

111TH CONGRESS
2^D SESSION

H. R. 5626

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.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2010

Mr. WAXMAN (for himself, Mr. MARKEY of Massachusetts, and Mr. STUPAK) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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 prescribe safety standards for such
16 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 blowout preventer failure if a drill
23 pipe joint, drill collar, or drill tool is across one set
24 of blind shear rams during a situation that threatens
25 loss of well control.

1 (2) Two sets of casing shear rams appropriately
2 spaced to prevent blowout preventer failure if a drill
3 pipe joint is across one set of casing shear rams dur-
4 ing a situation 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 determine 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) ANNUAL IMPLEMENTATION ASSESSMENT
8 REPORTS.—Not later than March 31 of 2012, and
9 each calendar year thereafter, the Advisory Com-
10 mittee shall submit to the appropriate Federal offi-
11 cial and to Congress a report that—

12 (A) assesses the appropriate Federal offi-
13 cial’s implementation of the requirements of
14 this Act during the preceding year, including
15 well-specific regulatory determinations and
16 oversight, administration of inspections, and
17 third-party certification requirements;

18 (B) recommends any improvements to the
19 implementation referred to in subparagraph (A)
20 that, in the Advisory Committee’s judgment,
21 would enhance the safety of drilling operations
22 subject to the requirements of this Act; and

23 (C) reviews the safety record during the
24 preceding year of any equipment, designs, or

1 practices subject to the requirements of this
2 Act.

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

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

8 (B) respond to requests for advice from
9 the appropriate Federal official on matters
10 within the Advisory Committee’s expertise; and

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

18 (b) INDEPENDENT THIRD-PARTY CERTIFIERS.—

19 (1) APPROVAL.—The appropriate Federal offi-
20 cial shall establish appropriate standards for the ap-
21 proval of independent third parties capable of exer-
22 cising the certification functions prescribed under
23 sections 3 and 4, including standards to ensure tech-
24 nical competence and an absence of, or a mechanism

1 for adequately mitigating, any actual or apparent
2 conflicts of interest.

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

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

21 (4) ENFORCEMENT.—It shall be a violation of
22 this Act for any third-party certifier approved under
23 this section to make any false statement, knowingly
24 or with reckless disregard for the truth of such
25 statement, in any document submitted to the appro-

1 appropriate Federal official in connection with a certifi-
2 cation or recertification under this Act.

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

15 **SEC. 7. REGULATIONS AND ORDERS.**

16 (a) ISSUANCE, REVIEW, AND REVISION OF REGULA-
17 TIONS.—

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

22 (2) PERIODIC REVIEW AND REVISION OF
23 RULES.—At least once every 5 years, the appro-
24 priate Federal official shall review and, based on
25 new or updated information and taking into consid-

1 eration the recommendations of the Advisory Com-
2 mittee, shall—

3 (A) revise the regulations issued under this
4 Act to ensure that such regulations adequately
5 protect public health and safety and the envi-
6 ronment; or

7 (B) issue a written determination that re-
8 vision of such regulations would not materially
9 enhance protection of public health and safety
10 or the environment.

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

1 such proposed modifications, the appropriate Fed-
2 eral official shall clearly and specifically state the
3 reasons for such decision in the final regulation.

4 (4) RULEMAKING DOCKETS.—

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

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

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

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

23 (1) have the ability to prevent and respond to
24 a blowout;

25 (2) utilize safe and effective blowout preventers;

1 (3) use safe casing designs and cementing pro-
2 grams and procedures;

3 (4) use appropriate and safe designs of wells;

4 (5) use appropriate procedures and technologies
5 to minimize the risk of ignition of well fluids; and

6 (6) take any other appropriate measure to en-
7 sure well control is maintained and blowouts are pre-
8 vented.

