S 3597

SHORE Act

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Chamber: Senate
Policy Area: Environmental Protection
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Sponsor

Name: Sen. Rockefeller, John D., IV [D-WV]
Party: Democratic • **State:** WV • **Chamber:** Senate

Cosponsors (1 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Nelson, Bill [D-FL]	D · FL		Jul 22, 2010

Committee Activity

Committee	Chamber	Activity	Date
Commerce, Science, and Transportation Committee	Senate	Reported By	Dec 17, 2010

Subjects & Policy Tags

Policy Area:

Environmental Protection

Related Bills

Bill	Relationship	Last Action
111 HR 6292	Identical bill	**Oct 15, 2010:** Referred to the Subcommittee on Energy and Environment.
111 S 3663	Related bill	**Jul 29, 2010:** Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 493.

Summary (as of Dec 17, 2010)

Securing Health for Ocean Resources and Environment Act or the SHORE Act - **Title I: Improving National Oceanic and Atmospheric Administration Oil Spill Response, Prevention, and Restoration Capacity -** (Sec. 101) Requires the Under Secretary for Oceans and Atmosphere to review and report to Congress on the National Oceanic and Atmospheric Administration's (NOAA) capacity to respond to oil spills. Requires such review to include: (1) a comparison of oil spill modeling requirements with the state-of-the-art oil spill modeling with respect to near shore and offshore areas; (2) the development of recommendations on priorities for improving forecasting of oil spill trajectories and impacts; (3) an inventory of NOAA's products and tools that can aid in assessing the potential risks and impacts of oil spills; (4) an identification of the baseline oceanographic and climate data required to support state-of-the-art modeling; (5) an assessment of Administration's ability to respond to the effects of an oil spill on its trust resources; (6) an assessment of NOAA's capacity to monitor and test seafood for oil contamination resulting from an oil spill; and (7) an identification of resources available to NOAA through partnerships with the private sector and academic institutions that can aid in risk assessment and impacts of oil spills.

Requires the Under Secretary to: (1) be responsible for developing and maintaining oil spill trajectory modeling capabilities; (2) create and update once every five years NOAA's environmental sensitivity index products for each coastal area of the United States and for each offshore area that is leased or under consideration for leasing for offshore energy production; (3) submit to Congress, within 270 days and every five years thereafter, a report that, for regions that are leased or are under consideration for leasing for offshore energy production, characterizes ecological baselines, identifies important ecological areas, critical habitats, and migratory behaviors, and identifies potential risks posed by hydrocarbon development on regional, state, and local economies; and (4) review the current state of NOAA's capacity to observe, monitor, map, and track subsea hydrocarbons, including the effect of subsea hyrdocarbons and dispersants at varying concentrations on living marine resources.

Requires the Under Secretary to establish a national information center on oil spills that: (1) includes scientific information and research on oil spill preparedness, response, and restoration; (2) serves as a single access point for emergency responders for such scientific data; (3) provides outreach and utilizes communication mechanisms to inform partners, the public, and local communities about the availability of oil spill preparedness, prevention, response, and restoration information and services and improves public understanding and minimizes impacts of oil spills; and (4) applies the data interoperability standards developed by the Integrated Coastal Ocean Observing System to allow for free and open access to all relevant data using the existing infrastructure of the regional information coordinating entities developed as part of the System as a portal for accessing nonfederal data.

Requires the Under Secretary to establish an initiative to: (1) determine the significance, response, frequency, size, potential fate, and potential effects, including on sensitive habitats, of oil spills resulting from aging and abandoned oil infrastructure; and (2) formulate recommendations on how best to address such spills.

Requires the Under Secretary to develop an inventory of offshore abandoned or sunken vessels in the U.S. exclusive economic zone and identify priorities for potential preemptive removal of oil or other actions that may be effective to mitigate the risk of oil spills from such vessels.

(Sec. 102) Amends the Oil Pollution Act of 1990 to revise provisions concerning the uses of the Oil Spill Liability Trust Fund.

