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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To promote fish habitat through the enhancement of certain offshore oil and gas platforms and pipelines as artificial reefs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. EZELL introduced the following bill; which was referred to the Committee
on _____

A BILL

To promote fish habitat through the enhancement of certain offshore oil and gas platforms and pipelines as artificial reefs, 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 “Marine Fisheries Habi-
5 tat Protection Act”.

1 **SEC. 2. USE OF CERTAIN OFFSHORE OIL AND GAS PLAT-**
2 **FORMS AND PIPELINES FOR ARTIFICIAL**
3 **REEFS.**

4 (a) NATIONAL FISHING ENHANCEMENT ACT OF
5 1984.—The National Fishing Enhancement Act of 1984
6 (33 U.S.C. 2101 et seq.) is amended—

7 (1) by amending section 206 (33 U.S.C. 2105)
8 to read as follows:

9 **“SEC. 206. DEFINITIONS.**

10 “In this title:

11 “(1) ADMINISTRATOR.—The term ‘Adminis-
12 trator’ means the Under Secretary of Commerce for
13 Oceans and Atmosphere in the Under Secretary’s
14 capacity as Administrator of the National Oceanic
15 and Atmospheric Administration.

16 “(2) ARTIFICIAL REEF.—The term ‘Artificial
17 reef’ means a structure or facility and associated
18 equipment and infrastructure which is located, con-
19 structed or placed in Covered Waters that enhances
20 fishery resources and commercial and recreational
21 fishing opportunities, including, without limitation,
22 Approved Structures.

23 “(3) DIRECTOR.—The term ‘Director’ means
24 the Principal Deputy Director Exercising the Dele-
25 gated Authorities of the Director of the Bureau of
26 Safety and Environmental Enforcement.

1 “(4) DECOMMISSIONING.—For the purposes of
2 this title, the term ‘Decommissioning’ means ending
3 oil, gas, or sulphur operations on an offshore lease,
4 right-of-way, or right-of-use and easement and re-
5 turning the area subject to such lease, right-of-way,
6 or right-of-use and easement to a condition that
7 complies with applicable law, including, without limi-
8 tation, Reefing in Place of Approved Structures, or
9 removal of platforms and structures, or a combina-
10 tion thereof.

11 “(5) ESTABLISHED REEF ECOSYSTEM.—The
12 term ‘established reef ecosystem’ means an area
13 with identified reef-associated species, including spe-
14 cies of corals, crustaceans, fish, or other marine life.

15 “(6) APPROVED STRUCTURE.—The term ‘ap-
16 proved structure’ means an Eligible Structure which
17 the Secretary of the Interior has approved for
18 Reefing in Place pursuant to Section 207(a)(5)(B).

19 “(7) ELIGIBLE STRUCTURE.—The term ‘eligible
20 structure’ refers to an Inactive Structure that is de-
21 termined eligible for Reefing in Place by the Direc-
22 tor pursuant to Section 207(a)(3).

23 “(8) INACTIVE STRUCTURE.—The term ‘inac-
24 tive structure’ means an oil or gas platform, struc-

1 ture, facility, pipeline, and associated equipment and
2 infrastructure—

3 “(A) that either—

4 “(i) an Applicant determines is no
5 longer useful for operations;

6 “(ii) is located on a lease, right of
7 way, right of use and entry or other simi-
8 lar right that has expired, terminated, been
9 relinquished or abandoned or is no longer
10 valid and effective; or

11 “(iii) is currently on the sea floor as
12 a result of an act of God or event of force
13 majeure.

14 “(9) PARTIAL REMOVAL.—The term ‘Partial
15 Removal’ means—

16 “(A) the severance and removal of a por-
17 tion of an Inactive Structure at a level that
18 maximizes the vertical relief of the structure in
19 the water column at the minimum depth from
20 the surface to maintain navigational safety, as
21 determined by the Secretary of the Interior in
22 consultation with the Commandant of the Coast
23 Guard; and

24 “(B) optionally, the placement of the sev-
25 ered portion of the Inactive Structure on the

1 sea floor in proximity to the base of the
2 unsevered portion of the structure or at an al-
3 ternative reef planning area.

4 “(10) REEF IN PLACE.—The term ‘Reef in
5 Place’ or ‘Reefing in Place’ means Decommissioning
6 of an Approved Structure, in whole or in part, by
7 abandoning in place, Toppling in Place, or Partial
8 Removal of the Approved Structure in a manner
9 that—

10 “(A) attempts to maximize reef ecosystem
11 for benthic and pelagic species throughout the
12 entirety of the water column; and

13 “(B) is at the appropriate minimum depth
14 from the surface to maintain navigational safe-
15 ty as determined by the Secretary of the Inte-
16 rior in consultation with the Commandment of
17 the Coast Guard.

