

111TH CONGRESS
2^D SESSION

H. R. 6094

To establish the National Commission on Outer Continental Shelf Oil Spill
Prevention.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 10, 2010

Mr. CASSIDY introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Transportation and Infrastructure, 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 establish the National Commission on Outer Continental
Shelf Oil Spill Prevention.

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. NATIONAL COMMISSION ON OUTER CONTI-**
4 **NENTAL SHELF OIL SPILL PREVENTION.**

5 (a) ESTABLISHMENT.—There is established in the
6 Legislative branch the National Commission on Outer
7 Continental Shelf Oil Spill Prevention (referred to in this
8 section as the “Commission”).

1 (b) PURPOSES.—The purposes of the Commission
2 are—

3 (1) to examine and report on the facts and
4 causes relating to the Deepwater Horizon explosion
5 and oil spill of 2010;

6 (2) to ascertain, evaluate, and report on the evi-
7 dence developed by all relevant governmental agen-
8 cies regarding the facts and circumstances sur-
9 rounding the incident;

10 (3) to build upon the investigations of other en-
11 tities, and avoid unnecessary duplication, by review-
12 ing the findings, conclusions, and recommendations
13 of—

14 (A) the Committees on Energy and Nat-
15 ural Resources and Commerce, Science, and
16 Transportation of the Senate;

17 (B) the Committee on Natural Resources
18 and the Subcommittee on Oversight and Inves-
19 tigation of the House of Representatives; and

20 (C) other Executive branch, congressional,
21 or independent commission investigations into
22 the Deepwater Horizon incident of 2010, other
23 fatal oil platform accidents and major spills,
24 and major oil spills generally;

1 (4) to make a full and complete accounting of
2 the circumstances surrounding the incident, and the
3 extent of the preparedness of the United States for,
4 and immediate response of the United States to, the
5 incident; and

6 (5) to investigate and report to the President
7 and Congress findings, conclusions, and rec-
8 ommendations for corrective measures that may be
9 taken to prevent similar incidents.

10 (c) COMPOSITION OF COMMISSION.—

11 (1) MEMBERS.—The Commission shall be com-
12 posed of 10 members, of whom—

13 (A) 1 member shall be appointed by the
14 President, who shall serve as Chairperson of the
15 Commission;

16 (B) 1 member shall be appointed by the
17 majority or minority (as the case may be) lead-
18 er of the Senate from the Republican Party and
19 the majority or minority (as the case may be)
20 leader of the House of Representatives from the
21 Republican Party, who shall serve as Vice
22 Chairperson of the Commission;

23 (C) 2 members shall be appointed by the
24 senior member of the leadership of the Senate
25 from the Democratic Party;

1 (D) 2 members shall be appointed by the
2 senior member of the leadership of the House
3 of Representatives from the Republican Party;

4 (E) 2 members shall be appointed by the
5 senior member of the leadership of the Senate
6 from the Republican Party; and

7 (F) 2 members shall be appointed by the
8 senior member of the leadership of the House
9 of Representatives from the Democratic Party.

10 (2) QUALIFICATIONS; INITIAL MEETING.—

11 (A) POLITICAL PARTY AFFILIATION.—Not
12 more than 5 members of the Commission shall
13 be from the same political party.

14 (B) NONGOVERNMENTAL APPOINTEES.—
15 An individual appointed to the Commission may
16 not be a current officer or employee of the Fed-
17 eral Government or any State or local govern-
18 ment.

19 (C) OTHER QUALIFICATIONS.—It is the
20 sense of Congress that individuals appointed to
21 the Commission should be prominent United
22 States citizens, with national recognition and
23 significant depth of experience and expertise in
24 such areas as—

25 (i) engineering;

- 1 (ii) environmental compliance;
2 (iii) health and safety law (particu-
3 larly oil spill legislation);
4 (iv) oil spill insurance policies;
5 (v) public administration;
6 (vi) oil and gas exploration and pro-
7 duction;
8 (vii) environmental cleanup; and
9 (viii) fisheries and wildlife manage-
10 ment.

