Calendar No. 262

95TH CONGRESS 1st Session } SENATE { REPORT No. 95-284

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1977

REPORT

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

together with

MINORITY VIEWS

TO ACCOMPANY

S. 9

JUNE 21 (legislative day MAY 18), 1977.—Ordered to be printed

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OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1977

JUNE 21 (legislative day, MAY 18, 1977.—Ordered to be printed

Mr. JACKSON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

TOGETHER WITH MINORITY VIEWS

[To accompany S. 9]

The Committee on Energy and Natural Resources, to which was referred the bill, S.9, to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Outer Continental Shelf Lands Act Amendments of 1977".

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TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the Outer Continental Shelf contains significant quantities of petroleum and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(8) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(9) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(10) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States;

(11) policies, plans, and programs developed by States in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(12) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges;

(13) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation;

(14) it is recognized that the hydrocarbon resources of the Outer Continental Shelf are limited, nonrenewable resources which must be developed in a manner which takes into consideration the Nations' long-range energy needs and also assures adequate protection of the renewable resources of the Outer Continental Shelf which are a continuing and increasingly important source of food and protein to the Nation and the world; and

(15) funds must be made available to pay for damage to commercial fishing vessels and gear resulting from activities involving oil and gas exploration, development, and production on the Outer Continental Shelf.

PURPOSES

102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf which are intended to result in expedited exploration and development of that area in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oilspill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges;

(9) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time; and

(10) establish a Fishermen's Contingency Fund to pay for damages to commercial fishing vessels and gear due to Outer Continental Shelf activities.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended to read as follows:

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of, deposits of oil, gas, or other minerals including geothermal resources;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal water (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, any State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystems, including the waters of the high seas, the contiguous zone, transitional and intertidal areas

salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf of the United States;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring in the outer Continental Shelf of the United States;

"(j) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for oil, natural gas, or other minerals, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in commercial quantities is made, the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of oil, natural gas, or other minerals in commercial quantities, including geophysical activity, drilling, platform construction, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of oil, natural gas, or other minerals to shore, operation monitoring, maintenance, and work-over drilling;

"(n) The term 'antitrust law' means—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.);

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any oil, gas, or other mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary; and

"(p) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the mineral resources of the outer Continental Shelf will have significant impacts on coastal and noncoastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for and development and production of, mineral resources of the outer Continental Shelf;

"(5) the rights and responsibilities of all States to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333 (a)(1)) is amended—

(1) by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,"; and

(2) by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources".

(b) Section 4(a)(2) of such Act is amended by redesignating paragraph (2) as (2)(A) and by adding at the end of that paragraph the following:

"(B) Within one year after the date of enactment of this paragraph, the President shall establish procedures for settling any outstanding international boundary dispute respecting the outer Continental Shelf.".

(c) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the National Labor Relations Act, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.".

(d) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(e) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(f) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(g) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334 et seq.) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf and shall prescribe such regulations as necessary to carry out such provisions, and the Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources in the outer Continental Shelf, and the protection of correlative rights therein. Such regulations shall, as of the date of their promulgation, apply to all operations conducted under any lease issued or maintained under the provisions of this Act and shall be in furtherance of the policies of this Act. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant agencies of the Federal Government and of the affected States. In the formulation, promulgation and enforcement of regulations, the Secretary shall request and give due consideration to the views of the Attorney General with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the interest of conservation, to facilitate proper development of a lease, or to allow for the unavailability of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including aquatic life), to property, to any mineral deposits (in areas leased or not yet leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued concerning such lease or permit;

"(2) for the cancellation of any lease or permit, at any time, when it is determined by the Secretary, after hearing, that continued activity pursuant to such lease or permit would probably cause serious harm or damage to life including aquatic life, to property, to any mineral deposits in areas leased or not yet leased, to the national security or defense, or to the marine, coastal, or human environments, and if he determines that the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time and if he determines that the advantages of cancellation of the lease or permit outweigh the advantages of development and production, except that the cancellation of any lease pursuant to such regulations (A) shall not occur unless and until operations under such

lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease or permit term continuously for a period of five years, or for a lesser period upon request of the lessee, and (B) shall entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (i) the fair value of the cancelled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oilspill, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues, from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement): *Provided That* with respect to leases issued before the date of enactment of this Act, such compensation shall be equal to the amount specified in item (i) of this sentence: *Provided further*, That in the case of joint leases which are canceled due to the failure of one or more partners to exercise due diligence, the innocent parties shall have the right to seek damages for such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question;

"(3) for the assignment or relinquishment of lease;

"(4) for the sale of royalty, net profit share, or purchased oil and gas accruing or reserved to the United States in accordance with section 27 of this Act;

"(5) for the utilization of different bidding systems in accordance with section 8(a) of this Act;

"(6) for the procedures for citizen suits in accordance with section 23 of this Act;

"(7) for unitization, pooling, and drilling agreements;

"(8) for subsurface storage of oil and gas other than by the United States Government;

"(9) for drilling or easements necessary for exploration, development, and production; and

"(10) for the prompt and efficient exploration and development of a lease area.

"(b) The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, under the provision of this Act shall be conditioned upon compliance with the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the outer Continetal Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulfur, or other mineral under such regulations and upon such conditions as may be prescribed by the Secretary, including assuring maximum environmental protection by utilization of the best available and safest technology, including the safest practices for pipeline burial, and upon the

express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator of the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of this Act.

"(f)(1) The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

"(g) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum in amount or value of the production saved, removed, or sold, with either a fixed work commitment based on dollar amount for exploration or a fixed cash bonus as determined by the Secretary, or both;

"(C) cash bonus bid or work commitment bid based on dollar amount for exploration with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at no less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area; or

"(G) work commitment bid based on a dollar amount for exploration with a fixed cash bonus and a fixed royalty in amount or value of the production saved, removed or sold.

(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the

lease sale or no later than the date of the approval of the development and production plan, whichever date first occurs.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4) At least ninety days prior to notice of any lease sale under subparagraphs (D), (E), and (F) of paragraph (1), the Secretary shall by regulation establish rules to govern the calculation of net profits. In the event of any dispute between the United States and a lessee concerning the calculation of the net profits under the regulation issued pursuant to this paragraph, the burden of proof shall be on the lessee. In determining the attribution of profits as between oil and gas, costs, other than those directly attributable to the production of either oil or gas, shall be allocated proportionately based on the Btu equivalent values of the respective amounts of oil and gas produced.

"(5) After an oil and gas lease is granted pursuant to subparagraph (G) or the work commitment option of subparagraphs (B) or (C) of paragraph (1) of this section—

"(A) the lessee, at its option, shall deliver to the Secretary upon issuance of the lease either (i) cash deposit for the full amount of the exploration work commitment or, (ii) a performance bond, in form and substance and with a surety satisfactory to the Secretary, in the principal amount of such exploration work commitment assuring the Secretary that such commitment shall be faithfully discharged in accordance with this section, the regulation and the lease. As provided in the regulation, the principal amount of such cash deposit or bond may be periodically reduced upon proof, satisfactory to the Secretary, that a portion of the exploration work commitment has been satisfied.

"(B) all exploration expenditures on, or directly related to, the lease, including, but not limited to (i) geological investigations and related activities, (ii) geophysical investigations, including seismic, geomagnetic, and gravity surveys, data processing and interpretation, and (iii) exploratory drilling, core drilling, redrilling, and well completion or abandonment, including the cost of mobilization and demobilization of drilling equipment, shall be included in satisfaction of the commitment. The lessee's general overhead cost shall not be so included against the work commitment, but its cost (including employee benefits) of employees directly assigned to such exploration work shall be so included.

"(C) if at the end of the primary term of the lease, including any extension thereof, the full dollar amount of the exploration work commitment has not been satisfied, the balance shall then be paid in cash to the Secretary.

"(6)(a) Except as provided in clause (b), the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection shall not be applied to more than 66⅔ per centum of the total area offered for lease each year, during the five-year period beginning on the date of enactment of this subsection, in each region where there has been no development of oil and gas prior to October 1, 1975, including the outer Continental Shelf region off southern California outside the Santa Barbara Channel. The Secretary shall define such regions of the outer Continental Shelf.

"(b) If, during the first year following enactment of this subsection, the Secretary finds that compliance with the limitation set forth in clause (a) would unduly delay development of the oil and gas resources of the outer Continental Shelf, he may exceed that limitation after he submits to the Senate and the House of Representatives a report stating his finding and the reasons therefor. If, in any other year following the date of enactment of this subsection, the Secretary finds that compliance with the limitation set forth in clause (a) would unduly delay efficient development of the oil and gas resources of the outer Continental Shelf, result in less than a fair return to the Federal Government, or result in a reduction of competition, he shall submit to the Senate and House of Representatives a report stating his specific findings and detailed reasons therefor. The Secretary may, unless either the Senate or the House of Representatives passes a resolution of disapproval of the Secretary's finding within thirty days after receipt of such report (not including days when Congress is not in session), thereafter, for that year, exceed such limitation.

"(c) Clauses (d) through (k) of this subparagraph are enacted by Congress—

"(I) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the

rules of each House, respectively, but they are applicable only with respect to the procedures to be followed in that House in the case of resolutions described by this subparagraph, and they supersede other rules only to the extent that they are inconsistent therewith; and

"(II) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(d) A resolution disapproving the request of the Secretary to exceed the limitation shall immediately be referred to a committee (and all resolutions with respect to the same request shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(e) If the committee, to which has been referred any resolution disapproving the request of the Secretary to exceed the limitation has not reported the resolution at the end of 10 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same request which has been referred to the committee.

"(f) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(g) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same request.

"(h) When the committee has reported, or has been discharged from further consideration of, a resolution as provided, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(i) Debate on the resolution is limited to not more than 2 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(j) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to a request, and motions to proceed to the consideration of other business, shall be decided without debate.

"(k) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a request shall be decided without debate.

"(7) Within six months after the end of each fiscal year, the Secretary shall report to the Congress, as provided in section 15 of this Act, with respect to the use of the various bidding options provided for in this subsection. Such report shall include——

"(a) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(b) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(c) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(d) if applicable, the reasons why a particular bidding system has not been or will not be utilized; and

"(e) if applicable, the reasons why more than 66⅔ per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection.

"(b) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of—

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse weather conditions,

and as long after such initial period as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon.

"(3) require the payment of amount or value as determined by one of the bidding procedures set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce the oil and gas resources contained within the lease area, conditioned upon due diligence requirements and the approval of the development and production plan required by this Act;

"(5) provide for suspension or cancellation of the lease pursuant to section 5 of this Act; and

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease.".

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsections (c) through (i), and all references thereto, as subsections (g) through (m), respectively, and by inserting immediately after subsection (b) the following new subsections:

"(c) No lease may be issued for an initial period until at least thirty days after the Secretary notifies the Federal Trade Commission of the proposed issuance. Such notification shall contain such information as the Federal Trade Commission may require in order to advise the Secretary as to whether such lease may create or maintain a situation inconsistent with the antitrust laws. The Federal Trade Commission may, by rule, exclude from the requirements of this subsection any class of lease which it determines would, if issued, be unlikely to create or maintain a situation inconsistent with the antitrust laws. If the Federal Trade Commission advises the Secretary, within such thirty-day period, that a proposed lease may create or maintain a situation inconsistent with the antitrust laws, the Secretary may issue such lease only if—

"(1) he commences a public hearing on the record within sixty days after the date of the receipt of such advice, in accordance with chapter 5 of title 5, United States Code; and

"(2) he makes a finding, pursuant to such hearing, that the overall benefit to the public from the issuance or extension of such lease clearly outweighs any possible adverse effect upon competition and that there is no reasonable alternative which would have a lesser adverse effect upon competition.

"(d) No application for a lease may be submitted if the Secretary finds, after notice and hearing, that the applicant is not meeting due diligence requirements on other leases.

"(e) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(f)(1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of any such State—

"(A) an identification and schedule of the areas and regions offered for leasing;

"(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of a coastal State.

"(2) After receipt of nominations for any area of the outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary

shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing. The Secretary in consultation with the Governor of the coastal State, shall determine whether any such area may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to State juridsiction. If the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to State jurisdiction the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this Act, with applicable regulations, and, to the maximum extent praticable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.

"(4) Regardless of any other provision of this Act the Secretary shall impound, in whole or in part, in a separate account in the Federal treasury all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to State jurisdiction until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree the United States district court determines. the fair and equitable disposition of such revenues and any interest which has accrued and on the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.".

(c) Subsection (c) of section 105 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6213) is amended to read as follows:

"(c) If the Secretary determines that exploration and development will occur only if the exemption is granted, he may exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development problems.".

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended to read as follows:

"SEC. 11. OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION.—(a)(1) The Secretary or any agency of the United States, and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations. including core and test drilling. in the outer Continental Shelf, which do not interfere with or endanger actual operations pursuant to any lease issued or maintained pursuant to this Act, and which are not unduly harmful to the marine environment.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this Act.

"(b) Except for those leases on which a drilling permit had been issued prior to the enactment of this subsection, exploration pursuant to any oil and gas lease issued or maintained under this Act must be undertaken in accordance with (1) the provisions of this section, and (2) any regulations which the Secretary may promulgate pursuant to this section.

"(c)(1) Prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization. pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with

the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease. The Secretary shall require such modifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission, except that if the Secretary determines that (A) any proposed activity under such plan would result in any condition which would permit him to suspend such activity pursuant to regulations prescribed under section 5(a)(1) of this Act, and (B) such proposed activity cannot be modified to avoid such condition, he may delay the approval of such plan.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(3) The Secretary may, by regulation, require that such plan be accompanied by a general statement of development and production intentions which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e)(1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) All exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f) The Secretary may, within ninety days after the date of enactment of this section, provide for the approval under subsection (c) of any plan submitted prior to such date of enactment which he finds is in substantial compliance with the provisions of such subsection, and may require the submission of any additional information necessary to bring such plan into such compliance.".

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

"SEC. 15. ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) a report on the leasing and production program in the outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) a report prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General and any plans for implementing recommended administrative changes and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized;

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures to increase the supply of oil and gas to independent refiners and distributors."

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d), shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall indicate as precisely as practicable the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

"(1) management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

"(2) timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

"(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

"(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

"(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

"(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, intracoastal navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

"(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

"(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

"(G) policies and plans promulgated by coastal States pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

"(3) the Secretary shall elect the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

"(4) leasing activities shall be conducted to assure receipt of fair market value for the oil and gas owned by the Federal Government.

(b) The leasing program shall include estimates of the appropriations and staff required to—

"(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

"(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this Act:

"(3) conduct environmental baseline studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1967 (42 U.S.C. 4332(2)(C)); and

"(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development

of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

"(c)(1) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider suggestions from any other person.

"(2) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (3) of this subsection, the Secretary shall transmit a copy of such proposed program to the Governor of each affected State for review and comment. If any such comment is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

"(3) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, the Governors of affected States, and shall publish such proposed program in the Federal Register.

"(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General shall submit comments on the anticipated effects of such proposed program upon competition, and any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

"(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or local government was not accepted.

"(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

"(e) The Secretary shall review the leasing program approved under this section at least once each year, and he may revise and reapprove such program, at any time, in the same manner as originally developed.

"(f) The Secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

"(2) public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

"(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5) coordination of the program with the management program being developed by any State for approval pursuant to section 305 of the Coastal Zone Management Act of 1972 and consistency, to the extent practicable, with the management program of any State which has been approved pursuant to section 306 of such Act.

Such procedures shall be applicable to any revision or reapproval of the leasing program.

"(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. The Secretary shall maintain the confidentiality

of all proprietary data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

"(h) The heads of all Federal departments and agencies shall provide the Secretary with any nonproprietary information he requests to assist him in preparing the leasing program. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

"SEC. 19. COORDINATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS.—

"(a) Any Governor of any affected State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan.

"(b) Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or receipt of such development and production plan.

"(c) The Secretary shall accept such recommendations if he determines, after having provided the Governor the opportunity for full consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For the purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. The Secretary's determination that recommendations are not consistent with the national interest shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious.

"(d) The Secretary is authorized to enter into cooperative agreements with affected coastal States for purposes which are consistent with this Act, and applicable Federal law. Such agreements may include the sharing of information, the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations and stipulations relevant to outer Continental Shelf operations both on and offshore.

"SEC. 20. BASELINE AND MONITORING STUDIES.—(a)(1) The Secretary shall conduct a study of any area or region included in any lease sale in order to establish baseline information concerning the status of the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region.

"(2) Each study required by paragraph (1) shall be commenced not later than six months from the date of enactment of this section with respect to any area or region where a lease sale has been held before such date of enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held before such date of enactment. The Secretary may utilize information collected in any study prior to the date of enactment of this section in conducting any such study.

"(3) In addition to developing baseline information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota resulting from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish baseline information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.

"(c) The Secretary shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in

full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

"(e) In executing his responsibilities under this section the Secretary is authorized and directed, to the maximum extent practicable, to enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization or entity with funds appropriated to the Secretary pursuant to this Act.

"SEC. 21. SAFETY REGULATIONS.—(a) Upon the enactment of this section, the Secretary, the Secretary of Labor, and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and other agency heads as appropriate, promptly commence a study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, production, and development of natural resources, with respect to the outer Continental Shelf. The results of this study shall be submitted to the President who shall submit to the Congress a plan of action which he proposes to take to promote safety and health in the exploration, production, and development of natural resources of the outer Continental Shelf.

"(b) In exercising their respective responsibilities for floating, temporarily fixed or permanently fixed structures for the exploration, production, and development of the natural resources of the outer Continental Shelf, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require the use of the best available and safest technology which the Secretary determines to be economically achievable, taking into account the incremental costs and benefits of utilizing such technology, wherever failure of equipment would have a significant effect on safety, health, or the environment, on all new drilling and production operations and, wherever practicable, on existing operations.

"(c) Nothing in this section or in section 22 of this Act shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, except as it applies to diving practices, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety.

"(d) The Secretary of the Department in which the Coast Guard is operating with the assistance of the Secretary of Labor shall establish and promulgate interim regulations or standards applying to the diving activities in the waters above the outer Continental Shelf. Notwithstanding Section 4(b)(1) of the Occupational Safety and Health Act of 1970, such regulations shall be promulgated and enforced by the two agencies. The two agencies coordinate their activities in a manner which avoids duplication of effort and maximizes protection of employees.

"(e) The Secretary of Commerce, in cooperation with the Secretary of the Department in which the Coast Guard is operating, and the Director of the National Institutes of Occupational Safety and Health, shall conduct studies of underwater diving techniques and equipment suitable for protection of human safety and improvement of diver performance. Such studies shall include but not be limited to: decompression and excursion table development and improvement; all aspects of diver physiological restraints, and protective gear for exposure to hostile environments.

"SEC. 22. ENFORCEMENT OF ENVIRONMENTAL AND SAFETY REGULATIONS.—(a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall consult with each other regarding the enforcement of environ-

mental and safety regulations promulgated pursuant to this Act, and each may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency, for the enforcement of their respective regulations.

"(b) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

"(1) scheduled onsite inspection at least once a year of each facility on the outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

"(c) The Secretary, the Secretary of the Department in which the Coast Guard is operating or their authorized representatives, upon presenting appropriate credentials to the owner or operator of a facility subject to subsection (b), shall be authorized—

"(1) to enter without delay any part of the facility; and

"(2) to examine such documents and records as are pertinent to such an inspection.

"(d)(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall make an investigation and public report on each major fire and major oil spillage occurring as a result of operations conducted pursuant to this Act. For the purpose of this subsection, the term 'major oil spillage' means any discharge from a single source of more than two hundred barrels of oil over a period of thirty days or of more than fifty barrels over a single twenty-four hour period. In addition, such Secretary may make an investigation and report of any lesser oil spillage.

"(2) In any investigation conducted pursuant to this subsection, the Secretary of the Department in which the Coast Guard is operating shall have the power to subpena witnesses and to require the production of books, papers, documents, and any other evidence relating to such investigation.

"SEC. 23. CITIZEN SUITS.—(a) Except as provided in subsection (b) of this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this Act—

"(1) against any person including—

"(A) the United States,

"(B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution who is alleged to be in violation of the provisions of this Act of the regulations promulgated thereunder; or

"(C) any other person who is alleged to be in violation of any rule, regulation, order, or permit issued pursuant to this Act; or

"(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act which is not discretionary with the Secretary or with the appropriate.

"(b) No action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice in writing under oath of the violation (i) to the Secretary, and (ii) to any alleged violator; or

"(B) if the Secretary or his authorized representative has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the provisions of this Act, or any rule, regulation, order, or permit issued pursuant to this action, but in any such action in a court of the United States any person having a legal interest which is or may be adversely affected may intervene as a matter of right; or

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has notice in writing under oath of such action to the Secretary, in such manner as the Secretary shall by regulation prescribe, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat

to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

"(c) (1) Except as provided in subsection (g) of this section, any action pursuant to this section may be brought only in the judicial district having jurisdiction under section 4(b) of this Act.

"(2) In such action under this section, the Secretary, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation, including reasonable attorney and expert witness fees to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in sufficient amount to compensate for any losses or damages suffered in accordance with the Federal Rules of Civil Procedure.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek any other relief (including relief against the Secretary).

"(f) Any resident of the United States who is injured in any manner through the failure of any operator to comply with any rule, regulation, order, or permit issued pursuant to this Act may bring an action for damages (including reasonable attorney and expert witness fees) only in the judicial district having jurisdiction under section 4(b) of this Act.

"(g) (1) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.

"(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General of the United States.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a).

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if such objections have been submitted to the Secretary during the administrative proceedings related to the actions involved.

"(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"(7) Upon the filing of the record with the court, pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"(h) Except as to causes of action which the court considers of greater importance, any action under this section shall take precedence on the docket over all other causes of action and shall be set for hearing at the earliest practical date and expedited in every way.

"SEC. 24. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining

order, injunction, or other appropriate remedy to enforce any provision of this Act or any regulation or order issued under this Act.

"(b) If any person fails to comply with any provision of this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, as applicable, may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"SEC. 25. OIL AND GAS DEVELOPMENT AND PRODUCTION.—(a) (1) Prior to develment and production pursuant to an oil and gas lease issued or maintained after the enactment of this section, or issued or maintained prior to the enactment of this section upon which no oil or gas has been discovered in commercial quantities prior to the effective date of this section, in any region of the outer Continental Shelf, other than the Gulf of Mexico, or the Santa Barbara Channel, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development or production of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

"(3) Except for interpretive data, which, pursuant to regulations prescribed by the Secretary, constitute confidential or privileged information, the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State and (B) make such plan and statement available to any other appropriate interstate regional entity, the executive of any affected local government area, and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any region of the outer Continental Shelf, other than the Gulf of Mexico or the Santa Barbara Channel, unless such lease requires that development and production of reserves be carried out in accordance with a plan which complies with the requirements of this section.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed;

"(2) a description of all offshore facilities and operations proposed by the lessee or known by him (whether or not owned or operated by such lessee)

to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguard are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d)(1) The Secretary shall at least once, prior to approving a development and production plan in any area or region, as defined by the Secretary, of the outer Continental Shelf, other than the Gulf of Mexico or the Santa Barbara Channel, declare approval of such plan to be a major Federal action.

"(2) The Secretary may require lessees on adjacent or nearby leases to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(e) The Secretary shall transmit for review and comment the draft environmental impact statement or the development and production plan if approval of such plan has not been declared to be a major Federal action, to the Governor of any affected State, the executive of any affected local government area, or any interested person. Comments on development and production plans shall be returned to the Secretary within sixty days. The draft environmental impact statement or the comments on the development and production plan shall be available to the general public.

"(f)(1) After reviewing the record of any public hearing held with respect to a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (e) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (d) of this section, or one hundred and twenty days after the period provided for comment under subsection (f) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the leesee has failed to make adequate provision in such plan for sale operations on the lease area or for protection of the human, marine, or coastal environment. Any modification required by the Secretary which affects land use and water use of the coastal zone of affected States with coastal zone management programs approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall be consistent with such program unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of that Act. The Secretary shall disapprove a plan—

"(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law:

"(B) if those activities described in the plan which affect land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) are not concurred with by such State pursuant to section 307(c) of such Act; and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of that Act;

"(C) if operations threaten national security of national defense; or

"(D) if in the Secretary's determination, because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, implementation of the plan would probably cause serious harm or damage to life (including aquatic life), to property, to any mineral deposits in areas leased or not yet leased, or to the marine, coastal or human environments, and if he determines that the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time and if he determines that the advantages of disapproving the plan outweigh the advantages of development and production. If a plan is disapproved under clause (A), the lessee shall not be entitled to compensation because of such disapproval. If a plan is disapproved under clause (B), the lessee shall not be entitled to

compensation because of such disapproval unless (i) the lease was issued and (ii) the lessee had submitted to the Secretary a development and production plan before approval of the coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455). If a plan is disapproved under clause (C) or (D) or under clause (B) where (i) the lease was issued and (ii) the lessee had submitted to the Secretary a development and production plan before approval of the coastal zone management program, the term of the lease shall be duly extended, and at any time within five years after said disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of a plan in accordance with this subsection. Upon expiration of such five-year period, or at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease, and the lessee shall be entitled to receive such compensation as he shows to the Secretary is equal to the lesser of (i) the fair value of the canceled rights as of the date of cancelation, taking account of both anticipated revenues from the lease and anticipated costs, including cost of compliance with all applicable regulations in operating waters, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated with respect to the lease, or (ii) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease, and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement): *Provided*, That with respect to leases issued before the date of enactment of this Act, such compensation shall be equal to the amount specified in item (i) of this sentence. The Secretary may, at any time within the five-year period, described in subparagraph (C), require the lessee to submit a plan of development and production for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately cancel such lease, without compensation, under the provisions of section 5(c) of this Act.

"(2) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(g) The Secretary may approve any revision of an approved plan proposed by the operator if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (f) of this section.

"(h) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may, after notice to such owner of such failure and expiration of any reasonable period allowed for corrective action, and after an opportunity for a hearing, be forfeited, canceled, or terminated, subject to the right of judicial review, in accordance with the provisions of section 23(b) of this Act. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(i) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Power Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Power Commission shall agree as to which of them shall prepare an environmental impact statement pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the

effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting such studies pursuant to that agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Power Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Power Commission, shall promulgate rules to implement this subsection, but the Federal Power Commission shall retain sole authority with respect to rules and procedure applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a)(1)(A) Any lessee or permittee conducting any exploration for, or development of production of, oil or gas pursuant to this Act shall provide the Secretary access to all data obtained from such activity and shall provide copies of such specific data, and any interpretation of any such data, as the Secretary may request. Such data and interpretation shall be provided in accordance with regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data is provided to the Secretary, pursuant to subparagraph (A) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permittee, the Secretary shall pay the reasonable cost of processing and reproducing such data,

pursuant to such regulations as he may prescribe.

"(2) Each Federal agency shall provide the Secretary with any data obtained by such Federal agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsectiin (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States a summary of data designed to assist them in planning for the onshore impacts if possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

"(d)(1) The Secretary shall transmit to any affected State—

"(A) a copy of all revelant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act;

"(B)(i) the summary of data prepared by the Secretary pursuant to subsection (b)(2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b)(1) of this subsection, unless the Secretary determines that transmittal of such data prepared pursuant to subsection (b)(1) would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(f) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"(g) The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b)(9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency) pursuant to section 11 of this Act.

"SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS. (a)(1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease or permit issued or maintained in accordance with this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) The United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease or permit issued in accordance with this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the well-head of the oil and gas saved, removed or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Administrator of the Federal Energy Administration, for disposal within the Federal Government.

"(b)(1) The Secretary, pursuant to such terms as he determines and in the absence of any provision of law which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil

among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish notice of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

"(3) Whenever a provision of law is in effect which provides for the mandatory allocation of such oil in amounts or at prices determined by such provision, or regulations issued in accordance with such provision, the Secretary may only sell such oil in accordance with such provision of law or regulations.

"(c)(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained to the provisions of this subsection, the Secretary may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocated or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to allocating any gas pursuant to this paragraph, the Secretary shall consult with the Federal Power Commission.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulater price, or, if no regulated price applies, the fair market value of the oil or gas so obtained.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price—

"(A) at which Federal oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act;

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act and any rule or order issued under such Act;

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas produced pursuant to a lease or permit issued in accordance with this Act: and

"(2) the term 'small refiner' means an owner of an existing refinery or refineries, including refineries not in operation, who qualifies as a small business concern under the rules of the Small Business Administration and who is unable to purchase in the open market an adequate supply of crude oil to meet the needs of his existing refinery capacities.

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf, as provided in section 12(b) of this Act.

"SEC. 28. LIMITATION ON EXPORT.—(a) Except as provided in subsection (d), any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969 (50 App. U.S.C. 2401 et seq.).

"(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.

"(c) The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must

have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States.

"SEC. 29. RESTRICTIONS OF EMPLOYMENT.—No fulltime officer or employee of the Department of Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was as any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Department, employment or compensation, directly or indirectly, from any person, persons, association, corporation, or other entity subject to regulation under this Act.".

TITLE III—OFFSHORE OILSPILL POLLUTION FUND

DEFINITIONS

SEC. 301. As used in this title, unless the context indicates otherwise, the term—

(1) "cleanup costs" means all reasonable and actual costs, including administrative and other costs, to the Federal Government, to any State or local government, or to any foreign government, or to their contractors or subcontractors, of (A) removing or attempting to remove oil discharged from any offshore facility or vessel, or (B) taking other measures to prevent such discharge, or to reduce or mitigate damages to the public health or welfare, or to public property, including shorelines, beaches, and the natural resources of the marine environment;

(2) "damages" means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include clean-up costs;

(3) "discharge" includes any spilling, leaking, pumping, pouring, emptying, or dumping, regardless of whether it occurred intentionally or unintentionally;

(4) "offshore facility" includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term Outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term deepwater port is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

(5) "Fund" means the Offshore Oil Pollution Compensation Fund established under section 302(a) of this title;

(6) "owner" means (A) with respect to an offshore facility, any person owning such facility, whether by lease, permit, contract, license, or other form of agreement, (B) with respect to any facility abandoned without prior approval of the Secretary of the Interior, the person who owned such facility immediately prior to such abandonment, and (C) with respect to a vessel, any person owning such vessel;

(7) "operator" means (A) with respect to an offshore facility, any person operating such facility, whether by lease, permit, contract, license, or other form of agreement, and (B) with respect to a vessel, any person operating or chartering by demise such vessel;

(8) "person" means an individual, a public or private corporation, partnership, or other association, or a government entity;

(9) "person in charge" means the individual immediately responsible for the operations of an offshore facility or vessel;

(10) "Secretary" means the Secretary of Transportation;

(11) "revolving account" means the account in the Treasury of the United States which is established under section 302(b) of this title;

(12) "incident" means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, which cause of pose an imminent threat of oil pollution; and

(13) "vessel" means every description of watercraft or other contrivance, whether or not selfpropelled, which is operating in the waters above the Outer Continental Shelf (as the term "Outer Continental Shelf" is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), and which is transporting oil directly from an offshore facility, and such term specifically excludes any watercraft or other contrivance which is operating in the navigable waters of the United States (as the term "navigable waters" is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362)).

ESTABLISHMENT OF THE FUND AND THE REVOLVING ACCOUNT

SEC. 302. (a) There is established within the Department of Transportation an Offshore Oil Production Compensation Fund. The Fund may sue or be sued in its own name.

(b) There is established in the Treasury of the United States a revolving account, without fiscal year limitation, which shall be available to the Fund to carry out the provisions of this title.

PROHIBITION

SEC. 303. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful, is prohibited.

NOTIFICATION

SEC. 304. (a) Any person in charge of an offshore facility or vessel shall, as soon as he has knowledge of any discharge of oil from such offshore facility or vessel which may be in violation of section 303 of this title, immediately notify the Secretary of such discharge.

(b) Any person in charge of an offshore facility or vessel who fails to immediately notify the Secretary, as required by subsection (a) of this section, shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both, except that no person convicted under this section shall also be convicted for the same failure to notify under section 311(b)(5) of the Federal Water Pollution Control Act.

(c) Notification received pursuant to this section or information obtained by the exploitation of such notification shall not be used against any person providing such notification in any criminal case, except a prosecution for perjury or for giving a false statement.

REMOVAL OF DISCHARGED OIL

SEC. 305. (a) Whenever any oil is discharged from any offshore facility or vessel in violation of section 303 of this title, the President shall act to remove or arrange for the removal of such oil, unless he determines such removal will be done properly and expeditiously by the owner or operator of such offshore facility or vessel.

(b) Removal of oil and actions to minimize damage from oil discharged shall, to the greatest extent possible, be in accordance with the National Contingency Plan for removal of oil and hazardous substances established pursuant to section 311(c)(2) of the Federal Water Pollution Control Act.

(c) Whenever the President acts to remove a discharge of oil pursuant to this section, he is authorized to draw upon the money available in the revolving account. Such money shall be used to pay promptly for all cleanup costs incurred by the President in removing such oil or in minimizing damage caused by such oil discharge.

DUTIES AND POWERS

SEC. 306. (a) In order to carry out the purposes of this title, the Secretary shall—

(1) administer and maintain the Fund, in accordance with the provisions of this title;

(2) establish regulations and provide for the fair and expeditious settlement of claims, in accordance with section 313 of this title;

(3) provide public access to information, in accordance with section 319(a) of this title;

(4) submit an annual report, in accordance with section 320 of this title; and

(5) perform such other functions as are prescribed by law.

(b) In the performance of his duties under this title, the Secretary is authorized to—

(1) utilize, with the consent of the agency concerned, the services or personnel, on a reimbursable or replacement basis or otherwise, of any Federal Government agency, of any State or local government agency, or of any organization, to perform such functions on behalf of the Fund as are necessary or appropriate;

(2) make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this title;

(3) conduct such studies and investigations, obtain such data and information, and hold such meetings or public hearings as may be necessary or appropriate to facilitate the exercise of any authority granted to, or the performance of any duty imposed on, the Fund under this title;

(4) enter into such contracts, agreements, and other arrangements as are deemed necessary or appropriate for the acquisition of material, information, or other assistance related to, or required by, the implementation of this title; and

(5) issue and enforce orders during proceedings conducted pursuant to this title, including issuing subpenas, administering oaths, compelling the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, and the taking of depositions.

RECOVERABLE DAMAGES

SEC. 307. Damages may be recovered under this title for—

(1) the value of any loss or injury, at the time such loss or injury is incurred, with respect to any real or personal property which is damaged or destroyed as a result of a discharge of oil;

(2) (A) the cost to the owner of restoring, repairing, or replacing any real or personal property which is damaged or destroyed by a discharge of oil, (B) any income necessarily lost by such owner during the time such property is being restored, repaired, or replaced, and (C) any reduction in the value of such property caused by such discharge;

(3) any loss of income or impairment of earning capacity for a period of not to exceed five years due to damages to real or personal property, or to natural resources, without regard to ownership of such property or resources, which are damaged or destroyed by a discharge of oil, if the claimant derives at least 25 per centum of his earnings from activities which utilize such property or natural resources;

(4) any costs and expenses incurred by the Federal Government or any State government in the restoration, repair, or replacement of natural resources which are damaged or destroyed by a discharge of oil; and

(5) any loss of tax revenue by the Federal Government or any State or local government for a period of not to exceed one year due to injury to real or personal property resulting from a discharge of oil.

CLEANUP COSTS AND DAMAGES

SEC. 308. (a) All cleanup costs incurred by the President, the Secretary, or any other Federal, State, or local official or agency, in connection with a discharge of oil shall be borne by the owners and operator of the offshore facility or vessel from which the discharge occurred.

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(b) Notwithstanding any other provision of law and except as provided in subsection (d) of this section, the owner and operator of an offshore facility shall be held jointly and severally liable, without regard to fault, for damages which result from a discharge of oil from such offshore facility. Such liability shall not exceed $35,000,000, except that if it can be shown that (1) such damages were the result of gross negligence or willful misconduct within the privity and knowledge of such owner or operator, or of the person in charge of such offshore facility, or (2) such discharge was the result of a violation of applicable safety, construction, or operating standards or regulations, such owner and operator shall be jointly and severally liable for the full amount of such damages.

(c) Notwithstanding any other provision of law and except as provided in subsection (d) of this section, the owner and operator of a vessel shall be jointly and severally liable, wihout regard to fault, for damage which results from a discharge of oil from such vessel. Such liability shall not exceed $150 per gross registered ton, except that if it can be shown that (1) such damages were the result of gross negligence or willful misconduct within the privity and knowledge of such owner or operator, or the person in charge of such vessel, or (2) such discharge was the result of a violation of applicable safety, construction, or operating standards or regulations, such owner and operator shall be jointly and severally liable for the full amount of such damages.

(d) No liability shall be imposed under subsection (b) or (c) of this section to the extent the owner or operator establishes that the discharge of oil or that any damages resulting from such discharge were caused by (1) an act of war, or (2) the negligent or intentional act of the damaged party or of any third party (including any government entity).

(e)(1) To the extent that liability is not imposed, pursuant to subsection (d)(2) of this section, on the owner or operator of an offshore facility or vessel for cleanup costs or damages resulting from a discharge of oil from such facility or vessel, the damaged party or third party whose negligent or intentional act caused such discharge or any damages resulting from such discharge shall, if such damaged party or third party is also an offshore facility or vessel, be liable for such cleanup costs or damages to the same extent as if such discharge had occurred from the offshore facility or vessel of such damaged party or third party.

(2) Payment of cleanup costs or damages by the owner or operator of any offshore facility or vessel to any person pursuant to this title shall be subject to such owner or operator acquiring by subrogation all rights of such person to recover such cleanup costs or damages from any other person.

(3) The provisions of this section shall not in any way affect or limit any rights which an owner or operator of an offshore facility or vessel, or the Fund, may have against any third party whose acts may have caused or contributed to a discharge of oil.

(f) Notwithstanding any other provision of this title, no person shall be liable under this title for payment of cleanup costs or damages to any government of a foreign country, or any citizen of a foreign country not a resident of the United States, unless (1) such payment is authorized by a treaty or executive agreement between such country and the United States, or (2) the Secretary of State, in consultation with the Attorney General, certifies that such country provides an adequate and substantially similar remedy for United States claimants for cleanup costs and damages related to discharges of oil produced from the Continental Shelf of such country.

(g) Any owner or operator of any offshore facility or vessel liable for damages to any person pursuant to subsection (1), (c), or (e)(1) of this section shall also be liable to such person for interest on the amount of such damages for which such owner or operator is liable, at the existing commercial interest rate, from the date the claim or amended claim including such damages was presented to the date on which the damages are paid. Such interest shall not be subject to any limitation of liability specified in subsection (b) or (c) of this section.

DISBURSEMENTS FROM THE REVOLVING ACCOUNT

SEC. 309. (a) Amounts in the revolving account shall be available for disbursement and shall be disbursed by the Fund for only the following purposes:

(1) Administrative and personnel expenses of the Fund.

(2) Cleanup costs resulting from the discharge of oil which are incurred pursuant to this title or pursuant to any State or local law, and costs of the removal of oil incurred by the owner or operator of an offshore facility

or vessel to the extent that the discharge of such oil was caused solely by an act of war or negligence on the part of the Federal Government in establishing and maintaining aids to navigation.

(3) Subject to the provisions of section 313 of this title, all damages not actually compensated pursuant to section 308(b) or (c) of this title.

(b) Payment of compensation by the Fund shall be subject to the Fund acquiring by subrogation all rights of claimant to recover cleanup costs or damages from the person responsible for such discharge. The Fund shall diligently pursue recovery for any such subrogated rights.

(c) Notwithstanding any other provision of this section, the Fund shall not be liable to pay (1) cleanup costs and damages of any claimant to the extent that the discharge of oil or any damages resulting from such discharge were caused by the negligent or intentional act of the damaged party, or (2) damages of any claimant to the extent that the discharge of oil or any damages resulting from such discharge were caused by an act of war.

(d) In all claims or actions by the Fund against the owner, operator, or person providing financial responsibility, the Fund shall recover (1) except as otherwise provided in this title, the amount the Fund has paid to the claimant or to any government entity undertaking cleanup operations, without reduction, (2) interest on that amount, at the existing commercial interest rate, from the date upon which the request for reimbursement was issued from the Fund to the owner, operator, or such person, to the date on which the Fund is paid by such owner, operator, or person, and (3) all reasonable and actual administrative costs incurred by the Secretary and disbursed by the Fund in connection with such claim or action, including costs of investigation, processing, hearings, appeals, and collection. Costs recovered pursuant to clause (3) of this subsection shall not be subject to any limitation of liability applicable to such owner, operator, or person providing financial responsibility, under the provisions of subsection (b) or (c) of section 308 of this title.

(e) Whenever the amount in the revolving account is not sufficient to pay cleanup costs and damages for which the Fund is liable pursuant to this section, the Fund may issue, in an amount not to exceed $500,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. Moneys obtained by the Fund under this subsection shall be deposited in the revolving account, and redemptions of any such notes or other obligations shall be made by the Fund from the revolving account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by such Secretary of the Treasury shall be treated as public debt transactions of the United States.

FEE COLLECTION; DEPOSITS IN REVOLVING ACCOUNT

SEC. 310. (a)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The collection of the fee imposed pursuant to paragraph (1) of this subsection shall continue until the amount in the revolving account totals at least $100,000,000 whereupon imposition of such fee may be suspended by the Secretary. Thereafter, the Secretary shall from time to time and in accordance with the limitation set forth in the first sentence of paragraph (1) of this subsection, modify by regulation the amount of the fee, if any, to be collected under this subsection in order to maintain the revolving account at a level of not less than $100,000,000 and not more than $200,000,000. For purposes of this paragraph, all

sums deposited pursuant to subsection (b) of this section shall be included in the calculation of the balance in the revolving account.

(b) All sums received through fee collection, reimbursements, fines, penalties, investments, and judgments pursuant to this title shall be deposited in the revolving account.

(c) All sums not needed for the purposes specified in this title shall be prudently invested in income-producing securities issued by the United States and approved by the Secretary of the Treasury.

FINANCIAL RESPONSIBILITY

SEC. 311. (a) Each owner or operator of an offshore facility shall establish and maintain, under rules and regulations prescribed by the President, evidence of financial responsibility based on the capacity of the offshore facility and other relevant factors. Financial responsibility may be established by any one, or a combination of, the following methods acceptable to the President: (1) evidence of insurance, (2) surety bonds, (3) qualifications as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the President.

(b) Each owner or operator of a vessel over three hundred gross registered tons (other than a vessel which is not self-propelled and which does not carry oil as cargo or fuel) shall establish and maintain, under rules and regulations prescribed by the Federal Maritime Commission, evidence of financial responsibility based on the liability requirements of this title and the tonnage of the vessel. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one, or combination, of the following methods acceptable to the President: (1) evidence of insurance, (2) surety bonds, (3) qualifications as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the President.

(c) Any claim for cleanup costs and damages by any claimant or by the Fund may be brought directly against the surety, the insurer, or any other person providing financial responsibility.

(d) Any person who fails to comply with the provisions of this section or any regulation issued under this section shall be subject to a fine of not more than $25,000.

(e) The President shall adjust the requirements established under this section and the limit of liability under section 308 of this title annually, by an amount equal to the annual percentage change in the wholesale price index.

(f) No owner or operator of an offshore facility or vessel who establishes and maintains evidence of financial responsibility in accordance with this section shall be required under any State law, rule, or regulation to establish any other evidence of financial responsibility in connection with liability for the discharge of oil from such offshore facility or vessel. Evidence of compliance with the financial responsibility requirement of this section shall be accepted by a State in lieu of any other requirement of financial responsibility imposed by such State in connection with liability for the discharge of oil from such offshore facility or vessel.

TRUSTEE OF NATURAL RESOURCES

SEC. 312. (a) The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for damages to such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.

CLAIMS PROCEDURE

SEC. 313. (a) The Secretary shall prescribe, and may from time to time amend, regulations for the filing, processing, settlement, and adjudication of claims for cleanup costs and damages resulting from the discharge of oil from an offshore facility or vessel.

(b) (1) Whenever the Secretary receives information from any person alleging the discharge of oil from any offshore facility or vessel in violation of section 303 of this title, he shall notify the owner and operator of such offshore facility or vessel of such allegation. Such owner or operator may, within five

days after receiving such notification, deny such allegations, or deny liability for damages for any of the reasons set forth in sections 308(d) of this title.

(2) Any denial made pursuant to paragraph (1) of this subsection shall be adjudicated in accordance with the provisions of subsection (i) of this section.

(c)(1) If a denial is not made pursuant to subsection (b)(1) of this section, the owner and operator, or the person providing financial responsibility, shall advertise, in accordance with regulations promulgated by the Secretary, in any area where damages may occur, the procedures under which claims may be be presented to such owners and operator or such person providing financial responsibility. The Secretary shall publish the text of such advertisement, in modified form if necessary, in the Federal Register. If any person fails to make any advertisement required by this paragraph, the Secretary shall do so and such person shall pay the costs of such advertisement.

(2) If a denial is made pursuant to subsection (b) of this section, the Secretary shall advertise and publish procedures under which claims may be presented to the Secretary for payment by the Fund from the revolving account.

(3) Any advertisement made under this subsection shall commence no later than fifteen days after the date of the notification and shall continue for a period of no less than thirty days. Such advertisement shall be repeated thereafter in such modified form as necessary, but not less frequently than once each calendar quarter for a total period of five years.

