

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

Page 238, after line 19, insert the following:

1 **SEC. 811. GULF OF MEXICO REGIONAL CITIZENS ADVISORY**  
2 **COUNCIL.**

3 (a) IN GENERAL.—Subtitle A of title IV of the Oil  
4 Pollution Act of 1990 (as amended by section 727 of this  
5 Act) is further amended by adding at the end the fol-  
6 lowing:

7 **“SEC. 4120. GULF OF MEXICO REGIONAL CITIZENS’ ADVI-**  
8 **SORY COUNCIL.**

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

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

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

1 each interest in each State is represented by a vot-  
2 ing member:

3 “(A) Commercial fin fish and shellfish in-  
4 dustry.

5 “(B) Charter fishing industry.

6 “(C) Locally-based restaurant, hotel, and  
7 tourism industries and small businesses.

8 “(D) Coastal indigenous historied commu-  
9 nities.

10 “(E) Marine and coastal conservation com-  
11 munity.

12 “(F) Incorporated and unincorporated mu-  
13 nicipalities and counties or parishes; and

14 “(G) Coastal socially vulnerable commu-  
15 nities.

16 “(2) NONVOTING MEMBERS.—

17 “(A) IN GENERAL.—One ex-officio, non-  
18 voting representative shall be designated by,  
19 and represent, each of the following:

20 “(i) The Coast Guard.

21 “(ii) The Environmental Protection  
22 Agency.

23 “(iii) The National Oceanic and At-  
24 mospheric Administration.

1                   “(iv) The Bureau of Ocean Energy  
2                   Management, Regulation and Enforce-  
3                   ment.

4                   “(v) The lead maritime environmental  
5                   and natural resources management and en-  
6                   forcement agency from each of the States  
7                   of Alabama, Florida, Louisiana, Mis-  
8                   sissippi, and Texas.

9                   “(B) ADDITIONAL MEMBERS.—The Coun-  
10                  cil is authorized to expand the numbers of non-  
11                  voting representatives beyond the one represent-  
12                  ative provided for in this paragraph should  
13                  there be a mission-related reason to do so.

14                  “(3) 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 State’s voting membership in the  
18                  Council.

19                  “(c) TERMS.—

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

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

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

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

5           “(C) the remainder of that group shall  
6           serve for 1 year.

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

11          “(d) ADMINISTRATION.—

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

13           “(A) elect a chairperson and other officers  
14           as needed;

15           “(B) select staff; and

16           “(C) make policies with regard to internal  
17           operating procedures.

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

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

23           “(A) conduct the operations of the Council  
24           in public, to the maximum extent practicable;  
25           and

1           “(B) make the work products the Council  
2           adopts available to the public.

3           “(4) CONFLICTS OF INTEREST.—An individual  
4           appointed as a voting member of the Council may  
5           not engage in any activity that may conflict with the  
6           execution of the functions or duties of the individual  
7           as a Council member.

8           “(e) DUTIES.—The Council shall—

9           “(1) with regard to oil and gas exploration, de-  
10          velopment, production, and transportation, including  
11          facilities, distribution systems, and tank vessels in,  
12          and on the coast of, the Gulf of Mexico—

13           “(A) provide comprehensive oversight and  
14           monitoring of policies, permits, operations, and  
15           regulations relating to oil and gas industry ac-  
16           tivities;

17           “(B) monitor the environmental impacts of  
18           the operation of the facilities and tank vessels;

19           “(C) monitor oil spill prevention and re-  
20           sponse plans, including plans relating to blow-  
21           out prevention and response, for the facilities  
22           and tank vessels; and

23           “(D) recommend standards and conditions  
24           for regulations intended to ensure the safe and

1 environmentally sound operation and mainte-  
2 nance of the facilities and tank vessels;

3 “(2) provide recommendations for, and other-  
4 wise assist, any oil spill recovery or spill research in-  
5 stitute established for the Gulf of Mexico; and

6 “(3) conduct such other activities within the au-  
7 thority and scope of the Council as the Council con-  
8 siders appropriate and necessary, including holding  
9 regular public meetings or emergency meetings of  
10 the Council.

