardous substance or a substantial threat of such a discharge.

Requires such plans to contain a probabilistic risk analysis for all critical engineered systems of the vessel or facility.

Revises requirements for the review and approval of response plans.

Increases criminal and civil penalties for violations of requirements or prohibitions by the owner, operator, or person in charge of any vessel, onshore facility, or offshore facility.

(Sec. 718) Directs the President, acting through the Secretary of the department in which the Coast Guard is operating, to: (1) establish a process to quickly deploy offshore oil and hazardous substance cleanup technologies in the event of a discharge or substantial threat of a discharge of oil or a hazardous substance, and (2) maintain a database on best available oil and hazardous substance cleanup technologies in such an event.

(Sec. 719) Directs the President to delegate to the EPA Administrator specified inspection, monitoring, prevention, preparedness, and oil or hazardous substance discharge response as well as water quality and environmental protection responsibilities with respect to onshore facilities.

Directs the President to delegate to the Secretary of the department in which the Coast Guard is operating specified discharge prevention and containment enforcement, including first responder, responsibilities with respect to vessels and offshore facilities.

Directs the President to delegate to the Secretary of Transportation (DOT) specified discharge prevention and containment enforcement responsibilities with respect to transportation-related onshore facilities.

Directs the President to delegate to the Secretary of the Interior specified discharge prevention and containment enforcement responsibilities with respect to certain offshore facilities.

(Sec. 720) Amends the Oil Pollution Act of 1990 to require payment to an Indian tribe of damages for: (1) the net loss of taxes, royalties, rents, fees, or net profit shares due to the injury, destruction, or loss of real property, personal property, or natural resources as a result of an oil discharge; and (2) the net costs of providing increased or additional public services during or after removal activities.

(Sec. 721) Amends the Federal Water Pollution Control Act to repeal the exclusion of violations of such Act from, and thus subject such violations to, a civil penalty action with respect to oil and hazardous substances liability.

(Sec. 722) Amends the Oil Pollution Act of 1990 to reduce from 90 days to 45 days the deadline for settlement of a claim for removal costs or damages relating to an oil discharge before the claimant may elect to commence an action in court against the responsible party or guarantor or to present the claim to the Oil Spill Liability Trust Fund.

(Sec. 723) Increases by 300 the authorized end-of-year strength for active duty personnel of the Coast Guard for FY2011.

(Sec. 725) Amends the Oil Pollution Act of 1990 to set forth a build America requirement for offshore facilities. Prohibits the use of such a facility unless it was built in the United States, including construction of any major component of its hull or superstructure. Authorizes a waiver of this requirement in specified circumstances.

(Sec. 726) Directs the Commandant of the Coast Guard to complete an inventory and maintain a database of all vessels operating in U.S. waters that are capable of meeting oil spill response needs designated in the National Contingency Plan under the Federal Water Pollution Control Act.

(Sec. 727) Amends the Oil Pollution Act of 1990 to require offshore sensing and monitoring systems for certain facilities located in more than 500 feet of water.

(Sec. 729) Establishes emergency leave retention authority for an active duty member of the Coast Guard in support of a declaration by the President of a major disaster or emergency or in response to a spill of national significance. Treats such duty assignment as one in support of a contingency operation (thus permitting the Coast Guard member to retain at the end of the fiscal year any accumulated [use-or-lose] leave in excess of the number of days of leave authorized to be accumulated for that fiscal year).

(Sec. 730) Authorizes appropriations for FY2011-FY2015 for: (1) the Coast Guard; (2) EPA; and (3) DOT.

(Sec. 731) Amends the Oil Pollution Act of 1990 to extend oil discharge liability to persons (other than individuals) having direct or indirect ownership interests of more than 25% in a responsible party, if the responsible party's assets are insufficient to pay the claims it owes under such Act.

(Sec. 732) Denies any release of liability in connection with compensation received by a claimant for any type of harm unless the claimant: (1) presented a claim with respect to such type of harm, and (2) received compensation for it from the responsible party or from guarantor of the discharge or threat-of-discharge source.

(Sec. 733) Excludes any discharge incidental to presidentially authorized salvage activities from regulation under the Oil Pollution Act of 1990.

