

Calendar No. 466

104TH CONGRESS
2^D SESSION

S. 1730

[Report No. 104-292]

A BILL

To amend the Oil Pollution Act of 1990 to make the Act more effective in preventing oil pollution in the Nation's waters through enhanced prevention of, and improved response to, oil spills, and to ensure that citizens and communities injured by oil spills are promptly and fully compensated, and for other purposes.

JUNE 26, 1996

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

MAY 7, 1996

Mr. CHAFEE (for himself, Mr. LIEBERMAN, Mr. LAUTENBERG, Mr. PELL, and Mr. DODD) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JUNE 26, 1996

Reported by Mr. CHAFEE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Oil Pollution Act of 1990 to make the Act more effective in preventing oil pollution in the Nation's waters through enhanced prevention of, and improved response to, oil spills, and to ensure that citizens and communities injured by oil spills are promptly and fully compensated, and for other purposes.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Oil Spill Prevention and Response Improvement Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definition of Secretary.

TITLE I—ENHANCEMENT OF OIL SPILL PREVENTION

Sec. 101. Interim oil spill prevention measures for single-hull vessels.

Sec. 102. Incentive for oil shippers to convert single hull vessels to double hull
 vessels.

Sec. 103. Prevention of oil spills by improvement of safety of towing vessels.

Sec. 104. Other oil prevention enhancement measures.

TITLE II—IMPROVEMENT OF RESPONSES TO OIL SPILLS

Sec. 201. Access to timely short-term financial assistance for persons injured
 by oil spills.

Sec. 202. Advance planning and coordination to ensure prompt decisionmaking
 on reopening and closing of fishing grounds.

Sec. 203. Qualification of major oil spills as major disasters.

Sec. 204. Access to oil spill liability trust fund for natural resource damages.

Sec. 205. Access to necessary information, expertise, and funding to mitigate
 near-term ecological injury resulting from oil spill.

Sec. 206. Compliance with response plans.

8 **SEC. 2. DEFINITION OF SECRETARY.**

9 In this Act, the term “Secretary” means the Sec-
 10 retary of Transportation, acting through the United
 11 States Coast Guard.

1 **TITLE I—ENHANCEMENT OF OIL**
2 **SPILL PREVENTION**

3 **SEC. 101. INTERIM OIL SPILL PREVENTION MEASURES FOR**
4 **SINGLE-HULL VESSELS.**

5 (a) EFFECTIVENESS OF PROPOSED RULE.—Section
6 4115(b) of the Oil Pollution Act of 1990 (46 U.S.C. 3703a
7 note) is amended—

8 (1) by striking “The Secretary” and inserting
9 the following:

10 “(1) IN GENERAL.—The Secretary”; and

11 (2) by adding at the end the following:

12 “(2) OPERATIONAL ELEMENTS.—If a final rule
13 under this subsection with respect to operational ele-
14 ments does not become effective by the date that is
15 59 months after the date specified in paragraph (1),
16 the proposed rule in the Supplemental Notice of
17 Proposed Rulemaking (60 Fed. Reg. 55,904 (1995))
18 shall be considered to be in effect as a final rule as
19 of that date and shall remain in effect until a final
20 rule becomes effective.

21 “(3) STRUCTURAL ELEMENTS.—If a final rule
22 under this subsection with respect to structural ele-
23 ments does not become effective by the date that is
24 64 months after the date specified in paragraph (1),
25 the proposed rule in the Notice of Proposed Rule-

1 making (58 Fed. Reg. 54,870 (1993)) shall be con-
 2 sidered to be in effect as a final rule as of that date
 3 and shall remain in effect until a final rule becomes
 4 effective.”.

5 (b) PREVENTION MEASURES.—Section 4115(b) of
 6 the Oil Pollution Act of 1990 (46 U.S.C. 3703a note), as
 7 amended by subsection (a), is amended by adding at the
 8 end the following:

9 “(4) PROVISIONS TO BE INCLUDED.—

10 “(A) IN GENERAL.—In issuing rules under
 11 this subsection, the Secretary shall include the
 12 following provisions to the greatest extent prac-
 13 ticable:

14 “(i) A requirement that a single hull
 15 barge over 5,000 gross tons operating in
 16 open ocean or coastal waters that is af-
 17 fected by this section have at least 1 of the
 18 following:

19 “(I) A crew member on board
 20 and an operable anchor.

21 “(II) An emergency system on
 22 board the vessel towing the barge to
 23 retrieve the barge if the tow line rup-
 24 tures.

1 “(III) Adoption of any other
2 measure that provides comparable
3 protection against grounding of the
4 barge as that provided by a measure
5 described in subclause (I) or (II).

6 “(ii) In cooperation with the captain
7 of the port for each port in which any tank
8 vessel not fitted with a double bottom that
9 covers the entire cargo tank length oper-
10 ates; establishment of a minimum under-
11 keel clearance for the vessel when entering
12 the port or place of destination and when
13 departing port.

14 “(B) CONSIDERATIONS.—In issuing rules
15 under this subsection, the Secretary shall—

16 “(i) require the use of all measures
17 that advance the objectives of this section,
18 not only those determined to be the most
19 cost-effective or most cost-efficient;

20 “(ii) take account of human safety,
21 including the safety of crew members on
22 affected tank vessels; and

23 “(iii) consider measures that prevent
24 collision or grounding of a tank vessel in
25 addition to those that reduce oil outflow

1 after such a collision or grounding has oc-
2 curred.”.

3 **SEC. 102. INCENTIVE FOR OIL SHIPPERS TO CONVERT SIN-**
4 **GLE HULL VESSELS TO DOUBLE HULL VES-**
5 **SELS.**

6 Section 1004(e) of the Oil Pollution Act of 1990 (33
7 U.S.C. 2704(e)) is amended—

8 (1) in paragraph (1) by striking “Subsection
9 (a)” and inserting “Except as provided in paragraph
10 (4), subsection (a)”;

11 (2) by adding at the end the following:

12 “(4) **DOUBLE-HULLED VESSELS.**—The excep-
13 tion in paragraph (1)(B) shall not apply—

14 “(A) to a tank vessel that, as of the date
15 of enactment of this paragraph, is equipped
16 with a double hull; or

17 “(B) to a double hull vessel that is replac-
18 ing another tank vessel not equipped with a
19 double hull that is being retired at least 5 years
20 prior to the applicable retirement date under
21 section 3703a(e) of title 46, United States
22 Code.”.

