

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3534
OFFERED BY MR. CASSIDY OF LOUISIANA**

Amend section 221 (page 96, beginning at line 12)

to read as follows:

1 **SEC. 221. NATIONAL COMMISSION ON OUTER CONTI-**
2 **NENTAL SHELF OIL SPILL PREVENTION.**

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

7 (b) PURPOSES.—The purposes of the Commission
8 are—

9 (1) to examine and report on the facts and
10 causes relating to the *Deepwater Horizon* explosion
11 and oil spill of 2010;

12 (2) to ascertain, evaluate, and report on the evi-
13 dence developed by all relevant governmental agen-
14 cies regarding the facts and circumstances sur-
15 rounding the incident;

16 (3) to build upon the investigations of other en-
17 tities, and avoid unnecessary duplication, by review-

1 ing the findings, conclusions, and recommendations
2 of—

3 (A) the Committees on Energy and Nat-
4 ural Resources and Commerce, Science, and
5 Transportation of the Senate;

6 (B) the Committee on Natural Resources
7 and the Subcommittee on Oversight and Inves-
8 tigations of the House of Representatives; and

9 (C) other Executive branch, congressional,
10 or independent commission investigations into
11 the *Deepwater Horizon* incident of 2010, other
12 fatal oil platform accidents and major spills,
13 and major oil spills generally;

14 (4) to make a full and complete accounting of
15 the circumstances surrounding the incident, and the
16 extent of the preparedness of the United States for,
17 and immediate response of the United States to, the
18 incident; and

19 (5) to investigate and report to the President
20 and Congress findings, conclusions, and rec-
21 ommendations for corrective measures that may be
22 taken to prevent similar incidents.

23 (e) COMPOSITION OF COMMISSION.—

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

1 (A) 1 member shall be appointed by the
2 President, who shall serve as Chairperson of the
3 Commission;

4 (B) 1 member shall be appointed by the
5 majority or minority (as the case may be) lead-
6 er of the Senate from the Republican Party and
7 the majority or minority (as the case may be)
8 leader of the House of Representatives from the
9 Republican Party, who shall serve as Vice
10 Chairperson of the Commission;

11 (C) 2 members shall be appointed by the
12 senior member of the leadership of the Senate
13 from the Democratic Party;

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

17 (E) 2 members shall be appointed by the
18 senior member of the leadership of the Senate
19 from the Republican Party; and

20 (F) 2 members shall be appointed by the
21 senior member of the leadership of the House
22 of Representatives from the Democratic Party.

23 (2) QUALIFICATIONS; INITIAL MEETING.—

1 (A) POLITICAL PARTY AFFILIATION.—Not
2 more than 5 members of the Commission shall
3 be from the same political party.

4 (B) NONGOVERNMENTAL APPOINTEES.—
5 An individual appointed to the Commission may
6 not be a current officer or employee of the Fed-
7 eral Government or any State or local govern-
8 ment.

9 (C) OTHER QUALIFICATIONS.—It is the
10 sense of Congress that individuals appointed to
11 the Commission should be prominent United
12 States citizens, with national recognition and
13 significant depth of experience and expertise in
14 such areas as—

- 15 (i) engineering;
- 16 (ii) environmental compliance;
- 17 (iii) health and safety law (particu-
18 larly oil spill legislation);
- 19 (iv) oil spill insurance policies;
- 20 (v) public administration;
- 21 (vi) oil and gas exploration and pro-
22 duction;
- 23 (vii) environmental cleanup; and
- 24 (viii) fisheries and wildlife manage-
25 ment.

1 (D) DEADLINE FOR APPOINTMENT.—All
2 members of the Commission shall be appointed
3 on or before September 15, 2010.

4 (E) INITIAL MEETING.—The Commission
5 shall meet and begin the operations of the Com-
6 mission as soon as practicable after the date of
7 enactment of this Act.

8 (3) QUORUM; VACANCIES.—

9 (A) IN GENERAL.—After the initial meet-
10 ing of the Commission, the Commission shall
11 meet upon the call of the Chairperson or a ma-
12 jority of the members of the Commission.

13 (B) QUORUM.—6 members of the Commis-
14 sion shall constitute a quorum.

15 (C) VACANCIES.—Any vacancy in the Com-
16 mission shall not affect the powers of the Com-
17 mission, but shall be filled in the same manner
18 in which the original appointment was made.