(Sec. 734) Amends the Federal Water Pollution Control Act to require redundancies in tank vessel, nontank vessel, and offshore and onshore facility oil or hazardous substance discharge response plans which specify response actions that will be taken if other response actions detailed in the plan fail. Requires such response plans to be vetted by impartial experts.

Amends OCSLA to prohibit the Secretary of the Interior from issuing any license or permit authorizing drilling for oil and gas on the OCS unless the applicant has an approved response plan for the vessel or facility used to conduct the drilling.

**Title VIII: Miscellaneous Provisions** - (Sec. 801) Repeals the authority of the Secretary to reduce or eliminate any royalty or net profit share (royalty relief) set forth in a lease for oil and gas operations in the Planning Areas Offshore Alaska.

Amends the Naval Petroleum Reserves Production Act of 1976, as amended by the Energy Policy Act of 2005, to repeal: (1) specified requirements for applications for renewal of oil and gas leases with and without discoveries in the Naval Petroleum Reserve in Alaska; and (2) the Secretary's authority to waive, suspend, or reduce rental fees or royalty on a

leasehold in the Alaska Reserve.

(Sec. 802) Directs the Secretary to issue regulations to establish an annual conservation fee for all oil and gas leases on federal onshore and offshore lands of \$2 per barrel of oil and 20 cents per million BTU of natural gas in 2010 dollars.

(Sec. 803) Declares that nothing in this Act modifies, amends, or affects leasing on Indian lands as currently carried out by the Bureau of Indian Affairs of the Department of the Interior.

(Sec. 804) Directs the President, acting through the Secretary, to publish a final determination of the boundaries of coastal states projected seaward to the outer margin of the OCS.

(Sec. 805) Amends the National Wildlife Refuge System Administration Act of 1966 to subject to liability to the United States any person who destroys, causes the loss of, or injures any refuge resource.

(Sec. 806) Amends the Coastal Zone Management Act of 1972 to authorize the Secretary of Commerce to make grants of up to \$750,000 per fiscal year for each of FY2011-FY2015 to an eligible coastal state to revise its coastal zone management program to identify and implement new policies and procedures to ensure sufficient state level response capabilities to address the environmental, economic, and social impacts of oil spills or other accidents resulting from OCS energy activities with the potential to affect land, water use, or natural resources of the coastal zone. Prohibits requiring any state to make a matching contribution.

(Sec. 807) Amends the Energy Policy Act of 2005 to require all federal department and agency heads to provide the Secretary, upon request, with all data and information necessary (except privileged or proprietary information) to include in the coordinated OCS mapping initiative.

(Sec. 808) Prohibits the use of funds authorized or made available by this Act to carry out any activity or pay any costs for removal or damages for which a responsible party is liable under the Oil Pollution Act of 1990 or other law.

(Sec. 809) Amends the Energy Policy Act of 2005 to repeal the rebuttable presumption that certain actions by either the Secretary of the Interior or the Secretary of Agriculture are excluded from environmental review under the National Environmental Policy Act of 1969. (Thus subjects all such actions to EPA review.)

(Sec. 810) Requires a federal official to respond within 48 hours of receiving a state permit application or request for approval to initiate state or local government response activity to protect its lands and waters that is directly related to an oil spill of national significance.

(Sec. 811) Directs to Comptroller General to evaluate the Department of the Interior implementation of this Act, including whether there has been a sufficient reduction in the conflict between mission and interest within the Department.

(Sec. 812) Requires the Secretary of the Interior to arrange with the National Academy of Engineering to assess the economic, safety, and environmental impacts of requiring relief wells to be drilled in tandem with the drilling of wells subject to the requirements of this Act.

**Title IX: Study of Actions to Improve the Accuracy of Collection of Royalties** - Study of Ways to Improve the Accuracy of the Collection of Federal Oil, Condensate, and Natural Gas Royalties Act of 2010 - (Sec. 902) Requires the Secretary of the Interior to arrange with the National Academy of Engineering to study whether the accuracy of royalties collection on production of oil, condensate, and natural gas under leases of federal and Indian lands would be improved by specified practices, including: (1) the installation of digital meters for all lands from which natural gas is produced, and

(2) the replacement of plug valves in natural gas gathering lines with ball valves.

**Title X: Offshore Oil and Gas Worker Whistleblower Protection** - Offshore Oil and Gas Worker Whistleblower Protection Act of 2010 - Prohibits employer retaliation against whistleblowers.

