

AMENDMENT TO RULES COMMITTEE PRINT 116-

29

**OFFERED BY MS. WASSERMAN SCHULTZ OF
FLORIDA**

At the end of the bill, add the following:

1 **TITLE I—IMPROVING MARINE**
2 **OIL SPILL PREVENTION CA-**
3 **PABILITIES**

4 **SECTION 5. SHORT TITLE; TABLE OF CONTENTS.**

5 The table of contents of this Act is as follows:

TITLE I—IMPROVING MARINE OIL SPILL PREVENTION
CAPABILITIES

Sec. 5. Short title; table of contents.

TITLE I—IMPROVING MARINE OIL SPILL PREVENTION
CAPABILITIES

Sec. 101. Coordination between National Oceanic and Atmospheric Administra-
tion, Coast Guard, and Department of the Interior on oil spill
matters.

Sec. 102. Coast Guard inspections.

Sec. 103. Navigational measures for protection of natural resources.

Sec. 104. Vessel as responsible party.

TITLE II—IMPROVING MARINE OIL SPILL PREPAREDNESS

Sec. 201. Coast Guard response plan requirements.

Sec. 202. Oil spill technology evaluation.

Sec. 203. Safety management system requirements for mobile offshore drilling
units.

Sec. 204. Notice to States of bulk oil transfers.

TITLE III—IMPROVING MARINE OIL SPILL RESPONSE
CAPABILITIES

Sec. 301. Prompt publication of oil spill information.

Sec. 302. Coordination of Federal, State, and local activities with respect to oil
spill surveys.

1 **TITLE I—IMPROVING MARINE**
2 **OIL SPILL PREVENTION CA-**
3 **PABILITIES**

4 **SEC. 101. COORDINATION BETWEEN NATIONAL OCEANIC**
5 **AND ATMOSPHERIC ADMINISTRATION, COAST**
6 **GUARD, AND DEPARTMENT OF THE INTERIOR**
7 **ON OIL SPILL MATTERS.**

8 (a) OUTER CONTINENTAL SHELF LEASING PRO-
9 GRAM.—Section 18 of the Outer Continental Shelf Lands
10 Act (43 U.S.C. 1344) is amended—

11 (1) in subsection (c)—

12 (A) in paragraph (1), by striking “from
13 any interested Federal agency, including the
14 Attorney General” and inserting “from the
15 head of any interested Federal department or
16 agency, including the Secretary of Commerce,
17 the Secretary of the department in which the
18 Coast Guard is operating, and the Attorney
19 General”; and

20 (B) in paragraph (3), by striking “Within
21 nine months after the date of the enactment of
22 this section, the Secretary shall submit a pro-
23 posed leasing program to the Congress, the At-
24 torney General,” and inserting “The Secretary
25 shall submit any proposed leasing program to

1 the Congress, the head of each interested Fed-
2 eral department or agency described in para-
3 graph (1), the Attorney General,”;

4 (2) in subsection (d)—

5 (A) in paragraph (1), by striking “pro-
6 posed leasing program,” in the first sentence
7 and all that follows through the end of the
8 paragraph and inserting “proposed leasing pro-
9 gram—

10 “(A) the Attorney General, after consulta-
11 tion with the Federal Trade Commission, may
12 submit comments on the anticipated effects of
13 the proposed program on competition;

14 “(B) the Secretary of Commerce may sub-
15 mit comments on the anticipated effects of the
16 proposed program on the human, marine, and
17 coastal environments, including the likelihood of
18 occurrence and potential severity of spills and
19 chronic pollution;

20 “(C) the Secretary of the department in
21 which the Coast Guard is operating may submit
22 comments on the adequacy of the response ca-
23 pabilities of the Federal Government for spills
24 and chronic pollution that may occur as a result
25 of the proposed program; and

1 “(D) any State, local government, or other
2 person may submit comments and recommenda-
3 tions as to any aspect of the proposed pro-
4 gram.”;

5 (B) in paragraph (2), by striking “Attor-
6 ney General” and inserting “Attorney General,
7 the Secretary of Commerce, the Secretary of
8 the department in which the Coast Guard is op-
9 erating,”; and

10 (C) in paragraph (3), by striking “or after
11 eighteen months following the date of the enact-
12 ment of this section, whichever first occurs,”;

13 (3) in subsection (e), by striking “He” and in-
14 serting “The Secretary”; and

15 (4) in subsection (h)—

16 (A) by striking “nonprivileged” and in-
17 serting “nonprivileged”;

18 (B) by striking “he requests to assist him”
19 and inserting “the Secretary requests to assist
20 the Secretary”; and

21 (C) by striking “he requests to assist him”
22 and inserting “the Secretary requests to assist
23 the Secretary”.