1 **SEC. 103. PREVENTION OF OIL SPILLS BY IMPROVEMENT**
 2 **OF SAFETY OF TOWING VESSELS.**

3 (a) **DEADLINE ON ISSUANCE OF FINAL REGULA-**
 4 **TIONS.**—If a final rule on navigation safety equipment for
 5 towing vessels does not become effective by September 30,
 6 1996, the proposed rule in the Notice of Proposed Rule-
 7 making (60 Fed. Reg. 55890 (1995)) shall be considered
 8 to be in effect as a final rule as of that date and shall
 9 remain in effect until a final rule becomes effective.

10 (b) **CONSIDERATION OF FIRE-SUPPRESSION EQUIP-**
 11 **MENT IN TOWING SAFETY RULEMAKING.**—In issuing a
 12 final rule on Navigation Safety Equipment for Towing
 13 Vessels in accordance with subsection (a), the Secretary
 14 shall establish a requirement that a towing vessel have a
 15 fire-suppression system or other equipment to provide ade-
 16 quate assurance that an onboard fire can be suppressed
 17 under reasonably foreseeable circumstances.

18 **SEC. 104. OTHER OIL PREVENTION ENHANCEMENT MEAS-**
 19 **URES.**

20 (a) **REQUIREMENT FOR STUDY OF OIL SPILL**
 21 **RISKS.**—

22 (1) **IN GENERAL.**—The Secretary shall coordi-
 23 nate with the Marine Board of the National Re-
 24 search Council on a study into how the designation
 25 of waters through which tank vessels transport oil,

1 and the designation of shipping lanes for tank ves-
2 sels, affect the risk of an oil spill.

3 (2) RECOMMENDATIONS.—In the study under
4 paragraph (1), the Marine Board of the National
5 Research Council shall recommend to the Secretary
6 any changes to designations of waters that would
7 minimize the risk of oil spills.

8 (b) DREDGING OF RHODE ISLAND WATERWAYS.—
9 The Chief of Engineers of the Army Corps of Engineers,
10 in conjunction with the Secretary and other relevant agen-
11 cies, shall—

12 (1) review the report of the commission con-
13 vened by the Governor of Rhode Island on dredging
14 Rhode Island waterways; and

15 (2) not later than 120 days after issuance of
16 the report, submit to the Committee on Environment
17 and Public Works of the Senate and the Committee
18 on Transportation and Infrastructure of the House
19 of Representatives any recommendations that the
20 Chief of Engineers may have concerning the feasibil-
21 ity and environmental effects of the dredging.

22 (c) LIGHTERING OPERATIONS.—The first sentence of
23 section 3715(b) of title 46, United States Code, is amend-
24 ed by striking “of this section” and inserting “that include
25 requirements that the Secretary determines will provide

1 protection to the environment that is as substantial as is
 2 economically and technologically feasible.”.

3 **TITLE II—IMPROVEMENT OF** 4 **RESPONSES TO OIL SPILLS**

5 **SEC. 201. ACCESS TO TIMELY SHORT-TERM FINANCIAL AS-**
 6 **SISTANCE FOR PERSONS INJURED BY OIL**
 7 **SPILLS.**

8 (a) **DAMAGES FOR LOSS OF PROFITS OR IMPAIR-**
 9 **MENT OF EARNING CAPACITY.**—Section 1002(b)(2)(E) of
 10 the Oil Pollution Act of 1990 (~~33 U.S.C. 2702(b)(2)(E)~~)
 11 is amended by striking the period at the end and inserting
 12 the following: “, in part or in full. Payment or settlement
 13 of a claim for interim, short-term damages representing
 14 less than the full amount of damages to which the claim-
 15 ant ultimately may be entitled under this subparagraph
 16 shall not preclude recovery by the claimant for damages
 17 not reflected in the paid or settled partial claim.”.

18 (b) **CLAIMS PROCEDURE.**—Section 1013(d) of the Oil
 19 Pollution Act of 1990 (~~33 U.S.C. 2713(d)~~) is amended
 20 by inserting after “unavailable” the following: “including
 21 a claim for interim, short-term damages representing less
 22 than the full amount of damages to which the claimant
 23 ultimately may be entitled,”.

24 (c) **ADVERTISEMENT.**—Section 1014(b) of the Oil
 25 Pollution Act of 1990 (~~33 U.S.C. 2714(b)~~) is amended—

1 (1) by striking “If a responsible party” and in-
2 serting the following:

3 “~~(1) IN GENERAL.—If a responsible party~~”;
4 and

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

6 “~~(2) CLAIM FOR INTERIM DAMAGES.—An ad-~~
7 vertisement under paragraph (1) shall state that a
8 claimant may present a claim for interim, short-term
9 damages representing less than the full amount of
10 damages to which the claimant ultimately may be
11 entitled and payment of such a claim shall not pre-
12 clude recovery for damages not reflected in the paid
13 or settled partial claim.”.

14 (d) SUBROGATION.—Section 1015(a) of the Oil Pol-
15 lution Act of 1990 (~~33~~ U.S.C. 2715(a)) is amended—

16 (1) by redesignating subsection (b) as sub-
17 section (e); and

18 (2) by inserting after subsection (a) the follow-
19 ing:

20 “~~(e) INTERIM DAMAGES.—~~

21 “~~(1) IN GENERAL.—If a responsible party, a~~
22 guarantor, or the Fund has made payment to a
23 claimant for interim, short-term damages represent-
24 ing less than the full amount of damages to which
25 the claimant ultimately may be entitled, subrogation

1 under subsection (a) shall apply only with respect to
 2 the portion of the claim reflected in the paid interim
 3 claim.

4 “(2) FINAL DAMAGES.—Payment of such a
 5 claim shall not foreclose claimant’s right to recovery
 6 of all damages to which a claimant otherwise is enti-
 7 tled under this title or any other law.”

