

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3534
OFFERED BY MS. CASTOR OF FLORIDA**

At the end of title VII add the following new section:

1 **SEC. ____ . GULF OF MEXICO INDEPENDENT REGIONAL CITI-**
2 **ZENS' ADVISORY COUNCIL.**

3 (a) IN GENERAL.—Subtitle A of title IV of the Oil
4 Pollution Act of 1990 is further amended by adding at
5 the end the following new section:

6 **“SEC. 4120. GULF OF MEXICO INDEPENDENT REGIONAL**
7 **CITIZENS' ADVISORY COUNCIL.**

8 “(a) ESTABLISHMENT.—There is established a Gulf
9 of Mexico Independent Regional Citizens' Advisory Coun-
10 cil (referred to in this section as the ‘Council’).

11 “(b) MEMBERSHIP.—The Council shall be of voting
12 members and nonvoting members, as follows:

13 “(1) VOTING MEMBERS.—Each of the States of
14 Alabama, Florida, Louisiana, Mississippi, and Texas
15 shall each have 7 voting members on the Council
16 who shall be residents of the State and appointed
17 from and by the following interests in the State,
18 such that each interest in each State is represented
19 by a voting member:

1 “(A) Commercial fin fish and shellfish in-
2 dustry.

3 “(B) Charter fishing industry.

4 “(C) Locally-based restaurant, hotel, tour-
5 ism industries and small businesses.

6 “(D) Coastal Indigenous historied commu-
7 nities.

8 “(E) Marine and coastal conservation com-
9 munity.

10 “(F) Incorporated and unincorporated mu-
11 nicipalities and counties or parishes.

12 “(G) Coastal socially vulnerable commu-
13 nities.

14 “(2) EXECUTIVE BOARD.—The operations of
15 the Council shall be administered by a 15-member
16 Executive Board comprised of 3 members selected
17 from and by each Gulf state’s voting membership to
18 the Council.

19 “(3) NONVOTING MEMBERS.—

20 “(A) IN GENERAL.—There shall be at least
21 one ex-officio, nonvoting representative des-
22 ignated by and representing each of the fol-
23 lowing on the Council:

24 “(i) The Coast Guard.

1 “(ii) The Environmental Protection
2 Agency.

3 “(iii) The National Oceanic and At-
4 mospheric Administration.

5 “(iv) The Bureau of Ocean Energy
6 and Resource Management

7 “(v) The Bureau of Safety and
8 Environemtal Enforcement.

9 “(vi) The lead maritime environ-
10 mental and natural resources management
11 and enforcement agencies from each of the
12 States of Alabama, Florida, Louisiana,
13 Mississippi, and Texas.

14 “(vi) The Gulf of Mexico maritime or
15 shipping industry.

16 “(vii) The Gulf of Mexico offshore en-
17 ergy industry.

18 “(viii) The Gulf of Mexico universities
19 relevant physical and social sciences and
20 engineering researchers.

21 “(ix) The Gulf of Mexico local com-
22 munity-based and faith-based nonprofits.

23 “(B) EXPANSION.—The Council is author-
24 ized to expand the numbers of nonvoting rep-
25 resentatives beyond the one representative pro-

1 vided for in this paragraph should there be a
2 mission related reason to do so.

3 “(c) TERMS.—

4 “(1) IN GENERAL.—The voting members of the
5 Council shall be appointed for a term of 3 years.

6 “(2) INITIAL APPOINTMENTS.—For the terms
7 of the group of first appointments of voting mem-
8 bers to the Council, a drawing of lots among the ap-
9 pointees shall be conducted under which—

10 “(A) 1/3 of that group shall serve for 3
11 years;

12 “(B) 1/3 of that group shall serve for 2
13 years; and

14 “(C) the remainder of that group shall
15 serve for 1 year.

16 “(3) DURATION OF COUNCIL.—The duration of
17 the Council shall be throughout the lifetime of en-
18 ergy development, transportation, and facility re-
19 moval activities in the Gulf of Mexico.

20 “(d) ADMINISTRATION.—

21 “(1) IN GENERAL.—The Council shall—

22 “(A) elect a chairperson and other officers
23 as needed;

24 “(B) select staff; and

1 “(C) make policies with regard to internal
2 operating procedures.

3 “(2) SELF-GOVERNANCE.—After the initial or-
4 ganizational meeting hosted by the Secretary of the
5 department in which the Coast Guard is operating,
6 the Council shall be self-governing.

7 “(3) TRANSPARENCY.—The Council shall—

8 “(A) conduct the operations of the Council
9 in public, to the maximum extent practicable;
10 and

11 “(B) make the work products the Council
12 adopts available to the public.

13 “(4) CONFLICTS OF INTEREST.—An individual
14 selected as a voting member of the Council may not
15 engage in any activity that may conflict with the
16 execution of the functions or duties of the individual
17 as a Council member.