1 (b) ENVIRONMENTAL STUDIES.—Section 20(f) of the
2 Outer Continental Shelf Lands Act (43 U.S.C. 1346(f))
3 is amended—

4 (1) by striking “In executing his” and inserting
5 “(1) IN GENERAL.—In executing the” and indenting
6 accordingly; and

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

8 “(2) NATIONAL OCEANIC AND ATMOSPHERIC
9 ADMINISTRATION.—

10 “(A) IN GENERAL.—In addition to any
11 other requirement under law, the Secretary, be-
12 fore the approval of any program, lease, explo-
13 ration plan, or development and production
14 plan, shall consult with the Administrator of
15 the National Oceanic and Atmospheric Admin-
16 istration (referred to in this paragraph as the
17 ‘Administrator’) on any reasonably foreseeable
18 adverse effects of the proposed action, including
19 oil spills, on ocean and coastal resources.

20 “(B) INITIATION OF CONSULTATION.—

21 “(i) IN GENERAL.—The Secretary
22 shall consult the Administrator under sub-
23 paragraph (A) as soon as practicable, but
24 not later than 90 days before the date of
25 approval of the proposed action.

1 “(ii) PROVISION OF INFORMATION.—

2 When consulting the Administrator under
3 subparagraph (A), the Secretary shall pro-
4 vide to the Administrator—

5 “(I) information describing the
6 nature, location, and duration of the
7 proposed action; and

8 “(II) a description of all reason-
9 ably foreseeable adverse effects on
10 ocean and coastal resources.

11 “(C) ALTERNATIVES.—

12 “(i) IN GENERAL.—At any time be-
13 fore the date that is 45 days before the ap-
14 proval of the proposed action, the Adminis-
15 trator may recommend to the Secretary al-
16 ternatives to any proposed action, includ-
17 ing measures that will prevent or minimize
18 reasonably foreseeable adverse effects on
19 ocean and coastal resources.

20 “(ii) SECRETARIAL ACTION.—The
21 Secretary shall incorporate into the ap-
22 proval for the proposed action any alter-
23 native or mitigation measure recommended
24 under clause (i), unless the Secretary—

1 “(I) determines that the alter-
2 native or mitigation measure is not
3 necessary to prevent or minimize rea-
4 sonably foreseeable adverse effects on
5 marine and coastal resources; and

6 “(II) notifies the Administrator
7 in writing of the reasons for the deter-
8 mination under subclause (I).”.

9 **SEC. 102. COAST GUARD INSPECTIONS.**

10 (a) IN GENERAL.—The Secretary of the department
11 in which the Coast Guard is operating shall increase the
12 frequency and comprehensiveness of safety inspections of
13 all United States and foreign-flag tank vessels that enter
14 a United States port or place, including increasing the fre-
15 quency and comprehensiveness of inspections of vessel age,
16 hull configuration, and past violations of any applicable
17 discharge and safety regulations under United States and
18 international law that may indicate that the class societies
19 inspecting such vessels may be substandard, and other fac-
20 tors relevant to the potential risk of an oil spill.

21 (b) ENHANCED VERIFICATION OF STRUCTURAL CON-
22 DITION.—The Secretary of the department in which the
23 Coast Guard is operating shall adopt, as part of the Sec-
24 retary’s inspection requirements for tank vessels, addi-
25 tional procedures for enhancing the verification of the re-

1 ported structural condition of such vessels, taking into ac-
2 count the Condition Assessment Scheme adopted by the
3 International Maritime Organization by Resolution 94(46)
4 on April 27, 2001, as amended and consolidated.