8 **SEC. 202. ADVANCE PLANNING AND COORDINATION TO EN-**
 9 **SURE PROMPT DECISIONMAKING ON RE-**
 10 **OPENING AND CLOSING OF FISHING**
 11 **GROUNDS.**

12 (a) NATIONAL GUIDANCE.—Section 311(j)(4)(D) of
 13 the Federal Water Pollution Control Act (33 U.S.C.
 14 1321(j)(4)(D)) is amended—

15 (1) in clause (i) by striking “and” at the end;

16 (2) in clause (ii) by striking the period and in-
 17 serting “; and”; and

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

19 “(iii) acting through the Under Sec-
 20 retary of Commerce for Oceans and At-
 21 mosphere and in consultation with the Ad-
 22 ministrator, the Director of the United
 23 States Fish and Wildlife Service, and other
 24 affected agencies, issue guidance for Area
 25 Committees to use in developing a frame-

1 work for advanced planning and decision-
 2 making with respect to the closing and re-
 3 opening of fishing grounds following an oil
 4 spill, which guidance shall include model
 5 protocols and standards for the closing and
 6 reopening of fishing areas.”.

7 (b) REQUIREMENT THAT AREA CONTINGENCY
 8 PLANS CONTAIN AREA-SPECIFIC PROTOCOLS AND
 9 STANDARDS.—

10 (1) COOPERATION WITH STATE AND LOCAL OF-
 11 FICIALS.—Section 311(j)(4)(B)(ii) of the Federal
 12 Water Pollution Control Act (33 U.S.C.
 13 1321(j)(4)(B)(ii)) is amended by inserting after
 14 “wildlife” the following: “, including advance plan-
 15 ning with respect to the closing and reopening of
 16 fishing grounds following an oil spill”.

17 (2) FRAMEWORK.—Section 311(j)(4)(C) of the
 18 Federal Water Pollution Control Act (33 U.S.C.
 19 1321(j)(4)(C)) is amended—

20 (A) by redesignating clauses (vii) and (viii)
 21 as clauses (ix) and (x), respectively; and

22 (B) by inserting after clause (vi) the fol-
 23 lowing:

24 “(vii) develop a framework for advanced
 25 planning and decisionmaking with respect to

1 the closing and reopening of fishing grounds
 2 following an oil spill, including protocols and
 3 standards for the closing and reopening of fish-
 4 ing areas;”.

5 **SEC. 203. QUALIFICATION OF MAJOR OIL SPILLS AS MAJOR**
 6 **DISASTERS.**

7 (a) **ADDITION OF MAJOR OIL SPILLS TO LIST OF**
 8 **DISASTERS QUALIFYING FOR NATIONAL DISASTER AS-**
 9 **SISTANCE.**—Section 102(2) of the Robert T. Stafford Dis-
 10 aster Relief and Emergency Assistance Act (42 U.S.C.
 11 5122(2)) is amended by inserting “major oil spill” after
 12 “flood.”.

13 (b) **SUBROGATION OF MONEYS PAID UNDER DES-**
 14 **IGNATION OF MAJOR OIL SPILL AS MAJOR DISASTER.**—
 15 Section 1015 of the Oil Pollution Act of 1990 (33 U.S.C.
 16 2715) (as amended by section 201(d)(2)) is amended by
 17 adding at the end the following:

18 “(d) **SUBROGATION OF MONEYS PAID UNDER DES-**
 19 **IGNATION OF OIL SPILL AS MAJOR DISASTER.**—The
 20 United States shall acquire by subrogation the right to
 21 seek from the responsible party, its guarantor, or the
 22 Fund any moneys paid by the United States under section
 23 102(2) of the Robert T. Stafford Disaster Relief and
 24 Emergency Assistance Act (42 U.S.C. 5122(2)) to provide
 25 short-term financial assistance that has the effect of miti-

1 gating damages to which the recipient would be entitled
2 under this Act.”.

3 **SEC. 204. ACCESS TO OIL SPILL LIABILITY TRUST FUND**
4 **FOR NATURAL RESOURCE DAMAGES.**

5 Section 6002 of the Oil Pollution Act of 1990 (33
6 U.S.C. 2752) is amended by striking subsection (b) and
7 inserting the following:

8 “(b) EXCEPTIONS.—

9 “(1) IN GENERAL.—Subsection (a) shall not
10 apply to—

11 “(A) section 1006(f), 1012(a) (2) or (4),
12 or 5006(b); or

13 “(b) an amount not exceeding \$50,000,000
14 for any fiscal year that the President may make
15 available from the Fund to—

16 “(i) carry out section 311(e) of the
17 Federal Water Pollution Control Act (33
18 U.S.C. 1321(e));

19 “(ii) conduct the assessment of natu-
20 ral resource damages required under sec-
21 tion 1006;

22 “(iii) develop restoration plans; and

23 “(iv) implement the initial phases of
24 restoration plans.

1 “(2) AVAILABILITY.—Amounts to which this
2 subsection applies shall remain available until ex-
3 pended.”.

4 **SEC. 205. ACCESS TO NECESSARY INFORMATION, EXPER-**
5 **TISE, AND FUNDING TO MITIGATE NEAR-**
6 **TERM ECOLOGICAL INJURY RESULTING**
7 **FROM OIL SPILL.**

8 (a) ACCESS TO FUNDS TO MITIGATE NEAR-TERM
9 INJURY.—Section 1012(a) of the Oil Pollution Act of
10 1990 (33 U.S.C. 2712(a)) is amended—

11 (1) in paragraph (5) by striking the period at
12 the end of paragraph (5) and inserting “; and”; and

13 (2) by adding at the end the following:

14 “(6) the payment of costs to mitigate ecological
15 injury (including the immediate costs of manage-
16 ment, a level and of a type that are needed to miti-
17 gate ecological injury, as determined solely by the
18 Federal On-Scene Coordinator).

