

[DISCUSSION DRAFT]

JUNE 25, 2010

111TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To protect public health and safety and the environment by requiring the use of safe well control technologies and practices for the drilling of high-risk oil and gas wells in the United States, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To protect public health and safety and the environment by requiring the use of safe well control technologies and practices for the drilling of high-risk oil and gas wells in the United States, 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.**

4 This Act may be cited as the “Blowout Prevention  
5 Act of 2010”.

1 **SEC. 2. NO DRILLING WITHOUT DEMONSTRATED ABILITY**  
2 **TO PREVENT AND CONTAIN LEAKS.**

3 (a) **FEDERALLY PERMITTED HIGH-RISK WELLS.**—  
4 Effective one year after the date of enactment of this Act,  
5 the appropriate Federal official shall not issue a permit  
6 to drill for a high-risk well unless the applicant for such  
7 permit demonstrates, the Chief Executive Officer of the  
8 applicant attests in writing, and the appropriate Federal  
9 official determines that—

10 (1) the blowout preventer and other well control  
11 measures will prevent a blowout from occurring;

12 (2) the applicant has an oil spill response plan  
13 that ensures that the applicant has the capacity to  
14 promptly stop a blowout in the event the blowout  
15 preventer and other well control measures fail; and

16 (3) the applicant has the capability to begin  
17 drilling of a relief well within 15 days, and complete  
18 such drilling of a relief well to control a blowout  
19 within 90 days of the well control event that causes  
20 such blowout.

21 (b) **OTHER HIGH-RISK WELLS.**—Effective one year  
22 after the date of enactment of this Act, any operator who  
23 intends to drill a high-risk well for which a permit to drill  
24 is not otherwise required to be issued by a Federal official  
25 shall notify the appropriate Federal official of the opera-  
26 tor's intent to drill such high-risk well, and shall not com-

1 mence drilling such well without approval of the appro-  
2 priate Federal official. The appropriate Federal official  
3 shall approve the commencement of drilling of such well  
4 only if the operator has made a demonstration and attes-  
5 tation, and the appropriate Federal official has made a  
6 determination, equivalent to those required under sub-  
7 section (a). The appropriate Federal official may delegate  
8 the duties associated with this subsection to a State if the  
9 appropriate Federal official determines that such State is  
10 capable of faithfully executing such duties.

11 **SEC. 3. BLOWOUT PREVENTER REQUIREMENTS.**

12 (a) BLOWOUT PREVENTER ADEQUACY STAND-  
13 ARDS.—The regulations issued under section 7(a) shall re-  
14 quire the use of blowout preventers in all high-risk well  
15 drilling operations and prescribing safety standards for  
16 such blowout preventers. Such standards shall ensure that  
17 blowout preventer designs will operate effectively at the  
18 location where they will be deployed to prevent a blowout.  
19 At a minimum, such designs shall include the following  
20 components:

21 (1) Two sets of blind shear rams appropriately  
22 spaced to prevent system failure if a drill pipe joint,  
23 drill collar, or drill tool is across one set of blind  
24 shear rams during a situation that threatens loss of  
25 well control.

1           (2) Two sets of casing shear rams appropriately  
2 spaced to prevent system failure if a drill pipe joint  
3 is across one set of casing shear rams during a situ-  
4 ation that threatens loss of well control.

5           (3) Independent and redundant hydraulic and  
6 activation systems for each blind shear ram or cas-  
7 ing shear ram.

8           (4) One or more emergency backup control sys-  
9 tems capable of activating the relevant components  
10 of a blowout preventer in a situation that threatens  
11 loss of well control.

12           (5) As appropriate, ROV intervention capabili-  
13 ties for secondary control of all blowout preventer  
14 functions.

15 If the appropriate Federal official determines that a com-  
16 ponent required under paragraphs (1) through (4) would  
17 be less effective than an alternative mechanism in pre-  
18 venting a blowout in a situation that threatens loss of well  
19 control, the appropriate Federal official may include a re-  
20 quirement for such alternative mechanism in lieu of a re-  
21 quirement for the less effective component.

22           (b) INDEPENDENT THIRD-PARTY CERTIFICATION OF  
23 BLOWOUT PREVENTER READINESS.—The regulations  
24 issued under section 7(a) shall require the following:

1           (1) Prior to the commencement of drilling  
2 through a blowout preventer at any high-risk well,  
3 the operator shall obtain a written and signed cer-  
4 tification from an independent third party approved  
5 and assigned by the appropriate Federal official pur-  
6 suant to section 6(b) that the third party conducted  
7 a detailed physical inspection, design review, system  
8 integration test, and function and pressure testing of  
9 the blowout preventer to ensure that—

10           (A) the blowout preventer is designed for  
11 the specific drilling conditions, equipment, and  
12 location where it will be deployed and for the  
13 specific well design;

14           (B) the blowout preventer, with all of its  
15 components and control systems, will operate  
16 effectively and as designed when deployed;

17           (C) each blind shear ram or casing shear  
18 ram will function effectively under likely emer-  
19 gency scenarios and is capable of shearing the  
20 drill pipe or casing, as applicable, that will be  
21 used when deployed;

22           (D) emergency control systems will func-  
23 tion under the conditions in which they will be  
24 deployed; and

1 (E) the blowout preventer has not been  
2 compromised or damaged from any previous  
3 service.