(Sec. 104) Amends the Coastal Zone Management Act of 1972 to authorize the Secretary of Commerce to make grants

to eligible coastal states to: (1) revise management programs and National Estuarine Research Reserves approved under such Act to identify and implement new enforceable policies and procedures to ensure sufficient response capabilities at the state level to address the environmental, economic, and social impacts of oil spills or other accidents resulting from Outer Continental Shelf (OCS) energy activities with the potential to affect land or water use or natural resources of the coastal zone; and (2) review and revise enforceable policies within approved coastal state management programs affecting coastal energy activities and energy to ensure that these policies are consistent with such policies and procedures and with emergency response plans and policies developed under federal or state law. Prohibits the Secretary, after an initial grant is made, from making a subsequent grant unless the coastal state is satisfactorily developing revisions to address offshore energy impacts. Provides that no coastal state is eligible to receive grants for more than two fiscal years. Requires the Secretary to provide technical assistance to the coastal states to prepare revisions to approved management programs.

(Sec. 105) Requires the Secretary of Commerce, acting through the Under Secretary, to: (1) establish and report to Congress on a long-term marine environmental monitoring and research program for the marine and coastal environment of the Gulf of Mexico to ensure that the government has data and information to assess impacts of the oil spill caused by Deepwater Horizon on trust resources (defined as natural resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States, any state, an Indian Tribe, or a local government); (2) carry out such program during a 10-year period; and (3) make such data and information accessible to the public. Requires the program to include: (1) monitoring and research of the physical, chemical, and biological characteristics of the affected marine, coastal, and estuarine areas; (2) the fate, transport, and persistence of oil released during the spill and spatial distribution throughout the water column; (3) identification of lethal and sub-lethal impacts to shellfish, fish, and wildlife resources that utilize habitats located within the affected region; and (4) impacts to regional, state, and local economies that depend on the natural resources of the affected area, including commercial and recreational fisheries, tourism, and other wildlife-dependent recreation.

(Sec. 106) Requires the Secretary of Commerce, acting through the Under Secretary, to direct research to improve the ability of the United States to conduct oil spill prevention, response, observing, and recovery in Arctic waters. Requires such research, observation, and action to include the prioritization of resources to: (1) address ecological baselines and environmental sensitivity indexes, identification of ecological important areas, sensitive habitats, and migratory behaviors, the development of oil spill trajectory models in Arctic marine conditions, the collection of observational data essential for response strategies in the event of an oil spill during both open water and ice-covered seasons, the development of a robust operational monitoring program during such seasons, improvements in technologies and understanding of cold water oil recovery planning and restoration implementation, and the integration of local and traditional knowledge into oil recovery research studies; and (2) establish a robust geospacial framework for safe navigation and oil spill response through increased hydrographic and bathymetic surveying, mapping, and navigational charting, geodetic positioning, and monitoring of tides, sea levels, and currents in the Arctic.

(Sec. 107) Requires the Under Secretary to: (1) review the current state of NOAA and NOAA's capacity to monitor, map, and track subsea hydrocarbons; and (2) establish a hydrocarbon monitoring and assessment program that is based on such review. Sets forth provisions concerning transferring funds from the Oil Spill Liability Trust Fund to the Secretary of Commerce to carry out such review and program.

Title II: Improving Coast Guard Response and Inspection Capacity - (Sec. 202) Requires the Commandant of the Coast Guard to assess and take action to reduce the risk of, and improve the capability of the United States to respond to, a maritime disaster in the U.S. Beaufort and Chukchi Seas. Requires such assessment and actions to include the prioritization of resources to address: (1) oil spill prevention and response capabilities and infrastructure; (2) the coordination of contingency plans and agreements with other U.S. agencies, industry, and foreign governments to respond to an Arctic oil spill; (3) the expansion of search and rescue capabilities, infrastructure, and logistics; (4) the provisional designation of places of refuge; (5) the evaluation and enhancement of navigational infrastructure, vessel monitoring, tracking, and automated identification systems, and navigational aids and communications infrastructure for safe navigation and marine accident prevention in the Arctic; (6) shipping traffic risk assessments for the Bering Strait and the Chukchi and Beaufort Seas; and (7) the integration of local and traditional knowledge and concerns into prevention and response strategies.

(Sec. 203) Requires the Secretary of the department in which the Coast Guard is operating to require response plans approved by the Coast Guard under the Federal Water Pollution Control Act (commonly known as the Clean Water Act) to be updated at least once every five years and to utilize the best commercially available technology and methods to contain and remove a worst case discharge and to mitigate or prevent a substantial threat of such discharge. Authorizes the Coast Guard to establish requirements and guidance for utilizing such technology and methods. Considers each update to be a significant change that must be resubmitted for approval by the Coast Guard.