19 (b) ACCESS TO SCIENTISTS WITH RELEVANT EX-
20 PERTISE.—

21 (1) IDENTIFYING SCIENTISTS IN AREA CONTIN-
22 GENCY PLANS.—Section 311(j)(4)(C) of the Federal
23 Water Pollution Control Act (as amended by section
24 202(b)(2)) is amended—

1 (A) by redesignating clauses (ix) and (x)
2 as clauses (x) and (xi), respectively; and

3 (B) by inserting after clause (vii) the fol-
4 lowing:

5 “(viii) compile a list of local scientists,
6 both inside and outside Federal Government
7 service, with expertise in the environmental ef-
8 fects of spills of the types of oil typically trans-
9 ported in the area, who may be contacted to
10 provide information or participate in the sci-
11 entific support team convened in response to a
12 spill;”.

13 (e) ESTABLISHMENT OF SCIENTIFIC SUPPORT
14 TEAM.—Section 4202(b) of the Oil Pollution Act of 1990
15 (~~33~~ U.S.C. 1321 note) is amended by adding at the end
16 the following:

17 “(5) SCIENTIFIC SUPPORT TEAM.—

18 “(A) ESTABLISHMENT.—Not later than 6
19 months after the date of enactment of this
20 paragraph, the Secretary shall establish a proe-
21 cess under which a scientific support team shall
22 be convened immediately in response to each oil
23 spill covered by this Act.

24 “(B) PURPOSE.—The purpose of the sci-
25 entific support team shall be to provide useful

1 or necessary scientific information and support
 2 to the response team and to recommend any
 3 measures that will serve to mitigate ecological
 4 injury immediately following such a spill.

5 “(C) PARTICIPATION BY SCIENTISTS WITH
 6 EXPERTISE.—The process under subparagraph
 7 (A) shall provide for consideration for participa-
 8 tion on a scientific support team to be given to
 9 scientists identified in the area contingency plan
 10 with expertise in the environmental effects of
 11 the kind of oil that has been spilled or that has
 12 actually or potentially affected natural re-
 13 sources.

14 “(D) OPERATIONS OPEN TO THE PUB-
 15 LIC.—To the extent it does not interfere with
 16 its expeditious operation, the operations of a
 17 scientific team shall be open to the public.”.

18 (d) ACCESS TO USEFUL AND NECESSARY INFORMA-
 19 TION.—

20 (1) ESTABLISHMENT OF INFORMATION CLEAR-
 21 INGHOUSE.—Section 7001(a) the Oil Pollution Act
 22 of 1990 (33 U.S.C. 2761(a)) is amended—

23 (A) by striking “may designate” at the end
 24 of paragraph (3) and all that follows through

1 “representative” and inserting “may designate.
2 A representative”; and

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

4 “(4) DISSEMINATION OF INFORMATION.—The
5 Interagency Committee shall disseminate and com-
6 pile information regarding previous spills, including
7 data from universities, research institutions, State
8 governments, and other nations, as appropriate.”.

9 (2) REQUIREMENT THAT NATIONAL RESPONSE
10 UNITS MAINTAIN INFORMATION ON ENVIRONMENTAL
11 EFFECTS OF OIL SPILLS.—Section 311(j)(2) of the
12 Federal Water Pollution Control Act (33 U.S.C.
13 1321(j)(2)) is amended—

14 (A) by redesignating subparagraphs (F)
15 and (G) as subparagraphs (G) and (H), respec-
16 tively; and

17 (B) by inserting the following after sub-
18 paragraph (E):

19 “(F) shall maintain and update a body of
20 information on the environmental effects of var-
21 ious types of oil spills and how best to mitigate
22 those effects, which shall be kept in a form that
23 is readily transmittable to response teams re-
24 sponding to a spill under this Act;”.

1 **SEC. 206. COMPLIANCE WITH RESPONSE PLANS.**

2 Section ~~311(c)(3)(B)~~ of the Federal Water Pollution
 3 Control Act (~~33 U.S.C. 1321(c)(3)(B)~~) is amended by
 4 striking “or as directed by the President” and inserting
 5 “unless the President or the on-scene coordinator deter-
 6 mines that deviation from the plan would provide for a
 7 more expeditious or effective response to the spill or miti-
 8 gation of its environmental effects.”.

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

10 (a) *SHORT TITLE.*—*This Act may be cited as the “Oil*
 11 *Spill Prevention and Response Improvement Act”.*

12 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 13 *Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Definition of Secretary.

TITLE I—ENHANCEMENT OF OIL SPILL PREVENTION

Sec. 101. Interim oil spill prevention measures for single-hull vessels.

Sec. 102. Incentive for oil shippers to convert single-hull vessels to double-hull ves-
sels.

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TITLE II—IMPROVEMENT OF RESPONSES TO OIL SPILLS

Sec. 201. Access to timely short-term financial assistance for persons injured by
oil spills.

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on reopening and closing of fishing grounds.

Sec. 203. Access to oil spill liability trust fund for natural resource damages.

Sec. 204. Access to necessary information, expertise, and funding to mitigate
near-term ecological injury resulting from oil spill.

Sec. 205. Compliance with response plans.

**TITLE III—TAILORING OF OFFSHORE FACILITY FINANCIAL
 RESPONSIBILITY REQUIREMENTS TO OIL SPILL RISKS**

Sec. 301. Tailoring of offshore facility financial responsibility requirements to oil
spill risks.

TITLE IV—MISCELLANEOUS TECHNICAL AMENDMENTS

Sec. 401. Miscellaneous technical amendments.

1 **SEC. 2. DEFINITION OF SECRETARY.**

2 *In this Act, the term “Secretary” means the Secretary*
3 *of Transportation, acting through the United States Coast*
4 *Guard.*

5 **TITLE I—ENHANCEMENT OF OIL**
6 **SPILL PREVENTION**

7 **SEC. 101. INTERIM OIL SPILL PREVENTION MEASURES FOR**
8 **SINGLE-HULL VESSELS.**

9 *(a) EFFECTIVENESS OF PROPOSED RULE.—Section*
10 *4115(b) of the Oil Pollution Act of 1990 (46 U.S.C. 3703a*
11 *note) is amended—*

12 *(1) by striking “The Secretary” and inserting*
13 *the following:*

14 *“(1) IN GENERAL.—The Secretary”; and*

15 *(2) by adding at the end the following:*

16 *“(2) OPERATIONAL ELEMENTS.—If a final rule*
17 *under this subsection with respect to operational ele-*
18 *ments does not become effective by the date that is 59*
19 *months after the date specified in paragraph (1), the*
20 *proposed rule in the Supplemental Notice of Proposed*
21 *Rulemaking (60 Fed. Reg. 55,904 (1995)) shall be*
22 *considered to be in effect as a final rule as of that*
23 *date and shall remain in effect until a final rule be-*
24 *comes effective.*

1 “(3) *STRUCTURAL ELEMENTS.*—If a final rule
2 under this subsection with respect to structural ele-
3 ments does not become effective by the date that is 64
4 months after the date specified in paragraph (1), the
5 proposed rule in the Notice of Proposed Rulemaking
6 (58 Fed. Reg. 54,870 (1993)) shall be considered to be
7 in effect as a final rule as of that date and shall re-
8 main in effect until a final rule becomes effective, ex-
9 cept provision in the proposed rule with respect to
10 which the Secretary may issue a finding on the record
11 that the provision would be likely to increase the risks
12 of oil pollution.”.