19 (d) FUNCTIONS OF COMMISSION.—

20 (1) IN GENERAL.—The functions of the Com-
21 mission are—

22 (A) to conduct an investigation that—

23 (i) investigates relevant facts and cir-
24 cumstances relating to the *Deepwater Ho-*
25 *rizon* incident of April 20, 2010, and the

1 associated oil spill thereafter, including any
2 relevant legislation, Executive order, regu-
3 lation, plan, policy, practice, or procedure;
4 and

5 (ii) may include relevant facts and cir-
6 cumstances relating to—

7 (I) permitting agencies;

8 (II) environmental and worker
9 safety law enforcement agencies;

10 (III) national energy require-
11 ments;

12 (IV) deepwater and
13 ultradeepwater oil and gas exploration
14 and development;

15 (V) regulatory specifications,
16 testing, and requirements for offshore
17 oil and gas well explosion prevention;

18 (VI) regulatory specifications,
19 testing, and requirements offshore oil
20 and gas well casing and cementing
21 regulation;

22 (VII) the role of congressional
23 oversight and resource allocation; and

24 (VIII) other areas of the public
25 and private sectors determined to be

1 relevant to the *Deepwater Horizon* in-
2 cident by the Commission;

3 (B) to identify, review, and evaluate the
4 lessons learned from the *Deepwater Horizon* in-
5 cident of April 20, 2010, regarding the struc-
6 ture, coordination, management policies, and
7 procedures of the Federal Government, and, if
8 appropriate, State and local governments and
9 nongovernmental entities, and the private sec-
10 tor, relative to detecting, preventing, and re-
11 sponding to those incidents; and

12 (C) to submit to the President and Con-
13 gress such reports as are required under this
14 section containing such findings, conclusions,
15 and recommendations as the Commission deter-
16 mines to be appropriate, including proposals for
17 organization, coordination, planning, manage-
18 ment arrangements, procedures, rules, and reg-
19 ulations.

20 (2) RELATIONSHIP TO INQUIRY BY CONGRES-
21 SIONAL COMMITTEES.—In investigating facts and
22 circumstances relating to energy policy, the Commis-
23 sion shall—

24 (A) first review the information compiled
25 by, and any findings, conclusions, and rec-

1 ommendations of, the committees identified in
2 subparagraphs (A) and (B) of subsection
3 (b)(3); and

4 (B) after completion of that review, pursue
5 any appropriate area of inquiry, if the Commis-
6 sion determines that—

7 (i) those committees have not inves-
8 tigated that area;

9 (ii) the investigation of that area by
10 those committees has not been completed;
11 or

12 (iii) new information not reviewed by
13 the committees has become available with
14 respect to that area.

15 (e) POWERS OF COMMISSION.—

16 (1) HEARINGS AND EVIDENCE.—The Commis-
17 sion or, on the authority of the Commission, any
18 subcommittee or member of the Commission, may,
19 for the purpose of carrying out this section—

20 (A) hold such hearings, meet and act at
21 such times and places, take such testimony, re-
22 ceive such evidence, and administer such oaths;
23 and

24 (B) require, by subpoena or otherwise, the
25 attendance and testimony of such witnesses and

1 the production of such books, records, cor-
2 respondence, memoranda, papers, documents,
3 tapes, and materials;
4 as the Commission or such subcommittee or member con-
5 siders to be advisable.

6 (2) SUBPOENAS.—

7 (A) ISSUANCE.—

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

10 (I) by the agreement of the
11 Chairperson and the Vice Chair-
12 person; or

13 (II) by the affirmative vote of 6
14 members of the Commission.

15 (ii) SIGNATURE.—Subject to clause
16 (i), a subpoena issued under this para-
17 graph—

18 (I) shall bear the signature of the
19 Chairperson or any member des-
20 ignated by a majority of the Commis-
21 sion;

22 (II) and may be served by any
23 person or class of persons designated
24 by the Chairperson or by a member

1 designated by a majority of the Com-
2 mission for that purpose.

3 (B) ENFORCEMENT.—

4 (i) IN GENERAL.—In the case of con-
5 tumacy or failure to obey a subpoena
6 issued under subparagraph (A), the United
7 States district court for the district in
8 which the subpoenaed person resides, is
9 served, or may be found, or where the sub-
10 poena is returnable, may issue an order re-
11 quiring the person to appear at any des-
12 ignated place to testify or to produce docu-
13 mentary or other evidence.

14 (ii) JUDICIAL ACTION FOR NON-
15 COMPLIANCE.—Any failure to obey the
16 order of the court may be punished by the
17 court as a contempt of that court.