Directs the Secretary to require that all vessel response plans prepared pursuant to National Response System for vessels and other structures which are capable of exploring for, drilling for, developing, or producing oil or gas include plans for responding to a worst case discharge and to a threat of such discharge.

(Sec. 204) Amends the Clean Water Act to require: (1) each Area Committee to assure advance planning with respect to the closing and reopening of fishing grounds following an oil spill; (2) each Area Contingency Plan to develop a framework for such planning; and (3) the President, acting through the Commandant of the Coast Guard, to issue guidance for Area Committees to use in developing such framework.

(Sec. 205) Requires the Secretary to: (1) establish a program for the formal evaluation and validation of oil pollution containment and removal methods and technologies; and (2) consider whether a validated method or technology meets a performance capability warranting designation of a new standard for best available technology or methods. Requires all validated technologies and methods to be included in the comprehensive list of spill removal resources maintained by the Coast Guard through the National Response Unit.

(Sec. 206) Requires the Secretary to: (1) increase the frequency and comprehensiveness of safety inspections of all U.S. and foreign-flag tank vessels that enter a U.S. port or place; and (2) adopt, as part of the Secretary's inspection requirements for tank vessels, additional procedures for enhancing the verification of the reported structural condition of such vessels, taking into account the Condition Assessment Scheme adopted by the International Maritime Organization by Resolution 94(46) on April 27, 2001.

(Sec. 207) Includes as a category of vessels that are subject to inspection vessels and other structures, fixed or floating, including those which dynamically hold position or are attached to the seabed or subsoil, which are capable of exploring for, drilling for, developing, or producing oil or gas. Sets forth provisions concerning the inspection process of such vessels.

(Sec. 208) Requires the Commandant of the Coast Guard to: (1) identify areas in waters subject to the jurisdiction of the United States in which routing or other navigational measures are warranted to reduce the risk of oil spills and potential damage to natural resources, giving priority consideration to natural resources of particular ecological or economic importance; and (2) establish such routing or other navigational measures. Requires the Commandant and the Under

Secretary to seek to establish such areas through the International Maritime Organization or establish comparable areas pursuant to regulations and in a manner that is consistent with international law.

Requires the Commandant of the Coast Guard to analyze data and report to specified congressional committees on oil transported as cargo on vessels in U.S. navigable waters.

(Sec. 209) Authorizes a state to require a person to provide notice of 24 hours or more to the state and the Coast Guard prior to transferring oil in bulk as cargo in an amount equivalent to 250 barrels or more to, from, or within a vessel in state waters.

(Sec. 210) Amends the Oil Pollution Act of 1990 to establish a Gulf of Mexico Regional Citizens' Advisory Council to: (1) provide comprehensive oversight and monitoring of policies, permits, operations, and regulations relating to the activities, operation, and maintenance of facilities and tank vessels in the Gulf; (2) monitor the environmental impacts of the operation of such facilities and vessels; (3) monitor oil spill prevention and response plans; (4) recommend standards and conditions for regulations intended to ensure the safe and environmentally sound operation and maintenance of such facilities and vessels; (5) provide recommendations for, and assist, any oil spill recovery or spill research institute established for the Gulf of Mexico; (6) establish offices in Gulf states; and (7) report to Congress every two years on the achievement of safe operations of oil and gas activities in the Gulf, unresolved problems and concerns with operations, activities, and plans, and the Council's operations, expenditures, needs, issues, and recommendations. Requires the Comptroller General to report to the President and Congress on the Council's operations and expenditures. Requires owners or operators of tank vessels, facilities, lessees,and permittees in the Gulf to provide a specified amount for the establishment and operation of the Council.

(Sec. 211) Establishes an Arctic Regional Citizens' Advisory Council to: (1) advise the Administrator of the Environmental Protection Agency (EPA), the Commandant of the Coast Guard, the Secretary of Commerce, and the Secretary of the Interior; and (2) represent the citizens that live in the coastal areas of the Beaufort and Chukchi seas in promoting environmentally safe exploration, development, and production of oil and gas and to mitigate impacts to subsistence activities and resources.