13 (b) *PREVENTION MEASURES.*—Section 4115(b) of the
14 *Oil Pollution Act of 1990* (46 U.S.C. 3703a note), as
15 amended by subsection (a), is amended by adding at the
16 end the following:

17 “(4) *PROVISIONS TO BE INCLUDED.*—

18 “(A) *IN GENERAL.*—In issuing rules under
19 this subsection, the Secretary shall include the
20 following provisions to the greatest extent prac-
21 ticable and consistent with relevant statutory
22 criteria:

23 “(i) A requirement that a single hull
24 barge over 5,000 gross tons operating in
25 open ocean or coastal waters that is affected

1 by this section have at least 1 of the follow-
2 ing:

3 “(I) A crew member on board and
4 an operable anchor.

5 “(II) An emergency system on
6 board the vessel towing the barge to re-
7 trieve the barge if the tow line rup-
8 tures.

9 “(III) Adoption of any other
10 measure that provides comparable pro-
11 tection against grounding of the barge
12 as that provided by a measure de-
13 scribed in subclause (I) or (II).

14 “(ii) For each port in which any tank
15 vessel not fitted with a double bottom that
16 covers the entire cargo tank length operates,
17 establishment of a minimum under-keel
18 clearance for the vessel when entering the
19 port or place of destination, when departing
20 port, and when operating in an inland or
21 coastal waterway.

22 “(B) CONSIDERATIONS.—In issuing rules
23 under this subsection, the Secretary shall—

24 “(i) require the use of all measures
25 that the Secretary finds meet the criteria of

1 (2) *by adding at the end the following:*

2 “*(4) DOUBLE-HULL VESSELS.—The exception in*
3 *paragraph (1)(B) shall not apply—*

4 “*(A) to a tank vessel that, as of the date of*
5 *enactment of this paragraph, is equipped with a*
6 *double hull along the entire length of the vessel,*
7 *including fuel oil tanks; or*

8 “*(B) to a vessel that is equipped with a*
9 *double hull along the entire length of the vessel,*
10 *including fuel oil tanks, and that is replacing*
11 *another tank vessel not equipped with a double*
12 *hull that is being retired at least 5 years prior*
13 *to the applicable retirement date under section*
14 *3703a(c) of title 46, United States Code.”.*

15 **SEC. 103. PREVENTION OF OIL SPILLS BY IMPROVEMENT OF**
16 **SAFETY OF TOWING VESSELS.**

17 (a) *DEADLINE ON ISSUANCE OF FINAL REGULA-*
18 *TIONS.—*

19 (1) *IN GENERAL.—The Secretary shall issue and*
20 *place in effect a final rule on navigation safety equip-*
21 *ment for towing vessels by September 30, 1996.*

22 (2) *DEFAULT.—If a final rule on navigation*
23 *safety equipment for towing vessels does not become*
24 *effective by September 30, 1996, the proposed rule in*
25 *the Notice of Proposed Rulemaking (60 Fed. Reg.*

1 55890 (1995)) shall be considered to be in effect as a
2 final rule as of that date and shall remain in effect
3 until a final rule becomes effective.

4 (b) *INCLUSION OF FIRE-SUPPRESSION AND ELEC-*
5 *TRONIC POSITION-FIXING EQUIPMENT AND REGULAR IN-*
6 *SPECTION REQUIREMENTS IN TOWING SAFETY RULE-*
7 *MAKING.*—*In issuing a final rule on Navigation Safety*
8 *Equipment for Towing Vessels in accordance with sub-*
9 *section (a), the Secretary shall establish requirements*
10 *that—*

11 (1) *a towing vessel have a fire-suppression sys-*
12 *tem or other equipment to provide adequate assurance*
13 *that an onboard fire can be suppressed under reason-*
14 *ably foreseeable circumstances;*

15 (2) *a towing vessel carry on board an electronic*
16 *position fixing device; and*

17 (3) *the owner, master, or operator of a towing*
18 *vessel ensure that—*

19 (A) *tests and inspections of equipment nec-*
20 *essary for safe navigation and operation occur at*
21 *regular intervals sufficient to provide for the*
22 *continued proper functioning of the towing ves-*
23 *sel;*

1 (B) inspections of gear necessary for safe
2 navigation and operation occur before departing
3 from port or at least weekly; and

4 (C) the results of each such test is recorded
5 in a cost-effective manner.

6 **SEC. 104. OTHER OIL PREVENTION ENHANCEMENT MEAS-**
7 **URES.**

8 (a) *REQUIREMENT FOR STUDY OF OIL SPILL RISKS.—*

9 (1) *IN GENERAL.—The Secretary shall coordi-*
10 *nate with the Marine Board of the National Research*
11 *Council on a study into how the designation of waters*
12 *through which tank vessels transport oil, and the des-*
13 *ignation of shipping lanes for tank vessels, affect the*
14 *risk of an oil spill.*

15 (2) *RECOMMENDATIONS.—In the study under*
16 *paragraph (1), the Marine Board of the National Re-*
17 *search Council shall recommend to the Secretary any*
18 *changes to designations of waters and shipping lanes*
19 *that would minimize the risk of oil spills.*

20 (b) *DREDGING OF RHODE ISLAND WATERWAYS.—The*
21 *Chief of Engineers of the Army Corps of Engineers, in con-*
22 *junction with the Secretary and other relevant agencies,*
23 *shall—*