4 (2) Not less than once every 180 days after  
5 commencement of drilling through a blowout pre-  
6 venter at any high-risk well or upon implementation  
7 of any material modification to the blowout pre-  
8 venter or well design at such a well, the operator  
9 shall obtain a written and signed recertification from  
10 an independent third party approved and assigned  
11 by the appropriate Federal official pursuant to sec-  
12 tion 6(b) that the requirements in subparagraphs  
13 (A) through (E) of paragraph (1) continue to be met  
14 with the systems as deployed. Such recertification  
15 determinations shall consider the results of tests re-  
16 quired by the appropriate Federal official, including  
17 testing of the emergency control systems of a blow-  
18 out preventer at least every 14 days.

19 (3) Certifications under paragraph (1), recer-  
20 tifications under paragraph (2), and results of and  
21 data from all tests conducted pursuant to this sub-  
22 section shall be promptly submitted to the appro-  
23 priate Federal official and made publicly available.

24 (c) **ADDITIONAL BLOWOUT PREVENTER TESTING.**—  
25 The regulations issued under section 7(a) shall require,

1 after a significant well control event at a high-risk well,  
2 prompt function and pressure testing of any blowout pre-  
3 venter component used in such well control event to ensure  
4 the full operability of all functions of such component. The  
5 results of and data from such testing shall be submitted  
6 to the appropriate Federal official before drilling oper-  
7 ations resume.

8 (d) DOCUMENTATION AND REPORTING.—The regula-  
9 tions issued under section 7(a) shall require —

10 (1) ongoing submission to the appropriate Fed-  
11 eral official of documentation of blowout preventer  
12 maintenance and repair within 24 hours of such  
13 maintenance and repair;

14 (2) prompt and ongoing real-time transmission  
15 of the electronic log from a blowout preventer con-  
16 trol system to a secure location where it shall be  
17 available for inspection by the appropriate Federal  
18 official;

19 (3) maintenance of up-to-date design specifica-  
20 tions of any blowout preventer in service;

21 (4) submission to the appropriate Federal offi-  
22 cial of any changes to the design specifications of a  
23 blowout preventer in service within 24 hours of such  
24 change; and

1 (5) prompt reporting to the appropriate Federal  
2 official of a failure of any blowout preventer or any  
3 component of a blowout preventer when used during  
4 a well control event.

5 **SEC. 4. ENSURING SAFE WELLS AND CEMENTING.**

6 (a) **ENSURING SAFE WELL DESIGN.**—

7 (1) **STANDARDS.**—The regulations issued under  
8 section 7(a) shall ensure the appropriate and safe  
9 design of high-risk wells. At a minimum, such regu-  
10 lations shall require—

11 (A) at least three independent tested bar-  
12 riers, including at least two mechanical bar-  
13 riers, across each flow path during well comple-  
14 tion and abandonment activities;

15 (B) that wells shall be designed so that a  
16 failure of one barrier does not significantly in-  
17 crease the likelihood of another barrier's failure;

18 (C) that the casing design is appropriate  
19 for the purpose for which it is intended under  
20 reasonably expected wellbore conditions; and

21 (D) well control guidelines and fluid cir-  
22 culation and displacement procedures.

23 (2) **THIRD-PARTY CERTIFICATION.**—The regula-  
24 tions issued under section 7(a) shall require that,  
25 prior to the commencement of drilling at any high-



1 risk well, the operator shall obtain a written and  
2 signed certification from an independent third party  
3 approved and assigned by the appropriate Federal  
4 official pursuant to section 6(b) that the well design  
5 meets the requirements established by the appro-  
6 priate Federal official under paragraph (1).

7 (3) RECERTIFICATION.—Upon implementation  
8 of any material modification to the well design of  
9 such a well, the operator shall obtain a written and  
10 signed recertification from an independent third  
11 party approved and assigned by the appropriate  
12 Federal official pursuant to section 6(b) that the  
13 well design continues to meet the requirements es-  
14 tablished by the appropriate Federal official under  
15 paragraph (1).