18 “(e) DUTIES.—

19 “(1) IN GENERAL.—The Council shall—

20 “(A) with regard to oil and gas explo-
21 ration, development, production and transpor-
22 tation, including facilities, distribution systems,
23 and tank vessels in, and on the coast of, the
24 Gulf of Mexico—

1 “(i) provide comprehensive oversight
2 and monitoring of policies, permits, oper-
3 ations, and regulations relating to oil and
4 gas industry activities;

5 “(ii) monitor the environmental im-
6 pacts of the operation of the facilities and
7 tank vessels;

8 “(iii) monitor oil spill prevention and
9 response plans, including plans relating to
10 blowout prevention and response, for the
11 facilities and tank vessels; and

12 “(iv) recommend standards and condi-
13 tions for regulations intended to ensure the
14 safe and environmentally sound operation
15 and maintenance of the facilities and tank
16 vessels;

17 “(B) provide recommendations for, and
18 otherwise assist, any oil spill recovery or spill
19 research institute established for the Gulf of
20 Mexico; and

21 “(C) conduct such other activities within
22 the authority and scope of the Council as the
23 Council considers appropriate and necessary, in-
24 cluding regular public meetings or emergency
25 meetings (or both) of the Council.

1 “(f) STANDING COMMITTEES.—The Council may cre-
2 ate standing committees as necessary to carry out the du-
3 ties described in subsection (e), including, but not limited
4 to—

5 “(1) a scientific and technical committee;

6 “(2) an environmental monitoring committee;

7 “(3) an oil spill prevention and response com-
8 mittee;

9 “(4) an offshore committee for monitoring ac-
10 tivities in water that is more than 500 feet in depth;

11 “(5) a near-shore committee for monitoring ac-
12 tivities in water that is 500 feet or less in depth;

13 “(6) an information and education committee;
14 and

15 “(7) a committee on social impact assessments,
16 prevention, mitigation and response.

17 “(g) TEMPORARY COMMITTEES.—

18 “(1) IN GENERAL.—In addition to the standing
19 committees authorized to be created in subsection
20 (f), the Council may create temporary committees as
21 necessary to carry out the duties of the Council re-
22 lating to—

23 “(A) the blowout and explosion of the mo-
24 bile offshore drilling unit Deepwater Horizon
25 that occurred on April 20, 2010; and

1 “(B) the resulting hydrocarbon releases
2 into the environment, including temporary com-
3 mittees relating to—

4 “(i) public and occupational health;
5 and

6 “(ii) assessment and monitoring of en-
7 vironmental, social and economic impacts.

8 “(2) DISSOLUTION.—If a 2/3 majority of the
9 Council votes to discontinue activities relating to the
10 incidents described in paragraph (1), any temporary
11 committee established under paragraph (1) shall dis-
12 solve within 60 days after the date of the vote.

13 “(h) ESTOPPEL.—

14 “(1) IN GENERAL.—The Council shall not be
15 liable under Federal or State law for costs or dam-
16 ages as a result of rendering recommendations under
17 this section.

18 “(2) ADVICE.—Any advice given by a voting
19 member of the Council, or by a program representa-
20 tive or agent, shall not be grounds for estopping
21 those interests represented by the voting Council
22 members from seeking damages or other appropriate
23 relief.

24 “(i) INFORMATION FROM FEDERAL AGENCIES AND
25 INDUSTRY.—

1 “(1) IN GENERAL.—The Council may request
2 directly from any Federal agency (as defined in sec-
3 tion 1004 of the Solid Waste Disposal Act (4224
4 U.S.C. 6903)) (referred to in this section as a ‘Fed-
5 eral agency’) information, suggestions, estimates,
6 and statistics for the purposes of this section.

7 “(2) AGENCY COOPERATION.—

8 “(A) IN GENERAL.—Effective beginning
9 180 days after the date of enactment of this
10 section, each Federal agency shall, with respect
11 to all permits, site-specific regulations, and
12 other matters governing the activities and ac-
13 tions within the purview of the Council, consult
14 with the Council prior to taking substantive ac-
15 tion with respect to the permit, site-specific reg-
16 ulation, or other matter.

17 “(B) REVIEW.—The consultation shall be
18 carried out in a manner that enables the Coun-
19 cil—

20 “(i) to review the permit, site-specific
21 regulation, or other matters; and

22 “(ii) to make appropriate rec-
23 ommendations regarding operations, policy,
24 or agency actions.

1 “(C) EMERGENCIES.—Prior consultation
2 shall not be required under this paragraph if an
3 authorized Federal agency representative rea-
4 sonably believes that an emergency exists re-
5 quiring action without delay.

6 “(D) INFORMATION.—Each Federal agen-
7 cy shall, on the request of the Council, to the
8 extent authorized by law, furnish
9 (I) information, suggestions, estimates, and sta-
10 tistics directly to the Council, and (ii) in the
11 case of Security Sensitive Information (SSI)
12 such information to appropriately credentialed
13 Council members.

14 “(3) ACCESS.—The Council shall have access to
15 oil and gas industry facilities and records of a non-
16 proprietary character, or records with proprietary in-
17 formation but with such information redacted as
18 may be necessary and appropriate, that are relevant
19 to the proper execution of the duties of the Council
20 under this section.