18 “(11) APPLICANT.—The term ‘applicant’ refers
19 to a current or former lessee, right-of-way holder,
20 right-of-use holder or operating rights owner that
21 has assumed operational control or regulatory re-
22 sponsibility over an Inactive Structure, or has re-
23 ceived an order from the Secretary of the Interior to
24 perform decommissioning on an Inactive Structure,
25 or is otherwise legally responsible for Decommis-

1 sioning an Inactive Structure. Parties that do not
2 meet any of this criteria may apply to the Director
3 to be deemed an Applicant for the purposes of this
4 title, To the extent that multiple parties meeting the
5 definition of Applicant exist, the party designated to
6 the Department of the Interior as the single entity
7 to serve as an operator or agent for the decommis-
8 sioning operations shall be the Applicant for the
9 purposes of this title.

10 “(12) STATE.—The term ‘State’ means a State
11 of the United States, the District of Columbia, Puer-
12 to Rico, the United States Virgin Islands, American
13 Samoa, Guam, Johnston Island, Midway Island, and
14 Wake Island.

15 “(13) TOPPLE IN PLACE.—The term ‘Topple in
16 Place’ or ‘Toppling in Place’ means detaching an
17 Approved Structure or a portion of the Approved
18 Structure from the seabed and toppling the ap-
19 proved structure or a severed portion of the Ap-
20 proved Structure onto its side on the seabed in the
21 same area or immediately adjacent to the area where
22 the Approved Structure was originally installed or
23 abandoned.

24 “(14) COVERED WATERS.—The term ‘Covered
25 Waters’ means the navigable waters of the United

1 States and the waters superjacent to the Outer Con-
2 tinental Shelf as defined in section 2 of the Outer
3 Continental Shelf Lands Act (43 U.S.C. 1331), to
4 the extent such waters exist in or are adjacent to
5 any State.

6 “(15) STATE PROGRAM.—The term ‘State Pro-
7 gram’ means any State Artificial Reef program au-
8 thorized under section 207(c).

9 “(16) REEF PLANNING AREA.—The term ‘Reef
10 Planning Area’ means an area identified and des-
11 ignated as such by the Director under section
12 207(a)(4).”;

13 (2) by amending section 207 to read as follows:

14 **“SEC. 207. REEF IN PLACE.**

15 “(a) REEF IN PLACE.—An Applicant may elect to
16 Reef in Place the Inactive Structure in accordance with
17 the following:

18 “(1) NOTICE OF INTENT TO REEF.—To Reef in
19 Place, an Applicant may submit a Notice of Intent
20 to Reef an Inactive Structure at any time to the Di-
21 rector.

22 “(2) ASSESSMENT.—Within 180 days of sub-
23 mission of a Notice of Intent to Reef under Section
24 207(a)(1), initiate the following assessment;

1 “(A) IN GENERAL.—The Director shall, in
2 response to an Applicant request, conduct or
3 appoint a State or qualified third-party to per-
4 form on its behalf, an assessment of each Inac-
5 tive Structure, which shall, with respect to each
6 Inactive Structure include an assessment of—

7 “(i) in consultation with the Adminis-
8 trator the localized corals, fish species, and
9 other marine life that use the Inactive
10 Structure as a habitat; and

11 “(ii) the economic benefits of Reefing
12 in Place, including a comparison of the
13 cost to replace the Inactive Structure with
14 an equivalent cubic volume, including in-
15 terstitial spaces, of appropriate artificial
16 material if the Inactive Structure is re-
17 moved.

18 “(B) ASSESSMENT CONDUCTED BY APPLI-
19 CANT.—The Director may permit an Applicant
20 to conduct an assessment or enter into an
21 agreement with a State or qualified third-party
22 to perform on its behalf, an assessment report
23 for each Inactive Structure to be submitted to
24 the Director, which shall, with respect to each

1 Inactive Structure satisfy the assessment cri-
2 teria set forth in subparagraph (2)(A).

3 “(C) To the extent practicable, the assess-
4 ment under this subparagraph (2) must be
5 completed within one year of receipt by the Di-
6 rector of the Notice of Intent to Reef.

7 “(3) ELIGIBILITY DETERMINATION.—Not later
8 than 60 days after completion of the assessment
9 conducted under subparagraph (2)(A), or receipt by
10 the Director of the assessment report conducted
11 under subparagraph (2)(B), the Director, after con-
12 sultation with the Administrator, shall make a for-
13 mal determination that the Inactive Structure is an
14 Eligible Structure if—

15 “(A) there is an Established Reef Eco-
16 system on, under, or in the immediate vicinity
17 of the Inactive Structure, or there is potential
18 for a reef ecosystem on, under, or in the imme-
19 diate vicinity of the Inactive Structure; and

20 “(B) Reefing in Place of the Inactive
21 Structure is appropriate based on criteria de-
22 scribed in the National Artificial Reef Plan (as
23 amended) developed pursuant to Section 204.