(d)(1) Any claim presented to any person under subsection (c)(1) of this section, or to the Secretary for payment from the Fund, shall be presented within one year after the date of discovery of any damages for which such claim is made, except that no such claim may be presented after the end of the five-year period beginning on the date on which advertising was commenced pursuant to subsection (c) of this section.

(2) Each person's damage claims arising from one incident which are presented to the Secretary shall be slated in one form, which may be amended to include new claims as they are discovered. Damages which are known or reasonably should be known, and which are not included in the claim at the time compensation is made, shall be deemed waived.

(e)(1) Except as provided in subsection (f) of this section, all claims shall be presented (A) to the owner and operator, or (B) to the person providing financial responsibility.

(2) Any person to whom a claim has been presented pursuant to paragraph (1) of this subsection shall promptly notify the claimant of the rights which such claimant may have under this title and notify the Secretary of receipt of such claim.

(f) The following claims may be presented to the Secretary for payment by the Fund from the revolving account:

(1) Any claim for damages resulting from any discharge with respect to which a denial has been made pursuant to subsection (b)(1) of this section.

(2) Any claim which has been presented to any person pursuant to subsection (c)(1) of this section, if such person—

(A) has not accepted liability for such claim for any reason,

(B) submits to the claimant a written offer for settlement of the claim, which the claimant rejects for any reason, or

(C) has not settled such claim by agreement with the claimant within sixty days after the date on which (i) such claim was presented, or (ii) advertising was commenced pursuant to subsection (c) of this section, whichever date is later.

(g) In the case of a claim which has been presented to any person under subsection (e)(1) of this section, and which may be presented to the Secretary under subsection (f)(2) of this section, such person shall, within two days after a request by the claimant, transmit directly to the Secretary such claim and such other supporting documents as the Secretary may by regulation prescribe, and such claim shall be deemed presented to the Secretary for payment by the Fund.

(h)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall use the facilities and services of private insurance and claims adjusting organizations in administering this section and may contract to pay compensation for such facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, upon a showing by the Secretary that advertising is not

reasonably practicable, and advance payments may be made. A payment to a claimant, for a single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary.

(2) In extraordinary circumstances in which the services of such private organizations are inadequate, the Secretary may use Federal personnel to administer the provisions of this section, to the extent necessitated by such extraordinary circumstances.

(i) The following matters in dispute shall be submitted to the Secretary and adjudicated pursuant to the provisions of this section:

(1) Upon the petition of a claimant, in the case of a claim which has been presented to the Secretary for payment by the Fund, and in which the Secretary—

(A) has, for any reason, denied liability for such claim; or

(B) has not settled such claim by agreement with such claimant within ninety days after the date on which (i) such claim was presented to the Secretary, or (ii) advertising was commenced pursuant to subsection (c)(2) of this section, whichever date is later.

(2) Upon the petition of the owner and operator or the person providing financial responsibility, who is or may be liable for cleanup costs and damages pursuant to section 308 of this title—

(A) any denial made pursuant to subsection (b)(1) of this section;

(B) any objection to an exception to the limit of liability set forth in section 308 (b) or (c) of this title; and

(C) the amount of any payment or proposed payment by the Fund which may be recovered from such owner and operator, or such person providing financial responsibility, pursuant to section 309(d) of this title.

(j)(1) Upon receipt of any matter in dispute submitted for adjudication pursuant to subsection (i) of this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

(2) For purposes of any hearing conducted pursuant to this subsection, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues presented for determination.

(3) A hearing conducted under this subsection shall be conducted within the United States judicial district within which the matter in dispute occurred, or, if such matter occurred within two or more districts, in any of the affected districts or, if such matter in dispute occurred outside of any district, in the nearest district.

(k) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid from the revolving account shall be certified to the Fund which shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

JUDICIAL REVIEW

SEC. 314. (a) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner may, no later than sixty days after such decisio nis made, seek judicial review of such decision (1) in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or (2) in the United States Court of Appeals for the District of Columbia.

(b) In any case in which the person responsible for the discharge, or the Fund, seeks judicial review, attorneys' fees and court costs shall be awarded to the claimant if the decision of the hearing examiner is affirmed.

CLASS ACTIONS

SEC. 315. (a) The Attorney General may act on behalf of any group of damaged citizens which the Secretary determines woudl be more adequately represented as a class in the recovery of claims under this title. Sums recovered shall be distributed to the members of such group, except that the reasonable and actual costs incurred by the Attorney General in representing such class shall be paid out of such sums recovered, and shall be deposited in the Treasury of the United

States, and credited to miscellaneous receipts. The Attorney General shall not commence any action under this subsection against the Fund or any other department, agency, or instrumentality of the United States.

(b) If, within ninety days after a discharge of oil in violation of section 303 of this title has occurred, the Attorney General fails to act on behalf of a group who may be entitled to compensation, any member of such group may maintain a class action to recover such damages on behalf of such group. Failure of the Attorney General to act in accordance with this subsection shall have no bearing on any class action maintained in accordance with this subsection.

(c) In any case in which the number of members of the class seeking the recovery of claims under this title exceeds one thousand, publishing notice of the action in the Federal Register and in local newspapers serving the areas in which the damaged parties reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

REPRESENTATION

SEC. 316. The Secretary shall initially request the Attorney General to promptly institute court actions and to appear and represent the Fund for all claims under this title. Unless the Attorney General notifies the Secretary that he will institute such action or will otherwise appear within a reasonable time, attorneys appointed by the Secretary shall appear and represent the Fund.

JURISDICTION AND VENUE

SEC. 317. (a) The United States district courts shall have original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district (1) wherein the damage complained of occurred, or, if such damage occurred outside of any district, in the nearest district, or (2) wherein the defendant resides, may be found, or has its principal office. For the purposes of this section, the Fund shall reside in the District of Columbia.

ACCESS TO RECORDS

SEC. 318. (a) Each person responsible for contributing to the Fund in accordance with this title shall keep such records and furnish such information as the Secretary shall prescribe in regulations. Collection shall be at such times and in such manner as shall be prescribed in such regulations.

(b) The Secretary shall have access to any books, documents, papers, and records of such person relevant to the administration of this title, and shall undertake regular examination of and audits on the collection of fees.

(c) The Comptroller General shall have access to any books, documents, papers, records, and other information of any person liable to contribute to the Fund, relevant to the administration of this title, and to all books, documents, papers, records, and other information of the Fund.

PUBLIC ACCESS TO INFORMATION

SEC. 319. (a) Copies of any communication, document, report, or information transmitted between any official of the Federal Government and any person concerning liability and compensation for damages resulting from the discharge of oil from an offshore facility or vessel shall be made available to the public for inspection, and shall be available for the purpose of reproduction at a reasonable cost, to the public upon identifiable request.

(b) Nothing contained in this section shall be construed to require the release of any information of the kind described in subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

ANNUAL REPORT

SEC. 320. Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives (1) a report on the administration of the Fund during such fiscal year, (2) a summary of the management and enforcement activities of the Fund, and (3) recommendations to the Congress for such additional legislative authority as may be necessary to improve the management of the Fund and the administration of the liability provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 321. (a) There is authorized to be appropriated for the administration of this title $10,000,000 for the fiscal year ending September 30, 1978, $5,000,000 for the fiscal year ending September 30, 1979, and $5,000,000 for the fiscal year ending September 30, 1980.

(b) There are also authorized to be appropriated to the Fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts pursuant to section 306(b)(4) of this title, any disbursements of funds pursuant to section 309(a) of this title, and the issuance of notes or other obligations pursuant to section 309(e) of this title.

(c) Notwithstanding any other provision of this title, the authority to make contracts pursuant to section 306(b)(4) of this title, to make disbursements pursuant to section 309(a) of this title, to issue notes of other obligations pursuant to section 309(e) of this title, and to charge and collect fees pursuant to section 310(a) of this title shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

(d) There are hereby authorized to be appropriated to the Fund such sums as may be necessary to reimburse the Fund for amounts paid for cleanup costs and damages in connection with discharges of oil caused by the negligent or intentional act of any department, agency, or instrumentality of the United States.

RELATIONSHIP TO OTHER LAW

SEC. 322. (a) Except as otherwise provided in this title, this title shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil resulting in damages or cleanup costs within the jurisdiction of any State.

(b) Any person who receives compensation for damages or cleanup costs pursuant to this title shall be precluded from recovering compensation for the same damages or cleanup costs pursuant to any other State or Federal law. Any person who receives compensation for damages or cleanup costs pursuant to any other State or Federal law shall be precluded from receiving compensation for the same damages or cleanup costs under this title.

TITLE IV—FISHERMEN CONTINGENCY FUND

DEFINITIONS

SEC. 401. As used in this title, the term—

(1) "citizen of the United States" means any person who is a United States citizen by law, birth, or naturalization, any State, any agency of a State or a group of States, or any corporation, partnership, or association organized under the laws of any State which has as its president or other chief executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth, or naturalization, and which has at least 75 percent of the interest of therein owned by citizens of the United States. Seventy-five percent of the interest in the corporation shall not be deemed to be owned by citizens of the United States—

(A) if the title to 75 percent of its stock is not vested in such citizens free from any trust of fiduciary obligation in favor any person not a citizen of the United States;

(B) if 75 percent of the voting power in such corporation is not vested in citizens of the United States;

(C) if through any contract or understanding it is so arranged that more than 25 percent of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or

(D) if by any other means whatsoever control of any interest in the corporation in excess of 25 percent is conferred upon or permitted to be exercised by any person who is not a citizen of the United States;

(2) "commercial fishing" means all aspects of commercial harvesting and handling of living marine resources; and

(3) "Secretary" means the Secretary of Commerce.

ESTABLISHMENT OF THE FISHERMEN'S CONTINGENCY FUND

SEC. 402. (a) There is established within the Department of Commerce, a Fishermen's Contingency Fund (hereinafter referred to as the "Fund") for the purpose of providing compensation for damages to commercial fishing vessels and gear and resulting loss of profits due to activities of oil and gas exploration, development, and production on the Outer Continental Shelf. The Fund may sue or be sued in its own name by citizens of the United States.

(b) There is established in the Treasury of the United States a revolving account without fiscal year limitation, which shall be available to the Fund to carry out the provisions of this title.

(c) Amounts in the revolving account shall be available for disbursement and shall be disbursed by the Fund for only the following purposes:

(1) administrative and personnel expenses of the Fund; and

(2) the payment of any claim in accordance with the decision of the Secretary pursuant to this title.

FISHERMEN'S CLAIMS BOARD

SEC. 403. (a) There is established a Fishermen's Claims Board hereafter called the Board for the purpose of investigating and recommending to the Secretary the amount to be paid on claims against the Fund.

(b) The Board shall consist of one representative from each of the National Oceanic and Atmospheric Administration, the Coast Guard, and the Bureau of Land Management and three representatives each of the fishing industry and the oil industry.

(c) Selection and appointment of the members of the Board shall be as follows:

(1) Representative of government agencies shall be appointed by the head of the department in which such agency is located.

(2) Representative of the oil industry shall be appointed by the Secretary of Interior.

(3) Representatives of the fishing industry shall be appointed by the Regional Fishing Management Councils in accordance with a procedure established by the Secretary.

(d) Each representative shall serve on the Board for a period of three years, except that one-third of the Board, as determined by the Secretary, shall be replaced every year starting one year after the Board is established.

(e) Administrative and other expenses incurred by the Board and its members in carrying out its transportation shall be paid out of the Fund.

(f) The representatives of the Board shall meet from time to time or whenever necessary to carry out the provisions of this section.

(g) The minimum number of representatives necessary to investigate and recommend on a claim shall be one member for each of the government agencies, oil industry, and fishing industry.

DUTIES AND POWERS OF THE SECRETARY

SEC. 404. (a) In order to carry out the purposes of this title, the Secretary shall—

(1) prescribe, and may from time to time amend, regulations for the filing, processing, and the fair and expeditious settlement of claims pursuant to this title, including a time limitation on the filing of such claims;

(2) establish and classify all potential hazards to commercial fishing caused by Outer Continental Shelf activities, including all obstructions on the bottom, throughout the water column, and on the surface;

(3) establish regulations for all materials, equipment, tools, containers, and all other items used on the Outer Continental Shelf to be properly stamped or labeled with the owners' identification prior to actual use;

(4) administer and maintain the Fund, in accordance with the provisions of this title; and

(5) perform such other functions as are necessary to carry out the provisions of this title.

(b) In the performance of his duties under this title, the Secretary is authorized to—

(1) utilize, with the consent of the agency concerned, the services or personnel, on a reimbursable or replacement basis or otherwise, of any Federal Government agency, of any State or local government agency, or of any

organization, to perform such functions on behalf of the Fund as are necessary or appropriate;

(2) make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this title;

(3) conduct such studies and investigations, obtain such data and information, and hold such meetings or public hearings as may be necessary or appropriate to facilitate the exercise of any authority granted to, or the performance of any duty imposed on, the Fund under this title;

(4) enter into such contracts, agreements, and other arrangements as are deemed necessary or appropriate for the acquisition of material, information, or other assistance related to, or required by, the implementation of this title; and

(5) issue and enforce orders during proceedings conducted pursuant to this title, including issuing subpenas, administering oaths, compelling the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, and the taking of depositions.

RECOVERABLE DAMAGES AND SUBROGATION OF RIGHTS

SEC. 405. (a) Damages and loss to profit to commercial fishing vessels and gear may be recovered under this title for—

(1) the replacement value of any loss of all or part of a commercial fishing vessel which is damaged or destroyed as a result of oil and gas exploration, development, or production on the Outer Continental Shelf;

(2) the replacement value of any loss of all or part of gear used for commercial fishing as a result of oil and gas exploration, development, or production on the Outer Continental Shelf; and

(3) the loss of revenue to a commercial fishing vessel and crew due to oil and gas exploration, development, or production on the Outer Continental Shelf; such loss of revenue shall be based on the average daily revenue of the affected vessel and crew averaged over the previous year, and the vessel and crew shall be compensated for each day that it can be proven that the losses occurred.

(b) Payment of compensation by the Fund shall be subject to the Fund acquiring by subrogation all rights of the claimant to recover for damages and losses so compensated for. The Secretary shall diligently pursue recovery for any such subrogated rights.

(c) Those persons involved in Outer Continental Shelf activities, identified as having caused damages to a fishing vessel, gear, or loss of revenue shall reimburse the Fund for such amounts that it has paid to the claimant for such damage.

BURDEN OF PROOF

SEC. 406. In any claim pursuant to this title there shall be a presumption in favor of such claim if the claimant establishes—

(1) that the vessel and crew were actually fishing in an area prescribed by the Secretary of Commerce as an area affected by Outer Continental Shelf activities;

(2) that an immediate report on the location of any obstacle and the nature of the damage was made;

(3) that there was no previous or existing record on nautical charts or the Notice to Mariners that such an obstacle exists in the area; and

(4) in lieu of a record of such an obstacle, no proper surface marker or lighted buoy was attached or closely anchored to the obstacle.

(5) that the damage or loss of revenue was received after the enactment to this act.

FEE COLLECTION—DEPOSITS IN REVOLVING ACCOUNT

SEC. 407. (a)(1) The Secretary, with the cooperation of the Secretary of the Interior, shall levy and the Secretary of the Treasury shall collect a fee of not to exceed one cent per barrel of oil and 5600 cubic feet of gas obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The collection of the fee imposed pursuant to paragraph (1) of this subsection shall continue until the amount in the revolving account of the Fund totals at least $2,000,000, whereupon imposition of such feel may be suspended

by the Secretary. Thereafter, the Secretary shall from time to time and in accordance with the limitation set forth in the first sentence of paragraph (1) of this subsection, modify by regulation the amount of the fee, if any, to be collected under this subsection in order to maintain the revolving account at a level of not less than $2,000,000 and not more than $5,000,000. For purposes of this paragraph, all sums deposited pursuant to subsection (b) of this section shall be included in the calculation of the balance in the revolving account.

(b) All sums received pursuant to this title shall be deposited in the revolving account.

(c) All sums not needed for the purposes specified in this title shall be prudently invested in income-producing securities issued by the United States and approved by the Secretary of the Treasury.

JUDICIAL REVIEW

SEC. 408. (a) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of the Secretary on a claim under this title may, no later than sixty days after such decision is made, seek judicial review of such decision (1) in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or (2) in the United States Court of Appeals for the District of Columbia.

(b) In any case in which the person responsible for damage to commercial fishing vessels or gear seeks judicial review, attorneys' fees and court costs shall be awarded to the claimant if the decision of the Secretary is affirmed.

JURISDICTION AND VENUE

SEC. 409. (a) The United States district courts shall have original jurisdiction over all controversies arising under this title other than those described in section 408, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district (1) wherein the damage complained of occurred, or, if such damage occurred outside of any district, in the nearest district, or (2) wherein the defendant resides, may be found, or has its principal office. For the purposes of this section, the Fund shall reside in the District of Columbia.

REPRESENTATION

SEC. 410. The Secretary shall initially request the Attorney General to promptly institute court actions and to appear and represent the Fund for all claims under this title. Unless the Attorney General notifies the Secretary that he will institute such action or will otherwise appear within a reasonable time, attorneys appointed by the Secretary shall appear and represent the Fund.

ACCESS TO RECORDS

SEC. 411. (a) Each person responsible for contributing to the Fund in accordance with this title shall keep such records and furnish such information as the Secretary shall prescribe in regulations. Collection shall be at such times and in such manner as shall be prescribed in such regulations.

(b) The Secretary shall have access to any books, documents, papers, and records of such person relevant to the administration of this title, and shall undertake regular examinations of and audits on the collection of fees.

(c) The Comptroller General shall have access to any books, documents, papers, records, and other information of any person liable to contribute to the Fund, relevant to the administration of this title, and to all books, documents, papers, records, and other information of the Fund.

ANNUAL REPORT

SEC. 412. Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives (1) a report on the administration of, and payments from, the Fund during such fiscal year, and (2) recommendations to the Congress for such additional legislative authority as may be necessary to improve the management of the Fund and the administration of the liability provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 413. (a) There is authorized to be appropriated for the administration of this title $200,000 for each fiscal year ending prior to October 1, 1990.

(b) There is also authorized to be appropriated as an initial deposit and to maintain the revolving account of the Fund amounts not exceeding $500,000. Further amounts are authorized to be appropriated to maintain the Fund not to exceed $500,000 until fees pursuant to subsection 407(a)(1) can be collected. Such amounts shall be repaid by the Fund to the Treasury as soon as practicable with interest in an amount determined by the Secretary of the Treasury using the average rate of interest paid on indebtedness by the Treasury.

(c) Notwithstanding any other provision of this title, the authority to pay claims pursuant to section 407 shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

Beginning on page 124, redesignate title IV as title V and sections 401 through 406 as sections 501 through 506, respectively.

TITLE V—MISCELLANEOUS PROVISIONS

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 501. (a) In a report submitted within six months after the date of enactment of this Act, and in his annual report thereafter, the Secretary shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Shelf Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 502. As soon as feasible and no later than ninety days after the date of enactment of this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 503. The Federal Power Commission shall, pursuant to its authority under section 7 of the Natural Gas Act, permit any natural gas distributing company which engages, directly or indirectly, in development and production of natural gas from the Outer Continental Shelf to transport to its service area for distribution any natural gas obtained by such natural gas distributing company from such development and production. For purposes of this section, the term "natural gas distributing company" means any person (1) engaged in the distribution of natural gas at retail, and (2) regulated or operated as a public utility by a State or local government.

ANTIDISCRIMINATION PROVISIONS

SEC. 504. Each agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act, shall take such affirmative action as deemed necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale or employment, conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems

necessary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Amendments of 1964.

SUNSHINE IN GOVERNMENT

SEC. 505. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to the provisions of this Act or the Outer Continental Shelf Lands Act,

shall, beginning on February 1, 1978, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

COASTAL ZONE MANAGEMENT ACT

SEC. 506. The Coastal Zone Management Act of 1972 (86 Stat. 1280), as amended, is further amended by deleting section 308(b) and inserting in lieu thereof the following:

"SEC. 308. (b)(1) The Secretary shall, in addition to any financial assistance provided to, or available to, coastal States pursuant to any other subsection of this section, distribute grants annually in accordance with the provisions of this subsection. The moneys received under this subsection shall be expended by each State receiving such grants solely for the purpose of reducing or ameliorating adverse impacts resulting from the exploration for, or the development or production of, energy resources or resulting from the location, construction, expansion, or operation of a related energy facility and/or for projects designed to provide new or additional public facilities and public services which are related to such exploration, development production, location, construction, expansion or operation, except that such grants shall initially be designated by each receiving State to retire State and local bonds, if any, which are guaranteed under section 308 (d)(1), section 308(d)(2), and section 308(d)(3) of this Act: *Provided*, That if the amount of such grants is insufficient to retire both State and local bonds, priority shall be given to retiring local bonds.

"(2) Subject to the expenditure requirements of section 308(b)(1), each coastal State shall be entitled to receive a grant under this subsection if such State is, on the first day of the fiscal year,

"(a) adjacent to Outer Continental Shelf lands on which oil or natural gas is being produced; or

"(b) permitting crude oil or natural gas to be landed in its coastal zone: *Provided*, That such crude oil or natural gas has been produced on adjacent outer Continental Shelf lands of such State or on outer Continental Shelf lands which are adjacent to another State and transported directly to such

State. In the event that a State is landing oil or natural gas produced adjacent to another State, the landing State shall be eligible for grants under this subsection at a rate half as great as that to which it would be eligible in any given year if the oil or natural gas produced adjacent to that State were also landed in that State.

"(3) States defined in section 308(b)(2) shall become eligible to receive such automatic grants in the first year that the amount of such oil or natural gas landed in the State or produced on outer Continental Shelf lands adjacent to the State (as determined by the Secretary) exceeds a volume of one hundred thousand barrels per day of oil or an equivalent volume of natural gas. There are authorized to be appropriated for this purpose sufficient funds to provide such States with grants in the amount of 20 cents per barrel or its equivalent during the first year, 10 cents per barrel or its equivalent during the third year, and 8 cents per barrel or its equivalent during the fourth and all succeeding years during which oil or gas is landed in such a State or produced on outer Continental Shelf lands adjacent to such a State: *Provided*, That (A) such funds shall not exceed $100,000,000 for the fiscal year ending September 30, 1977; $100,000,000 for the fiscal year ending September 30, 1978; and (B) such funds shall be limited to payments for the first one and one-half million barrels of oil (or its gas equivalent) per day per State for the 10 succeeding fiscal years. The amount of such grant to each such State in any given year shall be calculated on the basis of the previous year's volume of oil or natural gas landed in the State or produced adjacent to the State. For the purposes of this section, one barrel of crude oil equals six thousand cubic feet of natural gas.

"(4) Any funds provided to any State pursuant to section 308(b) which are not expended in accordance with the purposes authorized herein shall be returned to the Treasury of the United States by such State.".

RELATIONSHIP TO EXISTING LAW

SEC. 507. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

RELATIONSHIP TO DEPARTMENT OF ENERGY

SEC. 508. Upon the effective date of the provisions of the law creating a Department of Energy, or upon the effective date of this Act, whichever is later, the functions vested in the Secretary by this Act related to those Federal leasing functions designated for transfer from the Secretary to the Secretary of Energy in such law creating a Department of Energy shall be transferred to and vested in the Secretary of Energy.

I. PURPOSE

During the next decade, development of conventional oil and gas from the U.S. Outer Continental Shelf (OCS) can be expected: (a) To provide one of the largest single sources of increased domestic energy; (b) to supply this energy at a lower average cost to the U.S. economy than many other alternatives; and (c) to supply it with substantially less harm to the environment than most other sources.

Despite the intense and justified concern of many people over the potential damage to the environment and the onshore impacts of oil and gas development on the OCS, there is an increasing feeling that responsible OCS development may well be more acceptable environmentally than other potential domestic energy resources such as massive strip mining for coal and oil shale.

Because the OCS represents such a large and promising area for oil and gas exploration, the Congress must update the Outer Continental Shelf Lands Act of 1953, which has never been amended, to provide adequate authority and guidelines for the kind of development activity that probably will take place in the next few years. The

committee believes that the law should be revised before any large-scale expansion of OCS leasing.

S. 9 has two basic purposes. First, it reasserts Congress' special constitutional responsibility to "make all needful rules and regulations respecting the territory or other property belonging to the United States". (U.S. Constitution, art. IV, section 3 clause 2). The Outer Continental Shelf Lands Act is essentially a carte blanche delegation of authority to the Secretary of the Interior. The increased importance of OCS resources, the increased consideration of environmental and onshore impacts and emphasis on comprehensive land use planning, require Congress to put some "flesh on the bones" in the form of standards and criteria for the Secretary to follow in the exercise of his authority.

Second, the bill gives the Secretary new authority needed to manage the programs anticipated in the last third of the twentieth century.

S. 9's major provisions would: (1) Establish policy guidelines for OCS development, (2) require a 5-year leasing program, (3) give the coastal States an increased role in Federal OCS decisions, (4) improve safety requirements, (5) establish unlimited absolute liability for oil spill damage with payments from a liability fund, (6) provide for a two-step decision process to separate exploration from development and production, (7) authorize new leasing systems and require their use on an experimental basis, and (8) establish a fund to pay for damages to commercial fishing vessels and gear resulting from OCS development activities.

II. Summary of Major Provisions

1. POLICY—SECTION 202

The bill declares that the OCS is a vital national resource reserve held by the Federal Government for all the people, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner consistent with maintenance of competition and otehr national needs.

It also expressly recognizes that in view of the impact on the coastal zone of OCS development, the coastal States may require assistance in protecting the coastal zone and coastal States should participate in OCS policy and planning decisions.

The bill also recognizes and preserves the States' rights to protect their marine and coastal environment.

2. LEASING PROGRAM—NEW SECTION 18 (PART OF SECTION 208)

The Secretary is directed to prepare and periodically update a comprehensive leasing program designed to carry out the policy. This program would indicate the size, timing, and location of leasing activity which the Secretary determines would meet national energy needs over the next five years. The leasing program must be consistent with these principles:

(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources con-

tained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

(D) the location of such regions with respect to other uses of the sea and sealed, including fisheries, intracoastal navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

(G) policies and plans promulgated by coastal States pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(3) The Secretary shall elect the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

(4) Leasing activities shall be conducted to assure receipt of fair market value for the oil and gas owned by the Federal Government.

3. COASTAL STATE AND PUBLIC PARTICIPATION—NEW SECTIONS 18, 18, AND SECTION 25. (PART OF SECTION 208)

Numerous provisions of S. 9 are designed to give States and local governments and the general public a significant opportunity to participate in and comment on Federal OCS planning and policy decisions. This is particularly important with respect to development of the 5-year leasing program pursuant to new section 18 and review of development and production plans required by new section 25.

One of the most significant features of the bill is new section 19 which states that if a Governor of an affected coastal State makes specific recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or on a proposed development and production plan, the Secretary shall accept such recommendations if he determines that they provide a reasonable balance between the national interest and the well-being of the citizens of the affected States.

4. SEPARATION OF EXPLORATION FROM DEVELOPMENT AND PRODUCTION—NEW SECTION 25. (PART OF SECTION 208)

New section 25 provides the mechanism for separation of exploration from development and production endorsed by the National Governors Conference, the National Conference of State Legislatures, the Coastal States Organizations and many other groups. It is one of the most significant portions of S. 9.

If a Federal lessee finds oil and gas he must prepare and submit to the Secretary a development and production plan. The plan must include information about the nature and extent of the development and production program on the Outer Continental Shelf on State-owned tidelands and onshore. The Secretary must make the plan available to the Governors and local government officials in affected States. Review of the plan and statement will give the coastal States a real opportunity to assess the potential environmental, social and economic impacts of the development and to resolve any problems with the Secretary and the lessee before they occur.

5. OIL AND GAS EXPLORATION—SECTION 206

This section clarifies the existing language of the OCS Lands Act of 1953, permitting agencies of the United States and private individuals to conduct geological and geophysical explorations on the OCS. It also requires a lease holder to submit an exploration plan to the Secretary. The plan must set out a schedule for exploration and indicate the general location of each well to be drilled.

6. UNLIMITED OIL SPILL LIABILITY—TITLE III

The bill puts into law the existing rule, established by Departmental regulation, that an OCS lessee is liable for the total cost of control and removal of spilled oil. It also creates a new strict liability rule for damages from oil spills from any offshore facility or any vessel carrying oil produced offshore. The provisions are patterned after the Trans-Alaska Pipeline Authoriaztion Act and the Deepwater Ports Act of 1974.

The damage liability is imposed, without regard to fault, and without regard to ownership of the land or resource damaged if the land or resources is relied on for subsistence or economic purposes. Thus, there can be recovery for damage to fisheries despite the fact that the fisherman has no property right in the uncaught fish. Resort owners could also recover for loss of business caused by an oil spill on the beach even though they do not own the beach. On the other hand, sport fishermen or vacationers could not recover for any inconvenience caused by a spill.

The lessee or holder of a right of way is liable for not more than $35 million and liability of a vessel owner shall not exceed $150 per gross registered ton, unless such damage resulted from gross negligence or willful misconduct or was the result of a violation of a safety or construction regulation. The Offshore Oil Pollution Compensation Fund created by the act is liable for the balance. The Fund gets its money from a fee of 3¢ per barrel on oil produced from the Outer Continental Shelf.

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7. INDUSTRY INFORMATION DISCLOSURE—NEW SECTION 26. (PART OF SECTION 208)

The bill requires any person holding a geological or geophysical exploration permit to submit to the Government the data and information obtained during exploration. All oil and gas lessees would have to submit data about the oil and gas resources in the area covered by the lease. The Secretary would keep all proprietary data confidential until he determines that public availability of the data would not damage the competitive position of the permittee or lessee. Summaries of these data would be made available to affected States to assist them in planning.

Private parties using public resources for private profit should be required to make information they obtain about the resources available to the representatives of the public. At the same time, the value of this information to the individual explorer or producer is recognized. The provisions of S. 9 are designed to balance the public's interest in obtaining information about its resources and public's interest in maintaining an active and competitive oil and gas industry.

8. SAFETY AND ENVIRONMENTAL STANDARDS AND ENFORCEMENT—NEW SECTIONS 21 AND 22. (PART OF SECTION 208)

New section 21 directs the Secretary and the Coast Guard to establish safety and environmental protection standards for all pieces of equipment pertinent to public health, safety or environmental protection. These standards must require use of the best available and safest technology where failure or malfunction of the equipment would have a substantial impact on public health, safety or the environment. Diving safety standards will be jointly enforced by the Department of Labor and the Coast Guard.

The section also mandates a study of the adequacy of existing safety regulations and of the technology, equipment, and techniques used in OCS activities. This study will be done jointly by Interior, Coast Guard, and the Labor Department. Based on this study the President will submit to Congress in 1 year a plan of action for promotion of safety and health in OCS exploration, development, and production.

To assure that increased OCS development proceeds in as safe a manner as possible, section 22 directs the Secretary and the Coast Guard to conduct regular inspections and strictly enforce safety regulations. The inspections must take place at every stage of operations which means that Congress must provide funding and manpower needed. Lessees would be required to give the Secretary any information he needs to assure a safe operation.

9. REVISED BIDDING SYSTEMS—SECTION 205

S. 9 authorizes a wide variety of new bidding systems. These are designed to reduce the front end cash bonus, increase the government's return on actual production of oil or gas, make it easier for smaller companies to enter the OCS development business, and increase the availability of funds for exploration.

Section 205 sets forth procedures for utilizing the various bidding alternatives authorized. These alternatives may not be the "perfect solution". However, they should facilitate entry into the OCS development business of more independent producers and are certainly worth trying on an experimental basis.

In order to assure that these alternatives will be used, the bill limits the Secretary's authority to use the cash bonus-fixed royalty system which has been the historical method of OCS bidding to not more than two-thirds of the tracts offered each year.

10. PROMOTION OF COMPETITION—SECTION 205

Section 205 revises bidding systems to encourage entry of new competitors, especially small independent operators. It also limits joint bidding among major oil companies, provides for antitrust review of proposed leases by the Federal Trade Commission, and requires the Attorney General to advise the Secretary on the competitive aspects of promulgating and enforcing regulations.

S. 9 also deals with sale of royalty oil (new section 27) and requires a report with specific recommendations to improve competition, maximize production and insure fair return to the public from development of OCS resources. (Section 207)

11. ENVIRONMENTAL BASELINE AND MONITORING STUDIES—NEW SECTION 20. (PART OF SECTION 208)

The Secretary of Interior is required to begin environmental baseline studies before any OCS area is leased. Monitoring is to continue throughout the development and production stages. These studies will involve all appropriate Government agencies, particularly the National Oceanic and Atmospheric Administration.

12. STRINGENT CIVIL AND CRIMINAL PENALTIES—NEW SECTION 24. (PART OF SECTION 208)

New section 24 increases criminal penalties for certain willful violations of the act up to $100,000 per day. It also imposes civil penalties of up to $10,000 per day for violations which continue after notice and opportunity to correct violations.

13. INTERAGENCY COORDINATION OF ALL FACETS OF OCS OIL AND GAS DEVELOPMENT

S. 9 contains numerous provisions designed to promote Federal interagency coordination, particularly among the Departments of Interior, Commerce, Labor and Transportation. It directs coordination with State and local government agencies.

14. FISHERMEN CONTINGENCY FUND—TITLE IV

Title IV establishes a Fishermen Contingency Fund to provide compensation for damage to commercial fishing vessels and gear caused by OCS oil and gas development activities. OCS activity does

on occasion cause damage to commercial fishing vessels, nets and other gear. This fund would provide compensation for such damage and resulting loss of revenue. The $2 million fund would be derived from a fee of 1¢ per barrel of OCS oil or gas equivalent.

III. Background and Need

HISTORY OF OCS ACT

In 1953, Congress enacted the Outer Continental Shelf Lands Act. This act authorizes the Secretary of the Interior to grant mineral leases on the Outer Continental Shelf and to prescribe regulations for their administration.

Presently, the Outer Continental Shelf program is handled jointly by the Geological Survey and the Bureau of Land Management under a joint arrangement which divides responsibility by allocating to the BLM the leasing function and to the Survey the prelease resource evaluation and the post-lease administration function.

The OCS Act of 1953 stemmed from the proclamation on the Continental Shelf issued by President Truman in 1945. It declared the natural resources of the "subsoil and seabed of the Continental Shelf beneath the high seas but contiguous to the coasts of the United States" to be subject to the control and jurisdiction of the U.S. The proclamation did not define the seaward limits of the Continental Shelf but the accompanying press release (September 28, 1945) from the White House indicated that the submerged land which is covered by no more than 100 fathoms (600 feet) of water was considered as the Continental Shelf.

The 1958 Geneva Convention on the Continental Shelf ratified by the U.S. in 1960 includes an open-ended definition of the Shelf as extending to a depth of 200 meters "or beyond that limit to where the depth of the superjacent waters admits of the exploitation of the natural resources."

In 1947 and 1950, the Supreme Court ruled on the controversy between the United States and various coastal states over ownership and control of the shelf. The Supreme Court decided that the entire Shelf was under Federal control. *United States* v. *California*, 332 U.S. 19 (1947); *United States* v. *Louisiana*, 339 U.S. 699 (1950); *United States* v. *Texas*, 339 U.S. 707 (1950). However, in 1953 Congress passed the Submerged Lands Act which "released and relinquished" to the coastal states that portion of the Shelf extending out from the mean high tide line for 3 miles or to their historic boundaries. Congress followed this with the OCS Lands Act which was primarily designed to be an affirmation of the 1945 assertion of jurisdiction by President Truman.

The 1953 Act reflects this emphasis on jurisdictional questions. Its "bare bones" leasing authority with essentially no statutory standards or guidelines also reflects the relative lack of basic knowledge concerning, and interest in, development of the resources of the Shelf at that time.

HISTORY OF OUTER CONTINENTAL SHELF RESOURCE DEVELOPMENT

The total shelf and continental margin area of the Outer Continental Shelf is estimated to be approximately 1,175,680 acres (including areas beyond the 200-meter water depth to 2,500-meter water depth). If this total, the area under Federal jurisdiction is approximately 1,146,680,000 acres.

Pursuant to the Submerged Lands Act and subsequent court decisions, coastal states have jurisdictions within 3 miles of their coasts and Texas and Florida have jurisdiction for three marine leagues off their Gulf of Mexico coasts—which accounts for the difference in area of the shelf and margin area and that part under Federal jurisdiction.

Since the passage of the OCS Lands Act (67 Stat. 462; 43 U.S.C., Sec. 1331–1343) on August 7, 1953, 40 lease sales have been held, the large majority of which have been offshore Louisiana and Texas. Currently outstanding leases include over 8 million acres. Petroleum production amounts to approximately 11 percent of total domestic production and natural gas production amounts to approximately 16 percent.

Production of hydrocarbons includes over 3 billion barrels of oil (including condensate) and 19 trillion m.c.f. of natural gas.

The Outer Continental Shelf Lands Act provides for payment to the Federal Government of revenues derived from oil and gas leases on the Outer Continental Shelf subject to Federal jurisdiction.

All but 10 OCS leases issued to date have required payment to the Federal Government based on a royalty rate of 16⅔ percent in the amount or value of the production saved, removed, or sold from the lease. The other 10 were issued on a royalty bidding basis. The annual rental and minimum royalty required for leases offered at general lease sales (unproven areas) have been $3 per acre, and have been $10 per acre for leases offered at drainage sales (proven areas). Total Federal revenues from Outer Continental Shelf resource development amount to over 18 billion dollars.

OCS OIL AND GAS RESERVES

In May 1975 the U.S. Geological Survey estimated that there are now demonstrated reserves of less than 1 billion barrels of oil and less than 1 trillion cubic feet of gas in the OCS off Southern California, and 2.2 billion barrels of oil and 35 trillion cubic feet of gas in the OCS in the Gulf of Mexico off Louisiana and Texas.

In addition to the demonstrated reserves known to exist on the OCS, the continental margin of the United States is believed to contain very large amounts of undiscovered oil and gas resources. The presence of these resources has not actually been demonstrated. nor can it be determined what portion may prove to be economically recoverable even if they are discovered. The figures given represent those arrived at by geological inference from indirect evidence. The distinction between potential resources and proved reserves is an important one, because many dollars of investment and much effort separate the one from the other.

The U.S. Geological Survey's most recent estimates (May 1975) that the potential recoverable petroleum resources remaining on the OCS of the United States out to a water depth of 200 meters are 10–49 billion barrels of crude oil and natural gas liquids and about 42–81 trillion cubic feet of natural gas.

RECENT DEVELOPMENTS

Until December 1975, the OCS leasing program was confined almost exclusively to the Gulf of Mexico. The only exception was a small area leased off southern California in the Santa Barbara Channel.

If we are to increase our OCS oil and gas development, leasing must take place in new or "frontier" areas. A number of steps have already been taken in that direction.

On April 18, 1973, the President directed the Council of Environtinental Shelf leasing rate would be increased from 1 million acres per year to 3 million acres per year and that the 5-year tentative leasing schedule should be revised to reflect this acceleration.

On April I8, 1973, the President directed the Council of Environmental Quality (CEQ) to study the environmental impact of oil and gas production on the Atlantic and Gulf of Alaska Outer Continental Shelf, since it was clear that continued accelerated leasing in the Gulf of Mexico and offshore California would soon consume available acreage in those areas.

On January 23, 1974, the President directed that Outer Continental Shelf leasing be even further accelerated and that 10 million acres be leased in 1975.

On February 20, 1974, the Department of the Interior published in the Federal Register a request for comment on 17 potential OCS oil and gas leasing areas. The responses ranked the areas of greatest potential as the Gulf of Alaska, in the central Gulf of Mexico, and the Beaufort Sea, respectively. Four companies ranked areas according to which frontier areas they would prefer to have leased first. In order of leasing priority, these areas were the mid-Atlantic, the Gulf of Alaska, and Cook Inlet, respectively.

In response to the President's directives to accelerate leasing, the Department issued in November 1974, a four-year OCS proposed planning schedule which listed 24 sales, six sales per year, through the end of 1978, with sales in all frontier areas. Nine sales were listed for the Alaska OCS, six for the Atlantic, five for the Pacific, and four for the Gulf of Mexico. However, in some cases scheduled actions have been delayed because of litigation. One legal dispute, that between the Federal Government and the Atlantic coast states, was decided in favor of the United States by the Supreme Court on March 17, 1975. This decision places the boundary between state and federal jurisdiction on the Atlantic coast at the three mile limit.

In late 1974 the Department modified its OCS leasing goals. The goal of leasing ten million acres in 1975 changed to holding six lease sales per year in 1975 and subsequent years and holding lease sales in all frontier areas of the OCS by the end of 1978.

CARTER ADMINISTRATION INITIATIVES

The development of new policies for OCS leasing began with the change in administrations in January 1977 and the confirmation of Cecil D. Andrus as Secretary of the Interior. In testimony before the committee on March 15, 1977, Secretary Andrus stated his commitment to proceed expeditiously with OCS oil and gas development in an economically and environmentally sound manner and to working with coastal States and communities to protect coastal resources and local employment. In this respect, Secretary Andrus expressed the administration's support for the basic objectives and concepts of S. 9 and suggested a number of amendments designed to facilitate their implementation. On May 17, Secretary Andrus also announced a revised leasing schedule for lease sales through the end of 1978 (Figure 2). This schedule continues leasing in known areas while opening up exploration and development in frontier areas in a manner that emphasizes cooperation with coastal State and communities to identify and resolve conflicts. The Department has also undertaken a review of existing leases to assure that known gas resources are diligently developed.

SUMMARY OF CURRENT LEASING PROCEDURES

The OCS leasing schedule issued by the Department of Interior in January 1977, together with Secretary Andrus' May 1977 revision and the areas involved are shown in figures 1, 2, and 3. More detailed maps of proposed leasing area are set out in figures 4, 5, 6, and 7.

The following are the sequential steps and the average time intervals leading to an OCS lease sale decision.

Call for nominations and comments

From the industry and from the public.

To provide a basis for determining the actual area to be investigated for a future possible lease sale.

Tract selection

Follows the call for nominations and comments by about three months.

Defines the actual area on which a draft environmental impact statement will be prepared.

Draft environmental impact statement

Follow the tract selection announcement by about 3 months.

Evaluates the impacts and examines the alternatives of a proposed specific leasing area.

Basic data are collected and examined which include the geology, climate, physical oceanography, biological environment, and natural phenomena unique to the specific area of the proposed sale.

Specific data include the rate and flow of tides and currents, air and water quality, seasonal temperatures and winds, the marine communities of plants and aquatic life, wildlife of any island landmass in the specific area, commercial and sport fishing, ship traffic, navigation, and military uses, beach oriented and other forms of recreation.

Public hearings

Follows publication of the draft environmental impact statement by about 2 months.

Gives all interested parties (industry, environmental groups, State and local governments, educational institutions, the financial and business community, research organizations, labor, and the general public) an opportunity to record their views concerning the proposed sale.

Final environmental impact statement

Follows the public hearings by about 3 months.

Reflects testimony from witnesses.

Provides data and additional information to help the Secretary of the Interior fully evaluate potential effects of the proposed sale, including aquatic resources, aesthetics, recreation, and historic and cultural values of the area which could be affected during the exploration, development, and operation phases of lease development.

Is submitted to the President's Council on Environmental Quality (CEQ).

Decision whether to hold a sale

Follows at least 30 days after publication of the final environmental impact statement.

Secretary's decision may include specific environmental restrictions in the terms of lease sale and lease stipulations, or the decision may include deletion of certain tracts from the list of tracts to be offered for lease sale.

Sale

30 days after decision.

From the time a lease is awarded to a successful high bidder until actual wells are drilled, a deposit of crude or natural gas is discovered, and a production plan is made and approved, an average of 2 to 3 years may have elapsed.

FIGURE 1

PROPOSED OCS PLANNING SCHEDULE

January 1977
(Revises June 1975 Schedule)

SALE AREA	1976						1977												1978												1979												1980											
	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
44 Gulf of Mexico			F		N	S																																																
CI Cook Inlet			P			F		N	S																																													
47 Gulf of Mexico					E	P			F	N	S																																											
42 North Atlantic				E		P				F		N	S																																									
43 South Atlantic								E			P		F		N	S																																						
46 Kodiak									E			P			F		N	S																																				
45 Gulf of Mexico							T			E			P			F		N	S																																			
48 Southern California	C		D				T					E			P			F		N	S																																	
49 Mid-Atlantic					C		D			T							E	P			F		N	S																														
Beaufort Sea (near shore)									State - Federal Sale										1/																																				
51 Gulf of Mexico							C		D			T						E	P			F		N	S																													
53 General Pacific							C		D					T					E		P			F		N	S																											
54 S. Atlantic Blake Plateau											C		D			T					E		P			F		N	S																									
50 Beaufort Sea 2/													C		D			T					E		P			F		N	S																							
55 Northern Gulf of Alaska																C		D			T					E		P				F		N	S																			
52 North Atlantic																	C		D			T					E		P				F		N	S																			
56 South Atlantic																				C		D			T					E			P			F		N	S																
58 Gulf of Mexico																					C		D			T						E		P			F		N	S															
57 Bering - Norton																							C		D			T						E		P			F		N	S													
59 Mid-Atlantic																										C		D			T						E		P			F		N	S										
60 Bering Sea St George																												C		D			T						E		P			F		N	S								
61 Cook Inlet																															C		D			T						E		P			F		N	S					
62 Gulf of Mexico																																C		D			T						E		P			F		N	S				
63 General Pacific																																		C		D			T						E		P			F		N	S		
64 Kodiak - Aleutian																																				C		D			T						E		P			F		N	S

C - Call for Nominations
D - Nominations Due
T - Announcement of Tracts
E - Draft Environmental statement
1/ State May Conduct Sale

P - Public Hearing
F - Final Environmental Statement
N - Notice of Sale
S - Sale
2/ Within 60 Foot Isobath or Technology Capability

Sales are contingent upon technology being available for exploration and development. A decision whether to hold any of the lease sales listed will not be made until completion of all necessary studies of the environmental impact and the holding of public hearings, as a result of the environmental, technical, and economic studies employed in the decision making process, a decision may, in fact, be made not to hold any sale on this schedule.