11 “(f) STANDING COMMITTEES.—The Council may cre-  
12 ate standing committees as necessary to carry out the du-  
13 ties described in subsection (e), including—

14 “(1) a scientific and technical committee;

15 “(2) an environmental monitoring committee;

16 “(3) an oil spill prevention and response com-  
17 mittee;

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

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

22 “(6) an information and education committee;  
23 and

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

1       “(g) TEMPORARY COMMITTEES.—

2               “(1) IN GENERAL.—In addition to the standing  
3       committees authorized to be created in subsection  
4       (f), the Council may create temporary committees as  
5       necessary to carry out the duties of the Council re-  
6       lating to—

7               “(A) the blowout and explosion of the mo-  
8       bile offshore drilling unit *Deepwater Horizon*  
9       that occurred on April 20, 2010; and

10              “(B) the resulting hydrocarbon releases  
11       into the environment, including temporary com-  
12       mittees relating to assessment and monitoring  
13       of environmental, social, and economic impacts.

14              “(2) DISSOLUTION.—If a 2/3 majority of the  
15       Council votes to discontinue activities relating to the  
16       incidents described in paragraph (1), any temporary  
17       committee established under paragraph (1) shall dis-  
18       solve not later than 60 days after the date of the  
19       vote.

20       “(h) ESTOPPEL.—

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

1           “(2) ADVICE.—Any advice given by a voting  
2           member of the Council, or by a program representa-  
3           tive or agent, shall not be grounds for estopping  
4           those interests represented by the voting Council  
5           members from seeking damages or other appropriate  
6           relief.

7           “(i) INFORMATION FROM FEDERAL AGENCIES AND  
8           INDUSTRY.—

9           “(1) IN GENERAL.—The Council may request  
10          directly from any Federal agency (as defined in sec-  
11          tion 1004 of the Solid Waste Disposal Act (42  
12          U.S.C. 6903)) (referred to in this section as a ‘Fed-  
13          eral agency’) information, suggestions, estimates,  
14          and statistics for the purposes of carrying out this  
15          section.

16          “(2) AGENCY COOPERATION.—

17          “(A) IN GENERAL.—Effective beginning  
18          180 days after the date of enactment of this  
19          section, each Federal agency shall, with respect  
20          to all permits, site-specific regulations, and  
21          other matters governing the activities and ac-  
22          tions within the purview of the Council, consult  
23          with the Council prior to taking substantive ac-  
24          tion with respect to the permit, site-specific reg-  
25          ulation, or other matter.

1           “(B) REVIEW.—The consultation shall be  
2 carried out in a manner that enables the Coun-  
3 cil—

4                   “(i) to review the permit, site-specific  
5 regulation, or other matter; and

6                   “(ii) to make appropriate rec-  
7 ommendations regarding operations, policy,  
8 or agency actions.

9           “(C) EMERGENCIES.—Prior consultation  
10 shall not be required under this paragraph if an  
11 authorized Federal agency representative rea-  
12 sonably believes that an emergency exists re-  
13 quiring action without delay.

14           “(D) INFORMATION.—Each Federal agen-  
15 cy shall, on the request of the Council, to the  
16 extent authorized by law, furnish information,  
17 suggestions, estimates, and statistics directly to  
18 the Council, and, in the case of security sen-  
19 sitive information, such information to appro-  
20 priately credentialed Council members.

21           “(3) ACCESS.—The Council shall have access to  
22 oil and gas industry facilities and records of a non-  
23 proprietary character, or records with proprietary in-  
24 formation but with such information redacted as  
25 may be necessary and appropriate, that are relevant

1 to the proper execution of the duties of the Council  
2 under this section.

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

5 “(1) may conduct applicable scientific research;  
6 and

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

9 “(A) the energy industry;

10 “(B) the conservation community; or

11 “(C) government agencies.