11 (D) DEADLINE FOR APPOINTMENT.—All
12 members of the Commission shall be appointed
13 on or before September 15, 2010.

14 (E) INITIAL MEETING.—The Commission
15 shall meet and begin the operations of the Com-
16 mission as soon as practicable after the date of
17 enactment of this Act.

18 (3) QUORUM; VACANCIES.—

19 (A) IN GENERAL.—After the initial meet-
20 ing of the Commission, the Commission shall
21 meet upon the call of the Chairperson or a ma-
22 jority of the members of the Commission.

23 (B) QUORUM.—Six members of the Com-
24 mission shall constitute a quorum.

1 (C) VACANCIES.—Any vacancy in the Com-
2 mission shall not affect the powers of the Com-
3 mission, but shall be filled in the same manner
4 in which the original appointment was made.

5 (d) FUNCTIONS OF COMMISSION.—

6 (1) IN GENERAL.—The functions of the Com-
7 mission are—

8 (A) to conduct an investigation that—

9 (i) investigates relevant facts and cir-
10 cumstances relating to the Deepwater Ho-
11 rizon incident of April 20, 2010, and the
12 associated oil spill thereafter, including any
13 relevant legislation, Executive order, regu-
14 lation, plan, policy, practice, or procedure;
15 and

16 (ii) may include relevant facts and cir-
17 cumstances relating to—

18 (I) permitting agencies;

19 (II) environmental and worker
20 safety law enforcement agencies;

21 (III) national energy require-
22 ments;

23 (IV) deepwater and ultradeepwa-
24 ter oil and gas exploration and devel-
25 opment;

1 (V) regulatory specifications,
2 testing, and requirements for offshore
3 oil and gas well explosion prevention;

4 (VI) regulatory specifications,
5 testing, and requirements offshore oil
6 and gas well casing and cementing
7 regulation;

8 (VII) the role of congressional
9 oversight and resource allocation; and

10 (VIII) other areas of the public
11 and private sectors determined to be
12 relevant to the Deepwater Horizon in-
13 cident by the Commission;

14 (B) to identify, review, and evaluate the
15 lessons learned from the Deepwater Horizon in-
16 cident of April 20, 2010, regarding the struc-
17 ture, coordination, management policies, and
18 procedures of the Federal Government, and, if
19 appropriate, State and local governments and
20 nongovernmental entities, and the private sec-
21 tor, relative to detecting, preventing, and re-
22 sponding to those incidents; and

23 (C) to submit to the President and Con-
24 gress such reports as are required under this
25 section containing such findings, conclusions,

1 and recommendations as the Commission deter-
2 mines to be appropriate, including proposals for
3 organization, coordination, planning, manage-
4 ment arrangements, procedures, rules, and reg-
5 ulations.

6 (2) RELATIONSHIP TO INQUIRY BY CONGRES-
7 SIONAL COMMITTEES.—In investigating facts and
8 circumstances relating to energy policy, the Commis-
9 sion shall—

10 (A) first review the information compiled
11 by, and any findings, conclusions, and rec-
12 ommendations of, the committees identified in
13 subparagraphs (A) and (B) of subsection
14 (b)(3); and

15 (B) after completion of that review, pursue
16 any appropriate area of inquiry, if the Commis-
17 sion determines that—

18 (i) those committees have not inves-
19 tigated that area;

20 (ii) the investigation of that area by
21 those committees has not been completed;

22 or

23 (iii) new information not reviewed by
24 the committees has become available with
25 respect to that area.