Curt Berklund
Director, Bureau of Land Management

FIGURE 2

PROPOSED OCS PLANNING SCHEDULE FOR SALES THROUGH 1978

May 1977

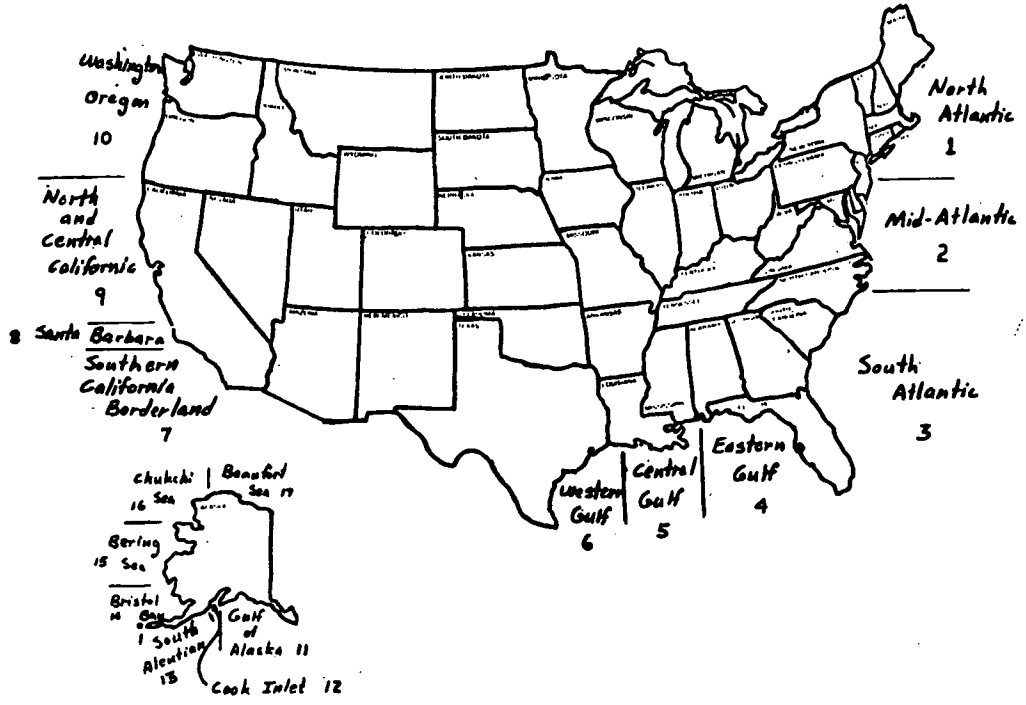
SALE AREA	1976							1977											1978											1979											1980										
	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
47 Gulf of Mexico				T				E	P		F				N	S																																						
13 Cook Inlet				E	P				F									N	S																																			
42 N. Atlantic							E		P								F		N	S																																			
43 S. Atlantic											E	P							F			N	S																																
45 Gulf of Mexico									T				E		P					F			N	S																															
65 Eastern Gulf of Mexico														C	D	T							E		P			F	N	S																								
51 Gulf of Mexico											C		D		T									E		P			F		N	S																						
49 Mid-Atlantic								C		D						T									E		P				F		N	S																				

C - Call for Nominations
D - Nominations Due
T - Announcement of Tracts
E - Draft Environmental statement
P - Public Hearing
F - Final Environmental Statement
N - Notice of Sale
S - Sale

Sales are contingent upon technology being available for exploration and development. A decision whether to hold any of the lease sales listed will not be made until completion of all necessary studies of the environmental impact and the holding of public hearings as a result of the environmental, technical, and economic studies employed in the decision making process, a decision may, in fact, be made not to hold any sale on this schedule

SECRETARY

FIGURE 3


Washington
Oregon
10
North and central California
9
8 Santa Barbara
Southern California Borderland
7
North Atlantic
1
Mid-Atlantic
2
South Atlantic
3
Eastern Gulf
4
Central Gulf
5
Western Gulf
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Beaufort Sea 17
Bering Sea
15
Bristol Bay
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South Aleutian
13
Gulf of Alaska 11
Cook Inlet 12

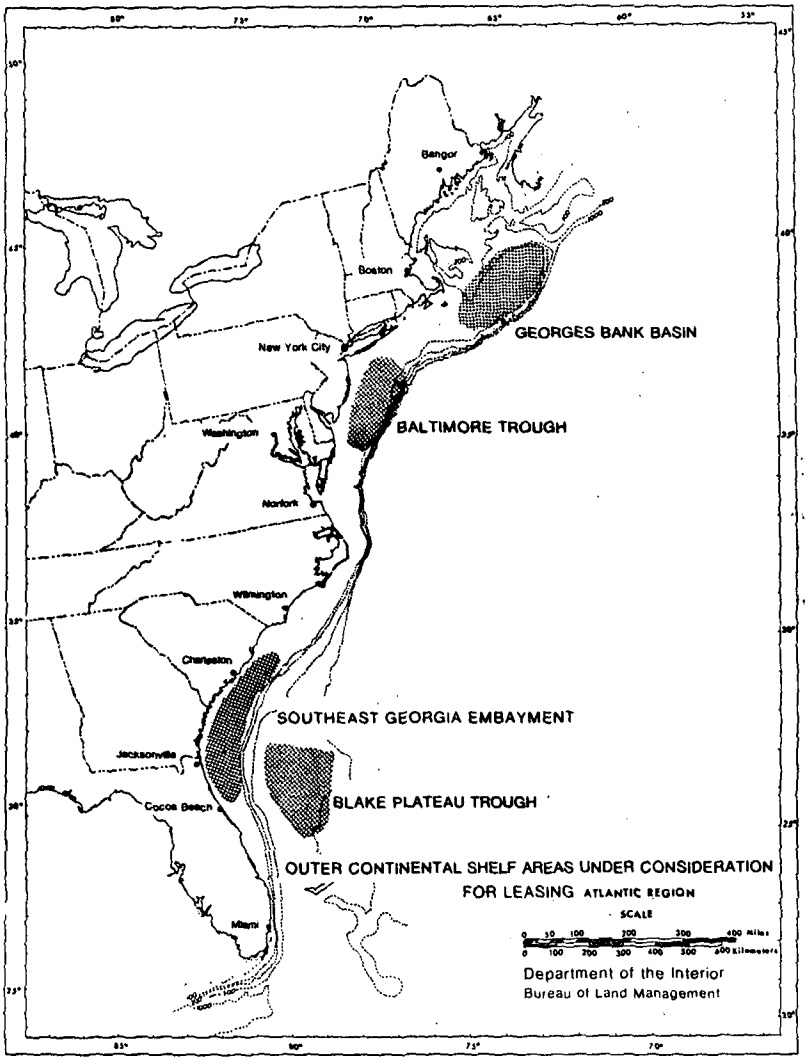
Bangor
Boston
New York City
Washington
Norfolk
Wilmington
Charleston
Jacksonville
Cocoa Beach
Miami
GEORGES BANK BASIN
BALTIMORE TROUGH
SOUTHEAST GEORGIA EMBAYMENT
BLAKE PLATEAU TROUGH
OUTER CONTINENTAL SHELF AREAS UNDER CONSIDERATION
FOR LEASING ATLANTIC REGION
SCALE
Department of the Interior
Bureau of Land Management

FIGURE 4

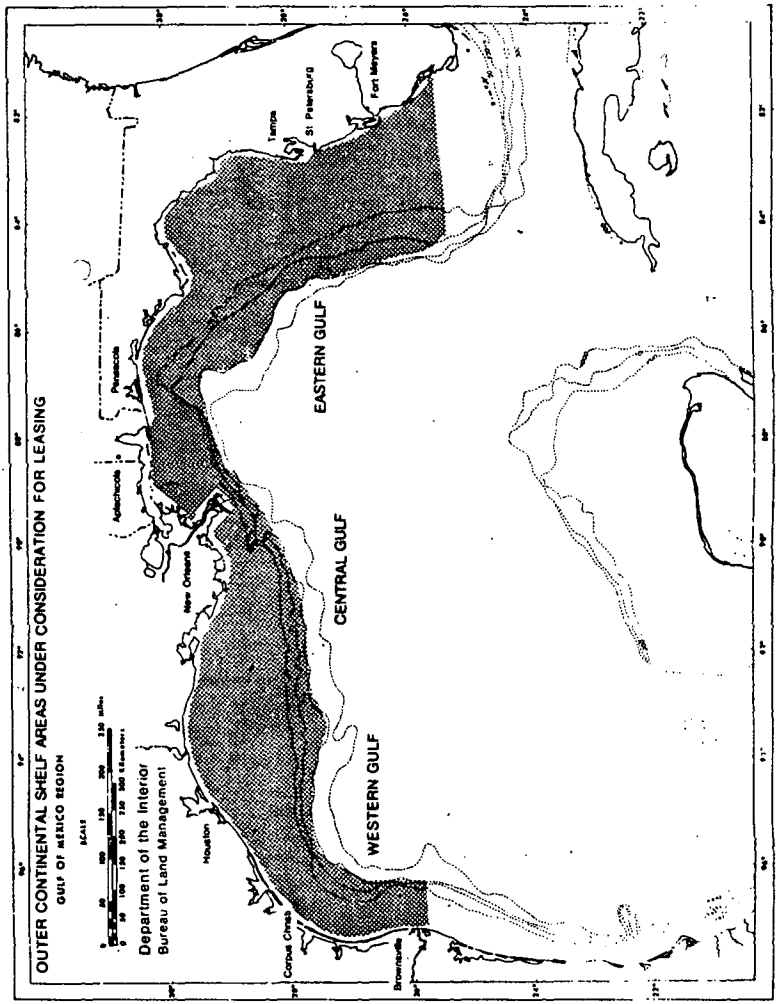
OUTER CONTINENTAL SHELF AREAS UNDER CONSIDERATION FOR LEASING
GULF OF MEXICO REGION
SCALE
Department of the Interior
Bureau of Land Management
EASTERN GULF
CENTRAL GULF
WESTERN GULF
Pensacola
Apalachicola
New Orleans
Houston
Corpus Christi
Brownsville
Tampa
St. Petersburg
Fort Meyers

FIGURE 5

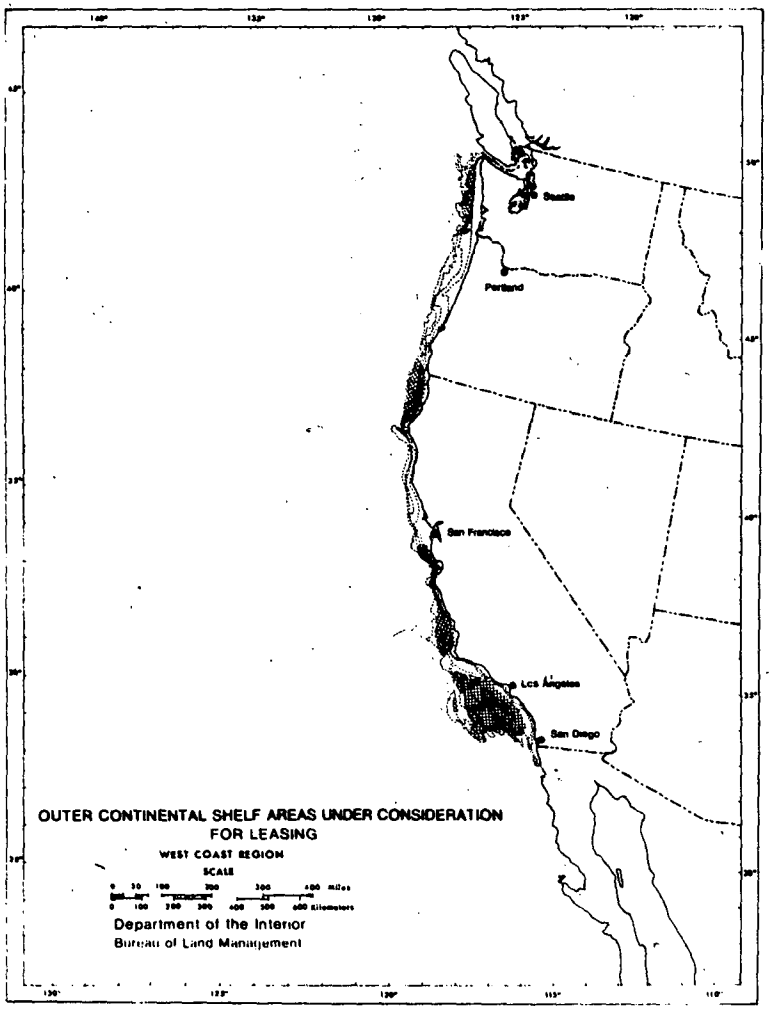
Seattle
Portland
San Francisco
Los Angeles
San Diego
OUTER CONTINENTAL SHELF AREAS UNDER CONSIDERATION
FOR LEASING
WEST COAST REGION
SCALE
Department of the Interior
Bureau of Land Management

FIGURE 6

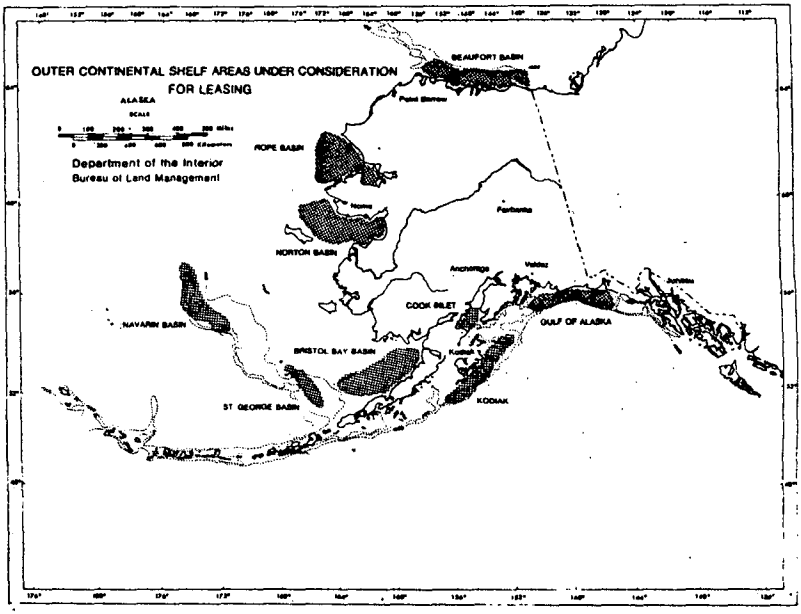
OUTER CONTINENTAL SHELF AREAS UNDER CONSIDERATION
FOR LEASING
ALASKA
SCALE
Department of the Interior
Bureau of Land Management
BEAUFORT BASIN
ROPE BASIN
NORTON BASIN
NAVARIN BASIN
BRISTOL BAY BASIN
ST GEORGE BASIN
COOK INLET
GULF OF ALASKA
KODIAK

FIGURE 7.

GENERAL ACCOUNTING OFFICE REPORTS ON CURRENT OCS LEASING PROGRAM AND PROCEDURES

In view of the great significance of Outer Continental Shelf oil and gas development, the General Accounting Office has been conducting an intense in depth study of the current leasing policies and procedures.

The Committee believes that all those concerned with revision of the Outer Continental Shelf Lands Act of 1953 should be aware of the very significant findings of the first two GAO reports. The digests of the reports follow:

Digest of the report on Outlook for Federal Goals to Accelerate Leasing of Oil and Gas Resources on the Outer Continental Shelf by the Comptroller General of the United States, March 19, 1975

DIGEST

Why the review was made

Development of oil and gas resources on the Outer Continental Shelf is recognized as one way to lessen U.S. dependence on foreign energy supplies. However, there is considerable controversy over Department of the Interior plans for Shelf leasing.

This report, first of a series on Federal leasing policies and practices, focuses on how Interior determined its goal for accelerating leasing of oil and gas resources on the Shelf, how this goal is related to Project Independence, and constraints which may and constraints which may hinder its accomplishment.

Findings and conclusions

Until 1971 there was little orderly planned development of the Shelf. The Shelf oil and gas leasing program was influenced heavily by industry interest and the desire to generate revenues for the Treasury. (See p. 6.)

Federal leasing goals had changed significantly in less than 4 years. The leasing goal increased from 1 million acres in 1971 to 10 million acres in 1974—only 0.8 million acres less than the total acreage leased in the 20-year period of the Federal Shelf leasing program. (See p. 6.)

Interior officials indicate a softening in their earlier firm position to lease 10 million acres. At a November 1974 conference of coastal States Governors, the Secretary of the Interior said that the administration was "not wedded' 'to leasing 10 million acres in 1975, but "was wedded" to the idea of beginning leasing in the frontier areas, in addition to the Gulf of Mexico.

The Secretary stated that Interior must proceed expeditiously with the preparatory steps for six proposed offers in 1975. It is unclear at this time what amount of acreage would make up the six offers. No new acreage goals were announced for 1975 or subsequent years. An Interior official told GAO in January 1975 that Interior program personnel were still working toward a 10 million acre leasing goal.

Unrealistic leasing goal

Interior established the accelerated leasing goal of 10 million acres without carefully analyzing and considering several factors and problems affecting the goal's soundness.

GAO found that the goal was:

Hastily conceived by Interior under pressures exerted by the energy crisis and the newly formed Federal Energy Administration;

Developed with little input by the Interior operating levels and based on overly optimistic assumptions and inadequate data;

Adopted by Interior policy officials despite opposition from program personnel; and

Developed and adopted without adequate consideration of environmental impacts, national-regional supply-and-demand needs, or alternatives to large scale expansion of Shelf leasing. (See p. 4.)

Interior's analysis of production which could be expected from accelerated leasing was limited due to the tight response deadline set by Interior officials. At most, 2 weeks' time was spent drafting the accelerated leasing proposal which was announced by the President in January 1974. (See p. 8.)

Acreage leasing goals not related to Project Independence

Interior's decision to lease 10 million acres was reached before the Project Independence study was initiated in March 1974.

Although the study assumed that accelerated Shelf leasing would play a key role in providing future oil and gas supplies, the Project Independence production estimates were not tied to Interior's stated goal to lease 10 million acres in 1975 or to any other acreage goal. (See p. 12.)

Also, bases used in estimating production and the production estimates differ.

Interior's January 1974 estimates of production by 1985 were based on leasing 50 million acres during the 5-year period 1975–79, or an average of 10 million acres a year. The Project Independence production estimates were not based on acreage but on drilling estimates for each Shelf area.

GAO's rough calculations show that from 15 to 28 million acres would have to be leased and drilled by 1985 to satisfy the Project Independence assumptions. The total acreage leased would in all likelihood be higher than 15 to 28 million acres because a timelag generally exists between leasing and the start of drilling.

Interior estimated that oil production would reach 7 billion barrels a year by 1985. Compared with this projection, Project Independence crude oil production estimates were about five times lower.

Interior officials told GAO that revised production estimates given to the House Appropriations Subcommittee on Interior and Related Agencies in October 1974 were consistent with Project Independence projections. These projections, however, were based on a 1-year leasing program of 10 million acres in 1975 and are not comparable to Project Independence estimates which covered a 12-year period and assumed that unlimited acreage would be available for accelerated leasing.

Although lower than Interior's estimates, the Project Independence production estimates are based on optimistic production conditions.

For example, the estimates allow only a 1-year timelag between

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exploratory drilling and production, compared to industry estimates of 3 to 8 years in the Atlantic.

By changing the leadtime variables alone, GAO estimated that the 1985 production from the Atlantic—under optimistic conditions of 3 years' delay—would be about 126 million barrels, or 53 million barrels a year less than the Project Independence estimate. (See p. 13.)

Under the less optimistic estimate of 8 years' delay, 1985 production from the Atlantic would be 14 million barrels, or 165 million barrels less than the Project Independence estimate.

GAO believes that the Secretary of the Interior should clearly define Shelf leasing goals and specify how these goals will be met and how they relate to national energy goals and plans. (See p. 16.)

GAO believes that the real issue in defining leasing goals concerns the magnitude of a leasing program and not necessarily the number of acres, although traditionally this has been the principal indicator of magnitude. Without clear guidance as to the magnitude of a leasing program, GAO questions whether Government or industry planning can be effectively accomplished. (See p. 16.)

Constraints to expanded production

A number of studies have been made of availability of materials, equipment, manpower, capital, and other related services needed for accelerated exploration of the Shelf. The predicted importance and impact of reported shortages remain questionable.

However, GAO found agreement that existing and predicted shortages will to some degree limit the ability of industry to expand exploration and development of the Shelf. (See p. 30.)

Industry representatives told GAO that actions must be taken in several broad policy areas to minimize constraints to production, including:

Implementation of a national energy policy which will be a focal point and provide guidance for an overall planning approach to leasing oil and gas and other energy resources.

Removal of leasing uncertainties so that industry resources (manpower, equipment, materials, and capital) can be planned for and managed properly.

A decision at an early date regarding the depletion allowance and price controls of oil and natural gas.

Development of timely, efficient, and effective methods for environmental assessment and realistic assessment of tradeoff between energy needs and environmental hazards.

Accelerated research to improve technology for exploration and production in deep water and more hostile environments of Alaska and other frontier areas. (See p. 25.)

Quality of Government's valuation program jeopardized by accelerated leasing goal

If projected leasing schedules are maintained, the Government's lease valuation program will be jeopardized.

The lower quality and/or lack of evaluation made necessary by inadequate staffing will mean increased reliance on bid-competition as the only means to insure that fair market value is received for leased

resources. The Government's tract selection and valuation practices are inadequate even at much slower leasing rates. (See p. 25.)

Survey officials told GAO that there will be major problems trying to evaluate all the acreage tentatively planned for offer in May 1975 and indicated that their approach probably will be to first evaluate what appears to be the best prospective acreage and, if time is available, to evaluate the lower quality acreage. (See p. 26.)

In December 1974 Survey was experiencing delays in filling the authorized positions necessary for carrying out evaluation aspects for the lease offers. (See p. 25.)

The main alternative to hiring is to contract for assistance to supplement the Government's valuation work. But, according to Survey, qualified contractors are straining to keep up with demand placed on them by industry and their assistance may not be available for some time. (See p. 26.)

Survey has already experienced delays in receiving some data interpretations from contractors for recent offers. Further, by contracting out such interpretive work to companies doing business with industry on a day-to-day basis, objectivity of the results is seriously open to question. (See p. 26.)

The Secretary of the Interior should reconsider the accelerated Shelf leasing schedule in the light of Government and industry capabilities and possible alternatives to leasing in new Shelf areas as addressed in the Project Independence analysis and the President's subsequent national energy and economic proposals. (See p. 31.)

Prospects for industry response to accelerated leasing program

A common view of industry is that new or "virgin" Shelf areas should be leased as soon as possible because of their resource potential.

The prospects that a planned Gulf of Mexico lease offer scheduled for May 1975 will be sought vigorously by industry and contribute significantly to the success of the accelerated lease program are not encouraging because:

Industry interest in tracts for these offers has been disappointing, and will continue the downward trend.

The trend in bids per tract by industry for recent offers has also been downward.

Interior and industry consider the potential resources which are considered to be primarily gas to be marginal. Industry argues this is due partially to the low price of federally controlled gas. (See p. 27.)

Gluttingthe market with large acreage offerings inthe Gulf likely will continue to lower the average bid price an acre. However, these offerings are being scheduled at the present time, apparently because there are no other Shelf areas available for immediate leasing. (See p. 27.)

Industry interest for the initial offerings in the new frontier Shelf areas cannot be projected on the basis of recent trends in the Gulf of Mexico. (See p. 27.)

The relatively low level of industry interest in the Gulf is the result of over 20 years' exploration during which areas with best potential have been offered and leased. The same trends could develop for the other Shelf areas over a comparable period of time. (See p. 27.)

Regardless of the general quality of tracts offered, industry has shown in recent offers that the most promising prospects will continue to attract high bids. (See p. 28.)

The eight largest petroleum companies are expected to secure a substantial share of the acreage to be leased in the initial offers of frontier acreage of the Atlantic and Alaska.

The smaller petroleum companies are not expected to be major competitors for the frontier Shelf areas because of high risks and costs associated with their exploration and development. (See p. 30.)

Recommendations

The Secretary of the Interior should:

Clearly define Shelf leasing goals and specify how these goals will be met and how they relate to overall national energy goals and plans, and

Reconsider the accelerated Shelf leasing schedule in the light of Government and industry capabilities and possible alternatives to leasing in new Shelf areas as addressed in the Project Independence analysis and the President's subsequent national energy and economic proposals.

Agency actions and unresolved issues

GAO reviewed Interior's draft comments and considered them in preparing this report. The Federal Energy Administration did not make their draft comments available for GAO's review. Final agency comments on this report were not received in time to be considered.

Matters for consideration by the Congress

This report contains information on a critical Federal policy decision regarding leasing of the Outer Continental Shelf, which has far reaching implications on the direction of future energy resources development. Early attention and resolution of the issues discussed in this report is important for the success of any program which may be established for increasing domestic oil and gas production. The Congress now has before it for consideration several major energy proposals related to these issues.

Digest of the Report on Outer Continental Shelf Oil and Gas Development—Improvements Needed in Determining Where to Lease and At What Dollar Value by the Comptroller General of the United States, June 30, 1975

DIGEST

Development of oil and gas resources on the Outer Continental Shelf is recognized as one way to lessen U.S. dependence on foreign energy supplies. Interior and the Federal Energy Administration indicate that much of the increase in future U.S. domestic oil and gas production will have to come from the Shelf.

GAO recommended that the Secretary of the Interior take steps to improve the Federal Government's programs for deciding where to lease potential offshore oil resources, and at what dollar value.

Recommendations broadly outlined below call for:

Interior to direct an exploration program for a systematic plannned appraisal of Outer Continental Shelf oil and gas resources, including selective stratigraphic test drilling in Shelf areas before leasing. (See pp. 15 and 35.)

Industry involvement in resource appraisal through exploration permits and Government-financed exploration to insure implementation of federally planned efforts. (See pp. 15 and 35.)

Federal regulations aimed at providing the Government and the general public with geotechnical information. (See pp. 15 and 35.)

Procedures for periodic assessment of economic factors used in valuing resources and adjusting such factors on the basis of the most current information available. (See p. 36.)

Pacing lease offers at a frequency which will permit Interior to adequately consider geotechnical data in its Shelf valuation programs. (See p. 36.)

Establishing a test program to evaluate, offer, and lease entire geological structures as opposed to the present practice of leasing tracts. Unitization of exploration and development activities would be required for test purposes. (See p. 41.)

This report, second of a series on Federal leasing policies and practices concludes that the Federal Government's Shelf evaluation programs:

Are hindered by inadequate data and analysis,

Do not reasonably insure that a fair market value return is received on lease offers of shelf oil and gas resources, and

Are being jeopardized by an accelerated leasing pace.

Interior said it was studying all the issues presented in the report and while it saw positive features to implementing the recommendations it felt there were many drawbacks to the recommendations.

Interior agreed to withhold lease offers until it could adequately consider geotechnical data, and in April 1975 announced proposed regulations providing for availability of geotechnical data for Government and public use. (See p. 34.)

Interior is generally opposed to federally financed exploration including stratigraphic test drilling but it favors industry financing of such exploration. Also, Interior favors a benefit-cost analysis of structure leasing before proceeding with a test program. (See p. 14.)

GAO believes in a sound balanced approach to the development of the oil and gas resources on the Outer Continental Shelf. The Government's direction and financing are essential to insure that exploratory activities are sufficiently broad to implement a systematic plan for resource appraisal in the public interest. (See p. 13.)

GAO also believes a test program to evaluate, offer, and lease entire geological structures will allow the merits of a structure leasing proposal to be analyzed and evaluated.

Legislation now pending before the Congress deals with these issues and with expanding the Federal Government's role in developing the mineral resources of the Outer Continental Shelf. The major bills now before the Congress include S. 426, S. 521, and H.R. 6218. Matters discussed in this report should be of interest to the Congress in considering the proposed legislation.

OUTER CONTINENTAL SHELF SALE NO. 35—PROBLEMS SELECTING AND EVALUATING LAND TO LEASE

Department of the Interior

Digest

More and more the Nation is relying on the Outer Continental Shelf leasing program for increasing our domestic oil and gas production to meet our near term energy needs. Decisions on where to lease and at what rate will greatly affect whether we attain our goal of decreasing our reliance on foreign energy supplies.

The Department's policy of leasing the maximum resource in minimum time could adversely affect our domestic energy production. This policy encourages speculation in the Outer Continental Shelf lands and can tie up industry capital in lands with no or minimal resources and infringe on the public's right to receive fair market value for the resources. The Department of the Interior offered 231 oil and gas tracts for lease (about 1.3 million acres) on the Outer Continental Shelf off southern California on December 11, 1975. The tracts were offered to the highest industry bidders, who are required to develop the tracts for oil and gas.

Actual tracts leased fell far short of the Department's presale estimates that two-thirds would be leased for about $2.3 billion. (Only 24 percent of the tracts were leased and for $417 million.) Interior leased the tracts without reliable knowledge of the resources they contained, which compounded problems, as the report shows.

The report examines (1) the tract selection and prelease evaluation procedures and (2) how various estimates of revenue were derived.

Adequacy of tract selection

The Department selected tracts for lease after reviewing only minimal and inadequate data and before assessing the true resource development potential of the land. (See pp. 20 and 24.)

The Department's presale value indicated that 195 (84.4 percent) of the tracts offered for lease contained either no resources or insufficient resources to make a profit. (See p. 24.) The tracts offered for lease included

128 (55.4 percent) in water too deep for production, based on present technology, (See p. 22.) and

50 (21.6 percent) selected solely for meeting an acreage goal, even though the Department believed there was little resource development potential. (See p. 22.)

Adequacy of tract evaluation

Beforehand, each tract being offered for lease is assigned an independent evaluation of its worth to (1) determine the acceptability of industry bids and (2) assure that the Government receives a fair market value return for the lease of public resources.

The Department's prelease tract evaluation for Sale No. 35 were made using inadequate data. As a result, estimates of tract values were not reliable and could not reasonably assure that the public received a fair market value return from the leases.

The results of this sale also indicated a lack of competition; of the 231 tracts offered only 70 received bids. The majority of the tracts bid on (70 percent) received only one or two bids. (See p. 30.)

Adequacy of revenue estimates

Revenues received from Outer Continental Shelf leases are deposited in the U.S. Treasury; consequently, the Government must predict how these sales will affect the Federal budget, so the budget for the next fiscal year can be properly prepared. The Department provides these revenue estimates to the Office of Management and Budget.

The Department's current revenue estimating process for Outer Continental Shelf sales is based on inadequate information and overly optimistic estimates and relies on various errors cancelling each other out. (See p. 6.) In Sale No. 35, for example, the Department based its revenue prediction on a broad-brush, undetailed resource estimate for the sale area and an anticipated two-thirds leasing rate, which is nearly three times the percentage of acres actually leased. This resulted in over-estimating the results of Sale No. 35 by 5 times the actual bonus revenues received. (See p. 6.)

Recommendations to the Secretary of the Interior

The Secretary of the Interior should direct a geological exploration program which would implement a systematic plan for appraising Outer Continental Shelf oil and gas resources, including selected stratigraphic test drilling. The plan should identify the level of stratigraphic drilling necessary to provide a minimal level of data on major shelf areas.

After the plan has been developed, the Secretary should encourage private industry to explore areas identified in the plan and confidentially share with Interior the information developed. Exploration permits issued by the Department for private drilling should provide the opportunity for any bonafied potential bidders to "buy-in" on the exploration by equally sharing the cost of the drilling.

After Interior knows what land industry has explored and how thoroughly it was explored, if any data is still needed, the Department of the Interior should take necessary actions, including public financing of stratigraphic drilling, to obtain it.

In addition, after the tract selection process is completed, the process outlined above should be repeated to obtain more reliable data for prelease evaluation purposes.

The Geological Survey and the Bureau of Land Management should be required to consider all necessary information and make final corrections to tract values before lease. Then, the Department should offer for lease only those areas for which it has collected and analyzed sufficient information to adequately indentify where the resources are, their estimated value, and potential for development in the near future.

The Department questioned whether GAO's recommendation would yield benefits in excess of costs for such a program. However, it has never chosen over the past several years to undertake any cost-benefit analysis to support its position. By separate letter to the Secretary, GAO has encouraged the Department to initiate such an analysis. In the meantime, GAO believes there is compelling evidence, as demonstrated in this report, that the present system is wholly inadequate to

protect the public interest and its resources and accordingly recommends proceeding with the program outlined in its report. Such a cost-benefit analysis may be helpful in evaluating the usefulness of such a program. However, GAO believes that no cost-benefit study can substitute for actual experience from a Government financed drilling program.

Recommendation to the Congress

Selecting tracts with the best potential for resource development and valuing them reliably to assure that the public receives a fair market value return can only be done well if enough geotechnical data exists when decisions are made. The 94th Congress considered a bill (S. 521) which directed the Secretary to conduct a survey program of Outer Continental Shelf oil and gas resources. As part of the survey program the Secretary was authorized to either contract for, or purchase, required geotechnical information (including stratigraphic drilling) which is not available from commercial sources. At the close of the 94th Congress this bill was with the Conference Committee to work out differences between House and Senate versions.

In April 1975 GAO testified before the Senate Committees on Interior and Insular Affairs and Commerce regarding the need for improved policies and procedures for the rational exploration and development of Outer Continental Shelf fossil fuel resources. At that time GAO endorsed the overall thrust of legislation designed to improve the Government's ability to deal with Outer Continental Shelf exploration and development problems.

Bills (S. 9 and H.R. 1614) identical to S. 521 have been introduced into the 95th Congress.

The recommendation in this report is in line with the thrust of provisions in the proposed legislation to provide for an Outer Continental Shelf leasing program that will identify size, timing, and location of leasing to meet national goals and to assure receipt of a fair market value for the oil and gas owned by the Federal Government. GAO recommends the Congress favorably consider this legislation.

Agency actions and unresolved issues

The Secretary of the Interior reserved judgment on issues discussed in this report until he had time to formulate his position on many items relating to Outer Continental Shelf lease sales. (See app. VII.) The Secretary and the Director, Office of Management and Budget, (see app. VI) expressed concern with the cost of obtaining additional data and believed GAO has not presented the cost effectiveness of a systematic exploration program.

Because of items pointed out by the Secretary and the Director, GAO revised the report where applicable. Basic differences remain and are discussed in chapter 4.

IV. Legislative History

The Congress has conducted extensive hearings and investigations into the issues involved in OCS leasing and development since at least 1970.

During the 91st Congress, the Senate Interior Committee's Special Subcommittee on Outer Continental Shelf made a report on Outer

Continental Shelf policy issues—(Committee Print, December 21, 1970).

In 1974, 4 days of hearings were held on S. 3221 (OCS Oil and Gas Development). Also the Interior Committee participated in 5 days of hearings conducted by the National Ocean Policy Study on the economic, environmental and social impacts of development of the oil and gas resources of the OCS. A major focus of these hearings was the Council on Environmental Quality's study entitled "OCS Oil and Gas—An Environmental Assessment". S. 3221 passed the Senate by a vote of 64–23.

S. 521 was introduced on February 3, 1975, and was virtually identical to S. 3221. The former Interior Committee held 5 days of joint hearings with the Committee on Commerce on S. 521 and a number of pending and interrelated bills to amend the OCS Lands Act of 1953 and the Coastal Zone Management Act of 1972. The Coastal Zone Management Act legislation (S. 586) became public law (P.L. 94–370). These hearings were printed as Outer Continental Shelf Lands Act Amendments and Coastal Zone Management Act Amendments (94–14, parts 1 and 2).

S. 521 passed the Senate by a vote of 67–19 on July 17, 1975.

The House Ad Hoc Select Committee on the Outer Continental Shelf held 22 days of hearings on H.R. 6218. Passage of that bill resulted in the Conference Committee Report on S. 521 of September 20, 1976. As introduced, S. 9 was identical to the Conference Report.

S. 9 was the subject of 4 days of hearings before the new Senate Committee on Energy and Natural Resources in March and April of 1977. During those hearings, testimony was received from Administration witnesses, environmental groups and various other public interest groups. The Administration testified in support of the bill.

Additionally, the committee received testimony from Governors and officials of affected coastal States, industry, professional associations and other interested groups. Also, committee staff and the staffs of members of the committee participated in seminars conducted by divers, geologists, and industry representatives who explained various aspects of OCS activities.

The committee began marking up the bill on May 11 and reported it out on June 16, 1977.

During its long consideration of OCS matters, the committee has also had the benefit of the publications of The National Ocean Policy Study relating to OCS development. These are: "Outer Continental Shelf Oil and Gas Development and the Coastal Zone" (November, 1974); "North Sea Oil and Gas: Impact of Development on the Coastal Zone" (October, 1974); and "Outer Continental Shelf Oil and Gas Leasing Off Southern California: Analysis of Issues" (November, 1974).

In addition, the Interior Committee has conducted several hearings dealing with OCS matters. These have been printed as Outer Continental Shelf Policy Issues (92–27, parts I–III); Federal Leasing and Disposal Issues (92–32); and Trends in Oil and Gas Exploration (92–33, parts I and II).

The Committee also received a study from the Office of Technology Assessment—"An Analysis of the Feasibility of Separating Explora-

tion from Production of Oil and Gas on the Outer Continental Shelf" (May, 1975). The Committee has also had the benefit of three reports of the General Accounting Office—"Outlook for Federal Goals to Accelerate Leasing of Oil and Gas Resources of the Outer Continental Shelf" (March 19, 1975); "Outer Continental Shelf Oil and Gas Development—Improvements Needed in Determining Where to Lease and What Dollar Value" (June 30, 1975); and "Outer Continental Shelf Sale No. 35—Problems Selecting and Evaluating Land to Lease" (GAO Report, March 7, 1977). Finally, a report of the Congressional Research Service, Library of Congress entitled "Federal Leasing of Petroleum on the Outer Continental Shelf," published by the Committee in January, 1976, and two Office of Technology Assessment reports entitled "Federal Role in OCS Oil and Gas Development" (May, 1977) and "Coastal Effects of Offshore Energy Systems" (November, 1976) were of considerable assistance to the committee.

V. Committee Recommendation and Tabulation of Votes

The Committee on Energy and Natural Resources recommends that S. 9, as amended, be approved by the Senate.

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes of the Committee during consideration of S. 9:

1. During the committee's consideration of the Outer Continental Shelf Lands Act Amendments of 1977, many voice votes and formal roll call votes were taken on amendments to the bill. These votes were taken in open public session and, because they were previously announced by the committee in accord with the provisions of section 133(b), it is not necessary that they be tabulated in the committee report.

2. S. 9 was ordered favorably reported to the Senate on a roll call vote of 14 yeas and 4 nays. The vote was as follows:

Jackson, Yea; Church, Yea (by proxy); Metcalf, Yea (by proxy); Johnston, Yea; Abourezk, Yea; Haskell, Yea; Bumpers, Yea; Ford, Yea (by proxy); Durkin, Yea; Metzenbaum, Yea; Matsunaga, Yea; Hansen, Nay; Hatfield, Yea (by Proxy); McClure, Yea (by proxy); Bartlett, Nay; Weicker, Yea; Domenici, Nay; and Laxalt, Nay (by proxy).

VI. Committee Amendments

During the course of markup the committee adopted approximately 100 amendments to S. 9. While many of these were technical, there were a number of significant changes. The most significant of these are outlined below.

1. Revision of bidding and lease administration, section 205.—The Committee struck from the bill the so-called "Phillips Plan", the 1 percent cash bonus bid provision. Added to the bill is a new bidding alternative authorizing the Secretary to use a work commitment bid variable base on a dollar amount for exploration.

2. Grandfather clauses on exploration, and development and production plans.—The first amendment (section 206) exempts those leases

on which a drilling permit has already been issued from submitting an exploration plan under the requirements of the new section. The second amendment (section 25) exempts existing lessees who have found oil or gas in commercial quantities from submitting a development and production plan as required by this new section.

3. On-structure stratigraphic drilling (section 206).—The amendment strikes the mandatory direction to the Secretary to seek applicants to drill on the geological structures which have the greatest likelihood of containing oil or gas.

4. Federal exploratory drilling (section 206).—The amendment strikes the directive to the Secretary to contract on behalf of the Federal Government for exploratory drilling.

5. Regional advisory boards (section 19).—The amendment strikes all reference to the establishment of such boards by Governors of affected coastal states. The Secretary can create such Boards by administrative action.

6. Baseline and monitoring studies (section 20).—This amendment retains the authority and responsibility for conducting such studies in the Secretary of the Interior, rather than transferring such functions to the Secretary of Commerce.

7. Fishermen's contingency fund (title IV).—This amendment establishes a fund to compensate fishermen for damages to their vessels, gear or loss of revenue caused by OCS activities.

8. Coastal State impact fund (section 506).—This amendment, amending the Coastal Zone Management Act, provides funds to affected coastal States to ameliorate the adverse impacts of OCS exploration, development, and production. A State may qualify for such funds when oil or gas is produced on OCS lands adjacent to the State, or when oil or gas is landed in its coastal zone.

VII. Section-by-Section Analysis

Section 1 contains the short title and table of contents.

TITLE 1.—FINDINGS AND PURPOSES

Section 101 sets out a number of findings about the current and future energy supply situation, and the potential role of the oil and gas resources of the Outer Continental Shelf (OCS).

Section 102 states the purposes of the act, the intent of which is clear.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL LANDS ACT

This title contains a series of amendments to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331–43) (OCS Act).

Section 201.—Definitions

This subsection defines a group of new terms found in the bill. The intent is clear.

Section 202.—National Policy for Outer Continental Shelf

Section 202 amends section 3 of the OCS Act to add a policy statement that OCS is held for all the people, and its resources should be

made available for orderly development subject to environmental safeguards.

Section 203.—Laws Applicable to Outer Continental Shelf

Section 203 amends section 4 of the OCS Act. The intent is clear.

Section 204.—OCS Exploration and Development Administration

Section 204 amends existing law by providing statutory guidelines and requirements for certain types of regulations in the administration of leasing of the OCS, while not limiting the general authority of the Secretary to promulgate any appropriate regulations.

This section is self explanatory. Most significantly, the new regulations required by this section must include provisions for, among other things:

(1) Suspension or temporary prohibition of any operation or activity pursuant to any lease for a number of specific reasons, including the threat of serious harm to the environment. The lessee can seek judicial review of such action in a U.S. District Court.

(2) Cancellation, after suspension, of any lease when continued activity would probably cause serious harm or damage to life, property, mineral deposits, the national security or defense, or to the marine, coastal, or human environments and the Secretary determines that the advantages of cancellation outweigh the advantages of development and production. Such cancellation can only occur after a hearing and the hearing would be subject to judicial review.

This section also revises section 5(e) of the OCS Lands Act to give the Secretary broadened authority over the granting of pipeline rights-of-way on the Outer Continental Shelf. Among other things, it requires the use of the best available and safest technology. The committee intends that this requirement refer to technology actually available.

These amendments and the regulations promulgated under them will apply to leases already in existence at the time of enactment of the amendments. This continuation of the provisions of the existing law is essential to protection of the marine, coastal, and human environments and implementation of the policies of this Act since outstanding OCS leases cover more than 8 million acres.

Section 205.—Revision of bidding and lease administration

Under existing law the Secretary is permitted to offer oil and gas leases on the basis of either (1) a cash bonus bid with a royalty fixed at no less than 12½ percent of the gross revenue from the lease, or (2) on the basis of a royalty rate bid with a fixed cash bonus. Since the OCS Lands Act was approved in 1953, virtually all OCS leases have been offered for cash bonus bids with a royalty rate fixed at 16⅔ of the gross value of production. The Department of the Interior held a small scale test of royalty bidding in September, 1974.

Section 205 revises subsection 8(a) of the OCS Lands Act by adding a variety of leasing options including net profit sharing, work commitment bids, diminishing or sliding royalties and variable royalty bidding.

The basic thrust of all these new options is to reduce the reliance on large front-end cash bonuses as the means of obtaining a fair price for the public's property. The committee wants to authorize lease allocation systems that would encourage the widest possible participation in competitive lease sales consistent with receipt by the public of fair market value for its resources. The committee believes that net profits share and other arrangements can be effective in shifting Government revenue away from initial bonuses and into deferred payments made out of a leaseholder's profits based on actual production of oil or gas.

The Secretary will establish accounting procedures for calculations of net profits and publish the terms and conditions of each lease sale far enough in advance to allow potential bidders to properly determine the amount they wish to bid.