16 (b) ENSURING SAFE CEMENTING AND CASING.—The  
17 regulations issued under section 7(a) shall require that  
18 well casing designs and cementing programs and proce-  
19 dures for a high-risk well will ensure that well control will  
20 be maintained and that there will be no unintended flow  
21 path between any hydrocarbon-bearing formation zone and  
22 the wellhead. Such regulations shall also require that,  
23 prior to the commencement of drilling at any high-risk  
24 well, the operator shall obtain a written and signed certifi-  
25 cation from an independent third party approved and as-

1 signed by the appropriate Federal official pursuant to sec-  
2 tion 6(b) that the operator's well casing designs and ce-  
3 menting programs and procedures ensure that well control  
4 will be maintained and that there will be no unintended  
5 flow path between any hydrocarbon-bearing formation  
6 zone and the wellhead. Such regulations shall, at a min-  
7 imum, require adequate cement volume and cement bond  
8 logs for all cementing programs (including remedial ce-  
9 menting).

10 (c) PREVENTING IGNITION AND EXPLOSION.—The  
11 regulations issued under section 7(a) shall establish proce-  
12 dures and technologies to be used during drilling at any  
13 high-risk well to minimize the risk of ignition and explo-  
14 sion of hydrocarbons or any other material discharged  
15 from the well during a well control event. Such regulations  
16 shall address the diversion of dangerous oil, gas, well  
17 fluids, and other materials and standards for drilling  
18 equipment and engines on such equipment.

19 **SEC. 5. STOP-WORK REQUIREMENTS.**

20 (a) REQUIREMENTS.— The regulations issued under  
21 section 7(a) shall establish stop-work requirements for oil  
22 and gas exploration and production activities at high-risk  
23 wells, including—

24 (1) requirements that the operator, or the oper-  
25 ator's employees or contractors, immediately stop all

1 work, other than the work required to ensure safety,  
2 in the event of specified well conditions or other fac-  
3 tors indicating that there is an immediate risk of a  
4 blowout;

5 (2) requirements that the operator adopt poli-  
6 cies, procedures, and incentives to ensure that the  
7 operator, or the operator's employees or contractors,  
8 immediately stop all work, other than the work re-  
9 quired to ensure safety, when the operator, or the  
10 operator's employees or contractors, have identified  
11 well conditions, well design, drilling procedures, drill-  
12 ing equipment, or any other factor indicating that  
13 there is an immediate risk of a well control event;  
14 and

15 (3) that the operator, or the operator's employ-  
16 ees or contractors, take appropriate action to miti-  
17 gate risks identified pursuant to paragraph (1) or  
18 (2), and obtain the concurrence of the appropriate  
19 Federal official that such action is sufficient, prior  
20 to resumption of work.

21 (b) RECORDS OF EVENTS.—The appropriate Federal  
22 official shall maintain records of all such events, their du-  
23 ration, the reason for such events, and the actions taken  
24 prior to the resumption of activities.

1 **SEC. 6. INDEPENDENT TECHNICAL ADVICE AND CERTIFI-**  
2 **CATION.**

3 (a) WELL CONTROL TECHNICAL ADVISORY COM-  
4 MITTEE.—

5 (1) ESTABLISHMENT.—Not later than 60 days  
6 after the date of enactment of this Act, the appro-  
7 priate Federal official shall appoint an independent  
8 technical advisory committee to be known as the  
9 Well Control Technical Advisory Committee.

10 (2) MEMBERSHIP.—

11 (A) COMPOSITION.—The Advisory Com-  
12 mittee shall be composed of 7 members. Mem-  
13 bers shall be qualified by education, training,  
14 and experience to provide scientific and tech-  
15 nical advice with regard to blowout preventers  
16 and other well control equipment and oper-  
17 ations. At least 3 of the members of the Advi-  
18 sory Committee shall be members of the Na-  
19 tional Academy of Engineering.

20 (B) APPOINTMENT AND TERMS.—The ap-  
21 propriate Federal official shall appoint Advisory  
22 Committee members, including a chair and vice-  
23 chair to the Advisory Committee. Each term of  
24 a member's service on the Advisory Committee  
25 shall be 3 years, except for initial terms, which  
26 may be up to 5 years in length to allow stag-

1           gering. Members may be reappointed only once  
2           for an additional 3-year term.

3           (C) CONFLICTS OF INTEREST.—Members  
4           of the Advisory Committee shall not be current  
5           employees of any entity subject to regulation  
6           under this Act or of any entity that is a con-  
7           tractor of any entity subject to regulation under  
8           this Act. The appropriate Federal official shall  
9           establish requirements to ensure that members  
10          of the Advisory Committee do not have any con-  
11          flicts of interest.

12          (3) PERIODIC REPORTS.—Not later than 180  
13          days after the date of enactment of this Act, and  
14          every 5 years thereafter, the Advisory Committee  
15          shall submit to the appropriate Federal official and  
16          Congress a report that—

17                (A) assesses available blowout preventer  
18                and well control technologies, practices, vol-  
19                untary standards, and regulations in the United  
20                States and elsewhere;

21                (B) assesses whether existing regulations  
22                issued by the appropriate Federal official for  
23                blowout preventers and well control for high-  
24                risk wells for oil and gas exploration or produc-  
25                tion in the United States adequately protect

1 public health and safety and the environment;  
2 and

3 (C) as appropriate, recommends modifica-  
4 tions to the regulations identified under sub-  
5 paragraph (B) to ensure adequate protection of  
6 public health and safety and the environment.