1 (e) POWERS OF COMMISSION.—

2 (1) HEARINGS AND EVIDENCE.—The Commis-
3 sion or, on the authority of the Commission, any
4 subcommittee or member of the Commission, may,
5 for the purpose of carrying out this section—

6 (A) hold such hearings, meet and act at
7 such times and places, take such testimony, re-
8 ceive such evidence, and administer such oaths;
9 and

10 (B) require, by subpoena or otherwise, the
11 attendance and testimony of such witnesses and
12 the production of such books, records, cor-
13 respondence, memoranda, papers, documents,
14 tapes, and materials;
15 as the Commission or such subcommittee or member
16 considers to be advisable.

17 (2) SUBPOENAS.—

18 (A) ISSUANCE.—

19 (i) IN GENERAL.—A subpoena may be
20 issued under this paragraph only—

21 (I) by the agreement of the
22 Chairperson and the Vice Chair-
23 person; or

24 (II) by the affirmative vote of 6
25 members of the Commission.

1 (ii) SIGNATURE.—Subject to clause
2 (i), a subpoena issued under this para-
3 graph—

4 (I) shall bear the signature of the
5 Chairperson or any member des-
6 igned by a majority of the Commis-
7 sion; and

8 (II) may be served by any person
9 or class of persons designated by the
10 Chairperson or by a member des-
11 igned by a majority of the Commis-
12 sion for that purpose.

13 (B) ENFORCEMENT.—

14 (i) IN GENERAL.—In the case of con-
15 tumacy or failure to obey a subpoena
16 issued under subparagraph (A), the United
17 States district court for the district in
18 which the subpoenaed person resides, is
19 served, or may be found, or where the sub-
20 poena is returnable, may issue an order re-
21 quiring the person to appear at any des-
22 igned place to testify or to produce docu-
23 mentary or other evidence.

24 (ii) JUDICIAL ACTION FOR NON-
25 COMPLIANCE.—Any failure to obey the

1 order of the court may be punished by the
2 court as a contempt of that court.

3 (iii) ADDITIONAL ENFORCEMENT.—In
4 the case of any failure of any witness to
5 comply with any subpoena or to testify
6 when summoned under authority of this
7 subsection, the Commission may, by major-
8 ity vote, certify a statement of fact consti-
9 tuting such failure to the appropriate
10 United States attorney, who may bring the
11 matter before the grand jury for action,
12 under the same statutory authority and
13 procedures as if the United States attorney
14 had received a certification under sections
15 102 through 104 of the Revised Statutes
16 (2 U.S.C. 192 through 194).

17 (3) CONTRACTING.—The Commission may, to
18 such extent and in such amounts as are provided in
19 appropriation Acts, enter into contracts to enable
20 the Commission to discharge the duties of the Com-
21 mission under this section.

22 (4) INFORMATION FROM FEDERAL AGENCIES.—

23 (A) IN GENERAL.—The Commission may
24 secure directly from any Executive department,
25 bureau, agency, board, commission, office, inde-

1 pendent establishment, or instrumentality of the
2 Federal Government, information, suggestions,
3 estimates, and statistics for the purposes of this
4 section.

5 (B) COOPERATION.—Each Federal depart-
6 ment, bureau, agency, board, commission, of-
7 fice, independent establishment, or instrumen-
8 tality shall, to the extent authorized by law, fur-
9 nish information, suggestions, estimates, and
10 statistics directly to the Commission, upon re-
11 quest made by the Chairperson, the Chair-
12 person of any subcommittee created by a major-
13 ity of the Commission, or any member des-
14 ignated by a majority of the Commission.

15 (C) RECEIPT, HANDLING, STORAGE, AND
16 DISSEMINATION.—Information shall be received,
17 handled, stored, and disseminated only by mem-
18 bers of the Commission and the staff of the
19 Commission in accordance with all applicable
20 laws (including regulations and Executive or-
21 ders).

22 (5) ASSISTANCE FROM FEDERAL AGENCIES.—

23 (A) GENERAL SERVICES ADMINISTRA-
24 TION.—The Administrator of General Services
25 shall provide to the Commission on a reimburs-

1 able basis administrative support and other
2 services for the performance of the functions of
3 the Commission.