New paragraph (6) of subsection 8(a) limits the use of the cash bonus bid with fixed royalty systems to not more than 66⅔ per centum of the area offered for lease each year in the regions where there has been no previous development of oil and gas.

However, if during the first year after enactment, the Secretary finds that compliance with this limitation would delay OCS development, the Secretary may exceed the limit after reporting to Congress. After the first year, the limitation could be exceeded only if either House of Congress did not disapprove the Secretary's finding.

The committee included this limitation to assure that the new leasing systems would be tried. At the same time, the committee recognizes that there could be administrative problems involved in implementing new concepts and procedures, so it provided the "escape hatch" outlined above.

Subsection (5) requires the submission of a work performance bond by lessees utilizing the work commitment bid alternative and lists some of the exploration activities which may be included in a work commitment bid.

Section 205(c) permits joint bids provided that no more than one of the companies controls world-wide production of more than 1.6 million barrels of oil or its equivalent in gas per day. An exemption to this provision may be granted, if the Secretary determines that exploration and development will occur in high risk areas where high costs of exploration require large capital expenditures only if the exemption is granted.

The committee intends that in utilizing these new bid alternatives, a wide variety of considerations should be taken into account, including, but not limited to: (i) Providing a fair return to the Federal Government; (ii) increasing competition; (iii) assuring competent and safe operations; (iv) avoiding undue speculation; (v) avoiding unnecessary delays in exploration, development, and production; (vi) discovering and recovering oil and gas; (vii) developing new oil and gas resources in an efficient and timely manner; and (viii) limiting administrative burdens on government and industry.

The committee assumes that the Secreary may, from time to time, use his authority to require bidders to submit bids in accordance with more than one of the authorized bidding systems in order to obtain statistical information useful to determine which alternatives will best accomplish the purposes of the act.

This section also provides for Federal Trade Commission review of leases, except for a class of leases to be determined by the FTC which would be unlikely to pose an anticompetitive situation, for purposes of protecting against possible antitrust violations.

Under existing law, all OCS oil and gas leases are for a primary term of 5 years. As amended by section 205, subsection 8(b) of the OCS Lands Act would permit the Secretary to issue leases with a primary term of up to 10 years where the Secretary finds the longer term is necessary to encourage exploration and development in areas of unusually deep water or adverse weather conditions, because the 5-year period may be insufficient for both exploration and the mobilization of new technology called for in the event of a discovery.

The new section also requires that before a lease may be issued, the lessee must comply with due diligence requirements on all leases in his possession.

Finally, this section provides for a system whereby the revenues from Federal leasing of a field, structure or trap which is within both the OCS and State jurisdiction, shall be equitably divided between the State and Federal Government.

Section 206.—Outer Continental Shelf oil and gas exploration

Section 206 amends section 11 of the OCS Act, providing for the procedures for exploration of areas on the Outer Continental Shelf.

Under the original Outer Continental Shelf Lands Act of 1953, any agency of the United States and any person authorized by the Secretary could conduct geological and geophysical explorations. The Department of the Interior has indicated that this provision grants it clear authority to allow any type of exploration, before a lease sale or after a lease sale, including private exploration, or public exploration, directly or by contract. The Committee decided not to alter this broad strategy over another. Therefore, it readopted, in subsection (a)(1), substantially the original language by providing that any agency or person whom the Secretary authorizes by permit or through regulation may conduct geological and geophysical exploration in the Outer Continental Shelf, provided such explorations do not interfere with operations in any leased area, and are not unduly harmful to the marine environment.

The committee recognized that the Secretary of the Interior has not authorized government exploration on OCS lands, either by his own employees or by contracted service personnel. However, it believed, based on the testimony of the Interior Department, that this Section would allow the present Secretary, or any future Secretary, to conduct or authorize such exploration activities as he deemed proper.

Section 11 adds a requirement for all holders of leases issued or maintained under this Act to submit an exploration plan to the Secretary for approval prior to exploring a leased area. Such plan may apply to more than one lease held by a lessee in a region or to more than one lessee, where there is a unification, pooling or drilling agreement. Any lessee conducting activities on their own leased area must do so in accordance with an approved exploration plan and is exempted from the permit or regulatory authorization procedures and limitations of subsection (a)(1). However, the Secretary is given the authority to require a lessee, by regulation, to obtain a permit before drilling any well, despite having approved the exploration plan.

Lessees who have acquired a drilling permit prior to the enactment of this section are not required to submit a new exploration plan.

Subsection (c) describes the contents of an exploration plan and the procedures for approval or modification of that plan. An exploration plan is to include: (1) A schedule of anticipated activities; (2) a description of equipment to be used; (3) the general location of each well to be drilled; and (4) other information deemed pertinent by the Secretary. In addition, the Secretary can, by regulation, require a lessee to submit a statement as to his development and production intentions. Such statement shall be for planning purposes only, and shall not be binding on any party.

After submission of thep lan, the Secretary has 30 days to act upon it. If he finds it consistent with the law, regulations, and the lease, he may approve it. If he finds modifications are necessary to achieve such consistency, he is to require such modifications. If he believes the plan, even if modified, would not insure safe operations, he can delay action upon the plan and suspend activities, but only pursuant to and under the circumstances permitted by regulations provided for such environmental suspensions pursuant to Section 5(a) (1) of the OCS Act.

After submission and approval of his plan, the lessee may request revisions, which would then be subject to the same approval procedures as his original plan.

The requirement of approval of a plan prior to any exploration applies to all leases issued prior to and after the date of enactment of the 1977 Act. However, the requirement is self-executing. Thus, while the Secretary can issue regulations relating to permits, he need not do so prior to issuing a permit. This will allow present lessees to continue operations, submit plans, and obtain approvals without any delay in activity.

Section 207.—Annual report

Section 207 amends section 15 of the Outer Continental Shelf Lands Act to require the Secretary of the Interior to submit an annual report in two parts within 6 months of the end of each fiscal year.

The required contents of the report are specified in the subsection and the intent of the language is clear.

Section 208.—New section of the Outer Continental Shelf Lands Act

Section 208 adds 11 new sections to the Outer Continental Shelf Lands Act.

SECTION 18—DEVELOPMENT OF OUTER CONTINENTAL SHELF LEASING PROGRAM

This section establishes a process which will permit the Secretary to weigh the environmental risks against the potential benefits from making the oil and gas available to meet national energy needs.

Subsection 18(a) directs the Secretary to prepare a 5-year leasing program. It sets out policies to be followed in preparing the program including orderly development of energy resources, environmental protection, receipt of fair market value, public participation, and intergovernmental coordination.

The leasing program should display the information for all interested Federal, State, and local government officials, the oil and gas industry, and the general public.

Subsection 18(b) requires that the program include estimates of the appropriations and staffing required to prepare the necessary environmental impact statements, obtain, analyze or interpret resource data, including environmental baseline studies and any other information needed to carry out the law including supervision of all operations to assure compliance. The committee intends that these estimates represent the Secretary's best judgment of actual needs rather than the views of the Office of Management and Budget as to what funding levels are appropriate for inclusion in the President's Budget.

Subsection 18(c) provides for submission, review and promulgation of the leasing program. No later than 9 months after the date of enactment of the 1977 Act, the Secretary is to submit a proposed leasing program to the Congress and to the Attorney General, and is also to publish it in the Federal Register. The Attorney General, within 90 days after the date of publication, is to submit comments on the anticipated effects of such program on competition. Such comments, of course, do not bind him to any future action or inaction, but are advisory only. In addition, any State, local government, or other person, including environmental organizations or Members of Congress, can submit recommendations and comments as to any aspect of the program.

This submission for and receipt of formal comments and recommendations does not, in any way, alleviate the responsibility of the Secretary to consult with State and local governments, and other interested persons, prior to the formulation of a draft program. Furthermore, the committee expects that the State Government will actively encourage local government officials to review and comment on the program. After this 90-day period, the Secretary is to submit to Congress and the President his final leasing program, together with any comments received when he submitted his earlier proposal for review. At the time of the submission of the Secretary's final program, the Secretary is to indicate why any specific recommendation by the Attorney General, or a State or local government, has not been accepted. The program does not become effective until 60 days after this submission.

Congressional oversight is, of course, always involved in the activities of any Federal Government agency. Here, specific information is to be supplied to the Congress at least 60 days prior to adoption of a final leasing program. Congress can, of course, in that period or thereafter, adopt appropriate legislation, or take any other measures, as to that leasing program.

Section 18(d) provides for comments on the proposed leasing plan from various sources which are listed in subsection 18(a)(1) and the intent is clear. Subsection 18(d)(2) provides for submission of the proposed plan and the comments to the President and Congress within 60 days.

Subsection 18(d)(3) provides that after the leasing program has been approved by the Secretary, or after 18 months following the date of enactment of this section whichever comes first, no OCS lease may

be issued unless it is for an area included in the approved leasing program. The committee believes that a 5-year leasing program should be adopted, in accordance with this act, as quickly as possible.

There is intended to be no delay or interruptions in lease sales. During the period of time that the proposed leasing program is being considered and determined, leasing is to continue as heretofore. Once the leasing program is approved, leasing is to continue under that program. If the approved leasing program is under judicial challenge leasing can continue until judicial review is completed.

Subsection 18(e) provides that the Secretary may revise and reapprove the leasing program at any time and he must review and reapprove the leasing program at least once each year. The requirement for annual reapproval is designed to assure that the program fully reflects information and changing conditions. Obviously, substantial changes in the program may be required in some years, while in others there may be little or no change.

Subsection 18(f) directs the Secretary to establish procedures for receipt and consideration of nominations for areas to be offered for lease or to be excluded from leasing, for public notice of and participation in development of the leasing program, for review by State and local governments which may be impacted by the proposed leasing, and for coordination of the program with management programs established pursuant to the Coastal Zone Management Act of 1972. These procedures will be applicable to any revision or reapproval of the leasing program.

The Secretary uses a nomination process at the present time. The committee wants to be sure that this form of industry and public participation in the leasing program is continued.

Subsection 18(g) authorizes the Secretary to obtain from public sources or to purchase from private sources, any surveys, data, reports, or other information (including interpretations of such data, surveys, reports, or other information) which may be necessary to assist him in preparing environment impact statements and making other evaluations required by this act. The Secretary must maintain the confidentiality of all proprietary data or information for such period of time as is agreed to by the parties. This confidentiality requirement is designed to allow the Secretary to negotiate for the purchase of data on the basis that it will be kept confidential for as long as the seller wishes. Requiring the public release of all purchased data at any particular time would tend to lead data owners to refuse to sell the data to the Secretary. This provision allows the Secretary and the owner of the information to work out a mutually acceptable arrangement. It is also the intent of the committee that the Secretary will avoid duplication of data collection efforts wherever possible.

Subsection 18(h) authorizes and directs the heads of all Federal departments or agencies to provide the Secretary with any nonproprietary information he requests to assist him in preparing the leasing program.

Section 19.—Coordination with affected States and local governments

This section provides that if a Governor of a potentially affected State, makes a specific recommendation to the Secretary regarding the size, timing or location of a proposed lease sale, or on a proposed de-

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velopment and production plan or the statement of non-OCS activity which must accompany it, within 60 days after receipt of notice of such activity, the Secretary is to accept such recommendation if he determines that it provides for a reasonable balance between the national interest and the well-being of the citzens of the affected State. He must communicate, in writing, the reasons for accepting or rejecting the Governor's recommendation.

The intention of this section is to insure that Governors of affected States have a leading role in decisions as to potential lease sales and production and development plans. Governors of affected States should also consult with representatives of affected local governments and should forward their views, when appropriate, as part of their formal recommendations.

The intent of the committee is to insure that the Secretary give thorough consideration to the voices of responsible regional and local State officials in planning OCS leasing and development. The committee did not believe that any State should have a veto power over OCS oil and gas activities. The committee fully expects, however, that the advice of the Governor, be given full and careful consideration and be incorporated into the ultimate decision of the Secretary, insofar as they are not inconsistent with the balanced approach to OCS leasing set out in this act.

It is also expected that any recommendations made by a Governor, and the reasons for rejection of such recommendations, will be part of the record of any judicial proceedings as to a lease sale, provided for in the citizens' suit subsection (23(a)) or for review of a development and production plan, provided for in the judicial review subsection (23(c)).

Section 20.—Baseline and monitoring studies

Section 20 provides a mechanism by which information concerning the environment in an area to be leased and then developed is to be analyzed and then used as a basis to monitor effects.

Subsection 20(a) provides that if any area or region is to be included in a lease sale, a study is to be undertaken to establish baseline information concerning the status of the environment of the Shelf area involved and of the coastal areas which may be affected by exploration, development and production in that area. The study is to be conducted by the Secretary of the Interior.

The committee believes that these environmental baseline studies are essential to determining the actual environmental impacts of oil and gas development.

Subsection 20(b) is intended to provide for continued study and monitoring of an area.

Subsection 20(c) requires implementing regulations and procedures to be promulgated by the Secretary, and calls for cooperation with the States in planning and carrying out studies and monitoring, including issuance of contracts to appropriate state agencies and universities. Although the Secretary of Commerce is given responsibility for conducting such studies, the committee recognized that other agencies have been collecting information to prepare environmental impact statements, as to the human, marine or coastal environments. The committee wishes the studies mandated by this section to be cooperative

efforts by all federal and State government agencies with the capability to undertake such studies. Information already collected should be used by the Secretary, so as to avoid redundant studies, or to supplement or reduce the scope of any new study.

Subsection 20(d) provides, that in addition to the study to be submitted to the Secretary prior to the development and production of an area, the Secretary is to submit to the Congress, and to make available to the public, an assessment of the cumulative effects of OCS activities on the environment of the various regions affected.

The intent of subsection 20(e) is clear.

Section 21.—Safety regulations

Subsection 21(a) provides for a study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for OCS activities. Such study shall be submitted to the President who shall then submit a plan for the promotion of safety and health to the Congress.

Subsection 21(b) requires utilization of the best available and safest technology economically achievable. The existing respective responsibilities of the Secretary of the Interior and the Coast Guard in this subject matter are recognized.

Subsection 21(c) recognizes the Secretary of Labor's authority for protection of occupational health and safety, but exempts diving practices from such authority. The intent of the subsection is clear with regard to the Administrator of the Environmental Protection Agency and the Secretary of Transportation.

Subsection 21(d) provides that interim regulations for diving activities be promulgated by the Secretary of the Department in which the Coast Guard is operating, with the assistance of the Department of Labor.

Subsection 21(e) provides for studies of underwater diving techniques and equipment, the intent of which is clear.

The committee believes that requiring use of best available and safest technology is essential to assure the highest degree of safety in OCS operations. However, the committee does not intend that installed equipment must be replaced with every minor technological improvement. The committee also recognizes that there may be more than one "best" way to achieve a particular objective or do a particular job.

The committee is aware of the role of the U.S. Coast Guard in regard to vessel safety. This program begins at the design stage and continues through supervision of construction and the operational lifetime of the vessel including investigation of marine casualties. It covers manning and equipment requirements, certifying the vessels permitted route and service, and, in the case of tank vessels, the grade and quantity of cargo which may be carried. This program currently covers mobile drilling units and support vessels engaged in operations in the Outer Continental Shelf. The committee recognizes that these mobile drilling units and vessels are not restricted in their operations to the Outer Continental Shelf and are commonly employed worldwide.

This section is not intended to diminish the authority of the Secretary of Transportation to establish and enforce pipeline safety stand-

ards and regulations on the Outer Continental Shelf. In this connection, the committee has reviewed the report on safety standards and monitoring of pipelines on Federal lands and the Outer Continental Shelf which the Secretary of Transportation has submitted in accordance with section 21 (b) and (c) of the Deepwater Port Act of 1974. The committee fully expects the Secretary of Transportation to exercise his various existing authorities on the Outer Continental Shelf and on lands beneath navigable waters within State boundaries, as outlined in that report, to issue and enforce regulations for offshore pipelines from the flange at a production facility or production platform downstream to the shore.

Section 22.—Enforcement

This section is intended to provide mechanisms and procedures for the enforcement of regulations issued pursuant to the provisions of this act. Failure to comply with any provision of the act, or any implementing regulation, would subject the violators to civil or criminal penalties under section 24 of the act.

Subsection 22(a) directs the Secretary and the Secretary of the Department in which the Coast Guard is operating to consult with each other with regard to their respective responsibilities for the enforcement of safety and environmental regulations, and to utilize each Department's services if needed.

Subsection 22(b) directs the Secretary and the Secretary of the Department in which the Coast Guard is operating to individually or jointly promulgate regulations to provide for onsite observation by an inspection of the installation or testing at least once each year of all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and periodic onsite inspection without advance notice to the lessee to assure compliance with public health, safety, or environmental protection regulations.

Subsection 22(c) authorizes entry of a facility and for the inspection of documents and records pertinent to such inspection.

Subsection 22(d)(1) provides that the Secretary and the Coast Guard also must investigate and report on all major fires and major oil spillage occurring as a result of operations pursuant to that Act.

Subsection 22(d)(2) gives the Coast Guard subpoena power.

Section 23.—Citizens' suits, court jurisdiction, and judicial review

Section 23 details the procedures by which citizens, including lessees, or permittees, employees, local and state governmental officials, and others, can participate in the enforcement of the act. Review of certain types of actions are through administrative proceedings, followed by an appeal in a court of appeals. Review of other actions are by suits in a district court.

Citizens' suits

Subsection 23(a) provides for citizens' suits against any person, including any governmental agency, alleged to be in violation of the act, applicable regulations, or the terms of any lease or permit issued under the act, or against the Secretary of the Interior or any other Federal government official, given regulatory and enforcement power under this act, for alleged failure to perform a nondiscretionary act or duty.

Suits may be brought by "any person having an interest which is or may be adversely affected." The Committee intends that this include persons who meet the requirements for standing to sue set out by the Supreme Court in *Sierra Club* v. *Morton* (405 U.S. 727 (1972)).

Subsection (b) requires that no action for violation of the law may be started for 60 days after written notice under oath of the alleged violation to the alleged violator and the Secretary. If the Secretary begins a civil action against the violation, no court action could take place on the citizen's suit. The 60-day waiting period does not apply when the violation or failure to act constitutes an imminent threat to the plaintiff's health or safety or would immediately affect a legal interest of the plaintiff. This provision is designed to give the Secretary and the alleged violator an opportunity to stop any violation thus making court proceedings unnecessary.

Subsection (d) provides that the court may award costs of litigation including reasonable attorney's fees to any party and require a bond where a temporary restraining order or preliminary injunction is sought.

The committee believes that citizen suits can play an important role in assuring that lessees comply with the law. The possibility of a citizen suit should help to keep program administrators "on their toes."

Subsection 23(c) reincorporates the jurisdictional provisions previously found in section 4(b) of the OCS Lands Act of 1953. Citizens' suits, or other cases or controversies arising out of any activity conducted on the shelf, including cancellation, suspension or termination of a lease or permit, or the rights to natural resources (as, for example, between the state and the federal government), are to be brought to the United States district court in which the defendant resides or can be found, or in a judicial district of the state nearest to the place at which the controversy arose. Whether the proceeding is for an original hearing as in the case of a dispute between the state and federal government over resources, under subsection 8(b), or for appellate-like review, as in the case of an environmental cancellation, is determined by the nature of the case or controversy and the provisions of this Act.

Any person "adversely affected" by action on the program or plans, as that term is described in the discussion on subsection (a), who has participated in administrative proceedings leading to those actions, can petition for review. Review of a leasing program is to be only in the U.S. Court of Appeals for the District of Columbia. Review of an exploration plan or a development and production plan, would be held closer to the area in which the plan was submitted, in the U.S. Court of Appeals for a circuit in which an affected State is located.

A petitioner must seek review within 60 days after the date of the challenged action, and must promptly submit copies of his petition to the Secretary and to the Attorney General.

The Court of Appeals is to consider the matter upon review of the record made before the Secretary. The Secretary is to file records of any public hearings, and to supply any additional information on which he based his decision. The findings of the Secretary, if supported by substantial evidence on the record, considered as a whole, shall be conclusive. The Court of Appeals can affirm, vacate, or modify any order or decision, or can remand proceedings back to the Secretary

for further action as it may direct. Of course, the judgment of the Court of Appeals can be subject to review by the Supreme Court of the United States upon a writ of certiorari.

Section 24.—Remedies and penalties

Subsection 24(a) authorizes the Attorney General to institute, at the request of the Secretary, civil actions for restraining orders or injunctions or other appropriate remedies to enforce the act or any regulation or order issued under it.

Subsection 24(b) provides for a civil penalty to be assessed against any person who after notice of failure to comply and opportunity for a hearing continues to fail to comply with the Act or any regulation or order issued under it. The maxium penalty is $10,000 per day.

Subsection 24(c) provides criminal penalties for knowing and willful violations of any provision of this act, or any regulation or order issued under the authority of this act designed to protect public health, safety, or the environment or conserve natural resources. There are also criminal penalties for any person who knowingly and willfully makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this act, or who knowingly and willfully falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this act or knowingly and willfully reveals any data or information required to be kept confidential by this act.

The criminal penalty is a fine not more than $100,000, or imprisonment for not more than one year, or both.

Subsection 24(d) provides for application of the criminal penalties against corporate officials when the violator is a corporation or other business entity.

Subsection 24(e) states that the remedies prescribed in this section may be exercised concurrently and are in addition to any other remedies afforded by any other law or regulation.

Section 25—Oil and gas development and production

Section 25 is intended to provide the mechanism for review and evaluation of, and decision on, development and production in a leased area, after consultation and coordination with all affected parties.

This is one of the most important provisions of S. 9. It provides a means to separate the Federal decision to allow private industry to explore for oil and gas from the Federal decision to allow development and production to proceed if the lessee finds oil or gas.

Subsection 25(a)(1) provides that prior to development and production, a lessee shall submit to the Secretary for approval a development and production plan and a statement describing all related facilities and operations. The plan may apply to more than one lease.

A plan need not be submitted if the lessee has already discovered oil or gas in commercial quantities prior to the enactment of this section.

The development and production plan, which is subject to the approval of the Secretary, is to describe, to the extent available at the time of its submission, information about the nature and extent of

the proposed development, including specific work to be performed, a description of all offshore facilities and operations directly related to such development, environmental safeguards and safety standards to be implemented, an expected rate of development and production, a time schedule of performance, and other relevant information as the Secretary may require.

Within 10 days after receipt of the deevlopment and production plan, and the statement of information, the Secretary of the Interior is, with limited exceptions, to submit such plan and statement to the Goevrnor of any affected state, and also to make such plan and statement available to any other interested person, including the executive of any affected local government area.

Section 25(d) requires the Secretary to, at least once prior to approving a development and production plan in any areas of the OCS other than the Gulf of Mexico and the Santa Barbara Channel, declare approval of a development and production plan to be a major Federal action which requires an environmental impact statement. It may be possible, of course, that development pursuant to later proposed development and production plans in an area may also be a "major federal action" under the National Environmental Policy Act. The mandate of at least one set of environmental impact statements does not in any way limit the applicability of NEPA to later activities or approval of later plans.

If development and production pursuant to a plan is found to be a major federal action, the Secretary may require lessees on adjacent or nearby leases to submit preliminary or final plans for their leases for consideration and review at the same time as consideration and review of the submitted plan. The Secretary is to transmit the draft environmental impact statement to the Governor of any affected State, and the executive of any local government or area, and is to make such draft available to the public.

The Secretary is to conduct the NEPA public hearing, review its record, and within 60 days after releasing the final environmental impact statement, approve, disapprove or require modifications of the plan.

The committee feels strongly that the NEPA impact statement process should not unnecessarily delay the approval of a development and production plan. Therefore, the committee supports the directive of President Carter to the Chairman of the Council on Environmental Quality, that he promulgate new guidelines designed to expedite the process.

As detailed in section 23, the action of the Secretary in approving requiring modifications of, or disapproving any development and production plan is subject to judicial review in the U.S. Court of Appeals for a circuit in which an affected state is located.

Detailed provisions are provided for modification, revision, and disapproval of a plan in subsection 25(f). In order to preserve the rights of states and local governments to regulate land use within their jurisdiction, the Secretary may not require any modification which would be inconsistent with a state coastal zone management program, approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), as amended, unless the Secre-

tary of Commerce makes the "overriding national interest" finding provided for by that Act. Under the Coastal Zone Management Act, each State with an approved coastal zone management plan has 6 months to approve or disapprove a development and production plan. The committee believes that this is an unnecessarily long period, which should be shortened. Accordingly, the committee intends to work with the Committee on Commerce, Science and Transportation to amend the act in order to reduce to 6 days the time period for State review of development and production plans.

The Secretary is given the authority to disapprove a plan, for four specified reasons. The Secretary shall disapprove a plan only (1), if a lessee fails to demonstrate that he can comply with the requirements of Federal law, including this act; (2), if a plan cannot be modified so as to be, to the maximum extent possible, consistent with coastal zone management programs of coastal states or valid exercises of authority by the state involved, or any political subdivision thereof; (3) if, because of exceptional geological conditions, exceptional resource values, or other exceptional circumstances, the proposed plan cannot be made to insure safe operation; or (4) if operations threaten national security or national defense.

Provisions for compensation when a plan is disapproved are provided and their intent is clear.

This provision reflects the committee's view that Federal-State-industry cooperation can be expected to resolve almost every dispute over proposed development and production plans. Once a lease has been issued it is highly unlikely that an acceptable plan cannot eventually be agreed upon.

Periodic review of the plan in light of changes in available information, and other onshore or offshore conditions affecting or impacted by the development and production is required where the review indicates that the plan should be revised to meet the requirements of this paragraph, the Secretary is directed to require such revision. The Secretary can allow revisions, requested by an operator, if such revision will lead to geater recovery of oil or gas, improve the efficiency, safety, and environmental protection of operations, or will be the only means available to avoid substantial economic hardship to the lessee. Such revisions can be allowed only if it is consistent with the protection of the environment. Any revision of an approved plan which is significant is to be reviewed after the comment and recommendation procedures applicable to the initial decision on a plan, and if necessary, through the NEPA procedures for a "major federal action."

Ordinarily, failure to comply with the Act, lease terms, or applicable regulations on a producing lease, can result in cancellation only after an appropriate proceeding in the United States district court. Subsection 25(h) provides that the Secretary may cancel or terminate a lease for failure of an owner to submit a plan, or comply with a plan, after notice is given of such failure, a reasonable period allowed for corrective action, and an administrative hearing is held. The termination or cancellation is in effect at the completion of the administrative proceedings. Judicial review, rather than judicial approval, is to occur in the U.S. district court. Termination of a lease because of a failure to comply with any approved plan, including modifications or revi-

sions, is clearly the fault of the lessee, and therefore, as specifically stated in subsection (h), the lessee is not entitled to compensation.

Subsection 25(i) provides for submission of any portion of a plan providing for production and transportation of natural gas, to the Federal Power Commission.

This subsection also specifies the responsibilities of the Federal Power Commission with respect to development and production plans which involve natural gas production or transportation. The intent of the section is to provide for coordination between the Secretary and the Federal Power Commission, and to streamline the environmental impact statement activities so as to avoid unnecessary duplication of effort.

Section 26.—Outer Continental Shelf oil and gas information program

Section 26 describes the procedures and requirements for obtaining and releasing information from lessees and permittees.

Subsection 26(a) requires lessees and permittees to grant the Secretary of the Interior access to all data obtained from OCS activities. Copies of specific data and interpretations are to be furnished upon request to the Secretary. If interpretations are supplied, the lessee or permittee is not to be held responsible for any consequence of its use or for any reliance upon them, provided they are made in good faith.

Federal agencies are to provide the Secretary with relevant information in their possession. Also, any information furnished in the same manner and form as used in the normal conduct of a lessee's business, are to be supplied free of charge, except for the reasonable reproduction costs. If information is requested in some other form, however, or if any information is requested from a permittee generally, the Secretary is to pay the reasonable costs of both processing and reproduction.

Subsection 26(b) requires that information from lessees and permittees be processed, analyzed, and interpreted by the Secretary and then a summary of data made available to affected States. Such summary shall include estimates of the amount of oil and gas, the size and timing of development if and when oil and gas is found, and the expected locations of facilities and pipelines.

Confidentiality

Subsection 26(c) requires the Secretary to promulgate regulations to assure the confidentiality of privileged information received under this section.

Subsection 26(d) requires the Secretary to transmit to affected States all relevant information received or prepared by the Secretary under this section, subject to applicable confidentially regulations.

Subsection 26(e) preempts any state law which might provide for public access to privileged information obtained by the State from the Secretary.

Subsection 26(f) requires the Secretary to withhold privileged information from any state which he finds cannot or does not comply with confidentiality regulations. Transmittal may be resumed when such situation no longer exists.

Under subsection 26(g) any geological and geophysical information obtained in the conduct of exploration by any Federal agency (or Federal contractor) may not be withheld from the public.

Section 27.—Federal purchase and disposition of oil and gas

S. 9 provides many new bidding options, involving royalties and net profit shares. Section 27 is intended to provide the procedures for the securing of royalty and net profit share oil and gas, and if no royalty or net profit share is part of an accepted bid, for purchase of oil and gas, and the distribution of such oil and gas.

Section 27(a) provides that the Secretary of the Interior can demand that all royalty or net profit shares, or both, accruing under any lease or permit issued or maintained under the Outer Continental Shelf Lands Act is to be paid in oil and gas. Paragraph (2) of this subsection provides that in those cases where there is a royalty or net profit share amounting to less than 16⅔ per centum by volume of the oil and gas produced, the Secretary shall have the right to purchase oil or gas from leases at the regulated price, or if there is no regulated price, at the fair market value.

This paragraph allows the Secretary to purchase oil and gas so that he can make it available as he would otherwise make available royalty or net profit share oil or gas, when he accepts bids with a low or no royalty or net profit share, or where after production on a lease has commenced, the Secretary agrees to reduce or eliminate the royalty or net profit share. However, the Secretary cannot obtain, either by purchase or royalty or net profit share, no more than 16⅔ per centum by volume of the oil and gas or the percentage of the royalty or net profit share, whichever is greater.

Paragraph (3) of this subsection also provides that the Secretary, instead of selling royalty, net profit share, or purchased oil and gas under this section, can transfer it to other agencies for disposal within the Federal Government.

Subsections (b) and (c) provide for the distribution of royalty, net profit share, or purchased oil and gas respectively. Under both subsections, if any law provides for the mandatory allocation of either oil or gas, or provides for a regulated price for such oil or gas, or provides for both, those provisions of law dealing with allocation and regulated price are to apply. Procedures established in regulations by the Secretary for distribution of oil or gas apply only in the absence of any statutory provision setting a mandatory allocation or a regulated price for OCS oil and gas.

Subsection (b) provides that oil obtained pursuant to this section not otherwise allocated or regulated, is to be offered to the public and sold by competitive bidding at not less than its fair market value. Fair market value is defined in section 2 of this act.

In accordance with the Small Business Act (15 U.S.C. 631), the present regulations for the disposition of royalty oil provide for allocation of such oil to "small refiners." Section 27(b) provides that if the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, he is to make the oil he has obtained available, either through a lottery or an equitable allocation, in such a way as to insure sufficient amounts of such oil to small refiners. Small refiners are defined, as presently in the regulations, as owners of a refinery or refineries which qualifies as a small business concern under the rules of the Small Business Administration, and

who are unable to purchase on the open market an adequate supply of oil to meet their needs.

Subsection (c) provides that, in the absence of mandatory allocation, the Secretary is to sell to the public by competitive bidding any gas obtained pursuant to this section. If the Secretary finds that there is an emergency shortage of gas in any particular region of the United States, the Secretary may allocate or conduct a lottery for such gas and limit participation in such sale, allocation, or lottery to persons or business concerns serving regions suffering such a shortage.

There is, of course, the possibility that oil or gas obtained will not receive acceptable bids, and not be able to be otherwise transferred to another federal agency for use. In such a situation, or in any other situation, subsection (d) provides that the lessee is to take back any federal oil or gas and pay to the United States an amount equal to the regulated price or if there is no regulated price, the fair market value.

Presently, section 12(b) of the Outer Continental Shelf Lands Act provides the Federal Government, in emergency situations, has the right to purchase all of the oil or gas obtained from the Outer Continental Shelf. Subsection (f) of this section makes it explicit that nothing in this section is to eliminate that power.

Section 28—Limitations on export

The findings, purposes, and policies of S. 9 make it clear that the development of the Outer Continental Shelf is to be one method to reduce dependence on foreign energy sources and increase the domestic supply of oil and natural gas. Section 28 limits exports of any OCS oil and gas. Exports are to be allowed only in cases of exchange agreements, efficiency, or the national interest, and then only when such exports do not add to dependency on foreign energy sources and when the President makes a specific finding to this effect. The President must submit his findings and recommendations to Congress as to the export of any oil or gas for approval or disapproval. If the Congress, within 60 days, passes a concurrent resolution of disapproval stating that such export would not be in the national interest, further exports are to cease.

Section 29.—Restrictions on Employment

This section prohibits certain Department of Interior employees from accepting employment with any entity regulated under this act, for 2 years after leaving the Department.

TITLE III—OFFSHORE OIL POLLUTION FUND

Title III provides the procedures to be followed in the event of an oil spill and compensation for clean-up costs and damages resulting from such a spill. The Title applies to spills from any offshore facility in OCS, and any transportation device, including vessels for delivery of the oil and gas from the offshore facility.

The committee strongly supports comprehensive legislation to establish a system of liability and compensation for oil spill damage. Bills to establish such a system are pending before the Congress. The com-

mittee believes that until such legislation is enacted the provisions of title III are needed to protect other resources and uses of the OCS.

Section 301.—Definitions

This section defines twelve terms which appear in the oil spill liability title.

The section first defines what expenses are to be included in assessing liability by a spiller off a newly created pollution fund.

The intent of the definitions is clear.

Section 302.—Establishment of the fund and the revolving account

Section 302 establishes an Offshore Oil Pollution Compensation Fund in the Department of Transportation. The fund may sue or be sued in its own name.

A revolving Treasury account is also established, without fiscal year limitation, to be available to the fund. Subsequent appropriations legislation is to be enacted with general language establishing the fund and the revolving account, without fiscal year limitation, and with provisions for the use of the revolving account by the fund.

Section 303.—Prohibition

This Section prohibits the discharge of oil from any offshore facility or vessel in quantities which the President determines to be harmful under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)).

Section 304.—Notification

Any person in charge, as defined in Section 304, of an offshore facility or vessel must notify the Secretary as soon as he learns of any oil discharge in harmful quantities from such facility or vessel. Failure to notify is punishable by a fine of up to $10,000 or 1 year in jail, or both.

Section 305.—Removal of discharged oil

This section directs the President to remove or arrange for the removal of spills of harmful quantities from offshore facilities and appropriate vessels, unless he finds that the owner or operator will do so properly and expeditiously. Clean-up operations are to be conducted, to the greatest extent possible, in accordance with the National Contingency Plan established pursuant to section 311(c)(2) of the Federal Water Pollution Control Act. Money in the revolving account can be drawn in order to pay promptly for all clean-up costs incurred by the government in removing or minimzing damages caused by an oil discharge.

In addition, this Section allows the President to pay States immediately for any cleanup expenses as they accrue.

Section 306.—Duties and powers

This section outlines the responsibilities and the powers of the Secretary of Transportation in administering this title. Such duties, responsibilities and powers are intended to be delegated to the Coast Guard.

The Secretary is to administer and maintain the fund, to establish regulations and provide for the fair and expeditious settlement of

claims, to provide for public access to information related to this title, to submit an annual report to the Congress, and to perform other functions that are prescribed by law.

The Secretary can utilize the personnel or services of any government agency, whether Federal, State or local, or of any other organization, can issue and amend rules and regulations, can conduct investigations, can obtain information and hold meetings or public hearings, can enter into contracts, agreements, or other arrangements for the acquisition of material, information, or other assistance, and can issue and enforce appropriate legal orders during proceedings.

Section 307.—Recoverable damages

If real or personal property is damaged or destroyed, the owner may recover the value of the loss or damage as of the time of injury, the cost of restoring, repairing, or replacing such property, any decline in value of such property, and any loss in income during repair, restoration or replacement.

The scope of this section includes recovery for costs incurred by private parties in removing or attempting to remove discharged oil, and in reducing or mitigating, or attempting to reduce or mitigate, damages to real or personal property.

If natural resources are damaged or destroyed by an oil discharge, Federal or State governments may recover the costs and expenses of restoring, repairing, or replacing such resources. Replacement costs and expenses would only be recovered if it is impossible to otherwise restore or repair the resources.

Finally, if real or personal property is damaged or destroyed, the Federal Government or any State or local government may recover any related lost tax, royalty, rental, or net profit share revenue. Recovery is limited to revenue losses incurred during a 1-year period.

Section 308.—Cleanup costs and damages

This section provides for unlimited liability for cleanup costs, and limited liability for damages, to be borne by the owners and operators of offshore facilities and vessels.

Subsection (a) holds the owner and operator of an offshore facility or vessel which discharges oil to be jointly and severally liable, without regard to fault, for the full costs of cleaning up the discharge.

Subsections (b), (c), and (d) provide that the owner and operator of an offshore facility or vessel are jointly and severally liable, with limited exceptions, for damages resulting from a discharge. Such liability is absolute unless the owner or operator can prove, and show to what extent the spill resulted from (1) an act of war; or (2) the negligent or intentional act of a third party including a Government entity.

The liability of owner and operator of an offshore facility for damages is limited to $35 million and the liability of an owner and operator of a vessel for damages is limited to $150 per gross registered ton of the vessel.

These limits are to be increased in accordance with the rate of inflation. These limits do not apply if: (1) The damages resulted from gross negligence or willful misconduct within the privity and knowledge of the owner operator or person in charge; or (2) if the discharge resulted

from a violation of applicable safety construction or operating standards or regulations.

The intent of these subsections is to require the owner and operator to pay all of the public cleanup costs associated with that discharge plus up to the stated amounts in damages caused by the discharge. In cases of gross negligence or willful misconduct or violation of applicable regulations, the owner and operator would be liable for all cleanup costs and all damages associated with the spill.

Subsection (e) deals with subrogation. The intent of the subsection is clear.

Section 309.—Disbursements from the revolving account

Money from the revolving account in the Treasury to the fund is available only for: (1) Administrative and personnel expenses; (2) for public costs incurred in cleaning up an oil discharge, whether pursuant to this title or any State or local laws; (3) private clean-up costs of an owner or operator when the discharge is caused solely by an act of war or by negligence on the part of the Federal Government in establishing and maintaining aids to navigation; and (4) for all damages not paid by the owner or operator pursuant to this title. The fund would compensate claimants for damages if the owner and operator denies liability or that the spill was from their facility or vessel, if the owner or operator is exempt from liability because of an act of war, or intentional or negligent acts of third parties, if the owner or operator has not reached a settlement with the claimant; or if the owner or operator has reached the liability limit. In addition, the fund would provide compensation in cases where the spiller has not been identified.

However, the fund is not liable or responsible for any of the costs of or damages to a claimant which were negligently or intentionally caused by such claimant. Whenever the fund compensates a claimant, it acquires all legal rights of the claimant to recover cleanup costs and damages from the person responsible for the discharge. For example, if the owner and operator cannot reach a settlement with the claimant within 60 days pursuant to section 313 of this title and the fund then reaches a settlement with the claimant, the fund acquires the claimant's rights to recover damages from the owner and operator. Subsection (b) explicitly directs the fund to diligently pursue recovery for any such subrogated rights.

In any claim or action by the fund against an owner, operator, or other person providing financial responsibility for an owner or operator, as for example in the case where the fund has compensated a claimant for damages caused by a spill for which an owner and operator are liable, and the fund then seeks reimbursement from the owner and operator, the fund is to recover both the full amount it has paid to the claimant or to a Government entity which undertook cleanup operations, and interest on that amount, except for those amounts for which there is a valid defense. Interest is to be computed at the existing commercial interest rate, and the Coast Guard in administering the fund is expected to publish guidelines for the computation of such rate. Interest is to be charged from the date upon which the request for reimbursement was issued from the fund to the owner,

operator, or person providing financial responsibility, to the date upon which the amount is actually paid by the owner, operator, or other person to the fund. The imposition of an interest charge upon delayed reimbursement will encourage the owners and operators of offshore facilities and vessels, and their insurers, to arrange expeditious settlements with the fund. Experience with the pollution fund, established pursuant to the Federal Water Pollution Control Act, indicates that, in the absence of such an incentive, the Government gets involved in lengthy, costly and sometimes frivolous negotiations and litigation with the liable parties.

A later section states that the revolving account for the fund is to be financed by an initial appropriation and then a three cents per barrel fee. The fee need only be collected until $100 to $200 million is in the account. Normally, the fund would maintain an account balance sufficient to cover most spills. However, it may be possible that an extensive catastrophic spill might occur that would involve costs and damages beyond the amounts in the account. In such a situation, either while the account is being built up, or if the $100 to $200 million amount is insufficient, the fund may borrow all necessary amounts to pay any cleanup costs and damages for which the fund is liable; up to $500 million at any one time.

The fund may issue notes or other obligations to the Secretary of the Treasury, according to terms and conditions prescribed by the Secretary of the Treasury. Borrowed moneys are to be deposited in the revolving account, and redemptions of notes or other obligations issued to the fund are to be made from the revolving account.

The Secretary of the Treasury is to determine an appropriate interest rate, based upon the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the borrowing. The Secretary of the Treasury is authorized to purchase the fund's notes or other obligations by using as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under that act are extended for this purpose. In addition, the Secretary of the Treasury may sell any notes or other obligations which he purchased pursuant to this section. All purchases, redemptions, and sales of such notes or other obligations are to be treated as public debt transactions of the United States.

This borrowing provision enables the fund to pay all costs and damages as soon as possible. The concept of authorizing the fund to borrow money in such cases in order top rovide unlimited coverage was first introduced in the Deepwater Port Act, section 18(f)(3) (33 U.S.C. 1517(f)(3)). This section improves upon that provision by outlining the borrowing procedures in greater detail.

Section 310.—Fee collection; deposits in revolving account

This section provides for the collection of a fee to establish and maintain the fund and the deposit of any amounts collected by the fund. The Secretary of Transportation is to levy and collect a 3-cents-per-barrel fee from the owners of oil produced from the OCS. The fee is to be levied when the oil is transferred from a well to a pipeline or vessel. The committee intends that the owner from whom the

fee is collected be the owner of the oil just prior to its transfer from the well to the pipeline or vessel. The 3-cents-per-barrel fee may only be levied once upon any oil.

The fee is to be collected until the balance in the revolving account reaches at least $100 million. Afterwards, the Secretary is to maintain the account at a level between $100 million and $200 million. To do so, he may suspend and reinstate the fee from time to time, or he may periodically modify the amount of the fee.

All fees, reimbursements, fines, penalties, investments, and judgments pursuant to this title are to be deposited in the revolving account, and are to be included in the calculation of the amount in the account. If the amount in the account exceeds $200 million, all sums in excess are to be deposited in the U.S. Treasury and credited to miscellaneous receipts.

Any money not needed for the purposes of the fund and its administration are to be prudently invested in income-producing securities issued by the United States. The Secretary of the Treasury must approve such investments. It is expected that such investments will be made on a short-term basis, in order to provide the fund with maximum liquidity in order to respond effectively to any unexpectedly large or any unexpectedly high frequency of oil spills.

Section 311.—Financial responsibility

This section requires owners or operators of offshore facilities and vessels to demonstrate adequate financial responsibility so to be able to cover the liability requirements of this title.

The owner or operator of an offshore facility is to establish and maintain evidence of financial responsibility based on the capacity of the facility and "other relevant factors". Such factors should include, although need not be limited to, liability requirements, the frequency with which the facility handles OCS oil, the previous experience of the facility with regard to oil discharges, and the size and assets of companies and corporations affiliated with the owner or operator. The President is to establish rules and regulations governing the establishment and maintenance of evidence of financial responsibility shown by insurance, surety bonds, self-insurance, or other methods.

The owner or operator of a vessel is to provide evidence of financial responsibility to the Federal Maritime Commission. Financial responsibility must be based upon liability requirements and the tonnage of the vessel. An owner or operator who owns, operates or charters more than one vessel need only provide evidence of financial responsibility for the largest of his vessels. Financial responsibility may be proven with insurance, surety bonds, self-insurance, or other methods.

Offshore facilities are not presently required to demonstrate financial responsibility for liability expenses. However, under the Federal Water Pollution Control Act, the President has designated the Federal Maritime Commission to administer the financial responsibility requirement for vessels. It is expected that the President will also designate the Maritime Commission to administer the financial responsibility requirement for offshore facilities pursuant to this section, as the Commission has gained considerable experience in working with private insurance organizations. If the President or the Federal

Maritime Commission determine that another agency could administer this section more effectively, however, it would still be consistent with this section of this title.

The purpose of this section is to extend the existing requirement for evidence of financial responsibility to offshore facilities, in addition to vessels. The requirement was initially imposed upon vessels in the Federal Water Pollution Control Act because vessels might spill oil and then sail beyond U.S. jurisdiction. Furthermore, many vessel owners incorporate each vessel separately and, if the vessel is seriously damaged or destroyed in an incident, the vessel owner would lack sufficient assets to meet legal liabilities. The effect of the Federal Water Pollution Control Act requirement for proof of financial responsibility has been to expand the pollution coverage offered by the private insurance community. The committee expects this subsection to have a similar effect upon the pollution coverage available to offshore facilities. Currently, in the absence of such a requirement, some offshore operators do not have insurance coverage for oil spill liability. As financial responsibility is now to be required, the capacity of the insurance market in this area will necessarily increase. Whereas a standard commercial insurance policy covering pollution from offshore facilities currently contains a $22 million limit, such coverage might now expand to $45–$50 million.