1 (1) *review the report of the commission convened*
 2 *by the Governor of Rhode Island on dredging Rhode*
 3 *Island waterways; and*

4 (2) *not later than 120 days after issuance of the*
 5 *report, submit to the Committee on Environment and*
 6 *Public Works of the Senate and the Committee on*
 7 *Transportation and Infrastructure of the House of*
 8 *Representatives any recommendations that the Chief*
 9 *of Engineers may have concerning the feasibility and*
 10 *environmental effects of the dredging.*

11 (c) *LIGHTERING OPERATIONS.*—*The first sentence of*
 12 *section 3715(b) of title 46, United States Code, is amended*
 13 *by striking “of this section” and inserting “that include re-*
 14 *quirements that the Secretary determines will provide pro-*
 15 *tection to the environment that is as substantial as is eco-*
 16 *nomically and technologically feasible.”.*

17 **TITLE II—IMPROVEMENT OF**
 18 **RESPONSES TO OIL SPILLS**

19 **SEC. 201. ACCESS TO TIMELY SHORT-TERM FINANCIAL AS-**
 20 **SISTANCE FOR PERSONS INJURED BY OIL**
 21 **SPILLS.**

22 (a) *DAMAGES FOR LOSS OF PROFITS OR IMPAIRMENT*
 23 *OF EARNING CAPACITY.*—*Section 1002(b)(2)(E) of the Oil*
 24 *Pollution Act of 1990 (33 U.S.C. 2702(b)(2)(E)) is amended*
 25 *by striking the period at the end and inserting the follow-*

1 ing: “, in part or in full. Payment or settlement of a claim
2 for interim, short-term damages representing less than the
3 full amount of damages to which the claimant ultimately
4 may be entitled under this subparagraph shall not preclude
5 recovery by the claimant for damages not reflected in the
6 paid or settled partial claim.”.

7 (b) *CLAIMS PROCEDURE*.—Section 1013(d) of the Oil
8 Pollution Act of 1990 (33 U.S.C. 2713(d)) is amended by
9 inserting after “unavailable” the following: “including a
10 claim for interim, short-term damages representing less
11 than the full amount of damages to which the claimant ul-
12 timately may be entitled,”.

13 (c) *ADVERTISEMENT*.—Section 1014(b) of the Oil Pol-
14 lution Act of 1990 (33 U.S.C. 2714(b)) is amended—

15 (1) by striking “If a responsible party” and in-
16 sserting the following:

17 “(1) *IN GENERAL*.—If a responsible party”; and

18 (2) by adding at the end the following:

19 “(2) *CLAIM FOR INTERIM DAMAGES*.—An adver-
20 tisement under paragraph (1) shall state that a
21 claimant may present a claim for interim, short-term
22 damages representing less than the full amount of
23 damages to which the claimant ultimately may be en-
24 titled and payment of such a claim shall not preclude

1 *recovery for damages not reflected in the paid or set-*
2 *tled partial claim.”.*

3 (d) *SUBROGATION.*—*Section 1015(a) of the Oil Pollu-*
4 *tion Act of 1990 (33 U.S.C. 2715(a)) is amended—*

5 (1) *by redesignating subsection (b) as subsection*
6 *(c); and*

7 (2) *by inserting after subsection (a) the follow-*
8 *ing:*

9 “(b) *INTERIM DAMAGES.*—

10 “(1) *IN GENERAL.*—*If a responsible party, a*
11 *guarantor, or the Fund has made payment to a*
12 *claimant for interim, short-term damages represent-*
13 *ing less than the full amount of damages to which the*
14 *claimant ultimately may be entitled, subrogation*
15 *under subsection (a) shall apply only with respect to*
16 *the portion of the claim reflected in the paid interim*
17 *claim.*

18 “(2) *FINAL DAMAGES.*—*Payment of such a claim*
19 *shall not foreclose claimant’s right to recovery of all*
20 *damages to which a claimant otherwise is entitled*
21 *under this title or any other law.”.*

1 **SEC. 202. ADVANCE PLANNING AND COORDINATION TO EN-**
2 **SURE PROMPT DECISIONMAKING ON RE-**
3 **OPENING AND CLOSING OF FISHING**
4 **GROUNDS.**

5 (a) *NATIONAL GUIDANCE.*—Section 311(j)(4)(D) of the
6 *Federal Water Pollution Control Act (33 U.S.C.*
7 *1321(j)(4)(D)) is amended—*

8 (1) *in clause (i) by striking “and” at the end;*

9 (2) *in clause (ii) by striking the period and in-*
10 *serting “; and”; and*

11 (3) *by adding at the end the following:*

12 “(iii) *acting through the Under Sec-*
13 *retary of Commerce for Oceans and Atmos-*
14 *phere and in consultation with the Admin-*
15 *istrator, the Commissioner of Food and*
16 *Drugs, the Director of the United States*
17 *Fish and Wildlife Service, and other af-*
18 *ected Federal and State agencies, issue*
19 *guidance for Area Committees to use in de-*
20 *veloping a framework for advanced plan-*
21 *ning and decisionmaking with respect to the*
22 *closing and reopening of fishing grounds*
23 *following an oil spill, which guidance shall*
24 *include model protocols and standards for*
25 *the closing and reopening of fishing areas.”.*

1 **(b) REQUIREMENT THAT AREA CONTINGENCY PLANS**
2 **CONTAIN AREA-SPECIFIC PROTOCOLS AND STANDARDS.—**

3 **(1) COOPERATION WITH STATE AND LOCAL OFFI-**
4 **CIALS.—***Section 311(j)(4)(B)(ii) of the Federal Water*
5 *Pollution Control Act (33 U.S.C. 1321(j)(4)(B)(ii)) is*
6 *amended by inserting after “wildlife” the following: “,*
7 *including advance planning with respect to the clos-*
8 *ing and reopening of fishing grounds following an oil*
9 *spill”.*

10 **(2) FRAMEWORK.—***Section 311(j)(4)(C) of the*
11 *Federal Water Pollution Control Act (33 U.S.C.*
12 *1321(j)(4)(C)) is amended—*