7 (4) OTHER DUTIES.—In addition to the respon-  
8 sibilities set forth under this section, the Advisory  
9 Committee shall—

10 (A) review and comment on proposed regu-  
11 lations as required under section 7;

12 (B) respond to requests for advice from  
13 the appropriate Federal official on matters  
14 within the Advisory Committee's expertise; and

15 (C) as appropriate, consult with third-  
16 party certifiers and with employees of the agen-  
17 cy conducting inspections pursuant to this Act,  
18 and review reports or other documents sub-  
19 mitted to the appropriate Federal official pur-  
20 suant to this Act, to obtain information on  
21 blowout preventer and well control safety issues.

22 (b) INDEPENDENT THIRD-PARTY CERTIFIERS.—

23 (1) APPROVAL.—The appropriate Federal offi-  
24 cial shall establish appropriate standards for the ap-  
25 proval of independent third parties capable of exer-

1 cising the certification functions prescribed under  
2 sections 3 and 4, including standards to ensure tech-  
3 nical competence and an absence of, or a mechanism  
4 for adequately mitigating, any actual or apparent  
5 conflicts of interest.

6 (2) ASSIGNMENT.—The appropriate Federal of-  
7 ficial shall require that the reviews, inspections,  
8 tests, certifications, and recertifications required  
9 under sections 3 and 4 are performed by inde-  
10 pendent third-party certifiers that have contracted  
11 directly with the appropriate Federal official rather  
12 than the operator and are randomly assigned by the  
13 appropriate Federal official to individual certifi-  
14 cations and recertifications, including the reviews,  
15 inspections, and tests required for such individual  
16 certifications and recertifications.

17 (3) CONTRACTING AND FEES.—The appropriate  
18 Federal official shall contract with independent  
19 third-party certifiers to perform the reviews, inspec-  
20 tions, tests, certifications, and recertifications re-  
21 quired by the regulations issued under this Act and  
22 shall assess fees upon operators to cover the costs of  
23 such activities.

24 (4) ENFORCEMENT.—It shall be a violation of  
25 this Act for any third-party certifier approved under

1       this section to make any false statement, knowingly  
2       or with reckless disregard for the truth of such  
3       statement, in any document submitted to the appro-  
4       priate Federal official in connection with a certifi-  
5       cation or recertification under this Act.

6       (c) **EXPERT REVIEW PANELS.**—The appropriate  
7       Federal official may establish a panel of technical experts  
8       to provide technical advice with regard to any well-specific  
9       regulatory decision under this Act, including permitting  
10      determinations under section 2 and review and approval  
11      of well designs pursuant to section 4(a). The appropriate  
12      Federal official shall identify a pool of qualified experts  
13      in relevant areas for this purpose and shall establish  
14      standards for including and maintaining individuals in  
15      such pool, including standards to ensure technical com-  
16      petence and an absence of, or a mechanism for adequately  
17      mitigating, any actual or apparent conflicts of interest.

18      **SEC. 7. REGULATIONS AND ORDERS.**

19      (a) **ISSUANCE, REVIEW, AND REVISION OF REGULA-**  
20      **TIONS.**—

21              (1) **ISSUANCE OF REGULATIONS.**—Not later  
22      than 1 year after the date of enactment of this Act,  
23      the appropriate Federal official shall issue the regu-  
24      lations required under this Act.



1           (2) PERIODIC REVIEW AND REVISION OF  
2 RULES.—At least once every 5 years, the appro-  
3 priate Federal official shall review and, based on  
4 new or updated information and taking into consid-  
5 eration the recommendations of the Advisory Com-  
6 mittee, shall—

7           (A) revise the regulations issued under this  
8 Act to ensure that such regulations adequately  
9 protect public health and safety and the envi-  
10 ronment; or

11           (B) issue a written determination that re-  
12 vision of such regulations would not materially  
13 enhance protection of public health and safety  
14 or the environment.

15           (3) ADVISORY COMMITTEE REVIEW.—Upon  
16 issuance of any proposed regulation under this Act,  
17 the appropriate Federal official shall promptly sub-  
18 mit such proposed regulation to the Advisory Com-  
19 mittee for its review. The Advisory Committee shall,  
20 within 90 days, submit comments advising the ap-  
21 propriate Federal official whether the proposed regu-  
22 lation ensures adequate protection of public health  
23 and safety and the environment and, if not, pro-  
24 posing modifications to ensure such adequate protec-  
25 tion. Before issuance of a final regulation under this

1 Act, the appropriate Federal official shall consider  
2 and respond in writing to comments and proposed  
3 modification submitted by the Advisory Committee.  
4 If the appropriate Federal official declines to adopt  
5 such proposed modifications, the appropriate Fed-  
6 eral official shall clearly and specifically state the  
7 reasons for such decision in the final regulation.