9 **SEC. 8. WELL CONTROL AND BLOWOUT PREVENTION IN-**
10 **SPECTORS.**

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

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

2 Any person aggrieved by any regulation issued by the
3 appropriate Federal official under this Act may seek judi-
4 cial review of such regulation exclusively in the United
5 States Court of Appeals for the District of Columbia Cir-
6 cuit. Any petition for review under this section shall be
7 filed within 60 days from the date notice of the issuance
8 of such regulation appears in the Federal Register, except
9 that if such petition is based solely on grounds arising
10 after such sixtieth day, then any such petition for review
11 shall be filed within 60 days after such grounds arise.

12 **SEC. 10. INVESTIGATIONS AND INFORMATION REQUESTS.**

13 (a) **INSPECTIONS.**—The appropriate Federal official
14 is authorized to conduct investigations of violations or al-
15 leged or suspected violations of this Act or of any regula-
16 tion or order issued under this Act. In any investigation
17 conducted under this section, the appropriate Federal offi-
18 cial shall have the authority to summon witnesses and to
19 require the production of books, papers, documents, and
20 any other evidence. Attendance of witnesses or the produc-
21 tion of books, papers, documents, or any other evidence
22 shall be compelled by a similar process as in the district
23 courts of the United States.

24 (b) **INFORMATION REQUESTS.**—The appropriate
25 Federal official may require an operator or third-party
26 certifier, or an employee or contractor thereof, to provide,

1 on a one-time, periodic, or continuous basis, such informa-
2 tion as the appropriate Federal official may reasonably re-
3 quire for the purpose of—

4 (1) making any permitting or other regulatory
5 determination, issuing any order, or developing any
6 regulation under this Act;

7 (2) determining whether any person is in viola-
8 tion of this Act or of any regulation or order issued
9 under this Act; or

10 (3) carrying out any other provision of this Act.

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

12 (a) IN GENERAL.—Any person may commence a civil
13 action in a Federal district court of appropriate jurisdic-
14 tion on such person’s own behalf to compel compliance
15 with this Act, or any regulation or order issued under this
16 Act, against any person, including the United States, and
17 any other government instrumentality or agency (to the
18 extent permitted by the eleventh amendment to the Con-
19 stitution) for any alleged violation of any provision of this
20 Act or any regulation or order issued under this Act.

21 (b) NOTICE.—

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

1 (A) prior to 60 days after the plaintiff has
2 given notice of the alleged violation, in writing
3 under oath, to the appropriate Federal official,
4 to the State in which the violation allegedly oc-
5 curred or is occurring, and to any alleged viola-
6 tor; or

7 (B) if the Attorney General of the United
8 States has commenced and is diligently pros-
9 ecuting a civil action in a court of the United
10 States or a State with respect to such matter,
11 but in any such action in a court of the United
12 States any person having a legal interest which
13 is or may be adversely affected may intervene
14 as a matter of right.

15 (2) EXCEPTION.—An action may be brought
16 under this subsection immediately after notification
17 of the alleged violation in any case in which the al-
18 leged violation constitutes an imminent threat to the
19 public health or safety or the environment or would
20 immediately affect a legal interest of the plaintiff.

21 (c) INTERVENTION.—In any action commenced pur-
22 suant to this section, the Attorney General of the United
23 States, upon the request of the appropriate Federal offi-
24 cial, may intervene as a matter of right.

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

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

15 **SEC. 12. REMEDIES AND PENALTIES.**

16 (a) INJUNCTIONS AND RESTRAINING ORDERS.—At
17 the request of the appropriate Federal official, the Attor-
18 ney General of the United States or a United States attor-
19 ney shall institute a civil action in the district court of
20 the United States for the district in which the affected
21 operation is located for a temporary restraining order, in-
22 junction, or other appropriate remedy to enforce any pro-
23 vision of this Act or any regulation or order issued under
24 this Act.

25 (b) CIVIL PENALTIES; HEARING.—

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

17 (2) THREAT OF SERIOUS IRREPARABLE OR IM-
18 MEDIATE HARM.—If a failure described in para-
19 graph (1) constitutes or constituted a threat of seri-
20 ous, irreparable, or immediate harm or damage to
21 life (including fish and other aquatic life), property,
22 any mineral deposit, or the marine, coastal, or
23 human environment, a civil penalty of not more than
24 \$150,000 shall be assessed for each day of the con-
25 tinuance of the failure.