13 **(A)** *by redesignating clauses (vii) and (viii)*
14 *as clauses (viii) and (ix), respectively; and*

15 **(B)** *by inserting after clause (vi) the follow-*
16 *ing:*

17 *“(vii) develop a framework for advanced*
18 *planning and decisionmaking with respect to the*
19 *closing and reopening of fishing grounds follow-*
20 *ing an oil spill, including protocols and stand-*
21 *ards for the closing and reopening of fishing*
22 *areas;”.*

1 **SEC. 203. ACCESS TO OIL SPILL LIABILITY TRUST FUND**
2 **FOR NATURAL RESOURCE DAMAGES.**

3 *Section 6002 of the Oil Pollution Act of 1990 (33*
4 *U.S.C. 2752) is amended by striking subsection (b) and in-*
5 *serting the following:*

6 “(b) *EXCEPTIONS.—*

7 “(1) *IN GENERAL.—*Subsection (a) shall not
8 *apply to—*

9 “(A) *section 1006(f), 1012(a)(4), or 5006(b);*

10 *or*

11 “(B) *an amount not exceeding \$60,000,000*
12 *for any fiscal year that the President may make*
13 *available from the Fund to—*

14 “(i) *carry out section 311(c) of the*
15 *Federal Water Pollution Control Act (33*
16 *U.S.C. 1321(c)); and*

17 “(ii) *conduct the assessment of natural*
18 *resource damages required under section*
19 *1006;*

20 “(2) *AVAILABILITY.—*Amounts to which this sub-
21 *section applies shall remain available until ex-*
22 *pended.”.*

1 **SEC. 204. ACCESS TO NECESSARY INFORMATION, EXPER-**
 2 **TISE, AND FUNDING TO MITIGATE NEAR-**
 3 **TERM ECOLOGICAL INJURY RESULTING**
 4 **FROM OIL SPILL.**

5 (a) *ACCESS TO FUNDS TO MITIGATE NEAR-TERM IN-*
 6 *JURY.*—Section 1012(a) of the Oil Pollution Act of 1990
 7 (33 U.S.C. 2712(a)) is amended—

8 (1) *in paragraph (5) by striking the period at*
 9 *the end of paragraph (5); and*

10 (2) *by adding at the end the following:*

11 “(6) *the payment of costs to mitigate or avoid ec-*
 12 *ological injury in the immediate aftermath of a spill*
 13 *(including costs of management activities at a level*
 14 *and of a type necessary for such a purpose, as deter-*
 15 *mined solely by the Federal On-Scene Coordinator);*
 16 *and*

17 “(7) *the plugging of idle oil wells that pose a*
 18 *substantial safety or environmental risk under a cost-*
 19 *sharing agreement with the State in which such a*
 20 *well is located, under which agreement the State*
 21 *maintains legal and operational responsibility for the*
 22 *plugging and pays a minimum of 50 percent of the*
 23 *necessary costs.”.*

24 (b) *ACCESS TO SCIENTISTS WITH RELEVANT EXPER-*
 25 *TISE.*—

1 (1) *IDENTIFYING SCIENTISTS IN AREA CONTIN-*
2 *GENCY PLANS.*—Section 311(j)(4)(C) of the Federal
3 *Water Pollution Control Act (as amended by section*
4 *202(b)(2)) is amended—*

5 (A) *by redesignating clauses (viii) and (ix)*
6 *as clauses (ix) and (x), respectively; and*

7 (B) *by inserting after clause (vii) the fol-*
8 *lowing:*

9 “(viii) *compile a list of local scientists, both*
10 *inside and outside Federal Government service,*
11 *with expertise in the environmental effects of*
12 *spills of the types of oil typically transported in*
13 *the area, who may be contacted to provide infor-*
14 *mation or where appropriate, participate in*
15 *meetings of the scientific support team convened*
16 *in response to a spill;”.*

17 (c) *ESTABLISHMENT OF SCIENTIFIC SUPPORT*
18 *TEAM.*—Section 4202(b) of the Oil Pollution Act of 1990
19 (33 U.S.C. 1321 note) is amended by adding at the end
20 the following:

21 “(5) *SCIENTIFIC SUPPORT TEAM.*—

22 “(A) *ESTABLISHMENT.*—Not later than 180
23 *days after the date of enactment of this para-*
24 *graph, the Under Secretary of Commerce for*
25 *Oceans and Atmosphere shall establish a process*

1 *under which a scientific support team shall be*
 2 *named, all or part of which may be convened in*
 3 *response to an oil spill covered by this Act.*

4 “(B) *PURPOSE.*—*The purpose of the sci-*
 5 *entific support team shall be to provide useful or*
 6 *necessary scientific information and support to*
 7 *the response team and to recommend any meas-*
 8 *ures that will serve to mitigate ecological injury*
 9 *immediately following such a spill.*

10 “(C) *OPERATIONS OPEN TO THE PUBLIC.*—
 11 *To the extent it does not interfere with its expe-*
 12 *ditious operation, the operations of a scientific*
 13 *team shall be open to the public.”.*

14 (d) *ACCESS TO USEFUL AND NECESSARY INFORMA-*
 15 *TION.*—

16 (1) *ESTABLISHMENT OF INFORMATION CLEAR-*
 17 *INGHOUSE.*—*Section 7001(a) the Oil Pollution Act of*
 18 *1990 (33 U.S.C. 2761(a)) is amended—*

19 (A) *by striking “may designate” at the end*
 20 *of paragraph (3) and all that follows through*
 21 *“representative” and inserting “may designate.*
 22 *A representative”;* and

23 (B) *by adding at the end the following:*

24 “(4) *DISSEMINATION OF INFORMATION.*—*The*
 25 *Interagency Committee shall disseminate and compile*

1 *information regarding previous spills, including data*
 2 *from universities, research institutions, State govern-*
 3 *ments, and other nations, as appropriate.”.*

4 (2) *REQUIREMENT THAT NATIONAL RESPONSE*
 5 *UNITS MAINTAIN INFORMATION ON ENVIRONMENTAL*
 6 *EFFECTS OF OIL SPILLS.—Section 311(j)(2) of the*
 7 *Federal Water Pollution Control Act (33 U.S.C.*
 8 *1321(j)(2)) is amended—*