8 (4) RULEMAKING DOCKETS.—

9 (A) ESTABLISHMENT.—Not later than the  
10 date of proposal of any regulation under this  
11 Act, the appropriate Federal official shall estab-  
12 lish a publicly available rulemaking docket for  
13 such regulation.

14 (B) DOCUMENTS INCLUDED.—Promptly  
15 upon receipt by the appropriate Federal official,  
16 all written comments and documentary informa-  
17 tion on the proposed rule received from any  
18 person for inclusion in the docket during the  
19 comment period shall be placed in the docket.  
20 The transcript of public hearings, if any, on the  
21 proposed rule shall also be included in the dock-  
22 et promptly upon receipt from the person who  
23 transcribed such hearings. All documents which  
24 become available after the proposed rule has  
25 been published and which the appropriate Fed-

1 eral official determines are of central relevance  
2 to the rulemaking shall be placed in the docket  
3 as soon as possible after their availability.

4 (C) DOCUMENTS SUBMITTED TO THE OF-  
5 FICE OF MANAGEMENT AND BUDGET.—The  
6 drafts of proposed rules submitted by the ap-  
7 propriate Federal official to the Office of Man-  
8 agement and Budget for any interagency review  
9 process prior to proposal of any such rule, all  
10 documents accompanying such drafts, and all  
11 written comments thereon by other agencies  
12 and all written responses to such written com-  
13 ments by the appropriate Federal official shall  
14 be placed in the docket no later than the date  
15 of proposal of the rule. The drafts of the final  
16 rule submitted for such review process prior to  
17 issuance and all such written comments there-  
18 on, all documents accompanying such drafts,  
19 and written responses thereto shall be placed in  
20 the docket no later than the date of issuance.

21 (b) INTERIM ORDERS.—Prior to the issuance and ef-  
22 fective date of initial regulations required pursuant to sub-  
23 section (a)(1), the appropriate Federal official may issue  
24 an order applicable to one or more operators to ensure  
25 that such operator or operators—

- 1 (1) have the ability to prevent and respond to
- 2 a blowout;
- 3 (2) utilize safe and effective blowout preventers;
- 4 (3) use safe casing designs and cementing pro-
- 5 grams and procedures;
- 6 (4) use appropriate and safe designs of wells;
- 7 (5) use appropriate procedures and technologies
- 8 to minimize the risk of ignition of well fluids; and
- 9 (6) take any other appropriate measure to en-
- 10 sure well control is maintained and blowouts are pre-
- 11 vented.

12 **SEC. 8. WELL CONTROL AND BLOWOUT PREVENTION IN-**  
13 **SPECTORS.**

14 The appropriate Federal official shall provide for  
15 periodic unannounced inspections by agency inspectors of  
16 drilling operations of high-risk wells to ensure that such  
17 operations comply with the regulations issued pursuant to  
18 this Act. The appropriate Federal official shall also pro-  
19 vide for periodic in-person observation by agency inspec-  
20 tors of tests undertaken for recertification under section  
21 3. The appropriate Federal official may conduct inspec-  
22 tions under this section at any time. The appropriate Fed-  
23 eral official shall charge and collect fees from operators  
24 in amounts the appropriate Federal official determines are

1 sufficient to cover the expenses associated with inspections  
2 under this section.

3 **SEC. 9. JUDICIAL REVIEW OF REGULATIONS.**

4 Any person aggrieved by any regulation issued by the  
5 appropriate Federal official under this Act may seek judi-  
6 cial review of such regulation exclusively in the United  
7 States Court of Appeals for the District of Columbia Cir-  
8 cuit.

9 **SEC. 10. INVESTIGATIONS.**

10 The appropriate Federal official is authorized to con-  
11 duct investigations of violations or alleged or suspected  
12 violations of this Act or of any regulation or order issued  
13 under this Act. In any investigation conducted under this  
14 section, the appropriate Federal official shall have the au-  
15 thority to summon witnesses and to require the production  
16 of books, papers, documents, and any other evidence. At-  
17 tendance of witnesses or the production of books, papers,  
18 documents, or any other evidence shall be compelled by  
19 a similar process as in the district courts of the United  
20 States.

21 **SEC. 11. CITIZEN SUITS.**

22 (a) IN GENERAL.—Any person may commence a civil  
23 action in a Federal district court of appropriate jurisdic-  
24 tion on such person's own behalf to compel compliance  
25 with this Act, or any regulation or order issued under this

1 Act, against any person, including the United States, and  
2 any other government instrumentality or agency (to the  
3 extent permitted by the eleventh amendment to the Con-  
4 stitution) for any alleged violation of any provision of this  
5 Act or any regulation or order issued under this Act.