4 (B) OTHER DEPARTMENTS AND AGEN-
5 CIES.—In addition to the assistance prescribed
6 in subparagraph (A), departments and agencies
7 of the United States may provide to the Com-
8 mission such services, funds, facilities, staff,
9 and other support services as are determined to
10 be advisable and authorized by law.

11 (6) GIFTS.—The Commission may accept, use,
12 and dispose of gifts or donations of services or prop-
13 erty, including travel, for the direct advancement of
14 the functions of the Commission.

15 (7) POSTAL SERVICES.—The Commission may
16 use the United States mails in the same manner and
17 under the same conditions as departments and agen-
18 cies of the United States.

19 (f) PUBLIC MEETINGS AND HEARINGS.—

20 (1) PUBLIC MEETINGS AND RELEASE OF PUB-
21 LIC VERSIONS OF REPORTS.—The Commission
22 shall—

23 (A) hold public hearings and meetings, to
24 the extent appropriate; and

1 (B) release public versions of the reports
2 required under paragraphs (1) and (2) of sub-
3 section (j).

4 (2) PUBLIC HEARINGS.—Any public hearings of
5 the Commission shall be conducted in a manner con-
6 sistent with the protection of proprietary or sensitive
7 information provided to or developed for or by the
8 Commission as required by any applicable law (in-
9 cluding a regulation or Executive order).

10 (g) STAFF OF COMMISSION.—

11 (1) IN GENERAL.—

12 (A) APPOINTMENT AND COMPENSATION.—

13 (i) IN GENERAL.—The Chairperson,
14 in consultation with the Vice Chairperson
15 and in accordance with rules agreed upon
16 by the Commission, may, without regard to
17 the civil service laws (including regula-
18 tions), appoint and fix the compensation of
19 a staff director and such other personnel
20 as are necessary to enable the Commission
21 to carry out the functions of the Commis-
22 sion.

23 (ii) MAXIMUM RATE OF PAY.—No rate
24 of pay fixed under this subparagraph may
25 exceed the equivalent of that payable for a

1 position at level V of the Executive Sched-
2 ule under section 5316 of title 5, United
3 States Code.

4 (B) PERSONNEL AS FEDERAL EMPLOY-
5 EES.—

6 (i) IN GENERAL.—The staff director
7 and any personnel of the Commission who
8 are employees shall be considered to be
9 employees under section 2105 of title 5,
10 United States Code, for purposes of chap-
11 ters 63, 81, 83, 84, 85, 87, 89, and 90 of
12 that title.

13 (ii) MEMBERS OF COMMISSION.—
14 Clause (i) shall not apply to members of
15 the Commission.

16 (2) DETAILEES.—

17 (A) IN GENERAL.—An employee of the
18 Federal Government may be detailed to the
19 Commission without reimbursement.

20 (B) CIVIL SERVICE STATUS.—The detail of
21 the employee shall be without interruption or
22 loss of civil service status or privilege.

23 (3) PROCUREMENT OF TEMPORARY AND INTER-
24 MITTENT SERVICES.—The Chairperson of the Com-
25 mission may procure temporary and intermittent

1 services in accordance with section 3109(b) of title
2 5, United States Code, at rates for individuals that
3 do not exceed the daily equivalent of the annual rate
4 of basic pay prescribed for level V of the Executive
5 Schedule under section 5316 of that title.

6 (h) COMPENSATION AND TRAVEL EXPENSES.—

7 (1) COMPENSATION OF MEMBERS.—

8 (A) NON-FEDERAL EMPLOYEES.—A mem-
9 ber of the Commission who is not an officer or
10 employee of the Federal Government shall be
11 compensated at a rate equal to the daily equiva-
12 lent of the annual rate of basic pay prescribed
13 for level IV of the Executive Schedule under
14 section 5315 of title 5, United States Code, for
15 each day (including travel time) during which
16 the member is engaged in the performance of
17 the duties of the Commission.