Direct action by a claimant on the fund is allowed against the surety, insurer, or other person providing financial responsibility for an owner or operator. Thus, a claimant or the fund can seek compensation directly from an insurer, for example, if an owner or operator refuses to meet his liability requirements or does not provide compensation for any other reason. Section 311 of the Federal Water Pollution Control Act, which established the key precedent for oil spill liability legislation, contains a similar direct action provision.

A fine of up to $25,000 is to be imposed upon anyone who violates the provisions of this section or any regulations issued pursuant to it.

The President is to increase the liability limits and corresponding financial responsibility requirements annually, equal to the annual percentage increase in the wholesale price index. The intent of this provision is to prevent the liability limits and financial responsibility requirements from becoming obsolete as inflation pushes up the costs of oil spills as well as the limits of insurance policies. The Water Pollution Control Act establishes liability limits of $100 per gross ton or $14 million for vessels in 1970, when insurance policies were generally limited to about $14 million. Since that time, insurance coverage has expanded to a current level of $25 million, although the $14 million limit remains fixed in the law. The committee believes that this provision will avoid such discrepancies by escalating liability limits and financial responsibility requirements along with inflation. The wholesale price index was selected, after advice from the General Accounting Office, as a reasonable indicator of inflation, particularly in relation to spill cleanup costs and damages.

Although a later section of this title (section 322) specifically provides that no state law as to requirements or liability as to discharges, the committee was concerned that an owner or operator should not be required to tie up large amounts of capital by having to doubly

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insure, with a State and the Federal Government, as to any possible discharge.

The non-preemption provision is specifically limited by subsection (f) of this section which provides that if an owner or operator of an offshore facility or vessel provides evidence of financial responsibility to the Federal Government under this section, he cannot be required to provide similar evidence for the same facility or vessel to any State government. States are required to accept evidence of compliance with the Federal requirement as satisfactory compliance with their State-level financial responsibility requirement for the same facility or vessel.

Section 312.—Trustee of natural resources

The Secretary or an authorized representative of any State is to act as trustee of the natural resources. This provision enables Federal or State governments to make claims on behalf of the public for damages to natural resources. The section stipulates that compensation received is to be used to restore, rehabilitate, or acquire the equivalent of the damaged resources. Consistent with section 307 of this title, such compensation may only be used for acquisition purposes if restoration and rehabilitation of the damaged or destroyed resources is impossible or can only be undertaken with a low possibility of a significant amount of success.

Section 313.—Claims procedure

This section establishes the procedures by which claimants can recover for cleanup costs and damages. In general, the claimant is to seek payment from the owner or operator or his insurer. If liability is denied, or if no settlement can be reached in sixty days, the claimant can seek payment from the fund. Any amounts paid to the claimant from the fund can be recovered, up to the liability limits and with the liability exceptions, from the owner and operator.

The Secretary of Transportation is directed to prescribe and periodically amend regulations for the filing, processing, settlement, and adjudication of claims for cleanup costs and damages caused by oil discharge from offshore facilities and vessels.

The section specifically describes the step-by-step procedure for resolution and payment of claims. Once a discharge is alleged, the Secretary is to promptly notify the owner and operator of an offshore facility or vessel, which allegedly discharged oil, of such allegation. The owner or operator may deny the allegation or deny liability for damages within 5 days of receiving notification from the Secretary. If such denial is in dispute, the owner and operator may seek administrative adjudication, and then judicial review, and the claimant may seek payment from the fund and allow the fund to proceed against the alleged violator, up to the limits of liability.

If the owner and operator does not deny the allegation of a spill or liability for damages, the owner and operator or the person providing financial responsibility is required to advertise in any area where damages may occur the procedures under which claims may be presented to them. It is expected that such advertisement will involve, as appropriate, advertisements in local newspapers, announcements on local radio and television programs, and posters in public buildings such as the post office and town hall. The text of such adver-

tisements is to be published by the Secretary in the Federal Register. If the owner, operator, or person providing financial responsibility does not advertise as required, the Secretary is directed to do so at the expense of the owner, operator, or person providing financial responsibility.

If the owner or operator has denied an allegation of a spill or liability for damages, the Secretary is required to advertise the procedures under which claims may be presented to him for payment by the fund. Advertising is expected to be as suggested above, including publication in the Federal Register. Advertisement must begin within 15 days after the Secretary receives notification of an oil discharge. It is to continue for at least 30 days, and to be reported at least once each quarter for the following 5 years.

All claims must be presented, whether to the owner, operator, person providing financial responsibility, or the Secretary, within 1 year after the damages are discovered and within 5 years after the advertising is commenced. In the case of damages caused by chronic, low-level discharges of oil, when there might be no advertisement, claims must be presented within 1 year after the damages are discovered. All damage claims are to be on one form if such claims are presented to the Secretary for payment by the fund. The form may be amended to include new claims as they are discovered. However, damages which are known or reasonably should be known are deemed waived if they are not included in the claim when compensation is made.

If the owner and operator does not deny liability, all claims must be presented first to the owner and operator and/or to the person providing financial responsibility. The recipient of the claim request must inform the Secretary of Transportation of the claim and the claimants of his rights under this Title.

Claimants can present claims directly to the Secretary if an owner or operator or insurer: (1) Has denied an allegation of a discharge or liability for damages; (2) submits a written offer for settlement which is rejected by the claimant; or (3) has not settled the claim by agreement with the claimant within 60 days. The 60-day period begins from the date on which the claim was presented or on which advertising was commenced, whichever was later. Such nonsettled claims are to be transmitted to the Secretary, together with any supporting documents within 2 days after a request from the claimant. Such claims are then considered to be presented to the Secretary for payment by the fund.

The purpose of this provision is to provide for expeditious settlement of claims if the claimant is not obtaining satisfaction from the owner, operator, or person providing financial responsibility. The owner, operator, or person providing financial responsibility, is to notify the claimant of his rights, which includes the right to reject an offer.

The Secretary is to utilize the facilities and services of private insurance and claims-adjusting organizations in administering this section, and may contract to pay compensation for such facilities and services. Such contract need not comply with section 3709 of the revised statutes if the Secretary shows that advertising is not reasonably practicable. The Secretary must approve payment of any claim exceeding

$100,000, or two or more claims from the same claimant exceeding $200,000. Such approval is to be ministerial in nature and does not call for discretionary judgments on the part of the Secretary. The Secretary is only to use Federal personnel to administer this section in extraordinary circumstances in which private organizations' services and facilities are inadequate, whether for lack of sufficient expertise, lack of sufficient personnel or materials, or other reasons.

In any dispute involving a claim that had been presented to the Secretary for payment by the fund, the claimant can submit the matter to the Secretary for adjudication if the Secretary has denied liability for a claim, or if he has not settled the claim by agreement with the claimant within 90 days. The 90-day period begins when the claim is presented to the Secretary for payment or when advertising was commenced, whichever occurred later. This provision does not provide for the settlement of claims, but for the adjudication of matters in dispute.

The owner, operator, or person providing financial responsibility may submit the following matters in dispute for adjudication: (1) A denial of an allegation of a spill or of liability for damages; (2) an objection to unlimited liability for damages because of gross negligence, willful misconduct, or failure to comply with applicable regulations; and (3) the amount of any payment, whether made or proposed, by the Fund if such payment may be recovered from the owner, operator, or person providing financial responsibility.

Disputes submitted to the Secretary of Transportation are to be referred to a hearing examiner, appointed under section 3105 of title 5 of the United States Code. The examiner is required to adjudicate the case promptly and render a decision in accordance with section 554 of title 5 of the Code. The hearing examiner can administer oaths and subpoena the attendance and testimony of witnesses and the production of books, records, and other pertinent evidence for the purposes of any hearing. The hearing is to take place in the judicial district within which the dispute matter occurred. If the disputed matter occurred within two or more districts, the hearing can take place in any of the affected districts. If it occurred outside of any district, the hearing should take place in the nearest district.

If the hearing examiner's decision is not submitted for judicial review, the fund must promptly disburse the award. The Secretary cannot review the hearing examiner's decision.

Section 314.—Judicial review

Anyone who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner can seek judicial review of the hearing examiner's decision within 60 days after it is made. Judicial review may be sought either in the U.S. court of appeals for the circuit in which the damage occurred (or, if it occurred outside of any circuit, in the court of appeals for the nearest circuit), or in the Court of Appeals for the District of Columbia.

Reasonable attorney's fees and court costs are to be awarded to the claimant if the discharger or the fund seeks judicial review and the hearing examiner's decision is affirmed.

Section 315.—Class actions

The Attorney General can act on behalf of any group of damaged citizens which the Secretary finds will be more adequately represented as a class than as individuals. Payments to the group are to be distributed to all of its members.

Any member of a group can initiate a class action suit if the Attorney General does not do so within 90 days after an oil discharge. Failure of the Attorney General to bring a class action suit should not affect or prejudice any class action suit brought by a member of the class. If a class includes more than 1,000 members, the requirement for public notice established by Rule 23(c)(2) of the Federal Rules of Civil Procedure will be fulfilled by publishing notice of the class action in the Federal Register and in local newspapers serving the damaged parties.

Section 316.—Representation

This section provides for representation of the fund for claims under this title. The Secretary is to request the Attorney General initially to represent the fund. If the Attorney General does not notify the Secretary that he will institute court actions or otherwise represent the fund within "a reasonable time", the Secretary is directed to appoint attorneys to do so.

Section 317.—Jurisdiction and venue

Original jurisdiction for all controversies arising under this title is to be in the U.S. district courts. The Federal district courts are to have original jurisdiction regardless of the citizenship of the parties or the amount in controversy. Venue shall lie in the district where the damage occurred (or, if the damage occurred outside of a district, in the nearest district), or in the district where the defendant resides, may be found, or has its principal office. The fund is designated a resident of the District of Columbia for the purposes of this section.

Section 318.—Access to records

This section provides for the maintenance of records and for Government access to them. Everyone responsible for contributing to the fund must keep records and furnish information which the Secretary calls for in regulations. The fund is to collect fees pursuant to this title at such times and such manner as the Secretary prescribes in regulations.

The Secretary is to have access to any books, documents, papers, and records of any person responsible for contributing to the fund. The Secretary is granted access to such information for the purposes of regularly examining and auditing the collection of fees.

The Comptroller General is to also have access to the books, documents, papers, records, and other information of any person required to contribute to the fund, and of the fund.

Section 319.—Public access to information

The public is to be allowed to inspect and reproduce any communication, document, report, or information, transmitted between any federal official and any person regarding liability and compensation for damages resulting from an oil discharge covered by this title.

Exempted from this public disclosure requirement is any information covered by subsection (b) of section 522 of title 5 of the United States Code, and any information which is otherwise legally protected from public disclosure.

Section 320.—Annual report

Section 320 requires the Secretary of Transportation to submit an annual report to Congress within 6 months after the end of each fiscal year. The report is to include information regarding the administration of the Fund during the fiscal year just completed, a summary of the management and enforcement activities of the Fund, and recommendations for legislative amendments to this title. Such amendments are to be designed to improve the management of the fund or the administration of the liability provisions of this title.

Section 321.—Authorization of appropriations

Section 321 authorizes appropriations for the implementation of this title. Administrative funds of $10 million for the first fiscal year, $5 million for the second fiscal year, and another $5 million for the third fiscal year are authorized. These funds are to be used to implement the various provisions of this title and to establish and institute the procedures for cleanup, notification, damage settlement, and other activities necessary to implement this title. These funds are also to be used for the administration of the fund itself until the fund collects enough money to pay its own administrative costs.

Also authorized to be appropriated to the fund are such amounts as may be periodically necessary to implement the provisions of this title. These amounts are to pay for contracts, disbursements, issuance of notes and other obligations. The authority to spend money under various provisions of this title is effective only if provided for in appropriation acts.

The appropriation section has been carefully drafted after consultation with the Budget and Appropriations Committees of the House, and is designed to comply with the requirements of the Congressional Budget Act of 1974. The committee intends that the initial appropriations will set in operation the administrative mechanisms necessary to implement this title. Once the fund builds up a substantial balance, it should cover its own administrative expenses, as well as any other administrative expenses necessary to implement this title. The committee also intends that the appropriations legislation covering the fund and the revolving account will provide for the transactions specified in this title in language without fiscal year limitation. One appropriations bill should provide for the collection of the fee, the deposit of the fee in the revolving account, the availability of money in the revolving account to the fund for disbursement, the issuance of notes and other obligations by the fund, the placement of penalties, fines, reimbursement, investments, judgments and other sums received under this title in the revolving account, and for any other transactions which may be necessary to fulfill the purposes of this title. The appropriations bill need not contain a monetary figure, but should provide for these transactions without fiscal year limitation.

Section 322.—Relationship to other law

With the exception of requirements as to financial responsibility, this title does not preempt the field of liability and does not prevent any State from imposing oilspill liability laws or additional requirements. Any State may impose requirements or liability for oilspills causing cleanup costs or damages within its jurisdiction. The issue of preemption was one upon which the committee focused considerable attention during the consideration of this complex title. Although not desiring to place unnecessary burdens upon the owners and operators of offshore facilities and vessels, the committee believes that the minor burdens imposed by this section are far outweighed by the substantial benefits to States in enacting and enforcing their own oilspill liability laws. While the committee labored to design what it hopes will be a useful and effective Federal law in this area, it recognizes that States have played, and may continue to play, an important and necessary role in cleanup operations, claims assessment, and imposition of stringent liability requirements, among other activities. It also recognizes that State officials may be more qualified to evaluate damages in unique local areas than Federal officials, and that citizens may prefer to approach a State fund rather than a more remote Federal one. Furthermore, as a matter of public policy, the committee did not want to preempt existing, workable State liability schemes with a new Federal scheme, as excellent as it may be. It is the expectation of the Committee that as the new Federal scheme created by this title is implemented and gets into full-scale operation, the States will find less and less of a need to enforce their own liability laws.

Claimants cannot doubly recover and thus receive compensation for the same damages or cleanup costs under both Federal and State law. Anyone receiving compensation pursuant to this title cannot receive compensation for the same cleanup costs or damages pursuant to any State or other Federal law. Anyone receiving compensation pursuant to any other Federal or State law cannot receive compensation for the same cleanup costs and damages pursuant to this title.

TITLE IV—FISHERMEN'S CONTINGENCY FUND

Section 401.—Definitions

This section defines the various terms used throughout title IV with particular emphasis on the definition of "citizen of the United States" for purposes of eliminating foreign fishing interests from eligibility to claims on the fund.

Section 402.—Establishment of the Fishermen's Contingency Fund

This section establishes a Fishermen's Contingency Fund for the purpose of providing compensation for damages to commercial fishing vessels and gear and resulting loss of profit.

Section 403.—Fishermen's Claims Board

This section establishes a Fishermen's Claims Board for the purpose of investigating and recommending action to the Secretary of Commerce on any claim against the fund. The Board shall consist of representatives of NOAA, BLM, Coast Guard, the oil industry, and the fishing industry.

Section 404.—Duties and powers of the Secretary

This section establishes the duties and powers of the Secretary of Commerce including:

(1) settling claims against the Fund.

(2) classifying all potential hazards caused by O.C.S. activities.

(3) establishing regulations for identification for all materials used in O.C.S. activities.

(4) administering and maintaining the Fund.

(5) utilizing other government agencies to carry out the provision of this act.

(6) conducting necessary studies related to the provisions of this act.

(7) entering into contracts to implement this act.

(8) issuing and enforcing orders, issuing subpoenas, administering oaths, compelling attendance of witnesses, books, papers, documents, and other evidence.

Section 405.—Recoverable damages and subrogation of rights

This section establishes the (a) recoverable damages to fishing vessels and gear and resultant loss of revenue; (b) subrogation of rights after payment of compensation by the fund; (c) reimbursement to the fund by persons identified as causing damages.

Section 406.—Burden of proof

This section establishes the burden of proof in favor of the claimant if the following is presented:

(1) proof that vessel and crew were actually fishing in an area prescribed by the Secretary of Commerce as an area affected by O.C.S. activities.

(2) immediate report of nature of damages and location of damages received.

(3) no previous record of debris, wreckage, etc. in the area that damage was received.

(4) no marker existed.

(5) damage received after enactment of this act.

Section 407.—Fee collection: Deposits in revolving account

This section establishes a fee of not more than one cent per barrel of oil or 5,600 cubic feet of gas to be placed in a revolving account to be available to the fund. The total deposition in the account will not exceed $5 million.

Section 408.—Judicial review

This section establishes judicial review for any person who suffers legal wrong on a claim under this act.

Section 409.—Jurisdiction and venue

This section establishes that the U.S. district courts have original jurisdiction over all controversies arising under this act.

Section 410.—Representation

This section establishes that the Secretary of Commerce shall initially request the Attorney General to institute court action.

Section 411.—Access to records

This section establishes that: (a) Each person responsible for contributing to the fund shall keep records and furnish information to the Secretary of Commerce; (b) the Secretary of Commerce shall have access to all records, books, et cetera of person contributing to the fund; (c) the Comptroller General shall have access to all records, books, et cetera of persons contributing to the fund.

Section 412.—Annual report

This section establishes that the Secretary of Commerce shall submit to the Congress a report on the administrator of the fund.

Section 413.—Authorization of appropriations

This section establishes authorization for appropriation (a) for the administration of this total—$200,000 for each fiscal year ending October 1, 1990; (b) an initial aount of $500,000 to maintain the revolving account. Further amounts not to exceed $5,000,000 shall be authorized to be appropriated to maintain the fund. These appropriations shall be repaid with interest by the fund to the Treasury as soon as practicable.

TITLE V—MISCELLANEOUS PROVISIONS

Section 501.—Review of shut in or flaring wells

The committee was concerned about the loss of energy because of shut-in and flaring wells. Section 501 directs the Secretary of the Interior to report to the Comptroller General and to the Congress within 6 months, and in his annual report thereafter, on all shut-in oil and gas wells and all wells flaring natural gas. The Comptroller General is to review and evaluate the methods already used by the Secretary in allowing the wells to be shut-in or to flare natural gas. The committee is aware that the Secretary of the Inerior and the Federal Power Commission have already collected data on this subject. It is not intended that this job be repeated as long as existing reports contain the information needed by the Comptroller General, and by the Congress.

Section 502.—Review and revision of royalty payments

The committee was concerned that the United States was not getting its fair value for the leasing of its resources in the Outer Continental Shelf, as some lessees have not been promptly paying their royalties. In order to allow review of this problem, section 502 directs the Secretary of the Interior, within 90 days, and annually thereafter, to submit a report on delinquent royalty accounts and to detail what new procedures including auditing and accounting procedures had been or should be adopted to assure accurate and timely payment of any royalty or net profit share in the future.

Section 503.—Natural gas distribution

As indicated in a discussion on the disposition of Federal royalty, net profit share, or purchased oil and gas, the committee was concerned with the serious dislocation of natural gas in the United States. In addition, as indicated in the requirements for new bidding systems,

and comments and recommendations to be made by the Attorney General an the Federal Trade Commission to be made on certain decisions, the committee was also concerned with the possible lack of competition in the awarding of leases on the Outer Continental Shelf. One way to alleviate both of these problems is to provide procedures and incentives for natural gas distributing companies to bid on, and then explore, develop, and produce Outer Continental Shelf leases.

Testimony presented to the committee indicated that one reason that such companies had not been involved in OCS activities to any large extent was because of regulatory limitations in their States. Specifically, such companies must justify to their state regulators the expenditure of any money for the obtaining of gas. The regulators would not authorize such expenditures, if there was no guarantee that the gas obtained through such expenditures would come to geographic areas served by such distributing company. Geographic allocation of interstate gas is determined, through its curtailment power, by the Federal Power Commission, under the Natural Gas Act, and therefore, permission must be obtained by the Federal Power Commission to allow any natural gas distributing company which finds, and then produces, gas on a lease in the Outer Continental Shelf to transport such gas to its market. Section 503 requires the Federal Power Commission to permit any natural gas distributing company involved in OCS development and production to transport to its service area any gas obtained by such company from its lease.

It is the intention of the committee that this mandate to the Federal Power Commission shall only effect the gas discovered by a distributor on its lease hold. It is not the committee's intention to effect the general curtailment powers of the Federal Power Commission. The Federal Power Commission may, in accordance with its regulations and procedures, determine, through curtailments, the delivery of all natural gas. The only effect of this section would be that the Federal Power Commission canot exercise its curtailment power in any way to preclude the natural gas found by such distributing company on its own lease from being returned to its service region. Such gas may, of course, be counted as part of the amount allocated to such service region by the Federal Power Commission in any general curtailment process.

Section 504—Antidiscrimination provisions

This section provides that agencies which are responsible for promulgation or enforcement of regulations under this Act shall take affirmative action to assure that no person is excluded from the activities provided for in the act. The intent of the section is clear.

Section 505—Sunshine in Government

This section provides that Department of the Interior employees who are involved with OCS activities shall file statements regarding any financial interest in any person involved in OCS leasing. Penalties are provided for those who fail to comply with this act.

Section 506—Amendment to Coastal Zone Management Act

This section amends the "Coastal Energy Impact Program" recently added to Section 308 of the Coastal Zone Management Act of

1972. It reflects a compromise amendment to S. 586, the Coastal Zone Management Act Amendments of 1975, and S. 521, the predecessor to S. 9, which was offered jointly by the Senate Committee on Commerce and Interior and Insular Affairs and which was adopted by the Senate on both bills, in 1975. The purpose of the program is to provide Federal financial assistance to meet State and local needs resulting from energy development activities affecting the States' coastal zones. The existing program authorizes a total of $800 million in loans and loan guarantees and $400 million in various grants through the fiscal year ending September 30, 1984.

Section 506 does not amend the loan or loan guarantee provisions of the Coastal Energy Impact Program. This section only amends the provisions of section 308(b), the so-called formula grants to coastal States which may be used for the repayment of loans made under the Coastal Energy Impact Program, for the development of certain new or improved public facilities and services, and for the prevention or amelioration of certain losses of valuable environmental and recreational resources.

First, the proposal changes the formula for distributing the grants among coastal States. The present distribution is based on the number of acres newly leased on the OCS adjacent to the coastal State, the new employment in a coastal State due to new or expanded OCS activity, and the amount of oil and natural gas produced from the OCS adjacent to a coastal State and first landed in a coastal State. Authorized funding under present law is $50 million per year for the 8 fiscal years ending September 30, 1984.

The committee amendment deletes the present distribution formula in favor of a distribution based on the barrels of oil or its equivalent in natural gas produced from the OCS adjacent to a coastal State and first landed in a coastal State. Each State permitting at least 100,000 barrels per day of oil or its equivalent in natural gas (6,000 cubic feet of natural gas) to be landed in its coastal zone or off whose coast is produced 100,000 barrels per day of oil or its equivalent would receive grants based on the number of barrels of crude oil or its equivalent in natural gas so produced or landed. In the first fiscal year following enactment of this provision, the grant to a coastal State would be based on 20 cents per barrel or its equivalent so produced of landed in the previous fiscal year.

In the third fiscal year, the grant would be based on 10 cents per barrel of its equivalent and in the fourth and each of the succeeding 10 fiscal years the grant would be based on 8 cents per barrel or its equivalent for the first one and one-half million barrels produced or landed in the State. States landing oil and natural gas produced adjacent to another coastal State would receive grants at the rate of one-half that which the State would receive if the oil and natural gas were produced and landed off its coast. Authorized funding proposed by the amendment is $100 million for each of fiscal years 1977 and 1978 and such funds as are necessary to implement the grant formula in the succeeding 10 fiscal years.

Second, the committee proposal removes two requirements of the present law concerning the use of formula grants by State and local governments to provide new and improved public facilities and serv-

ices. The first deleted requirement provided that, before formula grants may be used for such purposes, the State and local governments must first borrow all the money the Federal Government would lend them for such purposes pursuant to other provisions of the coastal energy impact program. The second deleted provision has been interpreted by the Department of Commerce to mean that formula grants may be used to provide public facilities and public services necessitated by "new and expanded" OCS development only.

The committee believes the requirement that loans be exhausted before formula grants may be used is both unrealistic and unnecessary. The committee further believes that States which presently support on-going OCS development as well as those States which will support such development in the future should be allowed to use formula grants to provide public facilities and services necessitated by that development.

Finally, the committee proposal broadens the category of uses to which State and local governments may employ the formula grants and places more control over use of the grants in the States and local governments. The committee proposal retains the requirements that formula grants first be used to retire State and local bonds obligated pursuant to other sections of the Coastal Energy Impact Program and that grant money which is misused by States and local governments must be returned to the Federal treasury. The committee believes that the State and local governments are in the best position to determine the manner in which formula grants should be expended to maximize the amelioration and reduction of adverse impacts.

Section 507.—Relationship to existing law

This section explains the relationship of this act to other laws and the intent is clear.

Relationship to Department of Energy

Section 508—This section transfers those Federal leasing functions designated to transfer from the Secretary to the Secretary of Energy upon the effective date of the law creating the Department of Energy. This is a conforming amendment recognizing that the legislation creating a Department of Energy, which has passed both Houses, will almost certainly be law before the OCS Amendments become law. The amendment recognizes that the Department of Energy legislation affects the OCS leasing process and that the OCS amendments should conform to the assignment of responsibilities made in the Department of Energy legislation. This language is similar to language adopted in the Solar Heating and Cooling Demonstration Act of 1974; the Geothermal Energy Research, Development and Demonstration Act of 1974; and the Solar Energy Research, Development and Demonstration Act of 1974, all of which were passed shortly before the creation of ERDA.

VIII. Cost and Budgetary Considerations

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–150, 91st Congress) the committee provides the following estimate of the cost of S. 9, prepared by the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, JUNE 21, 1977

1. Bill number: S. 9.

2. Bill title: Outer Continental Shelf Lands Act Amendments of 1977.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, June 17, 1977.

4. Purpose of bill: The major objectives of this bill are to amend the Outer Continental Shelf Lands Act and establish a policy for the management of Outer Continental Shelf (OCS) oil and natural gas. The bill would protect the marine and coastal environment through the establishment of an Offshore Oil Spill Pollution Fund, and would provide funds for claims of damages to commercial fishing vessels, gear, or loss of revenue through the establishment of a Fishermen's Contingency Fund. In addition, the bill would amend the Coastal Zone Management Act of 1972 by providing grants to coastal states from the collection of fees levied on OCS oil and gas production.

5. Cost estimate:

[In millions of dollars]

	Fiscal year—					
	1977	1978	1979	1980	1981	1982
Authorization level	110	106	268	263	263	263
Less: Previous authorization	50	50	50	50	50	50
Net additional authorization	60	56	218	213	213	213
Estimated costs	0	159	240	247	249	251
Added revenue	0	15	13	12	13	14
Revenue loss	0	250	250	150	100	150
Estimated net costs	0	394	477	385	336	387

6. Basis of Estimate:

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

The implementation costs of Title II are for enforcement and safety, new responsibilities at the Department of Interior, and miscellaneous responsibilities at the Department of Justice and the Department of Labor. The primary costs are for enforcement, which requires purchases of new vessels, aircraft, and other enforcement equipment. These costs are estimated as follows:

Fiscal year:	*Millions*
1978	$54
1979	23
1980	24
1981	26
1982	28

Section 205 of the bill authorizes the Secretary of the Interior to grant leases according to several experimental procedures in addition to the traditional cash bonus bid method. The thrust of this provision is to decrease the front-end cash required so that competition for leases

might be increased. The methods used are at the discretion of the Secretary of Interior, with the only constraint being the use of the non-cash bonus bid fixed royalty method for at least 33.3 percent of the leases. The assumption is made that the bidding experimentation would be implemented for the minimum 33.3 percent of the leases and that this would result in a decrease of one-half for the bonus revenues of this 33.3 percent of the leases. These experimental methods are designed to increase revenues in the production phase of OCS activity; however, these revenue increases would occur after fiscal year 1982, which is outside the scope of this estimate. The estimated impact of this section during fiscal years 1978–82 is as follows:

Revenue Loss (Function 950):	
Fiscal year:	*Millions*
1978	$250
1979	250
1980	150
1981	100
1982	150

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

Title III establishes an Offshore Oil Production Compensation Fund within the Department of Transportation. The Secretary of Transportation and the Secretary of the Treasury would collect a fee of 3 cents per barrel of oil obtained from OCS production until the account totals at least $100 million, which is not projected to occur until after fiscal year 1982. No fees are expected to be collected in fiscal year 1977.

Money is to be disbursed from the fund for administrative and personnel expenses, cleanup costs, and payment of certain claims. The incidence of such costs is highly unpredictable, and may vary greatly from year to year. In addition, some of the cleanup costs and damage claims are recoverable, though it is not likely that substantial recoveries will be made during the period covered by this estimate. For the purpose of this estimate, it is projected that an average of $10 million per year will be disbursed from the fund for the specified purposes. The bill authorizes the appropriation of $10 million in fiscal year 1977, $5 million in fiscal year 1978, and $5 million in fiscal year 1979 for the administration of this title. It also authorizes the appropriation to the fund of such additional sums as may be necessary to carry out the provisions of this title. In addition, the fund is authorized to borrow up to $500 million from the Treasury to cover its necessary expenses.

The estimated costs and revenues associated with title III are summarized below:

[In millions of dollars]

	Fiscal year—					
	1977	1978	1979	1980	1981	1982
Authorization level	10	5	5	0	0	0
Estimated revenue	0	13	13	12	13	14
Estimated costs	0	10	10	10	10	10
Estimated net revenue	0	3	3	2	3	4

TITLE IV—FISHERMEN CONTINGENCY FUND

This title would establish within the Department of Commerce a Fishermen's Contingency Fund as a revolving account with an authorization for an initial deposit of $500,000, and for such additional appropriations as are necessary to maintain the Fund at a level not to exceed $500,000. These funds would be repaid to the Treasury with interest from fees collected on oil and gas production on the Outer Continental Shelf.

The title also establishes a Fishermen's Claims Board and authorizes $200,000 to be appropriated in each fiscal year until 1990 for administration of the Board and the fund. Disbursement from the fund is only for such administrative expenses and payment of claims. Also, section 405(c) provides that persons involved in OCS activities responsible for fishermen's claims of damages shall reimburse the fund.

The title provides for a collection of fees of up to one cent per barrel of oil and 5,600 cubic feet of gas on OCS production until the fund totals $2 million. No fees are expected to be collected in fiscal year 1977, but the fund is projected to reach $2 million in fiscal year 1978 if the fee is set at the maximum level. It is therefore estimated that the fund will show a net income of $2 million in fiscal year 1978, and that costs and revenues thereafter will net to zero as fees are adjusted to produce the required funds.

TITLE V—MISCELLANEOUS PROVISIONS

Section 506 of this title would amend the Coastal Zone Management Act of 1972 (specifically Section 308(b)) by providing grants to coastal states for the purpose of ameliorating adverse impacts resulting from exploration, development, or production of energy resources. The title authorizes to be appropriated sums in proportion to the amount of oil and gas production, both in the state and on the Outer Continental Shelf. The budget impact is estimated to be the difference between the funds authorized for the deleted section 308(b) and the amended section 308(b), as specified in this bill.

The entire $100 million authorized is assumed to be appropriated in fiscal year 1977 and fiscal year 1978, with the interpretation that fiscal year 1977 is the "first year" specified in the bill. The authorization level for the following fiscal years is based on projections of oil and gas production. Outlays were estimated on the basis of the similar ongoing program.

[In millions of dollars]

	Fiscal year—					
	1977	1978	1979	1980	1981	1982
Authorization level	100	100	263	263	263	263
Less: Previous authorization	50	50	50	50	50	50
Net additional authorization	50	50	213	213	213	213
Estimated costs	0	95	207	213	213	213

7. Previous CBO estimate: None.
8. Estimate comparison: None.

9. Estimate prepared by: Leslie Wilson.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

IX. Regulatory Impact Evaluation

In compliance with the Standing Rules of the Senate as amended by S. Res. 4 to require that all Committee reports contain an "evaluation of the regulatory impact which would be incurred in carrying out the bill or joint resolution," the following statement is made:

(a) The regulations to be issued pursuant to S. 9, the Outer Continental Shelf Lands Act Amendments of 1977 will govern activities primarily of those firms who hold or will hold oil and gas leases governed by the act. As of the end of fiscal year 1976, 43 firms held such leases. The regulations would also affect the partners of such firms in joint ventures on OCS leases and a wide number of contractors and subcontractors who perform work on the OCS or in support of OCS activities on behalf of OCS lessees. The regulations will not directly affect individuals or consumers.

(b) The economic impact of the regulations to be issued pursuant to S. 9 will arise primarily through their effect on Federal OCS leasing revenues. Such affects will occur in four classes.

1. Accelerations or delays in production of OCS oil and gas resources will increase or decrease, respectively, the value of the Federal revenues.
2. Improvements in the bidding systems by which OCS leases are sold will lead to increases in Federal revenues.
3. Increases in the costs of exploration, development and production will cause decreases in Federal revenues.
4. Lessening of the uncertainty regarding future decisions on exploration, development and production will tend to cause increases in Federal revenues.

Federal taxpayers and the recipients of Federal services would be affected by such changes in Federal revenues. Higher Federal revenues would mean lower taxes or provision of more services or both. Consumers and employees would be affected to the extent that production of OCS oil and gas reduced future economic disruptions due to dependence on foreign sources of oil.

(c) The regulations issued pursuant to S. 9 will have little or no effect on the privacy of individuals. Sec. 405 of the bill would decrease the privacy of officers or employees of the Department of the Interior who would be required to disclose information concerning financial interests in firms applying for permits or leases or otherwise subject to the OCS Lands Act.

(d) S. 9 would require additional paperwork in connection with the requirements for the following documents, reports, or correspondence:

1. Reports of financial data such as revenues and costs of lessees under profit sharing or work commitment and other types of leases (Sec. 205–Sec. 8(a)).
2. Reports by the Secretary to the Congress on the use of bidding systems (Sec. 205–Sec. 8).
3. Reports to the FTC regarding the competitive aspects of leases to be issued (Sec. 205–Sec. 8(c)).

4. Correspondence with Governors concerning leasing of areas within three miles of State submerged lands.

5. Exploration plans as specified in Sec. 206–Sec. 11(c).

6. Annual Report to the Congress (Sec. 207–Sec. 15).

7. Outer Continental Shelf Leasing Program (Sec. 208–Sec. 18).

8. Recommendations from Governors of affected States and written responses from the Secretary (Sec. 207–Sec. 19).

9. Baseline and monitoring studies of human and coastal environments (Sec. 208–Sec. 20).

10. Annual Report to the Congress on cumulative effects of OCS activities (Sec. 208–Sec. 20).

11. Study of the adequacy of existing safety regulations (Sec. 208–Sec. 21).

12. Development and Production plans and related information (Sec. 208–Sec. 25).

13. Copies of data obtained by lessees or permittees (Sec. 208–Sec. 26).

14. Reports of oil or gas landed in coastal States from the OCS (Sec. 406).

X. Executive Communications

The pertinent legislative reports and communications received by the committee from the Office of Management and Budget and from the Department of the Interior, the Federal Energy Administration, the Department of Transportation, the Department of Labor, and the Coast Guard setting forth Executive agency recommendations relating to S. 9 are set forth below:

January 24, 1977.

Hon. Cecil D. Andrus,
Secretary of Interior, Department of the Interior,
Washington, D.C.

Dear Mr. Secretary: As you may be aware, the Senate has been working on legislation to modernize our national policy for development of the oil and gas resources on the Outer Continental Shelf since 1974. In the last week of the 94th Congress, the Senate-House conference committee reached agreement on a bill (S. 521) which would have made many major changes in the OCS program. Actual passage of the legislation was precluded by the combination of intensive lobbying in opposition to the bill by the Ford administration and the major oil companies and the procedural limitations imposed by the imminent adjournment of the Congress.

I have introduced the OCS legislation again (S. 9). It is identical to the conference report on S. 521. Enclosed is a copy of the bill and my introductory statement.

The committee intends to hold hearings on S. 9 soon. I would appreciate your views and recommendations on the bill by March 1. If your staff has any questions, they may call D. Michael Harvey, Chief Counsel of the Committee, at 224–0611.

I am looking forward to working with you on this major energy policy issue.

Sincerely yours,

Henry M. Jackson, *Chairman.*

91-848 O - 77 - 8

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 14, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on S. 9, the "Outer Continental Shelf Lands Act Amendments of 1977."

We support the enactment of legislation to amend the Outer Continental Shelf Lands Act subject to the comments set forth below. We strongly believe that both environmental and energy considerations require modernization of the Outer Continental Shelf Lands Act of 1953.

S. 9 seeks to accomplish a number of desirable objectives, including: Facilitation of exploration and development of the OCS to provide needed additional domestic sources of oil and natural gas; enhancement of the opportunity for participation by the Coastal States and other affected regions; provision of more specific environmental guidelines for OCS exploration and development; and enhancement of competition for leases to assure a fair return to the public for its resources.

S. 9 would provide a revised legislative framework for the exploration, development and production of the mineral resources of the Outer Continental Shelf. The bill would:

Provide a comprehensive new leasing program with revised procedures for bidding and lease administration;

Authorize a number of specific bidding systems and require at least one-third of all acreage leased in each frontier area under the new program be leased under the specified systems, other than cash bonus bidding;

Authorize and direct exploratory drilling under Federal contract outside of areas included in the Interior leasing program and require the Department to offer permits for the drilling of on structure wells at least once in each frontier area;

Transfer authority for environmental baseline studies to the Commerce Department;

Provide new rules concerning health, safety and environmental protection;

Establish explicit procedures for enforcement and public participation, including new provisions for citizen lawsuits; and

Establish Coastal State and Regional Advisory Board participation in the leasing and development decisions.

Several provisions of the bill could, however, needlessly impair the efficiency of the OCS program, increase consumer and taxpayer costs, or produce other results not in the public interest. Our major concerns are:

1. Alternative bidding systems.—We concur in the bill's explicit authorization of new bidding systems and agree that substantial leasing should be undertaken to test and develop systems other than the cash-bonus bid system currently in use. We are concerned, however, that S. 9 would not permit experimentation with either new systems not specified by the bill, or variations of systems which are specified.

To allow such flexibility, we recommend the following subsection be added to Sec. 205 on page 27, line 6: "(I) any modification of bidding systems authorized in (A) through (H) and any other systems of bid variables, terms and conditions which the Secretary determines to be useful to accomplish the purposes and policies of this section."

We are also concerned that sections 8(b)(4) of S. 9 together with sections 8(g) and 9 of the present Act would not permit experimentation with dual leasing systems. For example, one option which is under study in the Department and which may prove useful is to have the exploratory firms share the costs of drilling under exploration leases in return for a limited share of the benefits of subsequent development leases. We are reviewing the desirability of authorizing such arrangements and will make a recommendation to the Congress shortly with amendments to carry out any such recommendation.

2. Federally contracted exploration.—We agree that the Department should have the authority to contract for exploratory drilling and should exercise that authority in the national interest. Because of the great potential for government expenditures in OCS exploration, however, it is important to ensure that the new statutory authority include sufficient flexibility for achieving efficient exploration.

To clarify and to make more flexible the authority to contract for exploratory drilling, we recommend the following changes;

SEC. 206 delete Sec. 11(h) on p. 43, and substitute the following:

> (h) The Secretary is authorized to contract for exploratory drilling on geological structures which the Secretary determines should be explored by the Federal Government for national security or environmental reasons or for the purpose of expediting efficient exploration, the sale of oil and gas leases, and development.

In addition, the Secretary should be given discretion to seek qualified applicants to conduct geological exploration, rather than be required to do so at least once in each frontier area as provided by new section 11(g) which would be added by § 206 of the bill. To accomplish this, lines 1 and 2 on page 43 should be amended to read: "(g) The Secretary may seek qualified applicants to conduct geological explora-"

3. State and regional advisory board recommendations.—Participation by the States in development and execution of the OCS leasing program is highly desirable. Past arrangements for this participation and Interior response to State and regional concerns have not been satisfactory to the States. In general, the bill's provisions are well designed to remedy this defect.

The bill does, however, require the Secretary to follow recommendations of the Governor of an adjacent state or the Regional Advisory Board, unless they "are not consistent with the national security or the overriding national interest." The provision makes unnecessarily adversary a process which should be as cooperative as possible. Also, unnecessary confusion may result if responsibility for such recommendations is given to both the Governors and Regional Advisory Boards. The Governors, of course, would be free to establish whatever advisory or consultative mechanisms they deem useful and necessary.

We recommend that the Regional Advisory Boards not be specifically authorized by statute and that the Secretary be required to consider the Governor's recommendations in light, not only of the national interest, but also of the well-being of the citizens of affected States. The Secretary should also be required to consult with Governors making recommendations and to inform them, in writing, of the reasons for his decisions. Sec. 19(d) beginning at line 15 on page 54 therefore should be amended to read:

"(d)(1) Any Governor of any affected State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan.

(2) Such recommendations shall be submitted within 60 days after notice of such proposed lease sale or receipt of such development and production plan.

(3) The Secretary shall accept such recommendations if he determines, after having provided the Governor the opportunity for full consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For the purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes and policies of this act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State."

Conforming amendments would also be needed to delete Regional Advisory Boards in Sec. 19 and in other sections of the bill where Advisory Boards are mentioned.

4. Cooperative agreements with affected coastal States.—We believe clear authority for necessary cooperative agreements between affected coastal States and the Department is desirable. We, therefore, recommend the addition in Section 19, page 55, of the following new subsection (e):

"(e) The Secretary is authorized to enter into cooperative agreements with affected coastal States for purposes which are consistent with this act, and applicable Federal law. Such agreements may include the sharing of information, the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations and stipulations relevant to OCS operations both on and offshore."

5. Lease cancellation and development plan disapproval for environmental reasons.—We support provisions of the bill authorizing lease cancellation of development plan disapproval because of harm or damage to the environment. When such strong action is taken, however, it should be based on considerations of the advantages of continued operations as well. We recommend that these provisions be amended to provide that the criteria for cancellation and disap-

proval be a showing of harm or damage which outweighs the advantages of continued activity. Since disapproval of a development plan can ultimately lead to lease cancellation, the criteria for both decisions should be consistent. Therefore, we recommend the following amendments:

In Sec. 25(g)(1), p. 77, delete line 16 through line 3 on p. 78, and substitute:

"The Secretary shall disapprove a plan—

(a) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law;

(b) if those activities described in the plan which affect land use and water use of the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) are not consistent with such management programs;

(c) if operations threaten national security of national defense; or

(d) if in the Secretary's determination, because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, implementation of the plan would probably cause serious harm or damage to life (including aquatic life), to property, to any mineral deposits in areas leased or not yet leased, or to the marine, coastal or human environments, and if he determines that the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time and if he determines that the advantages of disapproving the plan outweigh the advantages of development and production."

In Sec. 204 (Sec. 5(a)(2)), p. 20, delete lines 7 through the comma in line 15, and substitute:

"(2) for the cancellation of any lease or permit, at any time, when it is determined by the Secretary, after hearing, that continued activity pursuant to such lease or permit would probably cause serious harm or damage to life including aquatic life, to property, to any mineral deposits in areas leased or not yet leased, to the national security or defense, or to the marine, coastal or human environments, and if he determines that the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time and if he determines that the advantages of disapproving the plan outweigh the advantages of development and production."

Moreover, to assure that Constitutional compensation requirements are met with respect to leases existing at the date of enactment, we recommend insertion of a proviso on page 21, line 13 and on page 79, line 5, before "reimbursement)" as follows: "*Provided that* with respect to leases issued before the date of enactment of this Act, such compensation shall be equal to the amount specified in item (i) of this sentence."

6. Health and safety regulations.—New sections 21 and 22 (added by § 206 of the bill) would alter in either an uncertain or an undesirable manner responsibilities for OCS safety and health regulation. For example, they would require the involvement of at least five Fed-

eral agencies in the promulgation of regulations and at least three Federal agencies in the enforcement of regulations.

They would also provide that no new safety regulation shall reduce the degree of safety or protection to the environment afforded by safety regulations previously in effect. Environmental regulations frequently must be promulgated on the basis of incomplete information and this provision would not allow revision based on better information, if the revision would reduce the degree of protection afforded. If applied to new regulations, such provisions could discourage the promulgation of desirably strong regulations based on incomplete information. In any event, the fact that the increment of protection provided by existing regulations was extremely costly to the Nation, if that were the case, could not be considered. We recommend that the bill be amended to permit the Secretary to consider whether the incremental costs of new regulations are justified by additional protection afforded.

We also believe that lessees should be required to use the best available technology which the Secretary determines to be economically achievable for health, safety and environmental protection.

To address these issues, we recommend deleting sections 21 and 22 and substituting the following alternative sections 21 and 22 and conforming amendments:

"SEC. 21. Safety Regulations.—

"(a) Upon the date of enactment of this section, the Secretary, the Secretary of Labor, and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and other agency heads as appropriate, promptly commence a study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, production and development of natural resources, with respect to the Outer Continental Shelf. The results of this study shall be submitted to the President who shall submit a plan of action which he proposes to take to promote safety and health in the exploration, production and development of natural resources of the Outer Continental Shelf.