12 “(k) COUNCIL RECOMMENDATIONS.—

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

15 “(2) RECOMMENDATIONS.—If a government  
16 agency, responsible party, or other owner or oper-  
17 ator, lessee, or permittee (referred to in this para-  
18 graph as the ‘covered individual or entity’) decides  
19 not to accept, or decides to substantially modify be-  
20 fore adoption, a recommendation of the Council, the  
21 covered individual or entity shall provide to the  
22 Council, not later than 10 days after the date of the  
23 decision of the covered individual or entity, a written  
24 notice of the decision and a summary of reasons for

1 the rejection or significant modification of the rec-  
2 ommendation by the covered individual or entity.

3 “(l) LOCATION AND COMPENSATION.—

4 “(1) OFFICE LOCATIONS.—The Council shall  
5 establish its principal administrative office in Lou-  
6 isiana and a satellite office in each Gulf State to fa-  
7 cilitate the operations of the Council. The members  
8 of the Council from each State shall supervise the  
9 operations of their respective satellite Council of-  
10 fices.

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

21 “(m) REPORTS.—

22 “(1) GAO REPORTS.—Not later than 3 years  
23 after the date of establishment of the Council and  
24 every 3 years thereafter, the Comptroller General of  
25 the United States shall submit to the President and

1 Congress a report covering the operations and ex-  
2 penditures of the Council in carrying out this sec-  
3 tion, including any recommendations.

4 “(2) BIENNIAL REPORTS TO CONGRESS.—Every  
5 2 years, the Council shall submit a report to Con-  
6 gress on—

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

9 “(B) the operations and expenditures,  
10 needs, problems, issues, and recommendations  
11 of the Council.

12 “(3) ANNUAL AUDITS.—The Council shall—

13 “(A) commission an annual independent fi-  
14 nancial statement audit by an independent ac-  
15 counting firm;

16 “(B) publish the results of the audits in a  
17 publicly available annual report; and

18 “(C) incorporate such audits into the bien-  
19 nial reports to Congress required by paragraph  
20 (2).

21 “(n) SUITS BARRED.—No program, association,  
22 council, committee, or other organization created by this  
23 section may sue any public or private person or entity con-  
24 cerning any matter arising under this section other than  
25 the performance of a contract.

1       “(o) OPERATIONAL AND ADMINISTRATIVE FUND-  
2   ING.—

3           “(1) IN GENERAL.—For the purposes of sub-  
4   stantially enhancing oil spill prevention in the Gulf  
5   of Mexico through increased oversight and moni-  
6   toring of oil and gas industry activities and oil spill  
7   response preparation and readiness in the Gulf and  
8   fulfillment of other duties of the Council set forth in  
9   subsection (e), owners or operators of tank vessels,  
10   onshore facilities, or offshore facilities, lessees, and  
11   permittees in the Gulf of Mexico shall provide, on an  
12   annual basis, an aggregate amount of \$12,000,000,  
13   the payment of which is to be made on a quarterly  
14   basis and shall be coordinated and facilitated by the  
15   Secretary of the department in which the Coast  
16   Guard is operating and the Secretary of the Interior,  
17   that shall—

18           “(A) provide for the establishment and op-  
19   eration of the Council (including standing com-  
20   mittees and any temporary committees);

21           “(B) be adjusted annually to reflect  
22   changes in the Consumer Price Index in the  
23   Gulf of Mexico region; and

24           “(C) be budgeted by the Council for its op-  
25   erations as well as for operations of its prin-

1            ciproal and satellite offices generally commensu-  
2            rate with the level of maritime and on-shore  
3            coastal oil and gas activities within each State  
4            and the risks to each State of potential spills in  
5            the Gulf.

6            “(2) CONDITION ON APPROVAL OF CONTIN-  
7            GENCY PLANS.—Approval of the contingency plans  
8            required of owners or operators of tank vessels, on-  
9            shore facilities, or offshore facilities, or lessees and  
10           permittees in the Gulf of Mexico shall be effective  
11           only so long as the Council is funded pursuant to  
12           this subsection.”.

13           (b) TABLE OF CONTENTS.—The table of contents in  
14           section 2 of the Oil Pollution Act of 1990 (as amended  
15           by section 727 of this Act) is further amended by adding  
16           at the end of the items relating to title IV the following:

Sec. 4120. Gulf of Mexico Regional Citizens' Advisory Council.