Prescribes an administrative procedure for investigating employer violations of this prohibition and civil actions to compel employer compliance with an order for relief issued by an administrative law judge.

## Actions Timeline

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- **Aug 4, 2010:** Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 510.
- **Aug 3, 2010:** Received in the Senate. Read the first time. Placed on Senate Legislative Calendar under Read the First Time.
- **Jul 30, 2010:** Rules Committee Resolution H. Res. 1574 Reported to House. Rule provides for consideration of H.R. 3534 and H.R. 5851. General debate for H.R. 3534 shall be one hour and forty minutes. After general debate, the bill shall be considered for amendment under the five-minute rule. And, it shall be in order to consider as an original bill the amendment in the nature of a substitute printed in Part A of the report of the Committee on Rules accompanying the resolution. Notwithstanding clause 11 of rule XVIII, no amendment to that amendment in the nature of a substitute shall be in order except those printed in Part B of the report of the Committee on Rules. The rule also makes in order
- **Jul 30, 2010:** POINT OF ORDER - Mr. Hastings (WA) stated that the bill and committee report violated the provisions of clause 9(a) rule XXI and was not in order for consideration. The Chair sustained the point of order.
- **Jul 30, 2010:** SUPPLEMENTAL REPORT FILED - The Chair announced a supplemental report to H.R. 3534 has been filed pursuant to the authority granted by clause 3(a)(2) of rule 13. The supplemental report contains a statement regarding congressional earmarks, limited tax benefits, or limited tariff benefits in satisfaction of clause 9 or rule 21.
- **Jul 30, 2010:** Considered under the provisions of rule H. Res. 1574. (consideration: CR H6498-6552, H6555-6561)
- **Jul 30, 2010:** Rule provides for consideration of H.R. 3534 and H.R. 5851. General debate for H.R. 3534 shall be one hour. After general debate, the bill shall be considered for amendment under the five-minute rule. And, it shall be in order to consider as an original bill the amendment in the nature of a substitute printed in Part A of the report of the Committee on Rules accompanying the resolution. Notwithstanding clause 11 of rule XVIII, no amendment to that amendment in the nature of a substitute shall be in order except those printed in Part B of the report of the Committee on Rules. The rule also makes in order H.R. 5851. General debate for H.R. 5851 shall be limited to one hour and the bill is closed to amendments, with the exception of the amendment printed in part C of the report which is considered adopted.
- **Jul 30, 2010:** House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 1574 and Rule XVIII.
- **Jul 30, 2010:** The Speaker designated the Honorable Jesse L. Jackson, Jr. to act as Chairman of the Committee.
- **Jul 30, 2010:** GENERAL DEBATE - The Committee of the Whole proceeded with one hour of general debate on H.R. 3534.
- **Jul 30, 2010:** Supplemental report filed by the Committee on Natural Resources, H. Rept. 111-575, Part II.
- **Jul 30, 2010:** The Committee of the Whole rose informally and subsequently resumed its sitting.
- **Jul 30, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1574, the Committee on the Whole proceeded with 20 minutes of debate on the Rahall amendment No. 1.
- **Jul 30, 2010:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Rahall amendment No. 1, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Mr. Hastings (WA) demanded a recorded vote and the Chair postponed further proceedings on adoption of the amendment until later in the legislative day.
- **Jul 30, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1574, the Committee on the Whole proceeded with 10 minutes of debate on the Castle amendment No. 2.
- **Jul 30, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1574, the Committee on the Whole proceeded with 10 minutes of debate on the Kind amendment No. 3.
- **Jul 30, 2010:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Kind amendment No. 3, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Mr. Kind demanded a recorded vote and the Chair postponed further proceedings on adoption of the amendment until later in the legislative day.
- **Jul 30, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1574, the Committee on the Whole proceeded with 10 minutes of debate on the Shea-Porter amendment No. 4.
- **Jul 30, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1574, the Committee on the Whole proceeded with 10 minutes of debate on the Teague amendment No. 5.
- **Jul 30, 2010:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Teague amendment No. 5, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Mr. Cummings demanded a recorded vote and the Chair postponed further proceedings on adoption of the amendment until later in the legislative day.
- **Jul 30, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1574, the Committee on the Whole proceeded with 10

minutes of debate on the Oberstar amendment No. 6.