"(b) In exercising their respective responsibilities for floating, temporarily fixed or permanently fixed structures for the exploration, production and development of the natural resources of the Outer Continental Shelf, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require the use of the best available and safest technology which the Secretary determines to be economically achievable, taking into account the incremental costs and benefits of utilizing such technology, wherever failure of equipment would have a significant effect on safety, health, on the environment, on all new drilling and production operations and, wherever practicable, on existing operations.

"(c) Nothing in this section or in section 22 of this Act shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety."

"SEC. 22. Enforcement of Environmental and Safety Regulations—

"(a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall consult with each other regarding the enforcement of environmental and safety regulations promulgated pursuant to this act, and each may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency, for the enforcement of their respective regulations.

"(b) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

"(1) scheduled onsite inspection at least once a year of each facility on the Outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

"(c) The Secretary, the Secretary of the Department in which the Coast Guard is operating or their authorized representatives, upon presenting appropriate credentials to the owner or operator of a facility subject to subsection (b), shall be authorized: (1) To enter without delay any part of the facility; and (2) to examine such documents and records as are perinent to such an inspection.

"(d) (1) The Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall make an investigation and public report on each major fire and major oil spillage occurring as a result of operations conducted pursuant to this act. For the purpose of this subsection, the term 'major oil spillage' means any discharge from a single source of more than two hundred barrels of oil over a period of 30 days or of more than 50 barrels over a single 24-hour period. In addition, such Secretary may make an investigation and report of any lesser oil spillage.

"(2) In any investigation conducted pursuant to this subsection, the Secretary of the Department in which the Coast Guard is operating shall have the power to subpoena witnesses and to require the production of books, papers, documents, and any other evidence relating to such investigation."

Section 208 should be further amended, in conformity with the above amendments as follows:

page 66, lines 2 and 3 in section 23(a)(1), strike the present text and insert "his own behalf against any person, including the United"

page 66, lines 10–13, delete section 23(a)(1)(B)

page 66, lines 14–16, delete the present text and insert "(2) No action may be commenced under subsection (a)(1) of this section—"

page 67, lines 3–12, delete 23(a)(2)(B)

page 70, line 25 in section 24(a), strike the words "Secretary of Labor"

page 71, line 15 in section 24(c), strike the words "Secretary of Labor, the"

page 71, lines 23 and 24 in section 24(c), delete the words "Occupational or public"

7. *Environmental studies and monitoring.*—To assure the most effective management and direction of the OCS program we strongly recommend that baseline study and monitoring responsibilities remain in the Interior Department rather than being transferred to the Department of Commerce. To accomplish this, we recommend deletion in Sec. 20, on page 55, lines 21 and 22 of the words "of Commerce in cooperation with the Secretary," on page 56, lines 9 and 10, the words "of Commerce"; on page 56, lines 13 through 23, subsection (a)(13) in its entirety; on page 57, (b), line 9, the words "of Commerce"; on page 58, line 4, and lines 7 and 8, "of Commerce"; on page 58, (d) lines 12 and 13, the words "of Commerce", and "to the Secretary and". At the end of section 20, the following new subsection should be added:

"(f) In executing his responsibilities under this section the Secretary is authorized and directed, to the maximum extent practicable, to enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization or entity with funds appropriated to the Secretary of the Interior pursuant to this Act."

8. *Clarification of authority for leasing geothermal resources on the OCS.* We believe that authority exists under the present Act, or as it would be amended, to lease geothermal resources on the OCS. However, to avoid possible litigation in the future, we recommend that this opportunity be taken to specifically provide authority for the Secretary to lease geothermal resources on the OCS. The bill should be amended in section 201 so that subsection (a) will read as follows:

(a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1331) is amended to read as follows: "(c) The term 'lease' means any form of authorization which is issued under Section 8 or maintained under Section 6 of this Act and which authorizes exploration for, and development and production of, deposits of oil, gas, or other minerals, including geothermal resources;"

Finally, the Administration is of the view that imposition of conditions of Congressional approval, other than by joint resolution, constitutes an improper legislative encroachment upon executive functions.

In addition, there are a limited number of other issues on which we are consulting other agencies within the Administration. Among these are: requiring by statute that all pipelines on the Outer Continental Shelf (except gathering lines entirely within the boundaries of a unit) be operated as common carriers: assuring effective antitrust review, without unnecessarily delaying leasing; establishing joint Federal/State leasing procedures for common pools of oil and gas, which contribute to the conservation of the resource.

Our concerns regarding these issues and possible amendatory language will be made available to the Committee by letter very shortly.

Beyond these matters, we anticipate working with the Committee on secondary problems. There are a number of these other problems for which we will be prepared to suggest amending language. Our intention is to provide a clear framework for balanced use of the Nation's OCS resources. The guidance provided by this legislation to carry out

an effective program which can respond to changing needs should be specific without excessive detail or inflexibility.

We are keenly aware that the contribution which the OCS program can make to the Nation's economic health can only be achieved through strong environmental protection, public participation in important decisions, adequate planning and maintenance of a competitive private sector to develop OCS resources.

Safe and efficient development of our OCS resources in the near future is a high priority of this Administration; and, we are firmly committed to the enactment of additional legislation which will result in this end. To accomplish this, we are prepared to build on past efforts and work closely with the Congress, both with respect to the modifications outlined above and to other improvements that may appear advisable as the Congress considers the measure. More importantly we will continue that close relationship in implementing an effective program.

The Office of Management and Budget has advised that enactment of legislation conforming to the views set forth above would be in accord with the program of the President and it has no objection to the presentation of this report.

Sincerely,

CECIL D. ANDRUS, *Secretary.*

JANUARY 24, 1977.

Mr. JOHN F. O'LEARY,
Administrator-Designate, Federal Energy Administration,
Washington, D.C.

DEAR MR. O'LEARY: As you may be aware, the Senate has been working on legislation to modernize our national policy for development of the oil and gas resources on the Outer Continental Shelf since 1974. In the last week of the 94th Congress, the Senate-House conference committee reached agreement on a bill (S. 521) which would have made many major changes in the OCS program. Actual passage of the legislation was precluded by the combination of intensive lobbying in opposition to the bill by the Ford Administration and the major oil companies and the procedural limitations imposed by the imminent adjournment of the Congress.

I have introduced the OCS legislation again (S. 9). It is identical to the conference report on S. 521. Enclosed is a copy of the bill and my introductory statement.

The Committee intends to hold hearings on S. 9 soon. I would appreciate your views and recommendations on the bill by March 1. If your staff has any questions, they may call D. Michael Harvey, Chief Counsel of the Committee, at 224-0611.

I am looking forward to working with you on this major energy policy issue.

Sincerely yours,

HENRY M. JACKSON, *Chairman.*

STATEMENT OF JOHN F. O'LEARY, ADMINISTRATOR, FEDERAL ENERGY ADMINISTRATION

Mr. Chairman and members of the committee, I appreciate the opportunity to appear here today to discuss the pending legislation amending the Outer Continental Shelf Lands Act of 1953.

As you may be aware, I addressed this subject two weeks ago before the House's Ad Hoc Select Committee on the OCS. At that time, I stressed the importance of establishing a sound statutory and regulatory framework for OCS leasing and development in order that we may move forward with the exploration of our frontier OCS regions in a timely, efficient and environmentally sound manner. The FEA and others within the Administration agree that new legislation is needed to accomplish this major objective.

As the OCS represents one of the major areas of potential oil and gas resources, it is imperative that the Nation achieve an early understanding of the potential contribution of the OCS to its energy needs. We need both to assess the quantity and quality of OCS resources, and to develop them in a cooperative framework involving the Federal Government, States and affected coastal communities, and industry.

The pace of OCS leasing is a critical factor in achieving delivery of OCS resources for the energy needs of the Nation. However, the experience of the last few years has shown that leasing cannot be arbitrarily accelerated. It is clear that an OCS leasing program and the development which will follow will move forward expeditiously only after establishing new procedures or reinforcing existing ones to assure comprehensive analysis of the impacts of OCS development. Orderly and efficient development will proceed in an atmosphere of confidence that adequate safeguards are available to mitigate environmental consequences.

FEA believes that this legislation will encourage a climate of cooperation among all participants in the OCS program, and thus minimize the potential for conflict, litigation, and delay. The establishment of an improved dialogue and exchange of information among Federal, State, and local governments will facilitate an orderly and environmentally sensitive leasing and development program.

This administration intends to assure that State and local governments will have an effective role in the OCS decisionmaking process. They will participate in the review of the overall development of a leasing program and in the selection of tracts to be leased. Their recommendations to the Secretary on specific activities, such as the approval of development and production plans, will insure that local interests are appropriately considered and coordinated with the national interest. I believe that such steps are long overdue, Mr. Chairman, and that giving the directly affected States a stronger voice from the beginning of the OCS decision process should avoid expensive delays later.

The legislation assists in the balancing of environmental protection and energy development objectives, assures a more effective role for States and local governments in the OCS decisionmaking process, and provides the Secretary needed broader latitude in the proper management of our Nation's offshore resources.

The conference bill which came close to passage in the last session of Congress reflects the extensive effort which has been invested by both Houses. As I stated before the House Select Committee 2 weeks ago, I feel we are fortunate to have the benefit of this effort.

I and my colleagues in the new administration look forward to completing this legislative effort, followed by prompt enactment.

I believe, however, that some provisions merit further consideration by the committe. I would like to discuss these subjects briefly.

FEA supports the ultilization of alternative bidding systems in selling OCS leases, as provided in Section 5 as revised by the bill. However, it is our conviction that in order to assure the public a fair return on the sale of its resources, to provide for the most economically efficient method of developing these resources, and to promote competition among prospective bidders, the Secretary of the Interior should have maximum flexibility in selecting the bidding system which best achieves these objectives. This suggests two modifications in the current language. First, a provision should be added so that bidding systems are not limited to the eight now identified. Second, it is my personal view that percentage requirements of lease methods in certain areas in certain time periods should be removed to make their utilization discretionary in the Secretary.

I can assure you that under this Administration a variety of new systems will be used. This bill would transfer the environmental baseline studies program to the Department of Commerce. As you know, these studies are intended to provide timely information relevent to governmental decisions in the leasing and development process. In order to insure the proper integration of this information into the overall OCS decisionmaking process, we recommend that these studies remain an integral part of the OCS program responsibilities within the Department of the Interior.

FEA strongly favors the vesting of authority in the Department of the Interior to cancel leases or disapprove production and development plans when operation of the lease would cause serious harm or damage to the human or marine environment. We believe, however, that the advantages of continuing operations should also be considered. We believe these situations would rarely occur, but in the event they do, we favor the option of cancellation coupled with adequate compensation to the lessee.

Sections 11(g) and (h) of this bill relate to on-structure drilling. They address the concern of the Congress that we have been proceeding with OCS leasing and development in the face of uncertainty about the magnitude of OCS resources. This uncertainty has led to questions about the resource position of the country and a fair return for publicly owned resources.

It seems clear to me that the Government must have reliable information with regard to OCS resources in order to assure responsible decisionmaking. There is always going to be uncertainty in the leasing of OCS lands, but the Secretary of the Interior, as steward of the public lands, should have more knowledge in discharging this function, and the Nation's energy policymakers must be well informed to plan the Nation's energy policy intelligently. In developing adequate information, I feel certain that the Government will, under some circum-

stances, want to undertake some exploratory drilling and will do so. However, we must all recognize that this information is expensive and is complete only when the resource is finally depleted. The costs and benefits of such Government, as opposed to permittee, drilling have to be considered on a situation-by-situation basis. We should, therefore, allow for information requirements to be assessed and then acquired as OCS development progresses. The amount of on-structure drilling and where that drilling should occur should not be arbitrarily specified, but should be left to the discretion of the responsible Federal official.

I understand that specific instructions concerning on-structure exploratory drilling are in this bill because existing authority in this area has not been utilized to the extent many in Congress, and I, believe necessary and appropriate. However, I believe it inappropriate that on-structure drilling be made a mandatory part of the leasing process, as seems to be implied by the provisions in this bill. It is my hope that we can find a way to give the Congress the necessary assurances without requiring such drilling in advance in particular cases.

The bill offers two possible approaches to on-structure drilling:

Section 11(g) would require the Secretary to seek private interests to conduct such drilling, for their own account and at their own expense, at least once in each frontier area. I assume information so obtained would be proprietary.

Section 11(h) would authorize the Secretary to contract for exploratory drilling at his discretion with public funds. I assume information so obtained would be freely disseminated.

The implications of giving a private group permission to spend their money to drill on-structure and gain information on which to base their bids for leases should be fully understood. The proprietary information thus gained would give them a substantial advantage in bidding for development rights to the area tested. However, requiring release of that information to other potential bidders would penalize those who obtained such information at their expense (and presumably deter them from doing so). This issue arose in leasing offshore California tracts.

In that instance, equity considerations dictated allowing competing groups to drill parallel on-structure tests in order that they would have comparable information on which to base their bids. Such duplication seems inefficient to me, although it may be possible to avoid redundant drilling by private parties by requiring permittees to share their information with whomever is willing to pay a fair share of the costs of obtaining it. Without excluding the possibility of private on-structure exploratory drilling, it may prove more efficient for the Government to drill and pay for the limited number of information wells which it deems advisable, wherever it sees fit to drill, and then to pass on the results of those wells to all prospective bidders.

In summary, I believe that neither private nor public on-structure drilling should be mandatory in particular cases, but the Secretary should have clearly stated authority to use whichever prelease exploratory tool he deems appropriate in the circumstances. However, this discretion should be coupled with a clearly stated public commitment

to, in fact, use these means whenever they are the most efficient way to get the greater prelease information we need.

Our suggestion in the four areas described above are minor in the overall context of the legislation, Mr. Chairman. We have been working with the Department of the Interior on the language of proposed administration amendments since our House testimony on this subject two weeks ago. It is a small package of amendments, and we look forward to working with you and the committee to achieve early enactment of OCS reform.

Thank you for your time and attention. I will be happy to answer any questions you may have.

MARCH 24, 1977.

Hon. CECIL D. ANDRUS,
Secretary of the Interior, Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: Thank you for your excellent testimony on S. 9, the Outer Continental Shelf Lands Act Amendments. I hope that our mutual desire of securing an economically competitive and environmentally safe national policy for the development of the OCS will soon be achieved.

As you are aware, much of the criticism of S. 9 has centered on a claim that unnecessary delays will ensue because of the potential for overlapping Federal regulations and the addition of more procedural steps.

Among your proposed amendments to S. 9, was a recommendation that sections 21 and 22 (Safety Regulations and Enforcement) be deleted to insert new language designed to improve and strengthen such regulations. Apparently, a partial justification for that proposal is founded upon a desire to reduce the involvement of as many as five Federal agencies and the resultant potential for overlapping regulations which would follow. In view of the continuing concern over these issues, the Committee would appreciate the following information:

(1) A detailed comparison of the regulatory scheme under the Administration's proposed new sections 21 and 22 with existing safety regulations and enforcement procedures and those proposed in S. 9.

(2) A description of the procedural steps for OCS leasing and development, and the times involved, under existing leasing regulations and how the Federal agencies presently involved in OCS activities coordinate their involvement; and

(3) Your view as to whether or not any of the provisions found in S. 9 or the administration's amendments would delay the leasing and development of the OCS.

We would like this material by April 15. If your staff has any questions, they may call D. Michael Harvey, the committee's chief counsel, at 224-0611.

Thank you for your assistance.

Sincerely yours,

HENRY M. JACKSON, *Chairman.*

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 13, 1977.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SCOOP: This is in response to your letter of March 24, 1977, concerning S. 9, the Outer Continental Shelf Lands Act Amendments of 1977.

The answers to your questions are as follows:

1. We heartily support the objective in S. 9 of a strong health and safety program on the OCS. We believe such a program is proper and necessary. We are concerned, however, that sections 21 and 22 of S. 9 may not achieve as effective or as efficient a safety scheme as it seeks. We believe this is so especially because of the large number of agencies (5) which S. 9 would require to be directly responsible for development of safety regulations, and because of the apparent duplication of some regulatory and enforcement activities (e.g., inspection of mobile rigs by Interior, OSHA, and the Coast Guard). Consequently, we have offered, in our letter of March 14, an amendment which would require the three agencies most directly involved in OCS health and safety, in consultation with other agencies, to commence a comprehensive study of the adequacy of existing safety regulations, technology, equipment, and techniques available for OCS exploration, development and production. The results of this study would be submitted to the President, who would use the information in turn to submit to Congress a plan of action for health and safety on the OCS. We believe this approach can achieve our common objective.

Attachment I compares regulatory schemes.

2. The current process for leasing takes about 19 months from initiation to completion of an OCS lease sale. It involves such activities as nominations of tracts, selection of tracts, preparation of draft and final environmental statements, and estimation of the value of selected tracts.

Exploration follows the sale of leases generally taking 2 or more years until the initiation of development of any oil and gas resources that are located. Exploration plans and applications for permits to drill are submitted by OCS lessees for approval. Development plans are submitted for approval at the initiation of development, followed by a variety of permits and approvals for drilling and other operations. A more detailed description is provided in Attachment II.

The Department coordinates with other agencies such as the Environmental Protection Agency, the U.S. Coast Guard, the Department of Transportation and the Department of Labor through memoranda of understanding and informal working groups. For example, memoranda of understanding have been signed with the Coast Guard on regulation of vessel discharges and with the Department of Transportation on pipeline construction. A similar agreement is under discussion with Environmental Protection Agency regarding discharges from drilling rigs. In addition, a variety of Federal Departments and agencies provide information and recommendations during the leasing process.

3. In our view, S. 9, with the Administration's proposed amendments, would not unduly delay production of oil and gas from the OCS. Some provisions would require review periods which could add to the time required in one or more phases of the OCS leasing process. The review of exploration and development plans is an example of such a review period. With proper planning, delays from such reviews can be minimized. On the other hand, the bill includes processes for consulting with states and other interested parties before key decisions are made. Such consultation, if properly organized and undertaken in a cooperative spirit, should do much to eliminate the major source of delay in the past, litigation by interests opposing OCS development. The Department is committed to such a cooperative process and expects to reduce such delays as a result.

We hope these answers will be helpful in your deliberation on S. 9. We are keenly aware of the contribution that a sound OCS program can make; and, we offer our assistance in whatever way will best facilitate your work to this end. It is our desire and intention to continue a close relationship with your Committee and with the Congress in achieving necessary modernization of the Outer Continental Shelf Lands Act of 1953.

Sincerely,

CECIL D. ANDRUS, *Secretary.*

Attachments.

ATTACHMENT 1

Existing safety regulations and enforcement procedures	Those proposed in secs. 21 and 22 of S. 9	Those proposed in administration's amendments to sec. 21 and 22 of S. 9
Safety requirements are published as OCS orders, following publication in the Federal Register, and receipt of comments from other Government agencies, industry, and the general public.	Safety regulations developed by: Interior, EPA, Army, Coast Guard, Labor (would concur only on occupational safety and health).	Safety regulations developed by: Agencies with current statutory authority.
	National Academy of Engineering study safety regulations. Submit report to Congress, Interior, and Coast Guard within 9 mos.	Interior, Labor, and Coast Guard study safety regulations and submit study to President. President to submit a plan of action.
	Applicable Federal officials to review existing regulations and promulgate a complete set of new safety regulations within 1 yr.	Deleted.
	Secretary of Labor has 60 days to promulgate interim regulations pursuant to OSHA Act of 1970 applying to diving and other unregulated hazardous working conditions.	Do.
	Interior to compile regulations of all Federal agencies applicable to OCS, revise and update annually, and make available to public.	Do.
Current policy is to conduct inspections on major platforms once each 6 mo and minor platforms once each 15 mo. Unannounced inspections are currently included. Drilling rigs inspected at least once during drilling operations. A schedule for safety device testing by the operator is provided in OCS order No. 8.	Interior, with concurrence of Coast Guard and Labor, shall, within 120 days promulgate regulations to: 1. Provide for physical observations of all installations once per year. 2. Test all safety equipment designed to prevent or ameliorate occupational hazards, blowouts, fires, spillages, or other major accidents. 3. Include unannounced inspections.	Onsite inspection of each facility is to be made once per year. Unannounced inspections are to be included.
Secretary of the Interior may cancel any lease obtained by fraud or misrepresentation. Supervisor may suspend operations for failure to comply with applicable laws, lease terms, and regulations.	Gives Secretary of the Interior authority to cancel leases for repeated failure to comply with safety regulations without entitlement to compensation.	Deleted.

Existing safety regulations and enforcement procedures	Those proposed in secs. 21 and 22 of S. 9	Those proposed in administration's amendments to sec. 21 and 22 of S. 9
Spill statistics are compiled into a report semiannually for spills at 50 barrels or more, entitled "Accidents Connected with Federal Oil and Gas Operations on the OCS." Includes fires and blowouts. Computerized file of all accidents, fires, blowouts, and oil spills greater than 1 barrel is maintained and available on request.	Coast Guard will make public report on each major fire and each major oil spill (200 barrels over 30 days).	Interior or Coast Guard, as applicable will make public report on each major fire and oil spill (200 barrels over 30 days or 50 barrels per day).

Attachment II.—Leasing Procedure for the Outer Continental Shelf

The sequence leading to the leasing of OCS areas of oil and gas development is the responsibility of the Bureau of Land Management, which is the primary manager of Federal lands under the jurisdiction of the Department of the Interior. The initial step in this leasing process is the selection of general areas for inclusion in a lease schedule. If an area is scheduled for a possible lease sale, several activities occur before a final decision to hold a lease sale is reached: (1) an acceleration of industry's collection of geological and geophysical data under Department of the Interior permits; (2) the initiation of the Department of the Interior's environmental baseline studies; (3) the Department's tract selection, environmental impact statement, and sale decision process; and (4) evaluation of hydrocarbon resources.

A. LEASING SCHEDULE

A leasing schedule is the framework used to determine the timing and initiation of procedures for individual sale areas. Factors influencing the selection of areas for the schedule include initial assessments of oil and gas potential as estimated by both industry and Government, environmental resources that might be affected by OCS development and the availability of technology. These are weighed and balanced in developing a schedule of proposed lease sales that will result in the orderly and timely development of oil and gas while taking into account the protection of the environment. The schedule is continually being updated and revised within the Department of the Interior. Key considerations in this process are the three underlying objectives of the leasing program: (1) orderly resource development, (2) protection of the environment, and (3) receipt of fair market value from the sale of leases and the production of oil and gas.

B. COLLECTION OF GEOLOGICAL AND GEOPHYSICAL DATA

As indicated earlier, the only positive way of knowing whether an area contains petroleum is to drill one or more wells, but a number of geological and geophysical techniques have been developed and refined over the years to assist in the prediction of whether there may be petroleum in an area. With these techniques, attempts are made to

infer: (1) whether the requisite geologic conditions for petroleum occurrence exist, (2) where these reservoirs are located, and (3) the size of the reservoirs and the probable volumes of petroleum that they may contain.

Most of the information used by both Government and industry to estimate or infer the oil and gas potential of an area is acquired by geological and geophysical surveys. A considerable amount of this information is collected under permits issued by the Survey to specialized data-collection firms that sell or furnish the information to oil companies and to the Department of the Interior. These geological and geophysical data are used by industry in nominating tracts for lease and preparing bids for lease sales. The Department of the Interior uses the information for identification of a general sale area, tract selection, resource evaluation, and post sale management.

By measuring the velocity of shock or seismic waves through various rock formations, geophysical surveys provide information about the thickness and depth of various layers of rock and the probable location and existence of salt domes, folds, or faults. Information about the deeper layers is used primarily for evaluating the petroleum resource potential. Information about shallow layers identifies potentially hazardous conditions such as surface faulting, potential slide areas, or shallow gas pockets. This type of information is valuable in the choice and evaluation of drilling platform locations.

Geological surveying of the OCS consists of bottom sampling, shallow coring, and deep stratigraphic testing. These data are useful in determining the general geology of an area and whether the right types of rocks exist for petroleum formation and accumulation. Bottom samples are obtained by dropping a weighted tube to the ocean floor and recovering it with an attached wire line. Depending upon the nature of the ocean floor, penetration is normally limited to a few feet. Shallow coring is performed by conventional rotary drilling equipment to obtain a near-surface sample of the rocks of the seabed.

Choice of location is carefully controlled to avoid any geological hazards, faults for example, or environmentally sensitive areas. Penetration is limited to several feet of consolidated rock. Sometimes in totally unexplored areas, deep wells will be drilled "off structure"—that is, on a site unlikely for petroleum accmumulation—to determine the geologic character or stratigraphy of the rock strata at depth. The location of such wells for stratigraphic tests (rock samples and electronic tests within the hole) is carefully controlled by a permit issued by the Survey. The wells, which may be 20,000 feet deep, provide information that can be extrapolated to adjacent areas where geophysical data or other evidence suggest that reservoirs might be found. When the geophysical and stratigraphic evidence are combined, the possible presence and volume of petroleum can be predicted with greater accuracy, but exploratory drilling is still required to determine whether or not oil or gas is actually present.

C. ENVIRONMENTAL STUDIES

In areas where there has been no previous leasing, environmental studies are conducted to establish bench mark information. Measurements taken thereafter during what is known as the monitoring phase

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can be compared to this bench mark to detect environmental trends including those related to exploration and development activities. The bench mark and monitoring data together make up the baseline information. These baseline studies are designed by the Bureau of Land Management after a thorough assessment of published and unpublished data, on-going research, and planned research. Environmental symposiums held near the area to be studied help to develop information on the area and to identify problems that require attention.

The baseline study design is reviewed by the Outer Continental Shelf Environmental Studies Advisory Committee. This committee was originally established in March 1974, and reconstituted and renamed in December 1975, to advise the Department on the design and implementation of environmental studies of the OCS. It consists of a chairman appointed by the Assistant Secretary for Land and Water Resources, representatives of the Governors of 22 coastal States, the Environmental Protection Agency (EPA), the National Oceanic and Atmospheric Administration (NOAA), the Coast Guard, and the National Science Foundation, plus 6 individuals from the public. Representatives of the Bureau of Land Management, Geological Survey, and Fish and Wildlife Service also participate. This committee is the technical counterpart to the OCS Advisory Board. The Outer Continental Shelf Advisory Board was established in October 1975 to provide a formal mechanism for the Department to receive views and recommendations from coastal State officials and to provide a forum for effective dialogue between the coastal States and the various Federal agencies involved in and responsible for mineral development of the Outer Continental Shelf. This Board is chaired by the Secretary of the Interior and includes representatives from 22 coastal States and Pennsylvania, 6 members from the public, and nonvoting members from 7 Federal agencies—the Council on Environmental Quality, Environmental Protection Agency, Federal Energy Administration, and the Departments of State, Defense, Commerce, and Transportation.

Environmental baseline studies over a wide range of disciplines including geology, geophysics, biology, physical oceanography, meteorology, and trace-element and hydrocarbon chemistry. Conducted by universities and private corporations under contract, NOAA, the Fish and Wildlife Service, and the Geological Survey, the studies include the generation of original data as well as the analysis of existing information.

The results of these efforts are used by the Department in making decisions on the development of marine mineral resources. The data are useful in tract selection, environmental impact analyses, formulation of lease stipulations, and modification of OCS Operating Orders or leasing and operating regulations.

After a lease sale is held, environmental studies are continued to monitor the effects of petroleum exploration or production activities. If adverse changes are detected, OCS Operating Orders may be adjusted to counteract them or Notices to Lessees and Operators may be issued. In addition, special lease stipulations for future sales in an area may be imposed.

D. RESOURCE REPORTS AND PRELIMINARY ASSESSMENT

After an area has been scheduled for a possible lease sale, the Bureau of Land Management assembles a preliminary assessment of the area's petroleum potential, environmental problems, conflicts with other resource values such as fisheries or conflicts with other uses of the area such as transportation or defense purposes. This assessment is made from resource reports requested by the Bureau of Land Management from other Federal bureau and departments having the appropriate expertise, such as the Geological Survey, Fish and Wildlife Service, National Park Service, Bureau of Outdoor Recreation, Bureau of Mines, Bureau of Indian Affairs, Forest Service, NOAA, EPA, U.S. Coast Guard, National Aeronautics and Space Administration (NASA), Federal Power Commission, Departments of Defense and Treasury, and Federal Energy Administration. These reports are usually available before a call for nominations and comments is issued.

E. CALL FOR NOMINATIONS AND COMMENTS

The call for nominations and comments, published in the Federal Register and disseminated by a news release, is an official notice to the public for information to assist in identifying individual offshore tracts that may subsequently be offered for lease. The call area usually embraces several million acres. Interested parties are asked to nominate tracts within the area that they wish to have offered for lease sale because of the oil and gas resources potential. The Department also asks interested parties, including the State governments, to identify and recommend tracts to be either specifically excluded from oil and gas leasing or to be leased only under special conditions because of conflicting resource values, such as fishery potential, or because of unique environmental concerns. The call for nominations and comments also solicits particular geological, environmental, biological, archeological, socioeconomic, or other information that might bear upon leasing and development of particular tracts. Governors of States adjacent to the call area are given advance notice of a call.

F. TENTATIVE TRACT SELECTION

The Department of the Interior uses the tract nominations and the resources and environmental information received from all interested parties, as well as its own resource, environmental, technological, and economic information, to select tracts for further analysis in the environmental impact statement.

The selection of tracts is designed to choose those tracts most prospective for production, to avoid obvious environmental hazards to the existence of other resources, to test additional prospective geologic structures and trends, and to protect tracts in imminent danger of drainage from production on adjacent tracts. Certain tracts may not be selected at this stage because of major resource conflicts or overriding environmental considerations. The Governors of the affected States are consulted during this process.

The availability of the list of selected tracts is then announced by a press release. The set of tracts proposed for leasing—often referred

to as a tentative tract list—is the geographical basis for an environmental impact statement.

G. DRAFT ENVIRONMENTAL IMPACT STATEMENT

The National Environmental Policy Act (NEPA), passed by Congress in 1969, requires that an environmental statement be prepared in conjunction with all major Federal activities significantly affecting the quality of the human environment. The statement is intended to identify and assess adverse environmental effects of the proposed action and its reasonable alternatives. It is used in making a decision whether or not to undertake the proposed action or modify it to avoid or mitigate identified environmental damage. The Act also established a Council on Environmental Quality (CEQ) that advises the President annually on the changes in the Nation's environmental quality and promulgates guidelines for agencies to follow in assessing the environmental impact of their activities. The Department of the Interior's procedures include preparing an environmental impact statement and holding public hearings, before the Secretary decides whether or not to hold an OCS lease sale.

A draft environmental impact statement is prepared in a Bureau of Land Management OCS office near the proposed sale area with the assistance of representatives of the affected States. The academic community, private research groups, environmental organizations, and Federal Government agencies provide data to the Bureau of Land Management so they can prepare the draft environmental impact statement. These sources of information help to insure maximum understanding of the environmental issues and of the local citizens' opinions on them.

The draft statement includes, among other things, a description of the lease proposal, a description of the marine and nearby onshore environment a detailed analysis of possible adverse impacts on the environment, the mitigating measures proposed, the reasonable alternatives to the proposal, and the records of consultation and coordination with others in preparation of the statement. It also covers the technology necessary for exploration, development, and production from the proposed lease sale as well as possible onshore socioeconomic impacts.

Pertinent published and unpublished reports resource evaluation and environmental studies are reviewed in the preparation of the draft statement. When ready, it is submitted to the CEQ and made available to the public for review. A notice of its availability is published in the Federal Register and the new media are informed by a news release.

H. PUBLIC HEARING

No sooner than 30 days after publication of the draft environmental impact statement, one or more public hearings are held in the vicinity of the proposed lease sale. A notice of the public hearing is published in the Federal Register, and a news release is issued. Environmental organizations, the academic community, government representatives, industry, and the public are invited to testify orally or in writing to provide the widest spectrum of views and information possible. All

comments submitted for the public hearing are then considered in the preparation of the final environmental impact statement.

I. FINAL ENVIRONMENTAL IMPACT STATEMENT

The comments and contributions of data received through the public hearings and the official review process are studied, along with any newly acquired information, and incorporated into a final environmental impact statement. The statement is designed for use in deciding whether or not to hold a lease sale, to withhold particular tracts, or to place restrictions on specific tracts. The final statement is submitted to the CEQ and made available to the public. Notice of its availability is published in the Federal Register and disseminated to the news media through a news release.

J. DECISION BY THE SECRETARY

No sooner than 30 days after the submission of the final environmental impact statement to the CEQ, a final decision can be made by the Secretary of the Interior as to whether or not the proposed sale will be held. The Secretary considers the environmental, resource, economic, and technical information available from the final statement. Governors of the affected States may be consulted by the Secretary during this process.

If the decision is to hold a sale, the tracts to be offered are selected, and the lease terms are established. The lease terms may be tailored to special requirements for any tract, and any tract may be withdrawn at any stage of this procedure.

K. NOTICE OF LEASE SALE

If a decision is made to hold a sale of leases, a notice of the oil and gas lease sale is published in the *Federal Register*, giving at least a 30-day notice of the date, place, and time that bids are to be opened, the tracts to be included in the sale, the terms under which the sale will be held, and any special stipulations that may be imposed on particular tracts.

L. DETAILED RESOURCE EVALUATION OF EACH TRACT

After the announcement of the tentative tract list and during the preparation and review of the environmental impact statement, Survey geologists, geophysicists, and petroleum engineers prepare detailed estimates of the value of the oil and gas on each tract that is being considered for lease. These estimates are based upon geophysical and geological data acquired by industry under permit and by the Department itself, geological data that the Geological Survey has from other wells drilled in the area or other geological studies, engineering data about the facilities and the costs of discovering and producing the oil and gas, and the probability that oil and gas actually exist on a specific tract. Immediately after the lease sale at which bids are read publicly, these estimates are delivered to the Bureau of Land Management for use in determining whether a lease shall be issued.

M. LEASE SALE

Typically, leases are sold on the basis of a cash bonus bid with a royalty on production fixed at one-sixth its value.

The manager of the appropriate Bureau of Land Management office conducts the sale, publicly opening and reading all bids. After the public reading, the bids are checked for technical and legal adequacy and sufficient bonus, 20 percent of which must accompany the bid. The Federal Government reserves the right to reject any or all bids.

N. DECISION TO ACCEPT OR REJECT BIDS

The issuance of an individual lease is based on an analysis of elements related to the Department of the Interior's stated goals of orderly and timely resource development, environmental protection, and receipt of fair market value. The decision to award a lease to the highest bidder is made only after the Department has evaluated that bid in terms of its own appraisal of the tract's value.

O. ISSUANCE OF LEASE AND THE LEASE CONTRACT

When a bid is found acceptable and the decision is made to lease, the remaining 80 percent of the bonus bid and the first year's rental become due. Upon proper receipt of payment, the Bureau of Land Management issues a lease to the successful bidder. Once the lease is issued, collection of rents and royalties and supervision of lease operations become the responsibility of the Geological Survey. Transfer and assignment of leases upon sale from one lease holder to another, lease cancellation and termination, maintenance of lease holder qualifications, and other record-keeping functions remain the responsibility of the Bureau of Land Management.

The oil and gas mineral lease contract grants the right to the lessee to conduct necessary operations to drill and to produce oil and gas from a specific tract of submerged OCS land. The tract covers a rectangular area not exceeding 5,760 acres. The primary term of the lease contract is 5 years during which time oil and gas in paying quantities must be found or drilling or well reworking operations, as approved by the Secretary, must be conducted or the lease is forfeited. If a discovery is made, the contract is extended for as long as oil and gas may be produced in paying quantities or approved drilling operations are conducted.

Under the lease contract the lessor (U.S. Government) reserves the right to grant leases for other minerals, to issue permits for geological and geophysical exploration, to approve pipeline and other rights-of-way across the leased land, to take its royalty on production in the form of oil and/or gas, to extract helium from produced gas, and to suspend operations and production. The contract further spells out requirements for surety bonding, royalty, rental payments, and assignments of rights.

The lease contract allows the Department to require that the lessee comply with additional rules and regulations that may be issued by the Department in order to provide for the prevention of waste and the conservation of the natural resources of the OCS after the lease

is awarded. For example, the Department could require, after the lessee had begun developing his lease, use of certain safety equipment that previously had not been required.

P. COORDINATION WITH STATE AND FEDERAL AGENCIES

Throughout the leasing process, the Department cooperates with NOAA, the Army Corps of Engineers, the U.S. Coast Guard, EPA, and all other Government agencies that play a role in managing the OCS. The Department also seeks liaison with the appropriate coastal State agencies that play an active role in their State's coastal lands. The concern for sound coastal-zone management and liaison with these other Federal agencies does not stop with the issuance of a lease but continues through the exploration and production phases.

Rights-of-way or rights-of-use and easements for oil and gas pipelines are issued by the Department of the Interior subject to its own regulations or those of the Department of Transportation where applicable. A pipeline planning system is required by lease stipulation in all frontier areas to minimize both onshore and offshore impacts. Each application for pipeline construction is subject to an environmental assessment during which bottom stability, biological considerations, other uses of the pipeline area, tides, and currents are reviewed. All proposed pipelines must meet established design criteria and installation and maintenance requirements as set forth in appropriate regulations.

Pipeline routing from the OCS is determined after consultation with State officials who have authority over pipeline rights-of-way in State waters and onshore. Department of the Interior personnel work closely with State authorities to ensure that the requirements of each are fully met and to select safe routes that will result in minimum environmental damage and adverse onshore impact. Only after oil and gas are found in paying quantities is it possible to analyze the impact fully and to develop final plans for the routing of a pipeline and the associated onshore activity.

Each pipeline segment taking oil or gas to the platforms is equipped with an automatic shut-in valve which can be activated by either a high- or low-pressure sensor or manual remote signal. Each pipeline segment taking oil or gas from the platforms is equipped with pressure sensors. These sensors will activate safety valves which will shut off any additional production to the pipeline in the event of too high pressure (avoiding a possible rupture) or too low pressure (decreasing the escape of oil and gas). Close attention is given to bottom stability, tides, and currents. Each application is reviewed to see that it meets the most recently established design criteria for adequate strength for the service intended and is subjected to an environmental assessment.

Shore-bound pipelines require permits from both the Federal Government and the coastal State.

VI. EXPLORATION AND DEVELOPMENT BY THE LESSEE

The lease contract grants the lessee 5 years in which to discover petroleum in paying quantities or to undertake drilling or well re-

working as approved by the Secretary, on the lease which covers an area not exceeding 5,760 acres. If a discovery is made, the lease will be extended for as long as oil and/or gas may be produced in paying quantities. Therefore, after receiving a lease, the lessee drills one or more exploratory or "wildcat" wells. If these wells find petroleum in paying quantities, additional wells may be drilled to delineate and develop the reservoir. One or more production platforms may be constructed and other production facilities may be installed. Production from a reservoir can last many years and may be extended through the use of secondary and tertiary extraction techniques. At some time, however, the cost of producing additional petroleum becomes greater than the value of that petroleum. Then the wells are cemented in below the level of the seafloor, and the projecting pipe and platform are removed.

A. Exploratory Drilling

Exploratory drilling ordinarily starts in the more promising areas within a few months after the lease is issued, although some leases may not be tested for 2 or 3 years. Mobile drilling vessels equipped with a derrick, hoisting equipment, rotary table, mud pumps and tanks, and other equipment are used for exploration. The equipment is similar to that used for onshore drilling, but some special modifications are made for operation in the marine environment.

All exploratory wells (and later development wells) are drilled in accordance with established guidelines. As the well is being drilled, casing and drilling fluid (mud) programs are followed as approved in the application. Drilling mud normally keeps the well under control, but subsurface pressures greater than those exerted by the mud column can cause flow of oil, gas, or water into the well bore. To control this flow, blowout preventers are required. The blowout preventer assembly is a series of large valves attached to the top of the casing. The Geological Survey requires that remotely controlled, hydraulically operated blowout preventers be used during all drilling operations. Cuttings from the well and drilling mud must be collected and disposed of. As the well is being drilled, metal casing is installed in the well both to prevent petroleum from escaping into other rock formations and to protect the environment.

When an exploratory well reaches producible petroleum, additional wells are usually drilled to delineate the areal extent of the field or reservoir and to aid in siting production facilities.

B. Production

After exploration and before production, a plan for development must be approved by the Geological Survey. The Survey reviews the development plan to insure that safety and environmental standards are met. Facilities for drilling development wells and for handling production from the field are then installed. These facilities must serve throughout the productive life of the field, which may be 15 to 40 years. Production facilities normally consist of drilling and production platforms, transportation systems to shore, and onshore treating and storage plants which render the oil and gas acceptable for processing in refineries and transporting through common-carrier pipelines.

A typical platform is a steel structure attached to the ocean floor by pilings. This structure is designed to withstand the extreme conditions of expected wind, wave, and seismic (earthquake) forces.

Development wells are drilled from an offshore platform in a gradual curve (deviated from the vertical) by controlled directional drilling. With this method, as many as 60 development wells can be drilled from oue platform, thus reducing the number of platforms required. The basic required procedures for drilling wildcat wells also apply to these development or production wells.

After a development well is drilled and cased, the casing is perforated with shaped explosive charges or bullets to establish a path for oil or gas to flow from the reservoir rock into the well bore. Another string of pipe, called tubing, is run inside the casing as a conduit through which the oil or gas flows to the surface. At the surface, flow is controlled by a set of wellhead valves placed on top of the tubing and commonly referred to as the "Christmas tree." The subsurface safety valve and surface automatic wellhead valve are required elements of this flow control system. When the field is depleted, the wells will be plugged using an appropriate plugging program and the platform will be removed.

The preferred means of transporting oil and gas to shore is through pipelines, although tankers or barges may be used in some instances. In general, a 16-inch oil pipeline can carry 90,000 barrels of oil and a 12-inch gas pipeline can carry 40 million cubic feet of gas per day. Depending on the volume, such a system may be capable of transporting the production from several platforms. Submarine pipelines are constructed of steel pipe coated and wrapped for corrosion protection and placed on the ocean floor. In water less than 200 feet deep, they are buried not only for their own physical protection but to minimize their interference with other uses of the ocean waters.

Oil produced from a well usually contains some water in the form of an emulsion. Gas may also contain water and liquid hydrocarbons. Therefore, treating facilities consist of separation vessels and holding and storage tanks. The oil is treated with heat and chemicals to put it in a saleable condition for movement to a refinery. The gas is dehydrated, and liquid hydrocarbons are removed by compression before distribution to consumers.

C. LEAD TIME

A lead time of several years is generally required to discover, develop, and market oil or gas in usable energy form. Usually by the time a lease is issued, most of the detailed geological and geophysical investigations have been completed. If a lease does prove productive, statistics show that the discovery usually will be made 1.5 to 4.5 years after the lease sale. In response to a 1974 survey by the Bureau of Land Management, 25 oil and gas or related companies made estimates of the time period required, after discovery, to achieve initial and peak production in 17 major OCS areas. The companies estimated that it would take 2.5 to 6.5 years to attain initial production and 5.5 to 9.5 years to reach peak production. Thus, the total time after a lease sale to achieve initial production would be 4 to 11 years and to attain peak production would be 7 to 14 years.

VII. Supervision of Leased Lands

The Geological Survey supervision of leases involves the safety of personnel, use of safe equipment, collection of rentals and royalties, conservation of resources, and prevention of pollution. Adherence to the rules and regulations is enforced through field inspections and review of applications and proposed plans.

A. OUTER CONTINENTAL SHELF ORDERS AND NOTICES

Assurance of safe, clean operation is accomplished, as noted in Section IV, by implementation of the Code of Federal Regulations supplemented by the OCS Orders and Notices issued to the lessees and operators. The regulations and the orders and notices are frequently reviewed and revised at the suggestion of the public, local governments, and industry to reflect changing technology and changing environmental and safety standards. They also define the responsibility and authority of the Survey to regulate operations, to exercise control over drilling and production, and to require that equipment be adequate for the safe conduct of operations. This is accomplished by safety and operating procedures specified in the regulations and the orders and notices.

B. SUPERVISION OF EXPLORATORY DRILLING OPERATIONS

Before drilling can be initiated, the lessee must submit a contingency plan for handling emergencies such as spills and fires. Also, a plan of exploration is required giving specific information on drilling rig equipment and capabilities, the probable well locations, expected pay sand configuration and any area peculiarities which may present a hazard or other difficulty. Preliminary to each well within the plan, an application for permit to drill must be submitted and approved. The permit gives details on the casing and cementing programs, drilling fluids, monitoring devices, and blowout preventers.

Survey geologists, geophysicists, and engineers review the application for compliance with the regulations, orders, and notices and look for any hazardous conditions, such as surface faulting, potential slide areas, shallow gas pockets, or deeper abnormal pressures. If an anticipated hazard is not adequately safeguarded by the proposed operation, the lessee is required to change the drilling plan. Only after the Geological Survey is completely satisfied that safety and environmental requirements can be met will the permit to drill be approved.

C. SUPERVISION OF DEVELOPMENT DRILLING AND PRODUCTION OPERATIONS

Applications to install drilling and production platforms and related equipment are also reviewed to ensure that their design is appropriate for the existing conditions. As mentioned before, a plan of development is required initially. It provides platform design detail, bottom-hole well locations, drilling rig capabilities, and any known development drilling hazards. The plan (or a supplement) includes, too, the production facilities with appropriate safety devices, elec-

trical power, firefighting equipment, gas detectors, sewage treatment, and gutter and sump systems for pollution prevention.