18 (B) FEDERAL EMPLOYEES.—A member of
19 the Commission who is an officer or employee
20 of the Federal Government shall serve without
21 compensation in addition to the compensation
22 received for the services of the member as an
23 officer or employee of the Federal Government.

24 (2) TRAVEL EXPENSES.—A member of the
25 Commission shall be allowed travel expenses, includ-

1 ing per diem in lieu of subsistence, at rates author-
2 ized for an employee of an agency under subchapter
3 I of chapter 57 of title 5, United States Code, while
4 away from the home or regular place of business of
5 the member in the performance of the duties of the
6 Commission.

7 (i) SECURITY CLEARANCES FOR COMMISSION MEM-
8 BERS AND STAFF.—

9 (1) IN GENERAL.—Subject to paragraph (2),
10 the appropriate Federal agencies or departments
11 shall cooperate with the Commission in expeditiously
12 providing to the members and staff of the Commis-
13 sion appropriate security clearances, to the max-
14 imum extent practicable, pursuant to existing proce-
15 dures and requirements.

16 (2) PROPRIETARY INFORMATION.—No person
17 shall be provided with access to proprietary informa-
18 tion under this section without the appropriate secu-
19 rity clearances.

20 (j) REPORTS OF COMMISSION; ADJOURNMENT.—

21 (1) INTERIM REPORTS.—The Commission may
22 submit to the President and Congress interim re-
23 ports containing such findings, conclusions, and rec-
24 ommendations for corrective measures as have been

1 agreed to by a majority of members of the Commis-
2 sion.

3 (2) FINAL REPORT.—Not later than 180 days
4 after the date of the enactment of this Act, the
5 Commission shall submit to the President and Con-
6 gress a final report containing such findings, conclu-
7 sions, and recommendations for corrective measures
8 as have been agreed to by a majority of members of
9 the Commission.

10 (3) TEMPORARY ADJOURNMENT.—

11 (A) IN GENERAL.—The Commission, and
12 all the authority provided under this section,
13 shall adjourn and be suspended, respectively, on
14 the date that is 60 days after the date on which
15 the final report is submitted under paragraph
16 (2).

17 (B) ADMINISTRATIVE ACTIVITIES BEFORE
18 TERMINATION.—The Commission may use the
19 60-day period referred to in subparagraph (A)
20 for the purpose of concluding activities of the
21 Commission, including—

22 (i) providing testimony to committees
23 of Congress concerning reports of the
24 Commission; and

1 (ii) disseminating the final report sub-
2 mitted under paragraph (2).

3 (C) RECONVENING OF COMMISSION.—The
4 Commission shall stand adjourned until such
5 time as the President or the Secretary of
6 Homeland Security declares an oil spill of na-
7 tional significance to have occurred, at which
8 time—

9 (i) the Commission shall reconvene in
10 accordance with subsection (c)(3); and

11 (ii) the authority of the Commission
12 under this section shall be of full force and
13 effect.

14 (k) FUNDING.—

15 (1) AUTHORIZATION OF APPROPRIATIONS.—
16 There are authorized to be appropriated to carry out
17 this section—

18 (A) \$10,000,000 for the first fiscal year in
19 which the Commission convenes; and

20 (B) \$3,000,000 for each fiscal year there-
21 after in which the Commission convenes.

22 (2) AVAILABILITY.—Amounts made available to
23 carry out this section shall be available—

1 (A) for transfer to the Commission for use
2 in carrying out the functions and activities of
3 the Commission under this section; and

4 (B) until the date on which the Commis-
5 sion adjourns for the fiscal year under sub-
6 section (j)(3).

7 (1) NONAPPLICABILITY OF FEDERAL ADVISORY COM-
8 MITTEE ACT.—The Federal Advisory Committee Act (5
9 U.S.C. App.) shall not apply to the Commission.

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