24 “(4) DESIGNATION OF REEF PLANNING
25 AREAS.—

1 “(A) Not later than 90 days after the Di-
2 rector determines an Inactive Structure is an
3 Eligible Structure pursuant to paragraph (3),
4 the Director, in consultation with the associated
5 State Reef Program, shall designate the foot-
6 print of the Eligible Structure or other pro-
7 posed reefing location, along with any sur-
8 rounding area deemed necessary for Reefing in
9 Place, as a Reef Planning Area.

10 “(B) Designation as a Reef Planning Area
11 under subparagraph (4)(A) shall be made by
12 the Director prior to any Reef in Place activity.

13 “(C) Nothing in this paragraph shall be
14 construed to require the redesignation of, or
15 otherwise affect, any area already serving as a
16 reef permitted area or existing Artificial Reef
17 site.

18 “(5) APPROVAL.—Not later than three years
19 after the date on which the Director determines an
20 Inactive Structure is an Eligible Structure, the Ap-
21 plicant may Reef in Place if—

22 “(A) with respect to the Eligible Struc-
23 ture—

24 “(i) all associated wells have been per-
25 manently plugged and abandoned pursuant

1 to applicable law, including any departures
2 approved by the Bureau of Safety and En-
3 vironmental Enforcement;

4 “(ii) hydrocarbons and other haz-
5 ardous liquids have been removed in ac-
6 cordance with applicable laws and regula-
7 tions

8 “(iii) if required by law or regulation,
9 the Applicant installs identifying markers
10 to protect and aid navigation;

11 “(iv) the Applicant confirmed there is
12 no outstanding responsibility or liability re-
13 lated to the Eligible Structure other than
14 Decommissioning and related maintenance
15 monitoring; and

16 “(v) the Applicant has transferred, or
17 has an agreement to transfer, liability to a
18 State agency upon completion of the
19 reefing activity.

20 “(B) And, the Secretary of the Interior de-
21 termines the criteria in subparagraph 5(A) have
22 been met and the Eligible Structure is reason-
23 ably sound and secure, upon which the Eligible
24 Structure is deemed an Approved Structure.

1 “(6) ANNUAL REPORT.—Not later than one
2 year after the date of the enactment of this sub-
3 section, and annually thereafter, the Director shall
4 submit to the Secretary of the Interior, the Adminis-
5 trator, the Committee on Natural Resources of the
6 House of Representatives and the Committee on
7 Natural Resources of the Senate a report summa-
8 rizing all actions taken in relation to an Inactive
9 Structure under this Section 207 that occurred in
10 the preceding twelve (12) months, including, without
11 limitation, each Notice of Intent to Reef, assess-
12 ment, Eligible Structure determination, Reef Plan-
13 ning Area designation, Approved Structure deter-
14 mination, and appeal submitted or conducted pursu-
15 ant to this Section 207, which shall include a com-
16 prehensive map.

17 “(7) WITHDRAWAL.—Any Applicant may deter-
18 mine that it will not complete Reefing in Place at
19 any time, regardless of whether or not it has, or
20 prior Applicants have, completed any of the proc-
21 esses described in this Section 207. Any Applicant
22 shall be entitled to terminate the processes com-
23 menced in this Section 207 upon written notice to
24 the Director and remove or otherwise Decommission

1 the Inactive Structure in accordance with applicable
2 law.

3 “(8) OTHER REEFING OR DECOMMISSIONING
4 MECHANISMS PRESERVED.—Nothing in this Act
5 shall eliminate, modify or otherwise limit the ability
6 of any party from pursuing the reefing of any Inac-
7 tive Structure under any other program authorized
8 by the National Fishing Enhancement Act or pur-
9 suing any other method of Decommissioning.

10 “(b) APPEALS.—Any Applicant aggrieved by a deci-
11 sion made under paragraph (a) may submit a written ap-
12 peal within 60 days of the decision to the Director describ-
13 ing why the decision should be reconsidered. The Director
14 shall respond with an appeal determination no later than
15 60 days after receipt of the appeal. Any determination
16 made by the Director under this paragraph (b) is a final
17 agency action subject to judicial review.

18 “(c) STATE PROGRAMS.—

19 “(1) IN GENERAL.—A State that has a pro-
20 gram to convert inactive structures into artificial
21 reefs may enter into an agreement with any appli-
22 cant to assume responsibility and liability no later
23 than one year after a reef planning area is des-
24 ignated for an Eligible Structure in Covered Waters
25 in exchange for an amount of funds that—

1 “(A) is determined by the State; and

2 “(B) does not exceed 50 percent of the
3 cost savings gained by the Applicant due to
4 reefing as determined by the Applicant and ap-
5 proved by the State, unless the Applicant con-
6 sents to a greater amount.