5 **SEC. 103. NAVIGATIONAL MEASURES FOR PROTECTION OF**
6 **NATURAL RESOURCES.**

7 (a) DESIGNATION OF AT-RISK AREAS.—

8 (1) IN GENERAL.—The Commandant of the
9 Coast Guard, in consultation with the Under Sec-
10 retary for Oceans and Atmosphere, shall identify
11 areas in waters subject to the jurisdiction of the
12 United States, including the exclusive economic zone
13 (as established by Presidential Proclamation Num-
14 bered 5030 of March 10, 1983 (16 U.S.C. 1453
15 note)), in which routing or other navigational meas-
16 ures are warranted to reduce the risk of oil spills
17 and potential damage to natural resources.

18 (2) CONSIDERATIONS.—In identifying the areas
19 described in paragraph (1), the Commandant shall
20 give priority consideration to natural resources of
21 particular ecological importance or economic impor-
22 tance, including—

23 (A) commercial fisheries;

24 (B) aquaculture facilities;

1 (C) marine sanctuaries designated by the
2 Secretary of Commerce under the National Ma-
3 rine Sanctuaries Act (16 U.S.C. 1431 et seq.);

4 (D) estuaries of national significance des-
5 igned under section 320 of the Federal Water
6 Pollution Control Act (33 U.S.C. 1330);

7 (E) critical habitat, as defined in section
8 3(5) of the Endangered Species Act of 1973
9 (16 U.S.C. 1532(5));

10 (F) estuarine research reserves within the
11 National Estuarine Research Reserve System
12 established by section 315 of the Coastal Zone
13 Management Act of 1972 (16 U.S.C. 1461);
14 and

15 (G) national parks and national seashores
16 administered by the National Park Service
17 under the National Park Service Organic Act
18 (16 U.S.C. 1 et seq.).

19 (b) FACTORS CONSIDERED.—In determining whether
20 navigational measures are warranted for an area identified
21 under subsection (a), the Commandant and the Under
22 Secretary shall consider, at a minimum—

23 (1) the frequency of transits of vessels that are
24 required to prepare a response plan under section

1 311(j) of the Federal Water Pollution Control Act
2 (33 U.S.C. 1321(j));

3 (2) the type and quantity of oil transported as
4 cargo or fuel;

5 (3) the expected benefits of routing measures in
6 reducing risks of spills;

7 (4) the costs of such measures;

8 (5) the safety implications of such measures;

9 and

10 (6) the nature and value of the resources to be
11 protected by such measures.

12 (c) ESTABLISHMENT OF ROUTING AND OTHER NAVI-
13 GATIONAL MEASURES.—The Commandant shall establish
14 routing or other navigational measures for areas identified
15 under subsection (a).

16 (d) ESTABLISHMENT OF AREAS TO BE AVOIDED.—
17 To the extent that the Commandant and the Under Sec-
18 retary identify areas in which navigational measures are
19 warranted for an area under subsection (a), the Secretary
20 of Commerce and the Under Secretary shall seek to estab-
21 lish such areas through the International Maritime Orga-
22 nization or establish comparable areas pursuant to regula-
23 tions and in a manner that is consistent with international
24 law.

25 (e) OIL SHIPMENT DATA AND REPORT.—

1 (1) DATA COLLECTION.—The Commandant, in
2 consultation with the Chief of Engineers of the
3 United States Army, shall analyze data on oil trans-
4 ported as cargo on vessels in the navigable waters of
5 the United States, including information on—

6 (A) the quantity and type of oil being
7 transported;

8 (B) the vessels used for such transpor-
9 tation;

10 (C) the frequency with which each type of
11 oil is being transported; and

12 (D) the point of origin, transit route, and
13 destination of each such shipment of oil.

14 (2) QUARTERLY REPORT.—

15 (A) REQUIREMENT FOR QUARTERLY RE-
16 PORT.—The Secretary of Commerce, not less
17 frequently than once each calendar quarter,
18 shall submit to the Committee on Commerce,
19 Science, and Transportation of the Senate and
20 the Committee on Energy and Commerce of the
21 House of Representatives a report on the data
22 collected and analyzed under paragraph (1).

23 (B) FORMAT.—Each report submitted
24 under subparagraph (A) shall be submitted in

1 a format that does not disclose information ex-
2 empted from disclosure.

3 **SEC. 104. VESSEL AS RESPONSIBLE PARTY.**

4 Section 1001(32)(A) of the Oil Pollution Act of 1990
5 (33 U.S.C. 2701(32)(A)) is amended by striking “with a
6 single hull after December 31, 2010”.