Requires such Council, with regard to infrastructure related to oil and gas exploration, development, and production in the Chukchi and Beaufort Seas, to: (1) provide comprehensive oversight and monitoring of policies, permits, and regulations relating to oil and gas exploration, development, and production in a manner that covers all potential impacts from oil and gas activities in the Seas, including impacts from pipelines and shore-based facilities, except activities already subject to the permitting authority of the North Slope Borough or Northwest Arctic Borough; (2) advise agencies on the impact of exploration, development, and production on subsistence activities and species; (3) establish offices within a coastal community located on the North Slope of Alaska; and (4) report to Congress every two years on the achievement of safe operations of oil and gas activities in the Arctic Ocean and on its operations and recommendations. Requires the Comptroller General to report to the President and Congress on such Council's operations and expenditures.

Requires agencies to consult with such Council prior to taking substantive action with respect to permits, site-specific regulations, and other matters governing activities and actions within the Council's purview.

Requires owners or operators of offshore facilities, lessees, and permittees in the Chukchi and Beaufort Seas to provide a specified amount for the establishment and operation of the Council.

(Sec. 212) Revises limits on liability and removal costs of responsible parties with respect to discharge of oil into or upon the navigable waters or adjoining shorelines or the exclusive economic zone from single-hull and double-hull tank ships and barges.

(Sec. 213) Increases the amount of funding available from the Oil Spill Liability Trust Fund for operating expenses incurred by the Coast Guard in implementing the Oil Pollution Act of 1990.

(Sec. 214) Requires the Secretary, within an hour of receiving a report of a marine casualty, to forward the report to each state agency and Indian tribe that has jurisdiction concurrent with the United States or that is adjacent to waters in which the marine casualty occurred.

(Sec. 215) Requires the Commandant of the Coast Guard to publish on a publicly accessible website all written Incident Action Plans prepared and approved as part of any response to an oil spill in which the Commandant serves as the on-scene coordinator leading a unified command.

Title III: Other Matters Relating to Oil Spills - (Sec. 301) Requires the Under Secretary to develop: (1) standard national protocols for oil spill response and clean up assessments to promote consistent procedures for collecting shoreline characterization data and to ensure that the format and resolution of such data are consistent with the needs of coastal states; and (2) guidance and tools for oil spill responders and offer instructional courses to ensure that such protocols are used during oil spill responses in U.S. waters.

(Sec. 302) Amends the Outer Continental Shelf Lands Act to require the Secretary of the Interior, prior to the approval of any program, lease, exploration plan, or development and production plan, to consult with the Administrator of NOAA on the reasonably foreseeable adverse effects on ocean and coastal resources. Authorizes the Administrator to recommend alternatives to the proposed action. Requires the Secretary to incorporate into the approval for the proposed action the alternatives or mitigation measures recommended unless the Secretary: (1) determines that alternatives or mitigation measures are not necessary to prevent or minimize such adverse effects; and (2) notifies the Administrator of the reasons for that decision.

(Sec. 303) Establishes the Federal Oil Spill Research Committee to: (1) coordinate a program of oil pollution research, technology development, and demonstration among agencies and foster cost-effective research mechanisms; (2) report to Congress every five years on the current state of oil spill prevention and response capabilities; and (3) establish a program to provide for research, development, and demonstration of new or improved technologies which are effective in preventing, detecting, or mitigating oil discharges and which protect the environment.

Requires the Under Secretary to manage a program of competitive grants to universities and research institutions for conducting the research, development, and demonstration program.

Provides that the authority provided by this section supersedes the authority provided by the Oil Pollution Act of 1990 for the establishment of the Interagency Committee on Oil Pollution Research, which shall cease operations upon this Act's enactment.

(Sec. 304) Amends the Clean Water Act to authorize the Secretary of Transportation (DOT) to assess a civil penalty for violations with respect to discharges of oil or hazardous substances and the removal of discharges of oil.

(Sec. 305) Amends the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 to increase the amounts that owners or operators of terminal facilities or crude oil tankers operating in Prince William Sound, and owners or operators of terminal facilities, offshore facilities, or crude oil tankers operating in Cook Inlet, are required to provide to the Secretary of the department in which the Coast Guard is operating.