- **Jul 30, 2010:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Oberstar amendment No. 6, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Mr. Hastings (WA) demanded a recorded vote and the Chair postponed further proceedings on adoption of the amendment until later in the legislative day.
- **Jul 30, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1574, the Committee on the Whole proceeded with 10 minutes of debate on the Connolly (VA) amendment No. 7.
- **Jul 30, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1574, the Committee on the Whole proceeded with 10 minutes of debate on the Melancon amendment No. 8.
- **Jul 30, 2010:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Melancon amendment No. 8, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Mr. Hastings (WA) demanded a recorded vote and the Chair postponed further proceedings on adoption of the amendment until later in the legislative day.
- **Jul 30, 2010:** DEBATE - Pursuant to the provisions of H.Res. 1574, the Committee on the Whole proceeded with 10 minutes of debate on the Melancon amendment No. 9.
- **Jul 30, 2010:** Mr. Rahall moved that the Committee now rise.
- **Jul 30, 2010:** On motion that the Committee now rise Agreed to by voice vote.
- **Jul 30, 2010:** Committee of the Whole House on the state of the Union rises leaving H.R. 3534 as unfinished business.
- **Jul 30, 2010:** Considered as unfinished business. (consideration: CR H6555-6561)
- **Jul 30, 2010:** The House resolved into Committee of the Whole House on the state of the Union for further consideration.
- **Jul 30, 2010:** UNFINISHED BUSINESS - The Chair announced that the unfinished business was the question on adoption of amendments which had been debated earlier and on which further proceedings had been postponed.
- **Jul 30, 2010:** The House rose from the Committee of the Whole House on the state of the Union to report H.R. 3534.
- **Jul 30, 2010:** The previous question was ordered pursuant to the rule. (consideration: CR H6558)
- **Jul 30, 2010:** The House adopted the amendment in the nature of a substitute as agreed to by the Committee of the Whole House on the state of the Union. (text: CR H6511-6536)
- **Jul 30, 2010:** Mr. Cassidy moved to recommit with instructions to Natural Resources. (consideration: CR H6558-6559; text: CR H6558)
- **Jul 30, 2010:** DEBATE - The House proceeded with 10 minutes of debate on the Cassidy motion to recommit with instructions. The instructions contained in the motion seek to require the bill to be reported back to the House with an amendment inserting a new section 231 which provides a new termination of moratoria on offshore drilling.
- **Jul 30, 2010:** The previous question on the motion to recommit with instructions was ordered without objection. (consideration: CR H6559)
- **Jul 30, 2010:** On motion to recommit with instructions Failed by recorded vote: 166 - 239, 1 Present (Roll no. 512). (consideration: CR H6559-6560)
- **Jul 30, 2010:** Passed/agreed to in House: On passage Passed by the Yeas and Nays: 209 - 193, 1 Present (Roll no. 513).
- **Jul 30, 2010:** On passage Passed by the Yeas and Nays: 209 - 193, 1 Present (Roll no. 513).
- **Jul 30, 2010:** Motion to reconsider laid on the table Agreed to without objection.
- **Jul 30, 2010:** The Clerk was authorized to correct section numbers, punctuation, and cross references, and to make other necessary technical and conforming corrections in the engrossment of H.R. 3534.
- **Jul 28, 2010:** Reported (Amended) by the Committee on 111-575, Part I.
- **Jul 28, 2010:** Referred sequentially to the House Committee on Agriculture for a period ending not later than July 28, 2010 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(a), rule X.
- **Jul 28, 2010:** Committee on Agriculture discharged.
- **Jul 28, 2010:** Placed on the Union Calendar, Calendar No. 332.
- **Jul 15, 2010:** Committee Consideration and Mark-up Session Held.
- **Jul 15, 2010:** Ordered to be Reported in the Nature of a Substitute (Amended) by the Yeas and Nays: 27 - 21.
- **Jul 14, 2010:** Committee Consideration and Mark-up Session Held.
- **Jun 30, 2010:** Committee Hearings Held.
- **Sep 17, 2009:** Committee Hearings Held.

**Sep 16, 2009:** Committee Hearings Held.

- **Sep 8, 2009:** Introduced in House
- **Sep 8, 2009:** Referred to the House Committee on Natural Resources.