Survey engineers make a systems-design analysis to discover any potential hazards. The analysis includes a review of the schematic diagram of the mechanical flow and safety system to insure that the production system conforms to safety standards. The design of the structure, the production processing equipment, the personnel facilities, and the in-coming and departing pipelines are also checked against requirements to ensure proper integration of these components into an effective platform safety system. A typical design will provide a series of safety valves and devices: a subsurface safety valve (storm choke), an automatic fail-close wellhead valve, a flowline protected by high- and low-pressure sensors, a check valve, hydrocarbon handling pressure vessels protected with high- and low-pressure and liquid-level sensors, and shipping pumps protected by high- and low-pressure sensors. Emergency shut-in controls, located at strategic points on the platform, afford backup means for manually stopping production of all platform wells.

When a field is depleted and abandonment is necessary, the operator must plug the wells in accordance with Survey requirements. All oil and gas zones must be isolated, and any freshwater zones must be protected with cement plugs. An additional cement plug is required just below the ocean floor to insure a permanent seal. All casing is cut off below the ocean floor, and the location is cleared.

D. FIELD INSPECTIONS

The Survey has the specific responsibility to inspect, monitor, and document the day-to-day activities and operations of the petroleum industry on the OCS by on-site inspection and witnessing of the testing of safety and pollution-control equipment.

To facilitate inspections, the Code of Federal Regulations and the OCS Orders and Notices have been condensed into a checklist composed of questions that are answered by the inspection team either positively for compliance or negatively for noncompliance. The checklist used by the inspectors is a listing of potential incidents of noncompliance, or "PINC's." The actual incidents of noncompliance observed are called "INC's." Each discovery of an incident of noncompliance requires that the inspector take a prescribed enforcement action that will result in either a warning or a shutdown of operations. If the incident results in a shutdown, the condition must be corrected before operations can be resumed.

Inspection teams composed of petroleum-engineering technicians visit the OCS facilities. They travel to the sites by helicopter and boat and observe the water surface for any incidents of pollution while en route. Other flights are made for the sole purpose of pollution detection. Inspections of drilling rigs and related equipment in the Gulf of Mexico are conducted at least once during the drilling of each wildcat well and during the drilling of the first development well from a platform. New production facilities are inspected at the start of operations. All major platforms are scheduled for inspection semiannually. All production platforms in the Santa Barbara Channel are inspected daily.

E. ACTION IN THE EVENT OF OIL SPILLS

The safety system devised for offshore operations has the following principal objectives: (1) to prevent accidents from happening, (2) to contain them and minimze the effects if they do happen, (3) to repair the damage that may result from a serious accident, (4) to eliminate any permanent environmental effects, and (5) to utilize the experience gained to prevent similar accidents.

Despite all the improvements in regulations, equipment, and inspection procedures, there remains a small chance that accidents may occur during OCS operations. Two levels of contingency plans can be activated to minimize damage if an accident does occur in spite of all precautions. Before drilling operations can commence, the operator must file an individual lessee contingency plan for initiating corrective action to control and remove pollution. In addition, the National Oil and Hazardous Substances Pollution Contingency Plan provides a general framework of coordinated and integrated responses to pollution spills, primarily by the U.S. Coast Guard, Geological Survey, and EPA.

The Survey has exclusive authority for coordinating the measures to abate the source of pollution, and the Coast Guard coordinates and directs the measures needed to contain and remove the pollutants. The EPA is responsible for assuring optimum national-level coordination among the various Federal agencies and for providing technical expertise on environmental pollution-control techniques, including assessment of damages and environmental restoration.

All oil spills on Federal leases must be reported immediately to the Geological Survey. Oil spills that exceed 50 barrels must also be reported orally to the Coast Guard and the Regional Director of the EPA and confirmed in writing.

The Survey's accident investigation procedure is determined by the severity of the spill. A Survey inspection team is sent to the scene as soon as possible to oversee the actions taken under the lessee's contingency plan and to approve any modifications deemed necessary. The U.S. Geological Survey has the expertise and capability for coordination and direction in respect to measures to abate the source of pollution when the source is an oil, gas, or sulfur well.

The U.S. Coast Guard has the expertise and capability for coordination and direction in respect to measures to contain and remove pollutants. Oil-spill cleanup cooperatives, formed by the oil companies, maintain large inventories of booms and other containment devices and cleanup equipment that can be transported to any spill site. Thus, trained manpower and the latest and most efficient equipment are readily available to meet an emergency.

An Investigation Report Form is completed by the Survey team and is available for public inspection at the office of the Oil and Gas Supervisor. The information derived from the reports and from discussions with operators and the Survey team is studied so that future accidents can be prevented. OCS Safety Alerts are published to notify all operators of the circumstances surrounding particular accidents so they can take appropriate preventive actions.

F. UNITIZATION

Frequently a single reservoir may underlie leases belonging to two or more separate owners. In such cases a strong motivation exists for each owner to produce as much oil and gas as possible from his own lease to prevent drainage of oil and gas to adjoining leases. In the past, this has led to needless and costly drilling and large-scale waste of oil and gas.

One especially effective conservation measure to curb such wasteful practices is unitization. This is the practice of pooling all interest, ownership, and control in a prospective or producing oil and gas field, or part of a field, through a "unit agreement" that provides for a single operator or company to develop and operate several leases as though they were one. Unitization can be used to maximize oil and gas recovery from reservoirs with multiple owners, to eliminate the drilling of unnecessary wells; and to reduce development and production costs. Unitization is usually required for the effective use of most secondary and tertiary recovery operations where the petroleum reservoir involves more than one lease tract. Ownership of production is in proportion to the percentage interest ascribed to each tract, and each lessee shares in production and expenses of the unit.

In supervising the development and production of OCS leases, the Survey encourages voluntary unitization, initiates the formation of units where it is deemed necessary for conservation purposes, and administers and supervises operations in approved unitized areas.

G. PRODUCTION CONTROL

Production from some reservoirs at excessive rates results in the wasteful dissipation of reservoir energy and the reduction of the total amount of oil and gas that may ultimately be recovered.

In its task of conserving natural resources, the Survey reviews the lessee's proposed rate of production—and ultimately approves a maximum rate—to assure that the petroleum is not being produced so quickly as to reduce recoverable petroleum.

H. REVENUE FROM OCS LEASES

Revenue from the OCS, consisting of lease bonuses, royalties, rentals, and minimum royalties, is deposited in the U.S. Treasury as miscellaneous receipts. As described in Section V, the Bureau of Land Management receives the cash bonus payments and the first year's rental for the leases when the leases are awarded to the successful bidder. The Survey collects annual rental until production starts or the lease terminates and also collects royalty payments if petroleum is produced during the life of the lease.

The OCS Lands Act provides that the royalty payment must be set at the time a lease is issued at a minimum of 12½ percent of the value of production. Actually, the lease contract for most tracts issued on a cash bonus basis has a specified 16⅔ percent royalty. The Federal Government reserves the right either to accept a cash payment from the lessee for the royalty petroleum or to receive a percentage of the

petroleum produced. During the 1973–74 oil embargo, the Government chose to take its royalty as petroleum and sold it to independent refineries that had lost their ordinary supply. To ensure that the Federal Government receives the correct amount of royalties, the Geological Survey operates a sophisticated accounting system including, in addition to reports on actual production on leases, inspecting and testing of meters, cross-checking of sales receipts, and verifying the reasonableness of transportation cost allowances.

In 1975 the people of the United States received royalty payments of $611.8 million for the OCS oil and gas products produced in that year and $1,088 million in bonuses.

By law, a portion of the revenue from the OCS is transferred by the U.S. Treasury to the Land and Water Conservation Fund. In the past 7 years, OCS revenue has provided 86 percent of the statutory funding of $1.6 billion and has contributed a total of $1.4 billion to the fund. The Land and Water Conservation Fund is the largest Federal grant-in-aid program of assistance to States, counties, and cities for the acquisition and development of public parks, open spaces, and recreation lands and water. The fund also pays the acquisition costs of adding authorized areas to the national systems of parks, forests, wildlife refuges, wild and scenic rivers, and scenic and recreational trails.

MAY 18, 1977.

Hon. CECIL D. ANDRUS,
Secretary of the Interior, Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: The Committee has begun to mark up S. 9, the Outer Continental Shelf Lands Act Amendments of 1977. Copies of Committee Print No. 2, which serves as the basis for Committee markup, has been furnished to your staff. I would appreciate any comments you may wish to make on any of the proposed amendments.

Thank you for your cooperation.

Sincerely yours,

HENRY M. JACKSON, *Chairman.*

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 23, 1977.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: Thank you for requesting our views on the committee print for S. 9. I would like to take this opportunity to reiterate the Department of the Interior's and the Administration's strong support for amending the Outer Continental Shelf Lands Act. We are very much aware of the time and effort you and the Committee have devoted to this subject over the last two years.

Such amendment is crucial to the success of our OCS development program. It will eliminate the uncertainties facing the developers, and it will establish a process which states and local communities and the public can believe in. We believe that adoption of S. 9 with the Administration's proposed amendments will establish a sound basis for our OCS program. We urge that the Committee act favorably upon them.

The Administration supports OCS leasing on the Atlantic. We are concerned, however, about some of the amendments which have been proposed, one of which would exempt Sale 40 leases from the National Environmental Policy Act. Conflicts which have occurred over the OCS program have resulted from lack of consideration of legitimate state and local concerns. Sound OCS Lands Act amendments, and our firm commitment to work closely with states and other interests, will eliminate many of those conflicts and the resulting delays. We prefer not to remove a sale from judicial review, and this particular amendment would not permit us to prepare an environmental impact statement on the development and production plan, as we have promised.

Other proposed amendments would restrict application of the bill to areas leased after enactment, or even to areas which have never been included in a leasing program or schedule. Such an amendment would nullify many of the provisions of this Act. In our view the provisions of this bill should generally apply to all leases, just as many of our current regulations apply to all leases, whether they were promulgated before or after a sale. There are very few areas of the OCS which have not been included in a leasing schedule at some time.

The Department of the Interior is moving expeditiously on our OCS leasing program. Passage of S. 9 with the Administration's proposed amendments will do much to further our goals for rapid, efficient, and realistic development, and we urge the Committee to act as quickly as possible.

The Office of Management and Budget has advised that the views expressed here are in accord with the program of the President.

We look forward to working further with you on this important matter.

Sincerely,

CECIL D. ANDRUS, *Secretary.*

Mr. CESAR DELEON,
Acting Director, Office of Pipeline Safety Operations, Department of Transportation, Washington, D.C.

DEAR MR. DELEON: I have enclosed a copy of the Department of Interior's views on S. 9, the Outer Continental Shelf Lands Act Amendments of 1977. Sections 21 and 22 of that bill refer to the Department of Transportation's responsibilities on the OCS for safety enforcement.

Among other things, the Department proposed amendments to Sections 21 and 22 which it believes will improve safety and reduce overlapping Federal involvement. The Committee would appreciate a

report from you explaining the Department of Transportation's present responsibilities in maintaining and enforcing safety regulations on the OCS. Additionally, your views on the Safety Regulation and Enforcement provisions of S. 9 (Sections 21 and 22) and the Administration's proposed amendments would be most helpful.

I would appreciate receiving your views by May 1.

Sincerely yours,

HENRY M. JACKSON, *Chairman.*

DEPARTMENT OF TRANSPORTATION,
MATERIALS TRANSPORTATION BUREAU,
Washington, D.C., May 6, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your letter of April 7, 1977, to Cesar DeLeon, requesting (1) a report on responsibilities of the Department of Transportation (DOT) in maintaining and enforcing safety regulations on the Outer Continental Shelf (OCS), and (2) views on the proposed new Sections 21 and 22 contained in S. 9, the "Outer Continental Shelf Lands Act Amendments of 1977," and the Administration's proposed amendments to those sections set forth in Secretary Andrus' letter to you dated March 14, 1977.

In DOT the Office of Pipeline Safety Operations within the Materials Transportation Bureau administers and enforces safety regulations applicable to pipeline facilities used in the transportation of gas or petroleum to shore from production platforms or any deepwater port on the OCS. Also, the U.S. Coast Guard administers and enforces regulations applicable on the OCS to vessel, navigational, and personnel safety and environmental protection. Inasmuch as the Coast Guard is responding to your letter of April 6, 1977, by submitting a separate report on its OCS activities, our report is limited to the OCS responsibilities of DOT regarding pipeline safety.

The authority to regulate pipeline facilities on the OCS derives for gas pipelines from the Natural Gas Pipeline Safety Act of 1968 (49 USC 1671 et seq.), for petroleum pipelines from the Transportation of Explosives Act (18 USC 831 et seq.), and for gas and petroleum pipelines not subject to the other two statutes from the Hazardous Materials Transportation Act (49 USC 1801 et seq.), based on provisions of the Outer Continental Shelf Lands Act (43 USC 1331 et seq.) which extends the laws and jurisdiction of the United States to the OCS. Also, Section 21 of the Deepwater Port Act of 1974 (33 USC 1520) mandates that oil pipelines on the OCS be regulated for safety.

The gas pipeline safety regulations are contained in 49 CFR Part 192, and safety regulations governing petroleum pipelines are in 49 CFR Part 195. In general, these regulations relate to the safe design,

construction, operation, and maintenance of pipeline facilities. However, in addition to safety, the regulations provide pollution prevention benefits.

Gas and petroleum pipeline facilities on the OCS which are not used in transportation of a commodity to shore but are more related to production processes, are regulated by the Department of the Interior (DOI). These facilities lie upstream from the outlet flanges on platforms where gas or petroleum is produced or processed. This division of responsibilities results from a Memorandum of Understanding (41 FR 23746) entered into on May 6, 1976, by DOT and DOI regarding the respective regulation by each Department of offshore pipelines.

The Memorandum provides that each Department conducts enforcement activities with respect to pipeline facilities under its responsibility. Currently, DOT and DOI are planning the coordination of OCS inspection and enforcement activities and evaluating the need for additional resources to support OCS functions.

With respect to the new Sections 21 and 22 which would be added to the Outer Continental Lands Act, we participated in the development of the Administration's views on those sections and have nothing further to add. We would like to emphasize, however, the importance of the provision under Section 21(d) in S. 9 (and also in the Administration's recommended substitute) that any new or revised OCS regulatory and enforcement authority not affect DOT's existing authority over pipeline safety. The purpose of this provision is to leave undisturbed the Federal policy underlying the DOT/DOI Memorandum of Understanding that a pipeline company should not be required to follow pipeline safety regulations issued by more than one Federal agency. Without this policy, wasteful duplication of Federal regulatory and enforcement efforts and confusion and unnecessary costs in the regulated industry can result.

I appreciate this opportunity to discuss our pipeline safety program and the proposed statutory amendments contained in S. 9. If I can be of any further assistance, please let me know.

Sincerely,

JAMES T. CURTIS, Jr.

APRIL 7, 1977.

Dr. EULA BINGHAM,
Assistant Secretary of Labor,
Department of Labor, Washington, D.C.

DEAR DR. BINGHAM: I have enclosed a copy of the Department of Interior's views on S. 9, the Outer Continental Shelf Lands Act Amendments of 1977. Sections 21 and 22 of that bill refer to the Department of Labor's (through OSHA) responsibilities on the OCS for safety enforcement.

Among other things, the Department proposed amendments to Sections 21 and 22 which it believes will improve safety and reduce overlapping Federal involvement. The Committee would appreciate a report from you explaining the Department of Labor's present responsibilities in maintaining and enforcing safety regulations on the

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OCS. Additionally, your views on the Safety Regulation and Enforcement provisions of S. 9 (Sections 21 and 22) and the Administration's proposed amendments would be most helpful.

I would appreciate receiving your views by May 1.

Sincerely yours,

HENRY M. JACKSON, *Chairman.*

U.S. DEPARTMENT OF LABOR,
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,
Washington, D.C., June 15, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further response to your April 7 request for information on the Department of Labor's safety responsibilities on the Outer Continental Shelf. As mentioned in my testimony before the House Ad Hoc Select Committee on Outer Continental Shelf, which was enclosed with my May 23 response to you, OSHA has worked with the Coast Guard to develop a standard for commercial diving operations. I would like to report to you on the progress of this regulation, which is essential to the safety and health of divers working on the Outer Continental Shelf.

After a series of public hearings jointly conducted with the Coast Guard and a review of public comment on a proposed diving standard, the staff has now prepared a draft of the technical portion of the final regulation. Currently in preparation is the preamble which, together with the technical segment, will comprise the final draft of the complete standard. It is anticipated that this document will be available by July 1. The regulation will undergo final review by the Associate Solicitor for Occupational Safety and Health and will then be examined by me. I expect that the final standard will be ready for issuance by July 15, 1977. I can assure you that we are working to complete this vital standard as expeditiously as possible.

Thank you for the opportunity to present OSHA's view—point regarding safety and health on the Outer Continental Shelf. If I can provide any further information please advise me.

Sincerely,

EULA BINGHAM,
Assistant Secretary.

APRIL 6, 1977.

Adm. OWEN W. SILER,
Commandant, U.S. Coast Guard,
Washington, D.C.

DEAR ADMIRAL SILER: I have enclosed a copy of the Department of Interior's views on S. 9, the Outer Continental Shelf Lands Act Amendments of 1977. Sections 21 and 22 of that bill refer to the Coast Guard's responsibilities on the Outer Continental Shelf for safety and enforcement.

Among other things, the Department proposed amendments to Sections 21 and 22 which it believes will improve safety and reduce over-

lapping Federal involvement. The Committee would appreciate a report from you explaining the Coast Guard's present responsibilities in maintaining and enforcing safety regulations on the OCS. Additionally, your views on the Safety Regulation and Enforcement provisions of S. 9 (Sections 21 and 22) and the Administration's proposed amendments would be most helpful.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Washington, D.C., May 11, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I have reviewed the Department of Interior's views on S. 9, the Outer Continental Shelf Lands Act Amendments of 1977, forwarded by your letter of 6 April 1977.

In reply to your questions, the primary Coast Guard authority to regulate fixed structures on the Outer Continental Shelf is derived from The Outer Continental Shelf Lands Act of 1953 (33 USC 1331). Section 4(c)(1) of this Act gives the Coast Guard "authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and matters relating to the promotion of safety of life and property. . . ." Section 4(e)(2) states that the Coast Guard "may mark for the protection of navigation, any such island or structure whenever the owner has failed suitably to mark the same in accordance with regulations issued hereunder and the owner shall pay the cost thereof."

Under Section 4(e)(1) the Coast Guard has promulgated 33 CFR Subchapter N, providing for the following: inspections (including a means of escape, personnel landings, and guards and rails), lifesaving appliances, firefighting equipment, non-industrial operations (including platform identification marks, maintenance of emergency equipment, casualty or accident reporting, general alarm systems, duties of personnel in an emergency, emergency drills, station bill, and marking for emergency equipment), and safety zones.

Under Section 4(e)(2) the Coast Guard has promulgated 33 CFR, Subchapter C providing for: classification of structures by location, requirements for lights, requirements for fog signals, miscellaneous marking requirements (non-platform including lights and signals on attending vessels, seismographic and surveying operations, spoil banks, artificial islands and dredged channels). To a greater or lesser degree, the below listed acts and conventions have also impacted on Coast Guard authority over fixed structures on the Outer Continental Shelf:

a. Deepwater Port Act of 1974 (33 USC 1501)

b. Federal Water Pollution Control Amendments of 1972 (33 USC 1151)

c. Convention of the Continental Shelf, 1958 (15 UST 71)

d. Convention on the Territorial Sea and the Contiguous Zone 1958 (15 UST 1606)

e. National Contingency Plan for Removal of Oil and Hazardous Substances

Mobile offshore drilling units are regarded as vessels. As such they are subject to Coast Guard jurisdiction under Title 52 of the Revised Statutes. Mobile offshore drilling units are regulated under Title 46 CFR Chapter I, Subchapters A, B, E, F, G, I, J, K, N, P, and Q.

The Coast Guard has consistently maintained, and has testified before Congress, that the Coast Guard already possesses sufficient authority under the Outer Continental Shelf Lands Act of 1953 to regulate for safety on the OCS. Under this existing authority we are presently taking significant steps to intensify safety on the OCS including:

a. Development of a comprehensive mobile offshore drilling unit regulatory package which will bring all mobile offshore drilling units, including bottom bearing drilling units, under inspection and certification. The Notice of Proposed Rulemaking is scheduled for publication as this letter is written.

b. A Memorandum of Understanding with the U.S. Geological Survey defining our respective roles and responsibilities regarding U.S. mobile offshore drilling units on the OCS was signed 11 April 1977 and was published in Federal Register volume 42, No. 74 of Monday, 18 April 1977.

c. Discussions with OSHA on the development of diving standards. A Memorandum of Understanding was signed on 9 June 1976. The USCG and OSHA jointly entered the rulemaking process with public hearings held in New Orleans during December 1976 and January 1977.

d. Significant intensification of inspection activities on Fixed Structures in the Gulf of Mexico. Our fiscal year 1978 budget request, now being considered by Congress, includes 23 half-year military billets, 5 half-year civilian positions, and $1,384,000 for this purpose.

With respect to sections 21 and 22, the regulatory sections of S. 9, we agree with the Department of the Interior view that those sections, as currently drafted, alter, in an undesirable manner, the responsibilities for OCS safety and health regulations. Additionally, we fully support the alternative sections 21 and 22 as set forth in the Department of the Interior letter of 14 March 1977.

Please let me know if I can be of any further assistance.

Sincerely,

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

MARCH 24, 1977.

Hon. CECIL D. ANDRUS
Secretary of the Interior,
Department of the Interior, Washington, D.C.

DEAR MR. SECRETARY: The American Petroleum Institute recently released a study made by Dr. Warren Rogers entitled "Impact of Outer Continental Shelf Lands Act Amendments of 1977." (S. 9 and H.R. 1614) This study concludes that these bills "are estimated to

cause delay in recovering oil and gas from the areas as yet unleased, ranging from a very conservative three years to a probable six years."

We would appreciate the Department's analysis of the conclusions of the report and the rationale for them. It would be very useful if we could have your analysis by April 15.

Thank you very much for your cooperation.

Sincerely yours,

HENRY M. JACKSON,
Chairman, Senate Committee on Energy and Natural Resources.
JOHN M. MURPHY,
Chairman, House Ad Hoc Select Committee, on Outer Continental Shelf.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY
Washington, D.C., April 22, 1977.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SCOOP: Thank you for your letter dated March 24 requesting the Department's comment on the conclusions of the study recently released by the American Petroleum Institute. As you stated, the study concludes that S. 9 and H.R. 1614 "are estimated to cause delay in recovering oil and gas from areas as yet unleased, ranging from a very conservative three years to a probable six years." This conclusion is based principally on an analysis of that section of the bills (Sec. 11(g)) which requires on-structure drilling in each frontier area.

On balance, we feel that the conclusions of the study as to delays in production due to the proposed Section 11(g) are overstated in two respects. First, the time needed for drilling exploratory wells prior to leasing should not be counted again as time needed to drill exploratory wells after a lease sale is held. If done properly, it seems quite logical that exploratory work done before leasing will substitute for exploratory work normally required after leasing. Second, it is reasonable to assume that, for lease sales scheduled to take place a year or more after the enactment of Section 11(g) exploration mandates, there will be ample opportunity to accomplish those actions required prior to drilling exploratory wells without adding any more time to the lease sale process. The result of the application of Section 11(g) provisions on the availability of hydrocarbons would, at most, be delays for those lease areas that may be sold within a year or so after the enactment of the amendment. Assuming that a bill is enacted in the early fall, there are possibly four to six such areas where the preparatory process is far enough along to reasonably expect that a sale could take place, and where delays would be encountered due to mandatory on-structure drilling.

The specific activities required under Section 11(g) can be divided into four broad areas: preparation of an exploration plan, requests for bids and awarding of contracts to drill, preparation of environ-

mental assessments and statements, as may be necessary, and drilling of wells. The unique characteristics of an area would determine the exact amount of time needed for each of these four tasks. Generally, the requests for bids and the preparation of necessary environmental analyses could probably proceed simultaneously. The preparation of an exploration plan would take some months. Drilling wells, while delaying the sale date, should not in the longer term significantly delay production. For planning purposes, a year may well be adequate to comply with Section 11(g) requirements short of drilling wells, that is for planning and contracting for exploration with simultaneous preparation of necessary environmental assessments and statements.

However, I would emphasize that all of the actual and potential delays I have discussed would not necessarily be a problem if the changes proposed by the Administration in my letter to you of March 14, 1977, are adopted. I agree with the underlying concept that we should have a better idea of what we are selling before we sell. But, I also reiterate my belief that sufficient flexibility be maintained to achieve efficient exploration. Necessary exploration can be accomplished in a number of ways, by exploration as is required in Section 11(g), by a leasing system that requires both exploratory leases and development leases, or by other means. We are studying various leasing systems that could accomplish the goals of defining better the resources of the OCS before development rights are issued. Whatever system is used, it seems desirable to retain an ability to chose the procedure that best accomplishes the goals of OCS leasing in each area considered for the development.

Looking at the overall problem of delays in the production of OCS oil and gas, I wish to say again that S. 9 and H.R. 1614 will, when enacted, do a great deal to eliminate such delays by vastly improving the relationships between the Federal government, the States and others. Passage of a bill will help us get on with the important task of intelligent, effective and efficient extraction of OCS oil and gas. My recommendations on exploration provisions, as well as the other changes we have suggested, are made with this goal in mind.

Sincerely,

CECIL D. ANDRUS,
Secretary,

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 3, 1977.

Mr. MIKE HARVEY,
Chief Counsel, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MIKE: Enclosed are technical and second order amendments to S. 9, which we hope you will give serious consideration. These amendments reflect concerns of a less substantive nature than those identified in our March 14 and May 10 letters, but they relate to matters which, nevertheless, could cause some problems. By making these known, we hope that appropriate changes in S. 9 or clarifying com-

ments in the record can be made. We would be very happy to explain them and to work with you in any way that would be helpful.

Sincerely,

PETER O. WARD, Jr.,
Assistant Legislative Counsel.

Enclosure.

Page 11.—Subsection 201(K)(2), line 11, and subsection 201(1), line 18.

Subpart (2) of (K) speaks of a discovery of oil or natural gas in "commercial quantities" and subsection 201(1) refers to a discovery of oil, natural gas, or other minerals in "commercial quantities"; section 205(a) speaks of extending a lease for as long thereafter as oil or gas may be produced from its area in "paying quantities". If these terms are intended to define the same thing, or mean the same thing, they should read the same. The existing law uses the words "paying quantities".

Page 15.—Section 203(d), line 20, refers to the "National Labor Relations Act"; it should be followed by the words "as amended".

Page 18.—Section 204, line 24. Change "in" to "of".

Section 204 of S. 9 would amend section 5(a)(1) of the existing OCS Lands Act, which is the section authorizing the Secretary to issue regulations, by substituting the phrase "conservation of natural resources *in* the Outer Continental Shelf" for the existing phrase "conservation of the natural resources *of* the Outer Continental Shelf". The existing phrase has been interpreted in *Gulf Oil* v. *Morton*, 493 F. 2d 141 (9th Cir. 1973), as including among the "natural resources *of* the Outer Continental Shelf" the marine animal and plant life and all other resources listed in the definition of "natural resources" in section 2(e) of the Submerged Lands Act (43 U.S.C. § 1301 (e)).

The change in section 204 of the word "of" to "in", especially in light of the *Gulf Oil* decision, could restrict the applicability of regulations "for the prevention of waste and conservation of the natural resources" to those resources *beneath* the subsoil (largely mineral), excluding those resources above the subsoil (e.g., marine animal and plant life.) The effect of such an interpretation could be to overturn established regulations and jurisdictional authority limit the Secretary's power to protect the environment, and to subject the OCS leasing program to wasteful litigation.

Page 18.—The bill changes the language now in § 5(a)(2) of the Act which gives the Secretary authority over natural resources other than oil and gas and sulphur. In addition, it changes language in section 4(a)(1) of the present law concerning "removal" of resources and substitutes language on "producing" resources. We are concerned that these changes may nullify or call into question current regulations protecting coral reefs issued under authority of the OCSLA (43 CFR 6220). We would prefer that this authority remain in effect unchanged and see no reason for the changes that were made. Specifically, combination of the first two sentences in section 5(a)(1) tends to undermine the idea that these two sentences provide two types of authorities. Accordingly, the placement of a period after the word "provisions"

on line 20 of page 18, deletion of the word "and", and capitalization of "[T]he" should clarify this authority.

Page 24.—Line 19, after "assure" insert "not less than". Section 5(f)(2) as now written requires the lessee to produce at a maximum rate which depends on "sound engineering and economic principles" but which also is "without loss of ultimate recovery of oil and gas". There is no necessary reason why the maximum rate which can be sustained without loss of *physical* recovery should also be the economically optimum rate. Other rates may be economically optimum both from the lessee's and the Nation's point of view. Under some circumstances it may be advantageous to forego some petroleum production in the future in order to get a somewhat lesser amount earlier. The "loss of ultimate recovery" involved is not *waste* but a *cost* of changing the time stream of production. That cost, depending on the circumstances, may or may not be worth paying to get the different time stream of production.

The amendment makes the regulated production rate a floor which may be exceeded at the discretion of the lessee.

Page 27.—Section 8(a)(2), lines 11 through 13, strike the remainder of the sentence after the words "lease sale" in line 11. Making the final payment on a deferred cash bonus not later than 5 years or no later than the approval of the development and production plan would under some circumstances provide an incentive to delay the submission of a development and production plan. The amendment makes the final payment due as announced prior to the lease sale but not later than 5 years after the sale.

Page 28.—Section 205(2)(5)(B). This section should not "provide for the cancellation of any lease sale held", but only provide for the nonacceptance of bids on these specific tracts, or the withdrawal of those tracts from the sale, if the tracts don't receive acceptable bids for shares equaling 100 percent.

Page 45.—Section 15(2)(E), line 21, delete "increase" and put in its place the words "insure an adequate". The present language of 15(2)(E) presupposes that supplies to independent refiners and distributors will always need to be increased further.

Page 48.—Section 18(a)(4), lines 21–23.

S. 9 contains a host of newly-defined terms. The definition given to "fair market value" in section 201(c) will serve some purposes of the bill, e.g., valuing oil and gas for royalty oil purposes, but may be ill-fitting for others, e.g., value received for the issuance of an oil and gas, or other mineral, lease.

This section should not lead anyone to think its meaning is applicable to what must be bid to get a lease, or for bid acceptance or rejection purposes as opposed to what is paid for royalty oil owned by the Government. This confusion is possible in section 18(a)(4) on page 48, lines 21–23. This section should be amended by substituting the phrase "fair market return for the resources leased" for the phrase "fair market value for the oil and gas leased."

Pages 48 and 49.—Section 208(18(b))—Federal Departments (FEA) may now give proprietary data to Interior; this allows us to only get "nonproprietary."

Page 53.—We are concerned also that the Defense classified information which may be furnished to the Secretary of the Interior pursuant to proposed section 18 is not adequately safeguarded against disclosure. This may be corrected by the incorporation of procedures and exemptions of the amended "Freedom of Information Act." It is proposed that this provision be amended by adding a second sentence to subsection 18(b), (page 53, line 13) as follows:

> Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the Department or Agency from whom the information is requested.

Page 73.—Section 208(25). On line 5, "issued" should follow the word "lease" and precede the word "or".

Page 75.—Section 208(25). In lines 18 through 22, it states that at least once prior to major development in an area, the Secretary shall declare development and production of certain leases to be a major Federal action. This should be rewritten if the purpose intended is to be obtained. Declaring something to be a major Federal action does not necessarily, as a matter of law, make it a major Federal action. Thus, line 22 could be changed to read: "for the purposes of this section such lease or set of leases are deemed to be a major Federal action."

Page 78.—Section 25(g)(1) requires the Secretary to cancel the lease if he has disapproved a development plan and extended the lease and if the lessee requests cancellation before the expiration of the 5-year period. Under those circumstances the Secretary should have discretion to cancel as requested by the lessee or to allow the 5-year period to continue to run. For example, he may believe that the passage of time within the 5-year period will make an acceptable plan possible. Secretarial discretion will also discourage lessees from trying to force early cancellation by deliberately submitting unacceptable plans. We recommend that on page 78, line 12, insert "in his discretion" after "or", and on page 78, line 20, insert "and operating orders" in the place of "in operating waters".

Page 81.—The existing language seems to require either an environmental impact statement pursuant to NEPA or studies on the environmental effects. The amendment is to make clear that this provision adds no additional requirement beyond those of NEPA. We recommend on page 81, line 3, replace "an" by "any", on page 81, line 4, after "statement" insert "which may be required", and on page 81, line 6, replace "studies" with "any studies which they may deem desirable".

Page 82.—Permittees and lessees are compensated differently for data provided to the Secretary, as the bill is now worded. We do not understand the reason for this distinction. This amendment would made compensation the same for both. One line 19 after "lessee" insert "or permittee", on line 20 after "lessee" insert "or permittee", on line 23 after "lessee" insert "or permittee", and on line 24 and on page 83, line 1, strike "or by a permittee."

Page 83.—Further, the information which would be supplied to States under new section 26(b)(1) and (2) of the OCS Act could impose significant new manpower requirements. Not only would we

have to supply data, but we would have to process it for the benefit of a State. States should be able to do their own analysis based on raw data or data processed to fit Federal needs.

Page 87.—Section 208(27). Line 19 provides for the sale of royalty oil by competitive bidding, and yet puts a ceiling on what it can be sold for (i.e., not more than its regulated price). Sales of such oil and gas by competitive bidding is new, in the sense it is not now sold by competitive bidding. It would seem that putting a ceiling on the price at which the oil and gas may be sold will frustrate, if not defeat, the competitive sale process since it is conceivable that all bids will be for an amount equal to the regulated price.

Section 27(b)(1) of the bill would amend the Outer Continental Shelf Lands Act to authorize the Secretary of the Interior to "offer to the public and sell by competitive bidding for not more than its regulated price, or if no regulated price applies, not less than fair market value, any part of the oil obtained by the United States as royalty or net profit share oil or purchased by the United States pursuant to section 27(a)(3) of the bill. The OCS Act (43 U.S.C. 1341 (b)) now provides that, "In time of war, or when the President shall so prescribe, the United States shall have the right of first refusal to purchase at the market price all or any portion of any minerals produced from the Outer Continental Shelf." It would appear that the new subsection 27(b)(1) creates an ambiguity which could be construed as being inconsistent with the priorities defined in 43 U.S.C. 1341(b). To correct this defect and to make clear that the new subsection would not obviate 43 U.S.C. 1341(b) we recommend that the line 21, page 87, be changed to read as follows: "or (c) purchased under subsection 12(b) of this Act (43 U.S.C. 1341(b))."

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., May 10, 1977.

Hon. Henry M. Jackson,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: In my letters of March 14, 1977, to the Senate Committee on Energy and Natural Resources, and March 21, 1977, to the House Ad Hoc Select Committee on the Outer Continental Shelf, I indicated that we had a limited number of concerns respecting S. 9 and H.R. 1614 which were not fully addressed in these earlier letters. These concerns are:

1. *Authority for option to use dual systems of leasing.*—A number of leasing systems are under study by the Department which could enhance competition. Alternatives for increased pre-lease exploration are also being considered. Among the possibilities being reviewed is a leasing system involving separate leases for exploration and subsequent development and production. In this approach, the Government could issue exploration leases under which exploration firms would manage and conduct exploratory drilling, providing the information obtained to all interested parties. Such exploratory lessees would share the costs of the exploration with the Government in return for a share

of the benefits realized when the Government subsequently leases the resources for development and production. This option may prove to be valuable for achieving extensive and efficient exploration, or it may prove not to be valuable. We believe that its potential merit justifies further investigation of it as an option. Our proposed amendment would allow us to do so.

We recommend additional language (*italic*) be added to the new subsection "(I)" of section 205 on page 27, line 6 which was suggested in the initial letters:

"(I) any modification of bidding systems authorized in (A) through (H) and any other systems of bid variables, terms and conditions which the Secretary determines to be useful to accomplish the purposes and policies of this section, *including leasing systems in which exploration lessees share in the costs of exploration and the consideration received from sale of subsequent leases for development and production, notwithstanding any inconsistent provisions of Sec. 8(b)(4), 8(k) and Sec. 9 of this Act, provided that payments shall not exceed amounts appropriated for that purpose by Congress.*"

The definition of lease in section 201(c) of the bill should also be amended as follows:

"(c) The term "lease" means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration or exploration for, development or production, or any combination thereof, of deposits of oil, gas, or other minerals including geothermal resources;"

2. *Joint Federal/State leasing procedures.*—Subsection 205(f) provides that the area within 3 miles of the seaward boundary of a coastal State may be "'jointly leased" under mutually agreed terms consistent with the Act. Subsection 205(f)(4) requires that all bonuses, royalties, rents, and net profit shares obtained from leases within 3 miles of the seaward boundary of any coastal State be placed in an escrow account until the Secretary and Governor of the State determine "the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State." Under existing law revenues from leasing of the Outer Continental Shelf must be paid into the Federal treasury. However, there are instances in which a part of this revenue may have been derived from oil and gas drained from State land. We believe any loss of resource or revenue by States in such a situation should be remedied. A statutory provision specifically covering this situation would enhance the Federal/State coordination of development in adjacent areas in addition to that provided elsewhere in the amendments. Additionally, it would reduce the likelihood of costly and time-consuming litigation.

We favor a provision which gives coastal States fair and equitable compensation for oil and gas which is produced through wells in the Federal areas adjacent to them, but which is derived from State lands. We believe, however, that special care must be taken not to undermine the Secretary's fundamental responsibilities under the statute and to be as clear as possible about the process under which the States would seek compensation. Thus, in the substitute subsection we are providing, the references to "joint leasing" have been removed and its principal purpose, compensation for the resource taken from State lands, more clearly brought into focus. Also, recognizing that additional delay in the leasing process is undesirable, the sequence of events leading to

a Federal/State agreement has been adjusted. Finally, the authority of the Secretary to make the required payments is clearly delineated.

We recommend, therefore, that subsection 205(f)(2)–(4) be deleted and new subsections (f)(2)–(4) be added as follows:

"(2) After receipt of nominations for any area of the Outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing and which he concludes, in consultation with the Governor of the coastal State, may contain one or more oil or gas pools or fields underlying both the Outer Continental Shelf and lands subject to State jurisdiction. If the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the Outer Continental Shelf and lands subject to State jurisdiction the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this Act, with applicable regulations, and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.

"(4) Regardless of any other provision of this Act the Secretary shall impound in a separate account in the Federal treasury all bonuses, royalties and other revenues attributable to oil and gas pools underlying both the OCS and submerged lands subject to state jurisdiction until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree the United States District Court determines, the fair and equitable disposition of such revenues and any interest which has accrued and on the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal States."

3. *Regulation of OCS pipelines.*—Effective administration and orderly development of Outer Continental Shelf oil and gas resources have been handicapped since inception of the Outer Continental Shelf Lands Act by problems concerning offshore pipelines. The limitation of the Secretary's authority regarding pipelines to matters pertaining to the survey, width and location is inconsistent with the Secretary's authority under section 5(a)(1) of the Act, and it has precluded the Department from effectively regulating offshore pipelines in the interest of conservation and for the prevention of waste.

To correct this deficiency, we recommend that section 5(e) of the Act, in section 204 of the bill, be amended by the deletion of "as to the application therefor and the survey, location, and width thereof" on lines 18 to 20 of page 23 of the bill.

4. *Antitrust review.*—The Department concurs with the objective of enhancing competition in using the oil and gas resources of the Outer Continental Shelf. We are studying leasing procedures which would promote competition. These include new systems of bidding and exploration. Also, in appropriate circumstances the Department would exercise authority under S. 9 and H.R. 1614 to cancel leases in violation of antitrust laws.

Section 205 of the bills would require the Attorney General and the Federal Trade Commission to review individual leases to determine whether any would create or maintain situations inconsistent with the antitrust laws. As the Department of Justice noted in its testimony before the House Select Ad Hoc Committee, it is appropriate that the Attorney General be consulted on general bidding procedures and long-term leasing policy. His advice can insure that award procedures are generally fair and procompetitive and that lease conditions are not used which might create down-stream anticompetitive effects. We endorse this approach and support the language of new section 18(c)(3) and (d), on pages 50 and 51, which implement this.

As the Department of Justice also noted, however, individual review of the large number of OCS leases could place an undue administrative burden, upon that Department. Such a review would become a *pro forma* exercise because of the large number of transactions with relatively small potential for anticompetitive results. Action on such a large number of competitively insignificant transactions would result in a net loss of the Justice Department's enforcement and advisory efforts. Fort his reason we recommend deletion of section 205 (c) on pages 36, lines 24–25, and 37, lines 1–21.

5. *Limitation on export.*—The primary purpose of the present export limitation provisions of S. 9 and H.R. 1614—to ensure that OCS oil and gas be retained as domestic U.S. resources—is an important and desirable objective. However, this objective, we believe, can be better achieved by specifically pointing out that the oil and gas produced on the Outer Continental Shelf is subject to the provisions not only of the Export Administration Act, but of section 103 of the Energy Policy and Conservation Act, Public Law 94–163 (EPCA).

Section 103 of EPCA is a comprehensive provision dealing with the domestic use of the full range of energy supplies and related materials and equipment. As to crude oil and natural gas, it requires that there be a "rule prohibiting (their) export . . .," subject to very limited exceptions which are defined in terms similar to the language contained in subsections (b) and (d) of the present bill. Moreover, this provision of EPCA has been implemented by the Department of Commerce with the understanding that it embodies a very stringent congressional policy to the effect that domestically-produced oil and gas from *all* areas should be developed for domestic use.

There is no reason to distinguish between U.S. Outer Continental Shelf oil and gas reserves and other domestic reserves for purposes of administering export controls; in fact, the proliferation of separate export control provisions for various domestic reserves is likely to impede the administration of the Export Administration Program.

We recommend, therefore, amending section 208 of the bill by substituting the following for the language now appearing from line 14 of page 91 through line 17 of page 92 of the bill:

"SEC. 28. Limitation on Export. Any oil or gas produced from the Outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969 (50 U.S.C. 2401 *et seq.*) and Section 103 of the Energy Policy and Conservation Act (Public Law 94–163)."

6. *International Boundary Determination.*—H.R. 1614 and S. 9 would amend the OCS Lands Act to require within 1 year the determination and publication of lines which are the seaward projection of state boundaries and would require the President, again within 1 year, to establish procedures for settling outstanding international continental shelf disputes, particularly those with Canada and Mexico.

In testimony before the House Select Ad Hoc Committee, the Department of State made several points regarding this provision. First, the proposed change would require action within an unrealistic time frame. The determination of the projected boundary lines would have to be carefully constructed in accord with international principles respecting delimitation which is applicable to these situations under our domestic law. The technical and legal work required, and the consultations with the states concerned, would be more time-consuming than is allotted by the provision. Second the United States and Mexico do not have a continental shelf boundary dispute. On November 24, 1976, the U.S. and Mexico entered into an agreement on provisional maritime boundaries out to 200 miles in the Gulf of Mexico and the Pacific Ocean. These provisional lateral bondaries will serve until certain technical work can be completed and a formal treaty completed which will be submitted to the Senate for its advice and consent. Finally, the amendments proposed in H.R. 1614 and S. 9 could impinge upon the President's constitutional responsibility for the conduct of foreign affairs, and would place United States boundary negotiators under a severe handicap.

We, therefore, propose deletion of those provisions of section 203 of H.R. 1614 and S. 9 (lines 4–10 on page 16 of H.R. 1614) which would amend section 4(a)(2) of the Outer Continental Shelf Lands Act.

7. *Option for applying the provisions of section 25 to the Gulf of Mexico and Santa Barbara Channel.*—One of the most significant changes in S. 9 and H.R. 1614 of existing practice is the detailed review and state participation required prior to approval of development and production plans. Approval of these plans will in many cases require preparation of an environmental impact statement. An EIS would be required, for example, at least once prior to major development in any area or region of the OCS. These are addressed in section 25 of the bills. Section 25, however, excludes the Santa Barbara Channel and the Gulf of Mexico from its requirements. We believe the Secretary should have the option, where necessary, of applying the provisions of section 25 in these two areas. The Santa Barbara Channel and the Gulf of Mexico have been well developed within recent years and the purpose for the general exclusion in section 25 is understandable. There may be, however, more areas of the Channel or the Gulf where application of these provisions is advisable. Therefore, we recommend addition of the following language as section 25(k) on page 82:

"An oil and gas lease issued or maintained under this Act which is located in the Gulf of Mexico or the Santa Barbara channel shall be subject to the provisions of this section if the Secretary determines, pursuant to regulations prescribed by the Secretary, that the likely environmental or onshore impacts of the development and production of such lease make the application of the provisions of this section in the public interest."

8. *Congressional action on waiver of limitation on bonus bidding.*—S. 9 and H.R. 1614 permit the Secretary to exceed the 66⅔ limitation on bonus bid offerings in each region in any year after the first year subsequent to enactment if he finds and reports to the Congress that it would unduly delay efficient development, result in less than a fair return to the Government, or result in a reduction of competition, and if either House of the Congress passes a resolution approving the Secretary's finding within 30 days after receipt of his report.