7 “(2) LIABILITY.—Upon acceptance by a State
8 of an Eligible structure into a State Program de-
9 scribed in subparagraph (1)—

10 “(A) the Applicant shall have no responsi-
11 bility or liability with respect to the Approved
12 Structure following completion of the reefing
13 activity unless otherwise agreed to by the Appli-
14 cant and a State; and

15 “(B) the State shall be—

16 “(i) solely responsible for the contin-
17 ued maintenance of the Approved struc-
18 ture, including maintaining any identifying
19 markers installed to protect and aid navi-
20 gation; and

21 “(ii) exclusively responsible and liable
22 for the Approved structure.

23 “(d) OUTER CONTINENTAL SHELF LANDS ACT.—
24 Section 5 of the Outer Continental Shelf Lands Act (43

1 U.S.C. 1334) is amended by adding at the end the fol-
2 lowing:

3 “(e) ARTIFICIAL REEFS.—

4 “(1) DEFINITIONS.—In this subsection:

5 “(A) For the purposes of this section, the
6 terms ‘Administrator’, ‘Applicant’, ‘Approved
7 Structure’, ‘Artificial Reef’, ‘Decommissioning’,
8 ‘Director’, ‘Eligible Structure’, ‘Established
9 Reef Ecosystem’, ‘Inactive Structure’, ‘Partial
10 Removal’, ‘Reef in Place’, ‘Reef Planning Area’,
11 ‘State Program’, ‘State’, and ‘Topple in Place’
12 shall have the same meaning as set forth in sec-
13 tion 206 of the National Fishing Enhancement
14 Act of 1984 (as amended), 33 U.S.C. 2101 et
15 SEQ.

16 “(B) REMOVAL ORDER.—The term ‘re-
17 moval order’ means any order, notice, or re-
18 quest to fully or partially remove an Inactive
19 Structure sent by any federal agent, including,
20 without limitation any order to perform decom-
21 missioning.

22 “(2) PROHIBITION ON REMOVAL ORDERS.—

23 “(A) IN GENERAL.—The Secretary of the
24 Interior may not issue or enforce a Removal

1 Order for an Inactive Structure during any of
2 the following periods—

3 “(i) INITIAL NOTICE PERIOD.—From
4 the date an Applicant submits its first No-
5 tice of Intent to Reef pursuant to Section
6 207(a)(1) of the National Fishing En-
7 hancement Act of 1984 (as amended), 33
8 U.S.C. 2101 et seq. for a given Inactive
9 Structure and for a period of one year
10 thereafter.

11 “(ii) ASSESSMENT PERIOD.—From
12 the date an assessment required under
13 Section 207(a)(2) of the National Fishing
14 Enhancement Act of 1984 (as amended),
15 33 U.S.C. 2101 et seq. is initiated, but not
16 later than 18 months after the Notice of
17 Intent to Reef is submitted.

18 “(iii) PENDING DETERMINATION.—
19 After submission of an assessment to the
20 Director pursuant to Section 207(a)(2) of
21 the National Fishing Enhancement Act of
22 1984 (as amended), 33 U.S.C. 2101 et
23 seq., and before the Director has made an
24 Eligible Structure determination under
25 Section 207(a)(3) of the National Fishing

1 Enhancement Act of 1984 (as amended),
2 33 U.S.C. 2101 et seq.;

3 “(iv) ELIGIBLE DETERMINATION.—
4 After a determination that the structure is
5 an Eligible Structure under Section
6 207(a)(3) of the National Fishing En-
7 hancement Act of 1984 (as amended), 33
8 U.S.C. 2101 et seq., and for a period not
9 to exceed three years following such deter-
10 mination.

11 “(B) APPEAL PERIOD.—After the date an
12 appeal has been filed under Section 207(b) of
13 the National Fishing Enhancement Act of 1984
14 (as amended), 33 U.S.C. 2101 et seq. and for
15 150 days thereafter.

16 “(C) EXCEPTION.—Subparagraph (A) does
17 not apply with respect to an inactive structure
18 that the Secretary of the Interior determines
19 poses a substantial and imminent threat to—

20 “(i) navigational safety; or

21 “(ii) the marine environment.

22 “(f) EXISTING REGULATIONS.—Nothing in this Act
23 shall be construed to modify or supersede existing regu-
24 latory procedures for pipeline abandonment or decommis-
25 sioning under the applicable provisions of the Code of Fed-

1 eral Regulations. Pipeline abandonment in place shall con-
2 tinue to follow established regulatory processes and shall
3 not require additional permitting unless the pipeline is
4 specifically designated for conversion to an Artificial
5 Reef.”.