1 (c) CRIMINAL PENALTIES.—Any person who know-
2 ingly and willfully—

3 (1) violates any provision of this Act, or any
4 regulation or order issued under the authority of
5 this Act, designed to protect the public health and
6 safety or the environment;

7 (2) makes any false statement, representation,
8 or certification in any application, record, report, or
9 other document filed or required to be maintained
10 under this Act; or

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

14 shall, upon conviction, be punished by a fine of not more
15 than \$10,000,000, or by imprisonment for not more than
16 10 years, or both. Each day that a violation of paragraph
17 (1) continues, or each day that any monitoring device or
18 data recorder remains inoperative or inaccurate because
19 of any activity described in paragraph (3), shall constitute
20 a separate violation.

21 (d) LIABILITY OF CORPORATE OFFICERS AND
22 AGENTS FOR VIOLATIONS BY CORPORATION.—Whenever
23 a corporation or other entity is subject to prosecution
24 under subsection (c), any officer or agent of such corpora-
25 tion or entity who knowingly and willfully, or with willful

1 disregard, authorized, ordered, or carried out the pro-
2 scribed activity shall be subject to the same fines or im-
3 prisonment, or both, as provided for under subsection (e).

4 (e) CONCURRENT AND CUMULATIVE NATURE OF
5 PENALTIES.—The remedies and penalties prescribed in
6 this Act shall be concurrent and cumulative and the exer-
7 cise of one shall not preclude the exercise of the others.
8 Further, the remedies and penalties prescribed in this Act
9 shall be in addition to any other remedies and penalties
10 afforded by any other law or regulation.

11 **SEC. 13. RETALIATION PROHIBITED.**

12 (a) PROHIBITION.—No person or employer may dis-
13 charge any employee or otherwise discriminate against any
14 employee with respect to the employee’s compensation,
15 terms, conditions, or other privileges of employment be-
16 cause the employee (or any person acting pursuant to a
17 request of the employee)—

18 (1) notified the appropriate Federal official, a
19 Federal or State law enforcement or regulatory
20 agency, or the employee’s employer of an alleged vio-
21 lation of this Act, or any regulation or order under
22 this Act, including notification of such an alleged
23 violation through communications related to carrying
24 out the employee’s job duties;

1 (2) refused to participate in any conduct that
2 the employee reasonably believes is in noncompliance
3 with a requirement of this Act, or any regulation or
4 order under this Act, if the employee has identified
5 the alleged noncompliance to the employer;

6 (3) testified before or otherwise provided infor-
7 mation relevant for Congress or for any Federal or
8 State proceeding regarding any provision (or pro-
9 posed provision) of this Act;

10 (4) commenced, caused to be commenced, or is
11 about to commence or cause to be commenced a pro-
12 ceeding under this Act;

13 (5) testified or is about to testify in any such
14 proceeding; or

15 (6) assisted or participated or is about to assist
16 or participate in any manner in such a proceeding
17 or in any other action to carry out the purposes of
18 this Act.

19 (b) ENFORCEMENT ACTION.—Any employee covered
20 by this section who alleges discrimination by an employer
21 in violation of subsection (a) may bring an action governed
22 by the rules and procedures, legal burdens of proof, and
23 remedies applicable under subsections (d) through (h) of
24 section 20109 of title 49, United States Code. A party
25 may seek district court review as set forth in subsection

1 (d)(3) of such section not later than 90 days after receiv-
2 ing a written final determination by the Secretary of
3 Labor.

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

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

7 “(T) AGREEMENT.—Not later than 30
8 days after the date of enactment of this sub-
9 paragraph, the Chemical Safety and Hazard In-
10 vestigation Board, the Coast Guard, and the
11 Department of the Interior shall enter into an
12 agreement in order to facilitate the Board’s in-
13 vestigation of the facts, circumstances, and
14 causes of an accidental fire, explosion, or re-
15 lease involving an offshore oil or gas exploration
16 or production facility (regardless of whether
17 there is a resulting marine oil spill). Such
18 agreement shall provide the Board with the fol-
19 lowing:

20 “(i) Unrestricted access to any per-
21 sonnel, records, witness statements, re-
22 corded witness interviews, and physical or
23 documentary evidence related to an off-
24 shore oil or gas exploration or production
25 facility under investigation collected or pos-

1 sessed by the Coast Guard or the Depart-
2 ment of the Interior.