6 (b) NOTICE.—

7 (1) IN GENERAL.—Except as provided in para-  
8 graph (2), no action may be commenced under sub-  
9 section (a)—

10 (A) prior to 60 days after the plaintiff has  
11 given notice of the alleged violation, in writing  
12 under oath, to the appropriate Federal official,  
13 to the State in which the violation allegedly oc-  
14 curred or is occurring, and to any alleged viola-  
15 tor; or

16 (B) if the Attorney General has com-  
17 menced and is diligently prosecuting a civil ac-  
18 tion in a court of the United States or a State  
19 with respect to such matter, but in any such ac-  
20 tion in a court of the United States any person  
21 having a legal interest which is or may be ad-  
22 versely affected may intervene as a matter of  
23 right.

24 (2) EXCEPTION.—An action may be brought  
25 under this subsection immediately after notification

1 of the alleged violation in any case in which the al-  
2 leged violation constitutes an imminent threat to the  
3 public health or safety or the environment or would  
4 immediately affect a legal interest of the plaintiff.

5 (c) INTERVENTION.—In any action commenced pur-  
6 suant to this section, the Attorney General, upon the re-  
7 quest of the appropriate Federal official, may intervene  
8 as a matter of right.

9 (d) COSTS; SECURITY.—A court, in issuing any final  
10 order in any action brought pursuant to this section, may  
11 award costs of litigation, including reasonable attorney  
12 and expert witness fees, to any party, whenever such court  
13 determines such award is appropriate. The court may, if  
14 a temporary restraining order or preliminary injunction  
15 is sought, require the filing of a bond or equivalent secu-  
16 rity in a sufficient amount to compensate for any loss or  
17 damage suffered, in accordance with the Federal Rules of  
18 Civil Procedure.

19 (e) SAVINGS.—Nothing in this section shall restrict  
20 any right which any person or class of persons may have  
21 under any other Federal or State law or common law to  
22 seek appropriate relief.

23 **SEC. 12. REMEDIES AND PENALTIES.**

24 (a) INJUNCTIONS AND RESTRAINING ORDERS.—At  
25 the request of the appropriate Federal official, the Attor-

1 ney General or a United States attorney shall institute a  
2 civil action in the district court of the United States for  
3 the district in which the affected operation is located for  
4 a temporary restraining order, injunction, or other appro-  
5 priate remedy to enforce any provision of this Act or any  
6 regulation or order issued under this Act.

7 (b) CIVIL PENALTIES; HEARING.—

8 (1) IN GENERAL.—Except as provided in para-  
9 graph (2), if any person fails to comply with any  
10 provision of this Act or any regulation or order  
11 issued under this Act, after notice of such failure  
12 and expiration of any reasonable period allowed for  
13 corrective action, such person shall be liable for a  
14 civil penalty of not more than \$75,000 for each day  
15 of the continuance of such failure. The appropriate  
16 Federal official may assess, collect, and compromise  
17 any such penalty. No penalty shall be assessed until  
18 the person charged with a violation has been given  
19 an opportunity for a hearing. The appropriate Fed-  
20 eral official shall, by regulation at least every 3  
21 years, adjust the penalty specified in this paragraph  
22 to reflect any increases in the Consumer Price Index  
23 for all urban consumers.

24 (2) THREAT OF SERIOUS IRREPARABLE OR IM-  
25 MEDIATE HARM.—If a failure described in para-



1 graph (1) constitutes or constituted a threat of seri-  
2 ous, irreparable, or immediate harm or damage to  
3 life (including fish and other aquatic life), property,  
4 any mineral deposit, or the marine, coastal, or  
5 human environment, a civil penalty of not more than  
6 \$150,000 shall be assessed for each day of the con-  
7 tinuance of the failure.

8 (c) CRIMINAL PENALTIES.—Any person who know-  
9 ingly and willfully—

10 (1) violates any provision of this Act, or any  
11 regulation or order issued under the authority of  
12 this Act, designed to protect the public health and  
13 safety or the environment;

14 (2) makes any false statement, representation,  
15 or certification in any application, record, report, or  
16 other document filed or required to be maintained  
17 under this Act; or

18 (3) falsifies, tampers with, or renders inac-  
19 curate any monitoring device or method of record re-  
20 quired to be maintained under this Act,

21 shall, upon conviction, be punished by a fine of not more  
22 than \$10,000,000, or by imprisonment for not more than  
23 10 years, or both. Each day that a violation of paragraph  
24 (1) continues, or each day that any monitoring device or  
25 data recorder remains inoperative or inaccurate because

1 of any activity described in paragraph (3), shall constitute  
2 a separate violation.