7 **TITLE II—IMPROVING MARINE**
8 **OIL SPILL PREPAREDNESS**

9 **SEC. 201. COAST GUARD RESPONSE PLAN REQUIREMENTS.**

10 (a) IN GENERAL.—The Secretary of the department
11 in which the Coast Guard is operating shall require all
12 response plans approved by the Coast Guard under section
13 311(j) of the Federal Water Pollution Control Act (33
14 U.S.C. 1321(j)) to be updated not less than once every
15 5 years.

16 (b) BEST AVAILABLE TECHNOLOGY.—Each response
17 plan update under subsection (a) shall utilize the best
18 commercially available technology and methods to contain
19 and remove to the maximum extent practicable a worst
20 case discharge (including a discharge resulting from fire
21 or explosion), and to mitigate or prevent a substantial
22 threat of such a discharge.

23 (c) TECHNOLOGY STANDARDS.—

24 (1) IN GENERAL.—The Secretary of the depart-
25 ment in which the Coast Guard is operating may es-

1 establish requirements and guidance for utilizing the
2 best commercially available technology and methods
3 under subsection (b).

4 (2) REQUIREMENTS.—The best commercially
5 available technology and methods shall be based on
6 measurable standards and capabilities whenever
7 practicable.

8 (d) RESUBMISSION.—Each update under subsection
9 (a) shall be considered a significant change requiring it
10 to be resubmitted for approval by the Coast Guard.

11 **SEC. 202. OIL SPILL TECHNOLOGY EVALUATION.**

12 (a) IN GENERAL.—The Secretary of the department
13 in which the Coast Guard is operating shall establish a
14 program for the formal evaluation and validation of oil
15 pollution containment and removal methods and tech-
16 nologies.

17 (b) APPROVALS.—

18 (1) IN GENERAL.—The program under sub-
19 section (a) shall include the establishment of a proc-
20 ess for new methods and technologies—

21 (A) to be submitted to and evaluated by
22 the Secretary of the department in which the
23 Coast Guard is operating; and

24 (B) to gain validation for use in spill re-
25 sponses and inclusion in response plans under

1 section 311(j) of the Federal Water Pollution
2 Control Act (33 U.S.C. 1321(j)).

3 (2) PERFORMANCE CAPABILITIES.—Following
4 each validation under paragraph (1)(B), the Sec-
5 retary of the department in which the Coast Guard
6 is operating shall consider whether the method or
7 technology meets a performance capability war-
8 ranting designation of a new standard for best avail-
9 able technology or methods.

10 (c) TECHNOLOGY CLEARINGHOUSE.—Each tech-
11 nology and method validated under subsection (b)(1)(B)
12 shall be included in the comprehensive list of spill removal
13 resources maintained by the Coast Guard through the Na-
14 tional Response Unit.

15 (d) CONSULTATION.—The Secretary of the depart-
16 ment in which the Coast Guard is operating shall consult
17 with the Secretary of the Interior, the Under Secretary
18 of Commerce for Oceans and Atmosphere, the Adminis-
19 trator of the Environmental Protection Agency, the Sec-
20 retary of Transportation, and the Secretary of Energy in
21 carrying out this section.

22 **SEC. 203. SAFETY MANAGEMENT SYSTEM REQUIREMENTS**
23 **FOR MOBILE OFFSHORE DRILLING UNITS.**

24 (a) APPLICATION.—Section 3202 of title 46, United
25 States Code, is amended—

1 (1) in subsection (a)(1)(B) by striking “vessel,
2 or self-propelled mobile offshore drilling unit; and”
3 and inserting “vessel; and”; and

4 (2) by amending subsection (b) to read as fol-
5 lows:

6 “(b) OTHER VESSELS.—This chapter applies to a
7 vessel that—

8 “(1) is a passenger vessel or small passenger
9 vessel and is transporting more passengers than a
10 number prescribed by the Secretary based on the
11 number of individuals on the vessel that could be
12 killed or injured in a marine casualty; or

13 “(2) is a mobile offshore drilling unit.”.