21 “(j) COUNCIL RESEARCH.—In carrying out this sec-
22 tion, the Council—

23 “(1) may conduct applicable scientific research;
24 and

1 “(2) shall review applicable scientific work un-
2 dertaken by or on behalf of—

3 “(A) the energy industry;

4 “(B) the conservation community; or

5 “(C) government agencies.

6 “(k) COUNCIL RECOMMENDATIONS.—

7 “(1) IN GENERAL.—All recommendations of the
8 Council shall be advisory only.

9 “(2) RECOMMENDATIONS.—If a government
10 agency, responsible party, or other owner or oper-
11 ator, lessee, or permittee (referred to in this para-
12 graph as the ‘covered individual or entity’) decides
13 not to accept, or decides to significantly modify be-
14 fore adoption, a recommendation of the Council, the
15 covered individual or entity shall provide to the
16 Council, not later than 10 days after the date of the
17 decision of the covered individual or entity, a written
18 notice of the decision and a summary of reasons for
19 the rejection or significant modification of the rec-
20 ommendation by the covered individual or entity

21 “(l) LOCATION AND COMPENSATION.—

22 “(1) OFFICE LOCATIONS.—The Council shall
23 establish its principal administrative office in Lou-
24 isiana and a satellite office in each Gulf state to fa-
25 cilitate the operations of the Council. The Members

1 of the Council from each state shall supervise the
2 operations of their respective satellite Council of-
3 fices.

4 “(2) PER DIEM AUTHORIZATION.—A member of
5 the Council may not be compensated for service on
6 the Council, but shall be allowed travel expenses, in-
7 cluding per diem, at a rate established by the Coun-
8 cil, not to exceed the rates authorized for employees
9 of agencies under sections 5702 and 5703 of title 5,
10 United States Code (except by express authorization
11 of the Council in any case in which the rates are in-
12 adequate to reimburse a member not eligible for
13 travel rates of the Federal Government).

14 “(m) REPORTS.—

15 “(1) GAO REPORTS.—Not later than three (3)
16 years after the date of establishment of the Council
17 and every three (3) years thereafter, the Comptroller
18 General of the United States shall submit to the
19 President and Congress a report covering the oper-
20 ations and expenditures of the Council in carrying
21 out this section, including any recommendations.

22 “(2) BIENNIAL REPORT TO CONGRESS.—Every
23 two (2) years, the Council shall submit a report to
24 Congress on—

1 “(A) the achievement of safe operations in
2 the Gulf of oil and gas activities; and

3 “(B) on the operations and expenditures,
4 needs, problems, issues, and recommendations
5 of the Council.

6 “(3) ANNUAL AUDITS.—

7 “(A) IN GENERAL.—The Council shall—

8 “(i) commission an annual inde-
9 pendent financial statement audit by an
10 independent accounting firm;

11 “(ii) publish the results of the audit in
12 a publicly available annual report; and

13 “(iii) incorporate such audits into the
14 biennial reports to Congress required in
15 (2) above.

16 “(n) SUITS BARRED.—No program, association,
17 council, committee, or other organization created by this
18 section may sue any public or private person or entity con-
19 cerning any matter arising under this section other than
20 the performance of a contracts.

21 “(o) OPERATIONAL AND ADMINISTRATIVE FUND-
22 ING.—

23 “(1) For the purposes of substantially enhanc-
24 ing oil spill prevention in the Gulf of Mexico through
25 increased oversight and monitoring of oil and gas in-

1 dustry activities and oil spill response preparation
2 and readiness in the Gulf and fulfillment of other
3 duties of the Council set forth in subsection (e),
4 owners or operators of tank vessels, onshore facili-
5 ties, or offshore facilities, lessees, and permittees in
6 the Gulf of Mexico shall provide, on an annual basis,
7 an aggregate amount of \$12,000,000, the payment
8 of which is to be made on a quarterly basis and shall
9 be coordinated and facilitated by the Secretary of
10 the department in which the Coast Guard is oper-
11 ating and the Secretary of the Interior, that shall—

12 “(A) provide for the establishment and op-
13 eration of the Council (including standing com-
14 mittees and any temporary committees); and

15 “(B) be adjusted annually to reflect
16 changes in the Consumer Price Index in the
17 Gulf of Mexico region; and

18 “(C) be budgeted by the Council for its op-
19 erations as well as for operations of its prin-
20 cipal and satellite offices generally commensu-
21 rate with the level of maritime and on-shore
22 coastal oil and gas activities within each state
23 and the risks to each state of potential spills in
24 the Gulf.

1 “(2) Approval of the contingency plans required
2 of owners or operators of tank vessels, onshore fa-
3 cilities, or offshore facilities, or lessees and permit-
4 tees in the Gulf of Mexico shall be effective only so
5 long as the Council is funded pursuant to this sub-
6 section.”.

7 (b) TABLE OF CONTENTS.—The table of contents in
8 section 2 of the Oil Pollution Act of 1990 (33 U.S.C.
9 2701) is further amended by adding at the end of the
10 items relating to title IV the following:

“Sec. 4120. Gulf of Mexico independent regional citizens’ advisory council.”.