3 (d) LIABILITY OF CORPORATE OFFICERS AND  
4 AGENTS FOR VIOLATIONS BY CORPORATION.—Whenever  
5 a corporation or other entity is subject to prosecution  
6 under subsection (c), any officer or agent of such corpora-  
7 tion or entity who knowingly and willfully, or with willful  
8 disregard, authorized, ordered, or carried out the pro-  
9 scribed activity shall be subject to the same fines or im-  
10 prisonment, or both, as provided for under subsection (c).

11 (e) CONCURRENT AND CUMULATIVE NATURE OF  
12 PENALTIES.—The remedies and penalties prescribed in  
13 this Act shall be concurrent and cumulative and the exer-  
14 cise of one shall not preclude the exercise of the others.  
15 Further, the remedies and penalties prescribed in this Act  
16 shall be in addition to any other remedies and penalties  
17 afforded by any other law or regulation.

18 **SEC. 13. RETALIATION PROHIBITED.**

19 (a) PROHIBITION.—No person or employer may dis-  
20 charge any employee or otherwise discriminate against any  
21 employee with respect to the employee's compensation,  
22 terms, conditions, or other privileges of employment be-  
23 cause the employee (or any person acting pursuant to a  
24 request of the employee)—

1           (1) notified the appropriate Federal official, a  
2           Federal or State law enforcement or regulatory  
3           agency, or the employee's employer of an alleged vio-  
4           lation of this Act, or any regulation or order under  
5           this Act, including notification of such an alleged  
6           violation through communications related to carrying  
7           out the employee's job duties;

8           (2) refused to participate in any conduct that  
9           the employee reasonably believes is in noncompliance  
10          with a requirement of this Act, or any regulation or  
11          order under this Act, if the employee has identified  
12          the alleged noncompliance to the employer;

13          (3) testified before or otherwise provided infor-  
14          mation relevant for Congress or for any Federal or  
15          State proceeding regarding any provision (or pro-  
16          posed provision) of this Act;

17          (4) commenced, caused to be commenced, or is  
18          about to commence or cause to be commenced a pro-  
19          ceeding under this Act;

20          (5) testified or is about to testify in any such  
21          proceeding; or

22          (6) assisted or participated or is about to assist  
23          or participate in any manner in such a proceeding  
24          or in any other action to carry out the purposes of  
25          this Act.

1 (b) ENFORCEMENT ACTION.—Any employee covered  
2 by this section who alleges discrimination by an employer  
3 in violation of subsection (a) may bring an action governed  
4 by the rules and procedures, legal burdens of proof, and  
5 remedies applicable under subsections (d) through (h) of  
6 section 20109 of title 49, United States Code. A party  
7 may seek district court review as set forth in subsection  
8 (d)(3) of such section not later than 90 days after receiv-  
9 ing a written final determination by the Secretary of  
10 Labor.

11 **SEC. 14. CHEMICAL SAFETY BOARD INVESTIGATION.**

12 Section 112(r)(6) of the Clean Air Act (42 U.S.C.  
13 7412(r)(6)) is amended by adding at the end the following:

14 “(T) AGREEMENT.—Not later than 30  
15 days after the date of enactment of this sub-  
16 paragraph, the Chemical Safety and Hazard In-  
17 vestigation Board, the Coast Guard, and the  
18 Department of the Interior shall enter into an  
19 agreement in order to facilitate the Board’s in-  
20 vestigation of the facts, circumstances, and  
21 causes of a marine oil spill resulting from an  
22 accidental fire, explosion, or release involving an  
23 offshore oil exploration or production facility.  
24 Such agreement shall provide the Board with  
25 the following:

1           “(i) Unrestricted access to any per-  
2           sonnel, records, witness statements, re-  
3           corded witness interviews, and physical or  
4           documentary evidence related to an off-  
5           shore drilling unit under investigation col-  
6           lected or possessed by the Coast Guard or  
7           the Department of the Interior.

8           “(ii) The ability to conduct recorded  
9           interviews of all agency personnel and con-  
10          tractors and the right to obtain records re-  
11          lated to Federal regulatory, inspection, en-  
12          forcement, and safety programs for off-  
13          shore oil exploration and production.

14          “(iii) The right to participate equally  
15          in planning and executing any testing of  
16          relevant items of physical evidence related  
17          to the cause of accident.

18          “(iv) Such support and facilities as  
19          may be necessary for the Board’s inves-  
20          tigation, including transportation to the  
21          accident site, coastal waters and affected  
22          areas, and other offshore oil exploration  
23          and production sites without cost to the  
24          Board.

1           “(U) RECOMMENDATIONS.—Upon comple-  
2           tion of an investigation of an accidental fire, ex-  
3           plosion, or release involving an offshore oil ex-  
4           ploration or production facility, the Board shall  
5           make recommendations with respect to pre-  
6           venting subsequent accidental fires, explosions,  
7           or releases to the Secretary of the Interior and  
8           the Commandant of the Coast Guard. The Sec-  
9           retary of the Interior and the Commandant of  
10          the Coast Guard shall respond formally and in  
11          writing to any recommendation of the Board  
12          within 90 days of the receipt of such rec-  
13          ommendations.”.