18 (iii) ADDITIONAL ENFORCEMENT.—In
19 the case of any failure of any witness to
20 comply with any subpoena or to testify
21 when summoned under authority of this
22 subsection, the Commission may, by major-
23 ity vote, certify a statement of fact consti-
24 tuting such failure to the appropriate
25 United States attorney, who may bring the

1 matter before the grand jury for action,
2 under the same statutory authority and
3 procedures as if the United States attorney
4 had received a certification under sections
5 102 through 104 of the Revised Statutes
6 (2 U.S.C. 192 through 194).

7 (3) CONTRACTING.—The Commission may, to
8 such extent and in such amounts as are provided in
9 appropriation Acts, enter into contracts to enable
10 the Commission to discharge the duties of the Com-
11 mission under this section.

12 (4) INFORMATION FROM FEDERAL AGENCIES.—

13 (A) IN GENERAL.—The Commission may
14 secure directly from any Executive department,
15 bureau, agency, board, commission, office, inde-
16 pendent establishment, or instrumentality of the
17 Federal Government, information, suggestions,
18 estimates, and statistics for the purposes of this
19 section.

20 (B) COOPERATION.—Each Federal depart-
21 ment, bureau, agency, board, commission, of-
22 fice, independent establishment, or instrumen-
23 tality shall, to the extent authorized by law, fur-
24 nish information, suggestions, estimates, and
25 statistics directly to the Commission, upon re-

1 quest made by the Chairperson, the Chair-
2 person of any subcommittee created by a major-
3 ity of the Commission, or any member des-
4 ignated by a majority of the Commission.

5 (C) RECEIPT, HANDLING, STORAGE, AND
6 DISSEMINATION.—Information shall be received,
7 handled, stored, and disseminated only by mem-
8 bers of the Commission and the staff of the
9 Commission in accordance with all applicable
10 laws (including regulations and Executive or-
11 ders).

12 (5) ASSISTANCE FROM FEDERAL AGENCIES.—

13 (A) GENERAL SERVICES ADMINISTRA-
14 TION.—The Administrator of General Services
15 shall provide to the Commission on a reimburs-
16 able basis administrative support and other
17 services for the performance of the functions of
18 the Commission.

19 (B) OTHER DEPARTMENTS AND AGEN-
20 CIES.—In addition to the assistance prescribed
21 in subparagraph (A), departments and agencies
22 of the United States may provide to the Com-
23 mission such services, funds, facilities, staff,
24 and other support services as are determined to
25 be advisable and authorized by law.

1 (6) GIFTS.—The Commission may accept, use,
2 and dispose of gifts or donations of services or prop-
3 erty, including travel, for the direct advancement of
4 the functions of the Commission.

5 (7) POSTAL SERVICES.—The Commission may
6 use the United States mails in the same manner and
7 under the same conditions as departments and agen-
8 cies of the United States.

9 (f) PUBLIC MEETINGS AND HEARINGS.—

10 (1) PUBLIC MEETINGS AND RELEASE OF PUB-
11 LIC VERSIONS OF REPORTS.—The Commission
12 shall—

13 (A) hold public hearings and meetings, to
14 the extent appropriate; and

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

18 (2) PUBLIC HEARINGS.—Any public hearings of
19 the Commission shall be conducted in a manner con-
20 sistent with the protection of proprietary or sensitive
21 information provided to or developed for or by the
22 Commission as required by any applicable law (in-
23 cluding a regulation or Executive order).

24 (g) STAFF OF COMMISSION.—

25 (1) IN GENERAL.—

1 (A) APPOINTMENT AND COMPENSATION.—

2 (i) IN GENERAL.—The Chairperson,
3 in consultation with the Vice Chairperson
4 and in accordance with rules agreed upon
5 by the Commission, may, without regard to
6 the civil service laws (including regula-
7 tions), appoint and fix the compensation of
8 a staff director and such other personnel
9 as are necessary to enable the Commission
10 to carry out the functions of the Commis-
11 sion.

12 (ii) MAXIMUM RATE OF PAY.—No rate
13 of pay fixed under this subparagraph may
14 exceed the equivalent of that payable for a
15 position at level V of the Executive Sched-
16 ule under section 5316 of title 5, United
17 States Code.

18 (B) PERSONNEL AS FEDERAL EMPLOY-
19 EES.—

20 (i) IN GENERAL.—The staff director
21 and any personnel of the Commission who
22 are employees shall be considered to be
23 employees under section 2105 of title 5,
24 United States Code, for purposes of chap-

1 ters 63, 81, 83, 84, 85, 87, 89, and 90 of
2 that title.

3 (ii) MEMBERS OF COMMISSION.—
4 Clause (i) shall not apply to members of
5 the Commission.

6 (2) DETAILEES.—

7 (A) IN GENERAL.—An employee of the
8 Federal Government may be detailed to the
9 Commission without reimbursement.