Title IV: Coral Reef Conservation Act Amendments - Coral Reef Conservation Amendments Act of 2010 - (Sec. 404) Amends the Coral Reef Conservation Act of 2000 to authorize the Secretary of Commerce, acting through the Administrator of NOAA, to provide assistance to any state, local, or territorial government agency with jurisdiction over coral reef ecosystems to address any unforeseen or disaster-related circumstance pertaining to coral reef ecosystems.

(Sec. 405) Requires the Secretary to establish the Emergency Response, Stabilization, and Restoration Account in the Damage Assessment Restoration Revolving Fund.

(Sec. 406) Prohibits any person from destroying, taking, causing the loss of, or injuring any coral reef or any component thereof. Makes exceptions where the destruction, loss, taking, or injury was: (1) caused by the use of fishing gear used in a manner permitted under the Magnuson-Stevens Fishery Conservation and Management Act or other federal or state law; (2) caused by an activity that is authorized or allowed by federal or state law (including lawful discharges from vessels, such as graywater, cooling water, engine exhaust, ballast water, or sewage from marine sanitation devices); (3) the necessary result of bona fide marine scientific research (including marine scientific research activities approved by federal, state, or local permits) other than excessive sampling or collecting or actions such as vessel groundings, vessel scrapings, anchor damage, or excavation; (4) caused by a federal agency during an emergency that posed an unacceptable threat to human health or safety or to the marine environment, an emergency that posed a threat to national security, or an activity necessary for law enforcement or search and rescue, that could not reasonably be avoided; or (5) caused by an action taken by the master of the vessel in an emergency situation to ensure the safety of the vessel or to save a life at sea.

Prohibits any person from interfering with the enforcement of this title by: (1) refusing to permit any authorized officer to board a vessel (other than a vessel operated by the Department of Defense (DOD) or United States Coast Guard) subject to such person's control for the purposes of conducting any search or inspection in connection with such enforcement; (2) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any authorized person d b in the conduct of any such search or inspection; or (3) submitting false information to the Secretary or any authorized officer in connection with any such search or inspection.

Prohibits any person from possessing, selling, delivering, carrying, transporting, or shipping any coral taken in violation of this title.

Requires the Secretary to issue a rule prescribing the circumstances and conditions under which the exception from this title's requirements for the destruction, loss, taking, or injury caused by the use of fishing gear used in a manner permitted under the Magnuson-Stevens Fishery Conservation and Management Act or other federal or state law applies.

(Sec. 407) Sets forth provisions concerning: (1) liability to the United States for response costs and damages resulting from the destruction, loss, or taking of, or injury to, coral reefs; (2) costs of seizure, forfeiture, storage and disposal arising from liability; and (3) civil action against any person or vessel that may be liable for response costs, seizure, forfeiture, storage, or disposal costs, and damages, and interest on that amount. Requires any cost, including response costs and damages recovered by the Secretary under this title, to be deposited into the Damage Assessment Restoration Revolving Fund or the Natural Resource Damage Assessment and Restoration Fund as appropriate given the location of the violation. Provides for the use of recovered amounts.

(Sec. 408) Sets forth enforcement provisions, including provisions concerning a civil administrative penalty, permit sanctions for violations, a civil judicial penalty, imprisonment, and criminal and civil forfeiture of property.

Applies this title to the internal waters of the United States, the territorial seas of the United States as described in

Presidential Proclamation 5928 of December 27, 1988, the Exclusive Economic Zone of the United States as described in Presidential Proclamation 5030 of March 10, 1983, and the continental shelf, consistent with international law.

(Sec. 409) Authorizes the Secretary, acting through the Administrator of NOAA, to allow for the conduct of bona fide research and activities that would otherwise be prohibited by this title through issuance of coral reef conservation permits. Prohibits the Secretary from issuing such permits unless the Secretary finds that there is no practicable alternative to conducting the activity in a manner that destroys, causes the loss of, or injury to any coral reef.

Actions Timeline

- **Dec 17, 2010:** Committee on Commerce, Science, and Transportation. Reported by Senator Rockefeller with an amendment in the nature of a substitute. Without written report.
- **Dec 17, 2010:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 713.
- **Jul 27, 2010:** Committee on Commerce, Science, and Transportation. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Jul 15, 2010:** Introduced in Senate
- **Jul 15, 2010:** Read twice and referred to the Committee on Commerce, Science, and Transportation.

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