14 **SEC. 15. SAVINGS CLAUSE.**

15          Nothing in this Act shall be construed to preempt  
16          regulation by any State or local government of oil and gas  
17          exploration and production wells drilled in State waters,  
18          on State lands, or on private lands within that State pur-  
19          suant to the laws of that State or local government.

20 **SEC. 16. DEFINITIONS.**

21          In this Act:

22                (1) **ADVISORY COMMITTEE.**—The term “Advi-  
23                sory Committee” means the Well Control Technical  
24                Advisory Committee established pursuant to section  
25                6(a).

1           (2) APPROPRIATE FEDERAL OFFICIAL.—The  
2 term “appropriate Federal official” means the Sec-  
3 retary of Energy, Secretary of the Interior, or Ad-  
4 ministrator of the Environmental Protection Agency,  
5 as designated for specific responsibilities provided in  
6 this Act by the President of the United States.

7           (3) BLIND SHEAR RAM.—The term “blind shear  
8 ram” means a device capable of cutting through a  
9 drill pipe and sealing a well.

10          (4) BLOWOUT.—The term “blowout” means the  
11 uncontrolled release of hydrocarbons or other mate-  
12 rials from a well.

13          (5) BLOWOUT PREVENTER.—The term “blow-  
14 out preventer” means a wellhead device or combina-  
15 tion of devices designed and intended to prevent a  
16 blowout.

17          (6) CASING.—The term “casing” means any  
18 pipe permanently installed, or intended to be perma-  
19 nently installed, in a well.

20          (7) CASING SHEAR RAM.—The term “casing  
21 shear ram” means a device capable of cutting  
22 through casing.

23          (8) CEMENTING.—The term “cementing”  
24 means the practice of forcing cement into the annu-  
25 lar space between the casing and the bore-hole or be-

1       tween any two pipes within the bore-hole to seal the  
2       well against the possibility of fluids or gases finding  
3       a flow path through that space.

4           (9) CEMENT BOND LOG.—The term “cement  
5       bond log” means a test conducted to determine the  
6       integrity and completeness of a cementing job for a  
7       given well or segment of a well by determining the  
8       extent to which the cement has filled annular spaces  
9       and bonded to pipes and surrounding formations.

10          (10) EXPLORATORY WELL.—The term “explor-  
11       atory well” means a well intended to determine  
12       whether economically recoverable oil, natural gas,  
13       natural gas liquids, or other hydrocarbons exist in  
14       the geological deposits or strata to or through which  
15       the well is drilled.

16          (11) FLOW PATH.—The term “flow path”  
17       means a potential route by which hydrocarbons or  
18       other materials could migrate within a well.

19          (12) HIGH-RISK WELL.—The term “high-risk  
20       well” means—

21           (A) an offshore oil or gas exploration or  
22       production well within 200 nautical miles of the  
23       coast of the United States; or

24           (B) an onshore oil or gas exploration or  
25       production well in the United States, identified



1           pursuant to criteria established by the appro-  
2           priate Federal official, that, in the event of a  
3           blowout, could lead to substantial harm to pub-  
4           lic health and safety or the environment.

5           (13) OPERATOR.—The term “operator” means,  
6           with respect to a high-risk well, the owner or lessee  
7           of the rights to explore for, or produce oil or gas  
8           through such well.

9           (14) PRESSURE TESTING.—The term “pressure  
10          testing” means testing under conditions of elevated  
11          hydrostatic pressure generated by natural or artifi-  
12          cial means to determine well integrity, the effective-  
13          ness of cementing, or the effectiveness of equipment  
14          used in the well or to drill the well.

15          (15) PRODUCTION WELL.—The term “produc-  
16          tion well” means a well intended to allow the pro-  
17          duction of oil, natural gas, natural gas liquids, or  
18          other hydrocarbons.

19          (16) REMEDIAL CEMENTING.—The term “reme-  
20          dial cementing” means repairs to a cementing job  
21          that has been revealed to be incomplete, channeled,  
22          insufficiently bonded, or otherwise flawed.

23          (17) ROV.—The term “ROV” is an acronym  
24          for Remotely Operated Vehicle, and means an un-  
25          manned, remotely operated, submersible device that

1 is capable of relaying images or information, manip-  
2 ulating or operating various elements of a blowout  
3 preventer or other equipment on the seabed, or per-  
4 forming other subsea functions.

5 (18) SYSTEM INTEGRATION TEST.—The term  
6 “system integration test” means a test of the var-  
7 ious elements of a blowout preventer, equipment as-  
8 sociated with the use of such preventer, and the con-  
9 trols of the blowout preventer, as combined and con-  
10 figured for operation.

11 (19) WELL CONTROL EVENT.—The term “well  
12 control event” means a blowout or any event that  
13 threatens, if not controlled, to result in a blowout.