9 (A) *by redesignating subparagraphs (F)*
 10 *and (G) as subparagraphs (G) and (H), respec-*
 11 *tively; and*

12 (B) *by inserting the following after sub-*
 13 *paragraph (E):*

14 “(F) *shall maintain and update a body of*
 15 *information on the environmental effects of var-*
 16 *ious types of oil spills and how best to mitigate*
 17 *those effects, which shall be kept in a form that*
 18 *is readily transmittable to response teams re-*
 19 *sponding to a spill under this Act;”.*

20 **SEC. 205. COMPLIANCE WITH RESPONSE PLANS.**

21 *Section 311(c)(3)(B) of the Federal Water Pollution*
 22 *Control Act (33 U.S.C. 1321(c)(3)(B)) is amended by strik-*
 23 *ing “or as directed by the President” and inserting “unless*
 24 *the President or the on-scene coordinator determines that*
 25 *deviation from the plan would provide for a more expedi-*

1 *tious or effective response to the spill or mitigation of its*
 2 *environmental effects.”.*

3 **TITLE III—TAILORING OF OFF-**
 4 **SHORE FACILITY FINANCIAL**
 5 **RESPONSIBILITY REQUIRE-**
 6 **MENTS TO OIL SPILL RISKS**

7 **SEC. 301. TAILORING OF OFFSHORE FACILITY FINANCIAL**
 8 **RESPONSIBILITY REQUIREMENTS TO OIL**
 9 **SPILL RISKS.**

10 *Section 1016(c)(1) of the Oil Pollution Act of 1990 (33*
 11 *U.S.C. 2716(c)(1)) is amended to read as follows:*

12 *“(1) IN GENERAL.—*

13 *“(A) EVIDENCE OF FINANCIAL RESPON-*
 14 *SIBILITY REQUIRED.—Except as provided in*
 15 *paragraph (2), a responsible party with respect*
 16 *to an offshore facility that—*

17 *“(i)(I) is located seaward of the line of*
 18 *ordinary low water along the portion of the*
 19 *coast that is in direct contact with the open*
 20 *sea and the line marking the seaward limit*
 21 *of inland waters; or*

22 *“(II) is located in inland waters, such*
 23 *as coastal bays or estuaries, seaward of the*
 24 *line of ordinary low water along the portion*

1 *of the coast that is not in direct contact*
2 *with the open sea;*

3 “(ii) *is used for exploring for, drilling*
4 *for, or producing oil, or for transporting oil*
5 *from facilities engaged in oil exploration,*
6 *drilling, or production; and*

7 “(iii) *has a worst-case oil spill dis-*
8 *charge potential of more than 1,000 barrels*
9 *of oil (or a lesser amount if the President*
10 *determines that the risks posed by the facil-*
11 *ity justify it),*

12 *shall establish and maintain evidence of finan-*
13 *cial responsibility in the amount required under*
14 *subparagraph (B) or (C), as applicable.*

15 “(B) *AMOUNT REQUIRED GENERALLY.—Ex-*
16 *cept as provided in subparagraph (C), the*
17 *amount of financial responsibility for an offshore*
18 *facility described in subparagraph (A) is—*

19 “(i) *\$35,000,000, in the case of an off-*
20 *shore facility located seaward of the sea-*
21 *ward boundary of a State; or*

22 “(ii) *\$10,000,000, in the case of an off-*
23 *shore facility located landward of the sea-*
24 *ward boundary of a State.*

1 “(C) *GREATER AMOUNT.*—*If the President*
2 *determines that an amount of financial respon-*
3 *sibility for a responsible party greater than the*
4 *amount required by subparagraphs (B) and (D)*
5 *is justified by the relative operational, environ-*
6 *mental, human health, and other risks posed by*
7 *the quantity or quality of oil that is explored for,*
8 *drilled for, produced, stored, handled, trans-*
9 *ferred, processed, or transported by the respon-*
10 *sible party, the evidence of financial responsibil-*
11 *ity required shall be for an amount determined*
12 *by the President not exceeding \$150,000,000.*

13 “(D) *MULTIPLE FACILITIES.*—*If a person is*
14 *a responsible party for more than 1 facility sub-*
15 *ject to this subsection, evidence of financial re-*
16 *sponsibility need be established only to meet the*
17 *amount applicable to the facility having the*
18 *greatest financial responsibility requirement*
19 *under this subsection.*

20 “(E) *STATE JURISDICTION.*—*The require-*
21 *ments of this paragraph shall not apply if an*
22 *offshore facility located landward of the seaward*
23 *boundary of a State is required by the State to*
24 *establish and maintain evidence of financial re-*
25 *sponsibility in a manner comparable to, and in*

1 *an amount equal to or greater than, the require-*
2 *ments of this paragraph.*

3 “(F) *DEFINITION.*—*For the purpose of this*
4 *paragraph, the seaward boundary of a State*
5 *shall be determined in accordance with section*
6 *2(b) of the Submerged Lands Act (43 U.S.C.*
7 *1301(b)).”.*

8 ***TITLE IV—MISCELLANEOUS***
9 ***TECHNICAL AMENDMENTS***

10 ***SEC. 401. MISCELLANEOUS TECHNICAL AMENDMENTS.***

11 *(a) Section 1001(36) of the Oil Pollution Act of 1990*
12 *(33 U.S.C. 2701(36)) is amended by inserting “the Trust*
13 *Territory of the Pacific Islands,” after “Northern Mari-*
14 *anas,”.*

15 *(b) Section 1012(e)(1) of the Oil Pollution Act of 1990*
16 *(33 U.S.C. 2712(e)(1)) is amended by striking “this sub-*
17 *section” and inserting “subsection (d)”.*

18 *(c) Section 1016 of the Oil Pollution Act of 1990 (33*
19 *U.S.C. 2716) is amended by redesignating subsections (e),*
20 *(f), (g), (h), and (i) as subsections (d), (e), (f), (g), and*
21 *(h), respectively.*

22 *(d) The first sentence of section 4303(a) of the Oil Pol-*
23 *lution Act of 1990 (33 U.S.C. 2716a(a)) is amended by*
24 *striking “(c)(2)” and inserting “(b)(2)”.*