14 (b) SAFETY MANAGEMENT SYSTEMS.—Section 3203
15 of title 46, United States Code, is amended—

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

18 (2) by inserting after subsection (a) the fol-
19 lowing:

20 “(b) MOBILE OFFSHORE DRILLING UNITS.—The
21 safety management system described in subsection (a) for
22 a mobile offshore drilling unit operating in waters subject
23 to the jurisdiction of the United States, including the ex-
24 clusive economic zone (as established by Presidential Proc-
25 lamation Numbered 5030 of March 10, 1983 (16 U.S.C.

1 1453 note)), shall include processes, procedures, and poli-
2 cies related to the safe, environmentally sound operation
3 and maintenance of all machinery and systems of the unit
4 that are used for the commercial industrial functions and
5 purposes of the unit.”.

6 **SEC. 204. NOTICE TO STATES OF BULK OIL TRANSFERS.**

7 (a) IN GENERAL.—A State may require, by law, a
8 person to provide notice of 24 hours or more to the State
9 and to the Coast Guard before transferring oil in bulk as
10 cargo in an amount equivalent to 250 barrels or more to,
11 from, or within a vessel in State waters.

12 (b) COAST GUARD ASSISTANCE.—The Commandant
13 of the Coast Guard may assist a State in developing ap-
14 propriate methodologies for joint Federal and State notifi-
15 cation of an oil transfer described in subsection (a) to min-
16 imize any potential burden to vessels.

17 **TITLE III—IMPROVING MARINE**
18 **OIL SPILL RESPONSE CAPA-**
19 **BILITIES**

20 **SEC. 301. PROMPT PUBLICATION OF OIL SPILL INFORMA-**
21 **TION.**

22 (a) IN GENERAL.—In any response to an oil spill in
23 which the Commandant of the Coast Guard serves as the
24 Federal On-Scene Coordinator leading a Unified Com-
25 mand, the Commandant shall publish, on a publicly acces-

1 sible website, all written Incident Action Plans prepared
2 and approved as a part of the response to such oil spill.

3 (b) **TIMELINESS AND DURATION.**—The Commandant
4 shall—

5 (1) publish each Incident Action Plan under
6 subsection (a) promptly after such plan is approved
7 for implementation by the Unified Command, and in
8 no event later than 12 hours into the operational pe-
9 riod for which such plan is prepared; and

10 (2) ensure that such plan remains up-to-date
11 and publicly accessible by website for the duration of
12 the response to an oil spill.

13 (c) **REDACTION OF PERSONAL INFORMATION.**—The
14 Commandant may redact information from an Incident
15 Action Plan published under subsection (a) to the extent
16 necessary to comply with applicable privacy laws and other
17 requirements regarding personal information.

18 **SEC. 302. COORDINATION OF FEDERAL, STATE, AND LOCAL**
19 **ACTIVITIES WITH RESPECT TO OIL SPILL**
20 **SURVEYS.**

21 (a) **DEVELOPMENT OF NATIONAL PROTOCOLS FOR**
22 **OIL SPILL SURVEYS.**—Not later than 270 days after the
23 date of the enactment of this Act, the Under Secretary
24 of Commerce for Oceans and Atmosphere, in coordination
25 with the Secretary of Homeland Security, the Adminis-

1 trator of the Environmental Protection Agency, and the
2 heads of such departments and agencies of State govern-
3 ments as such Under Secretary considers appropriate,
4 shall develop standard national protocols for oil spill re-
5 sponse and clean up assessments to promote consistent
6 procedures for collecting shoreline characterization data
7 and to ensure that the format and resolution of such data
8 are consistent with the needs of coastal States. Such pro-
9 tocols shall encourage, to the extent practicable, the use
10 of electronic methods of data collection.

11 (b) GUIDANCE AND TOOLS FOR APPLICATION OF NA-
12 TIONAL PROTOCOLS FOR OIL SPILL SURVEYS.—The
13 Under Secretary of Commerce for Oceans and Atmosphere
14 shall develop guidance and tools for oil spill responders
15 and offer instructional courses to ensure that the standard
16 national protocols developed under subsection (a) are used
17 during oil spill responses in the waters subject to the juris-
18 diction of the United States, including the exclusive eco-
19 nomic zone (as established by Presidential Proclamation
20 Numbered 5030 of March 10, 1983 (16 U.S.C. 1453
21 note)).