3 “(ii) The ability to conduct recorded
4 interviews of all agency personnel and con-
5 tractors and the right to obtain records re-
6 lated to Federal regulatory, inspection, en-
7 forcement, and safety programs for off-
8 shore oil or gas exploration and produc-
9 tion.

10 “(iii) The right to participate equally
11 in planning and executing any testing of
12 relevant items of physical evidence related
13 to the cause of the accident.

14 “(iv) Such support and facilities as
15 may be necessary for the Board’s inves-
16 tigation, including transportation to the
17 accident site, coastal waters and affected
18 areas, and other offshore oil or gas explo-
19 ration and production facilities without
20 cost to the Board.

21 “(U) RECOMMENDATIONS.—Based on an
22 investigation of an accidental fire, explosion, or
23 release involving an offshore oil or gas explo-
24 ration or production facility, the Board shall
25 make recommendations with respect to pre-

1 venting subsequent accidental fires, explosions,
2 or releases to the Secretary of the Interior and
3 the Commandant of the Coast Guard. The Sec-
4 retary of the Interior and the Commandant of
5 the Coast Guard shall respond formally and in
6 writing to any recommendation of the Board
7 within 90 days of the receipt of such rec-
8 ommendations.”.

9 **SEC. 15. SAVINGS CLAUSE.**

10 Nothing in this Act shall be construed to preempt
11 regulation by any State or local government of oil and gas
12 exploration and production wells drilled in State waters,
13 on State lands, or on private lands within that State pur-
14 suant to the laws of that State or local government.

15 **SEC. 16. DEFINITIONS.**

16 In this Act:

17 (1) **ADVISORY COMMITTEE.**—The term “Advi-
18 sory Committee” means the Well Control Technical
19 Advisory Committee established pursuant to section
20 6(a).

21 (2) **APPROPRIATE FEDERAL OFFICIAL.**—The
22 term “appropriate Federal official” means the Sec-
23 retary of Energy, Secretary of the Interior, or Ad-
24 ministrator of the Environmental Protection Agency,

1 as designated for specific responsibilities provided in
2 this Act by the President of the United States.

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

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

9 (5) BLOWOUT PREVENTER.—The term “blow-
10 out preventer” means a wellhead device or combina-
11 tion of devices designed and intended to prevent a
12 blowout.

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

16 (7) CASING SHEAR RAM.—The term “casing
17 shear ram” means a device capable of cutting
18 through casing.

19 (8) CEMENTING.—The term “cementing”
20 means the practice of forcing cement into the annu-
21 lar space between the casing and the bore-hole or be-
22 tween any two pipes within the bore-hole to seal the
23 well against the possibility of fluids or gases finding
24 a flow path through that space.

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

7 (10) EXPLORATION WELL.—The term “explo-
8 ration well” means a well intended to determine
9 whether economically recoverable oil, natural gas,
10 natural gas liquids, or other hydrocarbons exist in
11 the geological deposits or strata to or through which
12 the well is drilled.

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

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

18 (A) an offshore oil or gas exploration or
19 production well within 200 nautical miles of the
20 coast of the United States; or

21 (B) an onshore oil or gas exploration or
22 production well in the United States, identified
23 pursuant to criteria established by the appro-
24 priate Federal official, that, in the event of a

1 blowout, could lead to substantial harm to pub-
2 lic health and safety or the environment.

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

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

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

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

21 (17) ROV.—The term “ROV” is an acronym
22 for Remotely Operated Vehicle, and means an un-
23 manned, remotely operated, submersible device that
24 is capable of relaying images or information, manip-
25 ulating or operating various elements of a blowout

1 preventer or other equipment on the seabed, or per-
2 forming other subsea functions.

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

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

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