10 (B) CIVIL SERVICE STATUS.—The detail of
11 the employee shall be without interruption or
12 loss of civil service status or privilege.

13 (3) PROCUREMENT OF TEMPORARY AND INTER-
14 MITTENT SERVICES.—The Chairperson of the Com-
15 mission may procure temporary and intermittent
16 services in accordance with section 3109(b) of title
17 5, United States Code, at rates for individuals that
18 do not exceed the daily equivalent of the annual rate
19 of basic pay prescribed for level V of the Executive
20 Schedule under section 5316 of that title.

21 (h) COMPENSATION AND TRAVEL EXPENSES.—

22 (1) COMPENSATION OF MEMBERS.—

23 (A) NON-FEDERAL EMPLOYEES.—A mem-
24 ber of the Commission who is not an officer or
25 employee of the Federal Government shall be

1 compensated at a rate equal to the daily equiva-
2 lent of the annual rate of basic pay prescribed
3 for level IV of the Executive Schedule under
4 section 5315 of title 5, United States Code, for
5 each day (including travel time) during which
6 the member is engaged in the performance of
7 the duties of the Commission.

8 (B) FEDERAL EMPLOYEES.—A member of
9 the Commission who is an officer or employee
10 of the Federal Government shall serve without
11 compensation in addition to the compensation
12 received for the services of the member as an
13 officer or employee of the Federal Government.

14 (2) TRAVEL EXPENSES.—A member of the
15 Commission shall be allowed travel expenses, includ-
16 ing per diem in lieu of subsistence, at rates author-
17 ized for an employee of an agency under subchapter
18 I of chapter 57 of title 5, United States Code, while
19 away from the home or regular place of business of
20 the member in the performance of the duties of the
21 Commission.

22 (i) SECURITY CLEARANCES FOR COMMISSION MEM-
23 BERS AND STAFF.—

24 (1) IN GENERAL.—Subject to paragraph (2),
25 the appropriate Federal agencies or departments

1 shall cooperate with the Commission in expeditiously
2 providing to the members and staff of the Commis-
3 sion appropriate security clearances, to the max-
4 imum extent practicable, pursuant to existing proce-
5 dures and requirements.

6 (2) PROPRIETARY INFORMATION.—No person
7 shall be provided with access to proprietary informa-
8 tion under this section without the appropriate secu-
9 rity clearances.

10 (j) REPORTS OF COMMISSION; ADJOURNMENT.—

11 (1) INTERIM REPORTS.—The Commission may
12 submit to the President and Congress interim re-
13 ports containing such findings, conclusions, and rec-
14 ommendations for corrective measures as have been
15 agreed to by a majority of members of the Commis-
16 sion.

17 (2) FINAL REPORT.—Not later than 180 days
18 after the date of the enactment of this Act, the
19 Commission shall submit to the President and Con-
20 gress a final report containing such findings, conclu-
21 sions, and recommendations for corrective measures
22 as have been agreed to by a majority of members of
23 the Commission.

24 (3) TEMPORARY ADJOURNMENT.—

1 (A) IN GENERAL.—The Commission, and
2 all the authority provided under this section,
3 shall adjourn and be suspended, respectively, on
4 the date that is 60 days after the date on which
5 the final report is submitted under paragraph
6 (2).

7 (B) ADMINISTRATIVE ACTIVITIES BEFORE
8 TERMINATION.—The Commission may use the
9 60-day period referred to in subparagraph (A)
10 for the purpose of concluding activities of the
11 Commission, including—

12 (i) providing testimony to committees
13 of Congress concerning reports of the
14 Commission; and

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

17 (C) RECONVENING OF COMMISSION.—The
18 Commission shall stand adjourned until such
19 time as the President or the Secretary of
20 Homeland Security declares an oil spill of na-
21 tional significance to have occurred, at which
22 time—

23 (i) the Commission shall reconvene in
24 accordance with subsection (c)(3); and

1 (ii) the authority of the Commission
2 under this section shall be of full force and
3 effect.

4 (k) FUNDING.—

5 (1) AUTHORIZATION OF APPROPRIATIONS.—

6 There are authorized to be appropriated to carry out
7 this section—

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

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

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

14 (A) for transfer to the Commission for use
15 in carrying out the functions and activities of
16 the Commission under this section; and

17 (B) until the date on which the Commis-
18 sion adjourns for the fiscal year under sub-
19 section (j)(3).

20 (l) NONAPPLICABILITY OF FEDERAL ADVISORY COM-
21 MITTEE ACT.—The Federal Advisory Committee Act (5
22 U.S.C. App.) shall not apply to the Commission.