As I indicated in my earlier letters, this Department is firmly committed to substantial use of bidding systems other than the existing cash bonus system. We have concerns, however, with the part of this provision which would require single House resolution.

The Department of Justice has consistenlty found that legislative provisions such as this single House resolution are an encroachment upon the constitutional responsibilities of the Executive Branch. For this reason we urge that the bill be amended as follows:

"Section 205 (Section 8(a)(6)(C(ii)) line 3, page 31, after the word "limitation" strike the words "if either the Senate or the House of Representatives passes a resolution of approval of the Secretary's finding" and insert in lieu thereof the words "unless the Secretary's finding is disapproved by joint resolution of Congress."

Page 31, line 23 and page 32, line 5, replace the word "approving" by "disapproving".

We again recommend that title III dealing with oil spill liability and compensation be separately considered and that the Administration's proposal sent to the Congress on March 17, 1977, and introduced as S. 1187, or H.R. 3711 amended pursuant to the Administration's comments be enacted.

The Office of Management and Budget has advised that enactment of legislation conforming to the views set forth above and in the earlier letters of March 14 and 21 would be in accord with the program of the President and it has no objection to the presentation of this report.

Sincerely,

CECIL D. ANDRUS,
Secretary.

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C., April 22, 1977.

Hon. CECIL D. ANDRUS,
Secretary of the Interior, Department of Interior,
Washington, D.C.

DEAR MR. SECRETARY: One issue of particular concern to the Committee during its consideration of S. 9, the Outer Continental Shelf

Lands Act Amendments, is which Federal agency should handle responsibility for environmental baseline studies and monitoring. Section 20 of S. 9 provides that the Secretary of Commerce shall have that responsibility.

In your testimony before the Committee on March 15, you pointed out that baseline and monitoring should remain in the Department of the Interior. However, environmental groups question Interior's past environmental record and doubt its capability to manage this necessary preliminary phase of protecting the OCS marine environment effectively.

Commenting on Interior's recent draft EIS for OCS lease sale No. 43 in the South Atlantic, Ellen Winchester, Chairman of the National Energy Policy Committee of the Sierra Club, recommended a five-year delay of the sale in order to allow time for acquiring baseline information that is necessary to monitor the marine environment adequately. She noted that BLM's South Atlantic study was not tailored to produce needed predictive capacity or even benchmark data to measure environmental changes. Finally, Ms. Winchester questioned whether Interior is even serious about obtaining the information useful in making management decisions.

The Committee's intention in transferring baseline and monitoring responsibility to the Department of Commerce is to improve the quality of such studies in view of NOAA's special marine study capabilities. In light of your strong recommendation that such responsibilities remain in Interior, the Committee would appreciate a report explaining why such responsibilities can be better managed by Interior. It would also be helpful to know whether Interior intends to recommend improvements to its present practices in conducting baseline studies.

Thank you for your cooperation.

Sincerely yours,

HENRY M. JACKSON, *Chairman.*

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 15, 1977.

Hon. HENRY M. JACKSON,
U.S. Senate, Washington, D.C.

DEAR SCOOP: Thank you for your letter of April 22 and this opportunity to continue our discussion of environmental studies associated with the Outer Continental Shelf, and Section 20 of S. 9 which deals with responsibilities for such studies.

I wish to state again that responsibility for, and control of environmental studies necessary to carry out the OCS program should remain in the Department of the Interior. Effective management and direction of the OCS program would be better assured if such studies remained in the Department. It is essential that these studies be of a kind and are conducted in areas such that the results will be available in the decision-making process when needed. In my letter to you of March 14

I suggested the changes to S. 9 that would accomplish this. My support for the Administration position on OCS environmental studies has not diminished, and I believe the justification for the suggested changes in S. 9 remains sound.

In your letter you mentioned that environmental groups doubt the capability of the Department in this area. I suggest that judgments based on the Department's past record should not be overly persuasive as to this Administration. I am committed to the proposition that only environmentally acceptable development of the Nation's resources will take place.

You refer in your letter to the March 1977 remarks by the Chairperson of the National Energy Policy Committee of the Sierra Club, Ms. Ellen Winchester, during the public hearings on the draft environmental statement on OCS sale No. 43, South Atlantic. I will not judge at this time whether sufficient, or sufficiently relevant, data are available to make a decision on a lease sale in the South Atlantic. A number of studies are ongoing, or planned for this fiscal year. They include the basic benchmark program studies initiated in January 1977 and scheduled to continue for at least three years, environmentally oriented geologic studies that have been underway since October 1976, physical oceanography studies, and an update of analyses of historical data and information. These, and other activities, indicate that the Department is obtaining useful information.

In addition to continuing studies in all likely lease areas, many of which are being conducted by the National Oceanic and Atmospheric Administration under contract to the Department of the Interior, a basic reassessment of the concepts and scope of the environmental studies program is underway. The basic environmental studies program plan drafted in 1974, a year after the environmental studies program was initiated, is in the process of revision. In addition, at our request the National Academy of Sciences, more particularly the National Research Council, has undertaken an evaluation of the scope and methods of current studies and will be reporting to the Department within a few months with findings and recommendations.

In summary, the environmental studies program is an essential and integral part of the process leading to the development of OCS oil and gas resources. My responsibilities require that decisions on OCS leasing and the extraction of oil and gas be based on timely and adequate information. To assure the correlation of information and decisions, control of the initiation and extent of environmental studies must remain in the Department that has the responsibility to make timely and well founded decisions. The studies program in the past may not have been wholly adequate. Necessary improvements are being made. No decision to proceed with oil and gas development will be made in the absence of sufficient and proper environmental information.

Thank you for this opportunity to discuss this important subject with you. I look forward to a continuing and productive dialogue with you on energy and other matters.

Sincerely,

CECIL D. ANDRUS, *Secretary.*

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XI. MINORITY VIEWS OF SENATORS HANSEN, BARTLETT, DOMENICI, AND LAXALT

In our judgment, S. 9—this Committee's most recent effort to amend the Outer Continental Shelf Lands Act (OCSLA) of 1953—suffers from fatal defects which have made similar, previous legislative measures unacceptable. For many of the same reasons that S. 521 was opposed in the 94th Congress, we again vigorously oppose this bill. In summary, these reasons are:

(1) S. 9 is unnecessary by virtue of the effectiveness of existing laws which govern OCS development.

(2) S. 9 will clearly delay rather than expedite development and production of our oil and gas resources on the Outer Continental Shelf.

(3) S. 9 is inconsistent with our espoused national energy program to increase domestic oil and gas production with a concomitant decrease in reliance on foreign sources.

Although the final version of S. 9 which was reported out of Committee does reflect an awakening to the clear threat of the creation of a federal oil and gas corporation, this positive step alone, although meritorious, cannot justify the enactment of S. 9. The rationale for our position is set forth in detail below.

1. *This legislation is unnecessary.*

The principal arguments in support of new OCS legislation are that the 1953 Act needs revamping to encourage increased oil and gas production under environmentally sound conditions. It is further argued that the 1953 law favors the large oil companies in lease bidding and therefore discourages competition by smaller independent operators. This in turn denies the federal government a fair return on the value of the OCS resources removed.

When one examines the results of almost a quarter century of experience with the OCSLA of 1953, it is impossible to accept these arguments or to become convinced that there exist ills which warrant new legislation. Under the 1953 Act this country has established an excellent record of oil and gas production while at the same time maintaining a commendable record for environmental protection. Competition for leases under existing law has been intense with small independent companies sharing favorably with the larger majors. And, very importantly, the federal government has received a fair return for those OCS resources sold.

Where then, we ask, is the need for this new law? A look at the positive achievements of the 1953 OCSLA increases our quandary in this regard.

Since 1953, over 21,000 wells have been drilled offshore with total production amounting to 7½ billion barrels of oil and 42 trillion cubic feet of natural gas. In 1976 alone OCS wells produced 14.6 percent of the nation's total domestic oil and 27.2 percent of the country's gas. Declines in the rate of oil production can be traced directly

to the fact that the six most recent lease sales have been delayed by litigation challenging these sales on environmental grounds. Such challenges are indeed ironic in view of the fact that in spite of the staggering number of wells and the vast quantity of gas and oil removed to the mainland, in only one instance in twenty-four years has there been an OCS production well accident which resulted in any oil damage to the coastline. Moreover, exploratory wells have never experienced blowouts which resulted in more than 50 barrels of oil being discharged into the sea. Such a record hardly constitutes a ground for increased federal legislation on production or environmental grounds.

Beyond the production achievements and environmental protection record established under the 1953 Act, there is compelling evidence that the competition for OCS resources is increasing and that the federal government is benefiting greatly from such competition. For example, the record shows that 177 different companies have purchased acreage in the OCS. Of this number, only 35 companies are large enough to be included in the Fortune 500 list of the nation's largest companies. Smaller operators have been quite successful, too, accounting for 41% of the OCS oil production in 1975 as compared to 29% in 1970. Their share of natural gas production during the same period increased from 54% to 63%. Moreover, there appears to be no decline in the eagerness of new companies to enter the bidding for OCS leases. In all but three of the twenty-four general OCS lease sales there have been new bidders participating which had never before entered into OCS lease transactions. Thus, under present law there has been broad participation in the lease sales by large and small companies alike.

Evidence of the intensity of the competition among these bidders is seen in the fact that in sixteen recent sales the amount of money "left on the table," i.e. the difference between the highest and second highest bid on a tract, totaled $6.4 billion or 45 percent of the money spent by all bidders. Such a wide disparity of bids negates any suggestion that anti-competitive forces are at work under the current system. Furthermore, there can be no question but that it is the federal government which is obtaining the principal financial reward from the resource development of the OCS. Published records of the Department of Interior show that through 1975 the federal government received 86 percent of all revenues produced from the OCS. At the same time it is variously estimated that the industry rate of return on OCS sales (on a discounted cash flow basis) has been low to medium, ranging from 5 percent to 9 percent. By way of emphasis, consider the fact that by the end of 1974, total costs had *exceeded* revenues generated, as of that date, by $13 billion.

Based upon such data we are totally unconvinced by the arguments for the necessity of changing a simple, ten page law of proven effectiveness into a thirty-five-plus page regulatory nightmare.

2. *This bill will delay and reduce rather than expedite and increase OCS resource development.*

Even if we were convinced of the need to alter the 1953 OCSLA, we could not condone the potentially negative impacts of S. 9, especially in view of the purported goals of increased and expedited OCS production. For example, Section 102 of the bill states that its primary purpose is to:

(1) Establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf which are intended to result in expedited exploration and development of that area in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources and maintain a favorable balance of payments in world trade.

A cursory review of just a sampling of the changes created by S. 9 emphasizes the inconsistency between this purpose and the inescapable effects which the new provisions will undoubtedly cause.

Section 204 adds a new Section 5 to the 1953 Act pertaining to the administration of leasing of the OCS. A host of new regulations are required which will have retroactive application to "all operations conducted under any lease issued or maintained under the OCSLA." New authority for cancellation and suspension of leases is granted the Secretary of the Interior whenever it is determined, inter alia, that a lessee's activities "would probably cause serious harm or damage to . . . aquatic life . . . or human environment. . . ." This and similarly ill-defined provisions, when coupled with the new citizens suit authority contained in Section 208, provide a virtually limitless source of litigation and delay *in addition to* current National Environmental Policy Act suit provisions. When it is recalled that the principal cause for declining OCS production has been the harassing litigation which has delayed six separate OCS lease sales based upon NEPA challenges, there appears to be more rather than less likelihood for additional legal impediments to future development. Furthermore, the retroactive thrust of this new language could well interfere with exploration and production efforts which are presently underway.

Section 205 alters the existing and heretofore successful lease bidding techniques by adding five previously unused devices, while at the same time *requiring* the Secretary to utilize these new bidding systems in at least 33⅓ percent of all future sales. Any deviation from this minimum requirement will require special Congressional review and approval. Thus, a new bidding routine has been mandated for one-third of all future sales with no deviation from this mandate allowed in the absence of time-consuming Congressional consideration no matter how disruptive and ineffective these new bidding techniques may prove to be.

Section 206 even adds a multitude of new requirements and obligations to an operator's "exploration" program with Secretarial authority to delay approval of such proposed exploration on the same grounds applicable to cancellations of leases. Accepting for purposes of argument the need to impose stricter standards to govern long term production activities and facilities, there is still no justification to defer exploration decisions based upon similar criteria.

Section 208 adds eight new sections to the 1953 Act covering such diverse new requirements as: five-year leasing plans; coordination of national leasing programs with individual coastal states; and, the disturbing threat of OSHA-type safety rules and regulations for all OCS activities. Also added is an information gathering provision, Section 26, that will, if enacted, require the reporting of proprietary analytical work products of geologists and engineers for all companies

participating in OCS development and the accompanying threat of the disclosure of this data. Any such result would not only be confiscatory in nature but would also compromise the competitive positions of all companies required to report. In sum, all of these new sections create additional potential for delay and disruption of development and augur ill for anything but endless litigation of disputes which also will add significantly to the cost of the production of energy from our Outer Continental Shelf.

Thus, in addition to the total absence of any legitimate need for new legislation, there is every possible indication that the amendments proposed in the 1953 OCSLA will *hinder* rather than enhance the recovery of our vital OCS resources.

3. *This bill is inconsistent with any sound national energy policy.*

After several efforts by prior Administrations to forge a national energy policy, there is at last a concerted effort to achieve that result. However, now that the Congress has begun to address a major legislative package designed to deal with our energy crisis, it is imperative that a well-reasoned, workable result is obtained. Now is not the time to enact legislative proposals which were prepared in the context of markedly different energy conditions of earlier Congressional sessions. Unfortunately, S. 9, like the Surface Mining bill reported within the last month, falls into the category of left-over legislation which is out of tune with the nation's current energy needs. No longer can we afford the luxury of placing environmental concerns in a position of preeminence when energy legislation is considered. The time has come for a reasonable balancing of national ecological and energy interests in a manner that will assure that all of the needs of the country are met. S. 9 falls far short of this goal and reflects an unyielding preference for environmental concerns over development of OCS resources.

Unless our national priority is to defer—perhaps indefinitely—OCS development, then this bill must not be adopted. Viewed in the bill's entirety, the multitude of new regulatory requirements, built-in bureaucratic delays and limitless opportunities for harassing litigation combine to virtually guarantee that OCS development will be stalled for an additional three to six years if not longer. Since under current law the time lag from the time of lease sale to the initiation of commercial production ranges from six to thirteen years, the additional delays built into S. 9 will mean that from nine to nineteen years will elapse before the nation will enjoy the fruits of any future OCS resources. Approval of such delays would constitute an irresponsible abdication of Congressional responsibility for this nation's energy needs. And, this Congress, after several years of hearings, testimony and studies is uniquely equipped with the clearest possible record of the disrupting, delaying and debilitating effect which the proposed amendments to the OSCLA will impose.

We cannot countenance such a counter-productive result at the precise time that our nation is ready to embark on a concerted effort toward energy responsibility.

CLIFFORD P. HANSEN.
DEWEY F. BARTLETT.
PETE V. DOMENICI.
PAUL LAXALT.

XII. Changes in Existing Law

S. 9 changes existing law in three Acts: The Outer Continental Shelf Lands Act Amendments of 1953, Section 308 (b) of the Coastal Zone Management Act of 1972, as amended, and Section 105 of the Energy Policy and Conservation Act of 1975.

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing laws made by the bill, S. 9, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Outer Continental Shelf Lands Act".

OUTER CONTINENTAL SHELF LANDS ACT
(43 U.S.C. 1331–43)

* * * * * * *

Sec. 2. Definitions.—When used in this Act—

(a) The term "outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, Eighty-third Congress, first session), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

(b) The term "Secretary" means the Secretary of the Interior;

[(c) The term "mineral lease" means any form of authorization for the exploration for, or development or removal of deposits of, oil, gas, or other minerals; and]

"(*c*) *The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of, deposits of oil, gas, or other minerals including geothermal resources;*".

(d) The term "person" includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation[a];

"(*e*) *The term 'coastal zone' means the coastal water (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands; the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1);*

"(*f*) *The term 'affected State' means, with respect to any program, plan, lease sale, or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, any State—*

"(1) *the laws of which are declared, pursuant to section 4(a)* (2) *of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;*

"(2) *which is or is proposed to be directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of this Act;*

"(3) *which is receiving, or in accordance with the proposed activity, will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported by means of vessels or by a combination of means including vessels;*

"(4) *which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or*

"(5) *in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;*

"(g) *The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state condition, and quality of the marine ecoystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf of the United States;*

"(h) *The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;*

"(i) *The term 'human environment' means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, drectly or indirectly, by activities occurring in the outer Continental Shelf of the United States;*

"(j) *The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;*

"(k) *The term 'exploration' means the process of searching for oil, natural gas, or other minerals, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in commercial quantities is made, the drilling of any additional delineation well after such dis-*

covery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"*(l) The term 'development' means those activities which take place following discovery of oil, natural gas, or other minerals in commercial, quantities, including geophysical activity, drilling, platforms construction, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;*

"*(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of oil, natural gas, or other minerals to shore, operation monitoring, maintenance, and work-over drilling;*

"*(n) The term 'antitrust law' means—*

"*(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.);*

"*(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.);*

"*(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);*

"*(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9); or*

"*(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, and 21a);*

"*(o) The term 'fair market value' means the value of any oil, gas, or other mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary; and*

"*(p) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).*".

[SEC. 3. JURISDICTION OVER OUTER CONTINENTAL SHELF.—(a) It is hereby declared to be the policy of the United States that the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act.

[(b) This act shall be construed in such manner that the character as high seas of the waters above the outer Continental Shelf and the right to navigation and fishing therein shall not be affected.]

"*SEC. 3 NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—*

"(*1*) *the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;*

"(*2*) *this act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;*

"(*3*) *the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;*

"(*4*) *since exploration, development, and production of the mineral resources of the outer Continental Shelf will have significant impacts on coastal and noncoastal areas of the coastal States, and on the affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—*

"(*A*) *such States may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and*

"(*B*) *such States are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, mineral resources of the outer Continental Shelf;*

"(*5*) *the rights and responsibilities of all States to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and*

"(*6*) *operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.*".

SEC. 4. LAWS APPLICABLE TO OUTER CONTINENTAL SHELF.—(a) (1) The Constitution and laws and civil and political jurisdiction of the United States are hereby extended to the subsoil and seabed of the outer Continental Shelf and to all artificial islands [and fixed structures], *and all installations and other devices permanently or temporarily attached to the seabed*, and all structures permanently or temporarily attached to the seabed, which may be erected thereon for the purpose of exploring for, developing, [removing, and transporting resources therefrom], or *producing resources therefrom, or any such structure (other than a ship or vessel) for the purpose of transporting such resources*, to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State: *Provided, however*, That mineral leases on the outer Con-

tinental Shelf shall be maintained or issued only under the provisions of this Act.

(2) (*A*) To the extent that they are applicable and not inconsistent with this Act or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each adjacent State as of the effective date of this Act are hereby declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf, and the President shall determine and publish in the Federal Register such projected lines extending seaward and defining each such area. All of such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

"(*B*) *Within one year after the date of enactment of this paragraph, the President shall establish procedures for settling any outstanding international boundary dispute respecting the outer Continental Shelf.*".

(3) The provisions of this section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any purpose over the seabed and subsoil of the outer Continental Shelf, or the property and natural resources thereof or the revenues therefrom.

(b) The United States district courts shall have original jurisdiction of cases and controversies arising out of or in connection with any operations conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing or transporting by pipeline the natural resources, or involving rights to the natural resources of the subsoil and seabed of the outer Continental Shelf, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the adjacent State nearest the place where the cause of action arose.

With respect to disability or death of an employee resulting from any injury occurring as the result of operations described in subsection (b), compensation shall be payable under the provisions of the Longshoremen's and Harbor Workers' Compensation Act. For the purposes of the extension of the provisions of the Longshoremen's and Harbor Workers' Compensation Act under this section—

(1) the term "employee" does not include a master or member of a crew of any vessel, or an officer or employee of the United States, or of any agency thereof or of any State or foreign government, or of any political subdivision thereof;

(2) the term "employer" means an employer any of whose employees are employed in such operations; and

(3) the term "United States" when used in a geographical sense includes the outer Continental Shelf and artificial islands and fixed structures thereon.

"(*d*) *For the purposes of the National Labor Relations Act, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection*

(a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artifical island, installation, or other device.".

[e](1) The [head] *Secretary* of the Department in which the Coast Guard is operating shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on [the *artificial* islands and structures referred to in subsection (a)] *the artificial islands, installations, and other devices referred to in subsection* or on the waters adjacent thereto, as he may deem necessary.

[(2) The head of the Department in which the Coast Guard is operating may mark for the protection of navigation any such island or structure whenever the owner has failed suitably to mark the same in accordance with regulations issued hereunder, and the owner shall pay the cost thereof. Any person, firm, company, or corporation who shall fail or refuse to obey any of the lawful rules and regulations issued hereunder shall be guilty of a misdemeanor and shall be fined not more than $100 for each offense. Each day during which such violation shall continue shall be considered a new offense.]

"*(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.*".

(f) The authority of the Secretary of the Army to prevent obstruction to navigation in the navigable waters of the United States is hereby extended to [artificial islands and fixed structures located on the outer Continental Shelf.] *the artificial islands and structures referred to in subsection (a).*

(g) The specific application by this section of certain provisions of law to the subsoil and seabed of the outer Continental Shelf and [the artificial islands and fixed structures referred to in subsection (a)] *the artificial islands, installations, and other devices referred to in subsection (a)* or to acts or offenses occurring or committed thereon shall not give rise to any inference that the application to such islands and structures, acts, or offenses of any other provision of law is not intended.

[SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a)(1) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of

this Act. In the enforcement of conservation laws, rules, and regulations the Secretary is authorized to cooperate with the conservation agencies of the adjacent States. Without limiting the generality of the foregoing provisions of this section, the rules and regulations prescribed by the Secretary thereunder may provide for the assignment or relinquishment of leases, for the sale of royalty oil and gas accruing or reserved to the United States at not less than market value, and, in the interest of conservation, for unitization, pooling, drilling agreements, suspension of operations or production, reduction of rentals or royalties, compensatory royalty agreements, subsurface storage of oil or gas in any of said submerged lands, and drilling or other easements necessary for operations or production.

[(2) Any person who knowingly and willfully violates any rule or regulation prescribed by the Secretary for the prevention of waste, the conservation of the natural resources, or the protection of correlative rights shall be deemed guilty of a misdemeanor and punishable by a fine of not more than $2,000 or by imprisonment for not more than six months, or by both such fine and imprisonment, and each day of violation shall be deemed to be a separate offense. The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof if the lease is maintained under the provisions of section 6 hereof.

[(b)(1) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in section 8 (j), if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

[(2) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of section 4(b) of this Act.

[(c) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other mineral under such regulations and upon such conditions as to the application therefor and the survey, location and width

thereof as may be prescribed by the Secretary, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from said submerged lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed thereunder shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of section 4(b) of this Act.]

"*Sec. 5. Administration of Leasing of the Outer Continental Shelf.—(a) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf and shall prescribe such regulations as necessary to carry out such provisions, and the Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources in the outer Continental Shelf, and the protection of correlative rights therein. Such regulations shall, as of the date of their promulgation, apply to all operations conducted under any lease issued or maintained under the provisions of this Act and shall be in furtherance of the policies of this Act. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant agencies of the Federal Government and of the affected States. In the formulation, promulgation and enforcement of regulations, the Secretary shall request and give due consideration to the views of the Attorney General with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—*

"*(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the interest of conservation, to facilitate proper development of a lease, or to allow for the unavailability of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including aquatic life), to property, to any mineral deposits (in areas leased or not yet leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued concerning such lease or permit;*

"*(2) for the cancellation of any lease or permit, at any time, when it is determined by the Secretary, after hearing, that continued activity pursuant to such lease or permit would probably cause serious harm or damage to life including aquatic life, to property, to any mineral deposits in areas leased or not yet leased,*

to the national security or defense, or to the marine, coastal, or human environments, and if he determines that the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time and if he determines that the advantages of cancellation of the lease or permit outweigh the advantages of development and production, except that the cancellation of any lease pursuant to such regulations (A) shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease or permit term continuously for a period of five years, or for a lesser period upon request of the lessee, and (B) shall entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (i) the fair value of the cancelled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues, from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement: Provided, That with respect to leases issued before the date of enactment of this Act, such compensation shall be equal to the amount specified in item (i) of this sentence: Provided further, That in the case of joint leases which are canceled due to the failure of one or more partners to exercise due diligence, the innocent parties shall have the right to seek damages for such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question);

"(3) for the assignment or relinquishment of lease;

"(4) for the sale of royalty, net profit share, or purchased oil and gas accruing or reserved to the United States in accordance with section 27 of this Act;

"(5) for the utilization of different bidding systems in accordance with section 8(a) of this Act;

"(6) for the procedures for citizen suits in accordance with section 23 of this Act;

"(7) for utilization, pooling, and drilling agreements;

"(8) for subsurface storage of oil and gas other than by the United States Government;

"(9) for drilling or easements necessary for exploration, development, and production; and

"(10) for the prompt and efficient exploration and development of a lease area.

"(b) The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, under the provision

of this Act shall be conditioned upon compliance with the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof.

"(*c*) *When the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.*

"(*d*) *Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court have jurisdiction under the provisions of this Act.*

"(*e*) *Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulfur, or other mineral under such regulations and upon such conditions as may be prescribed by the Secretary, including assuring maximum environmental protection by utilization of the best available and safest technology, including the safest practices for pipeline burial, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator of the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of this Act.*

"(*f*)(*1*) *The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.*

"(*2*) *If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound*

engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

"*(g) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.*".

SEC. 6. MAINTENANCE OF LEASES ON OUTER CONTINENTAL SHELF.—(a) The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if—

(1) such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from the effective date of this Act, or within such further period or periods as provided in section 7 hereof or as may be fixed from time to time by the Secretary;

(2) such lease was issued prior to December 21, 1948, and would have been on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing it had the State had authority to issue such lease;

(3) there is filed with the Secretary, within the period or periods specified in paragraph (1) of this subsection, (A) a certificate issued by the State official or agency having jurisdiction over such lease stating that it would have been in force and effect as required by the provisions of paragraph (2) of this subsection, or (B) in the absence of such certificate, evidence in the form of affidavits, receipts, canceled checks, or other documents that may be required by the Secretary, sufficient to prove that such lease would have been so in force and effect;

(4) except as otherwise provided in section 7 hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and the effective date of this Act, which have not been paid in accordance with the provisions thereof, or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in paragraph (1) of this subsection, and all rents, royalties, and other sums payable under such lease after the effective date of this Act, are paid to the Secretary, who shall deposit such payments in the Treasury in accordance with section 9 of this Act;

(5) the holder of such lease certifies that such lease shall continue to be subject to the overriding royalty obligations existing on the effective date of this Act;

(6) such lease was not obtained by fraud or misrepresentation;

(7) such lease, if issued on or after June 23, 1947, was issued upon the basis of competitive bidding;

(8) such lease provides for a royalty to the lessor on oil and gas of not less than 12½ per centum and on sulphur of not less than 5 per centum in amount or value of the production saved,

removed, or sold from the lease, or, in any case in which the lease provides for a lesser royalty, the holder thereof consents in writing, filed with the Secretary, to the increase of the royalty to the minimum herein specified;

(9) the holder thereof pays to the Secretary within the period or periods specified in paragraph (1) of this subsection an amount equivalent to any severance, gross production, or occupation taxes imposed by the State issuing the lease on the production from the lease, less the State's royalty interest in such production, between June 5, 1950, and the effective date of this Act and not heretofore paid to the State, and thereafter pays to the Secretary as an additional royalty on the production from the lease, less the United States' royalty interest in such production, a sum of money equal to the amount of the severance, gross production, or occupation taxes which would have been payable on such production to the State issuing the lease under its laws as they existed on the effective date of this Act;

(10) such lease will terminate within a period of not more than five years from the effective date of this Act in the absence of production or operations for drilling, or, in any case in which the lease provides for a longer period, the holder thereof consents in writing, filed with the Secretary, to the reduction of such period so that it will not exceed the maximum period herein specified; and

(11) the holder of such lease furnishes such surety bond, if any, as the Secretary may require and complies with such other reasonable requirements as the Secretary may deem necessary to protect the interests of the United States.

(b) Any person holding a mineral lease, which as determined by the Secretary meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with (1) its provisions as to the area, the minerals covered, rentals and, subject to the provisions of paragraphs (8), (9) and (10) of subsection (a) of this section, as to royalties and as to the term thereof and of any extensions, renewals, or replacements authorized therein or heretofore authorized by the laws of the State issuing such lease, or, if oil or gas was not being produced in paying quantities from such lease on or before December 11, 1950, or if production in paying quantities has ceased since June 5, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from the effective date hereof equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of such State, and (2) such regulations as the Secretary may under section 5 of this Act prescribe within ninety days after making his determination that such lease meets the requirements of subsection (a) of this section: *Provided, however*, That any rights to sulphur under any lease maintained under the provisions of this subsection shall not extend beyond the primary term of such lease or any extension thereof under the provisions of such subsection (b) unless sulphur is being produced in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being

conducted on the area covered by such lease on the date of expiration of such primary term or extension: *Provided further*, That if sulphur is being produced in paying quantities on such date, then such rights shall continue to be maintained in accordance with such lease and the provisions of this Act: *Provided further*, That, if the primary term of a lease being maintained under subsection (b) hereof has expired prior to the effective date of this Act and oil or gas is being produced in paying quantities on such date, then such rights to sulphur as the lessee may have under such lease shall continue for twenty-four months from the effective date of this Act and as long thereafter as sulphur is produced in paying quantities, or drilling, well working, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by the lease.

(c) The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or under the lease, or respecting activities conducted under the lease, prior to the effective date of this Act.

(d) Any person complaining of a negative determination by the Secretary of the Interior under this section may have such determination reviewed by the United States District Court for the District of Columbia by filing a petition for review within sixty days after receiving notice of such action by the Secretary.

(e) In the event any lease maintained under this section covers lands beneath navigable waters, as that term is used in the Submerged Lands Act, as well as lands of the outer Continental Shelf, the provisions of this section shall apply to such lease only insofar as it covers lands of the outer Continental Shelf.

SEC. 7. CONTROVERSY OVER JURISDICTION.—In the event of a controversy between the United States and a State as to whether or not lands are subject to the provisions of this Act, the Secretary is authorized, notwithstanding the provisions of subsections (a) and (b) of section 6 of this Act, and with the concurrence of the Attorney General of the United States, to negotiate and enter into agreements with the State, its political subdivision or grantee or a lessee thereof, respecting operations under existing mineral leases and payment and impounding of rents, royalties, and other sums payable thereunder, or with the State, its political subdivision or grantee, respecting the issuance or nonissuance of new mineral leases pending the settlement or adjudication of the controversy. The authorization contained in the preceding sentence of this section shall not be construed to be a limitation upon the authority conferred on the Secretary in other sections of this Act. Payments made pursuant to such agreement, or pursuant to any stipulation between the United States and a State, shall be considered as compliance with section 6(a)(4) hereof. Upon the termination of such agreement or stipulation by reason of the final settlement or adjudication of such controversy, if the lands subject to any mineral lease are determined to be in whole or in part lands subject to the provisions of this Act, the lessee, if he has not already done so, shall comply with the requirements of section 6(a), and thereupon the provisions of section 6(b) shall govern such lease. The notice concerning "Oil and Gas Operations in the Submerged Coastal

Lands of the Gulf of Mexico" issued by the Secretary on December 11, 1950 (15 F.R. 8835), as amended by the notice dated January 26, 1951 (16 F.R. 953), and as supplemented by the notices dated February 2, 1951 (16 F.R. 1203), March 5, 1951 (16 F.R. 2195), April 23, 1951 (16 F.R. 3623), June 25, 1951 (16 F.R. 6404), August 22, 1951 (16 F.R. 8720), October 24, 1951 (16 F.R. 10998), December 21, 1951 (17 F.R. 43), March 25, 1952 (17 F.R. 2821), June 26, 1952 (17 F.R. 5833), and December 24, 1952 (18 F.R. 48), respectively, is hereby approved and confirmed.

SEC. 8. LEASING OF OUTER CONTINENTAL SHELF.—[(a) In order to meet the urgent need for further exploration and development of the oil and gas deposits of the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the highest responsible qualified bidder by competitive bidding under regulations promulgated in advance, oil and gas leases on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be (1) by sealed bids, and (2) at the discretion of the Secretary, on the basis of a cash bonus with a royalty fixed by the Secretary at not less than 12½ per centum in amount or value of the production saved, removed or sold, or on the basis of royalty, but at not less than the per centum above mentioned with a cash bonus fixed by the Secretary.]

[(b) An oil and gas lease issued by the Secretary pursuant to this section shall (1) cover a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, (2) be for a period of five years and as long thereafter as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon, (3) require the payment of a royalty of not less than 12½ per centum, in the amount or value of the production saved, removed, or sold from the lease, and (4) contain such rental provisions and such other terms and provisions as the Secretary may prescribe at the time of offering the area for lease.]

"*(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—*

"*(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;*

"*(B) variable royalty bid based on a per centum in amount or value of the production saved, removed, or sold, with either a fixed work commitment based on dollar amount for exploration or a fixed cash bonus as determined by the Secretary, or both;*

"*(C) cash bonus bid or work commitment bid based on dollar amount for exploration with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;*

"(*D*) *cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;*

"(*E*) *fixed cash bonus with the net profit share reserved as the bid variable;*

"(*F*) *cash bonus bid with a royalty at no less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area; or*

"(*G*) *work commitment bid based on a dollar amount for exploration with a fixed cash bonus and a fixed royalty in amount or value of the production saved, removed or sold.*

"(*2*) *The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale or no later than the date of the approval of the development and production plan, whichever date first occurs.*

"(*3*) *The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.*

"(*4*) *At least ninety days prior to notice of any lease sale under subparagraphs (D), (E), (F), and (G) of paragraph (1), the Secretary shall by regulation establish rules to govern the calculation of net profits. In the event of any dispute between the United States and a lessee concerning the calculation of the net profits under the regulation issued pursuant to this paragraph, the burden of proof shall be on the lessee. In determining the attribution of profits as between oil and gas, costs, other than those directly attributable to the production of either oil or gas, shall be allocated proportionately based on the Btu equivalent values of the respective amounts of oil and gas produced*

"(*5*) *After an oil and gas lease is granted pursuant to subparagraph (B) or the work commitment option of subparagraph (C) of paragraph (1) of this section—*

"(*A*) *The lessee, at its option, shall deliver to the Secretary upon issuance of the lease either (i) cash deposit for the full amount of the exploration work commitment or, (ii) a performance bond, in form and substance and with a surety satisfactory to the Secretary, in the principal amount of such exploration work committee assuring the Secretary that such commitment shall be faithfully discharged in accordance with this section, the regulation and the lease. As provided in the regulation, the principal amount of such cash deposit or bond may be periodically reduced upon proof, satisfactory to the Secretary, that a portion of the exploration work commitment has been satisfied.*

"(*B*) *All exploration expenditure on, or directly related to, the lease including, but not limited to (i) geological investigations and related activities, (ii) geophysical investigations including seismic, geomagnetic, and gravity surveys, data processing and*

interpretation, and (iii) exploratory drilling, core drilling, redrilling, and well completion or abandonment, including the cost of mobilization and demobilization of drilling equipment, shall be included in satisfaction of the commitment. The lessee's general overhead cost shall not be so included against the work commitment, but its cost (including employee benefits) of employees directly assigned to such exploration work shall be so included.

"(C) If at the end of the primary term of the lease, including any etxension thereof, the full dollar amount of the exploration work commitment has not been satisfied, the balance shall then be paid in cash to the Secretary.

"(6) (a) Except as provided in clause (ii), the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection shall not be applied to more than 66⅔ per centum of the total area offered for lease each year, during the five-year period beginning on the date of enactment of this subsection, in each region where there has been no development of oil and gas prior to October 1, 1975, including the outer Continental Shelf region off southern California outside the Santa Barbara Channel. The Secretary shall define such regions of the outer Continental Shelf.

"(b) If, during the first year following enactment of this subsection, the Secretary finds that compliance with the limitation set forth in clause (a) would unduly delay development of the oil and gas resources of the outer Continental Shelf, he may exceed that limitation after he submits to the Senate and the House of Representatives a report stating his finding and the reasons therefor. If, in any other year following the date of enactment of this subsection, the Secretary finds that compliance with the limitation set forth in clause (a) would unduly delay efficient development of the oil and gas resources of the outer Continental Shelf, result in less than a fair return to the Federal Government, or result in a reduction of competition, he shall submit to the Senate and House of Representatives a report stating his specific findings and detailed reasons therefor. The Secretary may, unless either the Senate or the House of Representatives passes a resolution of disapproval of the Secretary's findings within thirty days after receipt of such report (not including days when Congress is not in session), thereafter, for that year, exceed such limitation.

"(I) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the Rules of each House, respectively, but they are applicable only with respect to the procedures to be followed in that House in the case of resolutions described by this subparagraph, and they supersede other Rules only to the extent that they are inconsistent therewith; and

"(II) with full recognition of the constitutional right of either House to change the Rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other Rule of that House.

"(d) A resolution disapproving the request of the Secretary to exceed the limitation shall immediately be referred to a committee (and all resolutions with respect to the same request shall be referred

to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(*e*) *If the committee, to which has been referred any resolution disapproving the request of the Secretary to exceed the limitation has not reported the resolution at the end of 10 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same request which has been referred to the committee.*

"(*f*) *A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.*

"(*g*) *If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same request.*

"(*h*) *When the committee has reported, or has been discharged from further consideration of, a resolution as provided, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.*

"(*i*) *Debate on the resolution is limited to not more than 2 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.*

"(*j*) *Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to a request, and motions to proceed to the consideration of other business, shall be decided without debate.*

"(*k*) *Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a request shall be decided without debate.*

"(*7*) *Within six months after the end of each fiscal year, the Secretary shall report to the Congress, as provided in section 15 of this Act, with respect to the use of the various bidding options provided for in this subsection. Such report shall include—*

"(*a*) *the schedule of all lease sales held during such year and the bidding system or systems utilized;*

"(*b*) *the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;*

"(*c*) *the benefits and costs associated with conducting lease sales using the various bidding systems;*

"(*d*) *if applicable, the reasons why a particular bidding system has not been or will not be utilized; and*

"(*e*) *if applicable, the reasons why more than 66⅔ per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection.*

"(b) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit:

"(2) be for an initial period of—

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse weather conditions,

"(*3*) *require the payment of amount or value as determined by one of the bidding procedures set forth in subsection (a) of this section;*

"(*4*) *entitle the lessee to explore, develop, and produce the oil and gas resources contained within the least area, conditioned upon due diligence requirements and the approval of the development and production plan required by this Act;*

"(*5*) *provide for suspension or cancellation of the lease pursuant to section 5 of this Act; and*

"(*6*) *contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease.*".

"(*c*) *No lease may be issued for an initial period until at least thirty days after the Secretary notifies the Federal Trade Commission of the proposed issuance. Such notification shall contain such information as the Federal Trade Commission may require in order to advise the Secretary as to whether such lease may create or maintain a situation inconsistent with the antitrust laws. The Federal Trade Commission may, by rule, exclude from the requirements of this subsection any class of lease which it determines would, if issued, be unlikely to create or maintain a situation inconsistent with the antitrust laws. If the Federal Trade Commission advises the Secretary, within such thirty-day period, that a proposed lease may create or maintain a situation inconsistent with the antitrust laws, the Secretary may issue such lease only if—*

"(*1*) *he commences a public hearing on the record within sixty days after the date of the receipt of such advice, in accordance with chapter 5 of title 5, United States Code; and*

"(*2*) *he makes a finding, pursuant to such hearing, that the overall benefit to the public from the issuance or extension of such lease clearly outweighs any possible adverse effect upon competition and that there is no reasonable alternative which would have a lesser adverse effect upon competition.*

"(*d*) *No application for a lease may be submitted if the Secretary finds, after notice and hearing, that the applicant is not meeting due diligence requirements on other leases.*

"(*e*) *Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.*

"(*f*)(*1*) *At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of any such State—*

"(*A*) *an identification and schedule of the areas and regions offered for leasing;*

"(*B*) *all information concerning the geographical, geological, and ecological characteristics of such regions;*

"(*C*) *an estimate of the oil and gas reserves in the areas proposed for leasing; and*

"(*D*) *an identification of any field, geological structure, or trap located within three miles of the seaward boundary of a coastal State.*

"(*2*) *After receipt of nominations for any area of the outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing. The Secretary in consultation with the Governor of the coastal State, shall determine whether any such area may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to State jurisdiction. If the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to State jurisdiction the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.*

"(*3*) *Within ninety days after the offer by the Secretary pursuant to paragraph* (*2*) *of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this Act, with applicable regulations, and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease* (*by the time the Secretary determines to offer the area for lease*)*, the Secretary may nevertheless proceed with the leasing of the area.*

"(*4*) *Regardless of any other provision of this Act the Secretary shall impound, in whole or in part, in a separate account in the Federal treasury all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to State jurisdiction until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree the United States district court determines, the fair and equitable disposition of such revenues and any interest which has accrued and on the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.*".

[(c)](*g*) In order to meet the urgent need for further exploration and development of the sulphur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding sulphur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulphur and meet the requirements of subsection (a) of section 6 of this Act, and which sulphur leases shall be offered for bid by sealed bids and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

[(d)](*h*) A sulphur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of not more than ten years and so long thereafter as sulphur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon, (3) require the payment to the United States of such royalty as may be specified in the lease but not less than 5 per centum of the gross production or value of the sulphur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe at the time of offering the area for lease.

[(e)] (*i*) The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

[(f)] (*j*) Notice of sale of leases, and the terms of bidding, authorized by this section shall be published at least thirty days before the date of sale in accordance with rules and regulations promulgated by the Secretary.

[(g)] (*k*) All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with section 9 of this Act.

[(h)] (*l*) The issuance of any lease by the Secretary pursuant to this Act, or the making of any interim arrangements by the Secretary pursuant to section 7 of this Act shall not prejudice the ultimate settlement or adjudication of the question as to whether or not the area involved is in the outer Continental Shelf.

[(i)] (*m*) The Secretary may cancel any lease obtained by fraud or misrepresentation.

[(j)](*n*) Any person complaining of cancellation of a lease by the Secretary may have the Secretary's action reviewed in the United States District Court for the District of Columbia by filing a petition for review within sixty days after the Secretary takes such action.]

SEC. 9. DISPOSITION OF REVENUES.—All rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

SEC. 10. REFUNDS.—(a) Subject to the provisions of subsection (b) hereof, when it appears to the satisfaction of the Secretary that any person has made a payment to the United States in connection with any lease under this Act in excess of the amount he was lawfully required to pay, such excess shall be repaid without interest to such person or his legal representative, if a request for repayment of such excess is filed with the Secretary within two years after the making of the payment, or within ninety days after the effective date of this Act. The Secretary shall certify the amounts of all such repayments to the Secretary of the Treasury, who is authorized and directed to make such repayments out of any moneys in the special account established under section 9 of this Act and to issue his warrant in settlement thereof.

(b) No refund of or credit for such excess payment shall be made until after the expiration of thirty days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts upon which the determination of the Secretary was made is submitted to the President of the Senate and the Speaker of the House of Representatives for transmittal to the appropriate legislative committee of each body, respectively: *Provided*, That if the Congress shall not be in session on the date of such submission or shall adjourn prior to the expiration of thirty days from the date of such submission, then such payment or credit shall not be made until thirty days after the opening day of the next succeeding session of Congress.

[SEC. 11. GEOLOGICAL AND GEOPHYSICAL EXPLORATIONS.—Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to acquatic life in such area.]

"*SEC. 11. OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION.—(a) (1) The Secretary or any agency of the United States, and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations, including core and test drilling, in the outer Continental Shelf, which do not interfere with or endanger actual operations pursuant to any lease issued or maintained pursuant to this Act, and which are not unduly harmful to the marine environment.*

"*(2) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this Act.*

"*(b) Except for those leases on which a drilling permit had been issued prior to the enactment of this subsection, exploration pursuant to any oil and gas lease issued or maintained under this Act must be undertaken in accordance with (1) the provisions of this section, and (2) any regulations which the Secretary may promulgate pursuant to this section.*

"*(c) (1) Prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of*

the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease. The Secretary shall require such modifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted, or modified, within thirty days of its submission, except that if the Secretary determines that (A) any proposed activity under such plan would result in any condition which would permit him to suspend such activity pursuant to regulations prescribed under section 5(a)(1) of this Act, and (B) such proposed activity cannot be modified to avoid such condition, he may delay the approval of such plan.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(3) The Secretary may, by regulation, require that such plan be accompanied by a general statement of development and production intentions which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e)(1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) All exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f) The Secretary may, within ninety days after the date of enactment of this section, provide for the approval under subsection (c) of any plan submitted prior to such date of enactment which he finds is in substantial compliance with the provisions of such subsection, and may require the submission of any additional information necessary to bring such plan into such compliance.".

SEC. 12. RESERVATIONS.—(a) The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf.

(b) In time of war, or when the President shall so prescribe, the United States shall have the right of first refusal to purchase at the market price all or any portion of any mineral produced from the outer Continental Shelf.

(c) All leases issued under this Act, and leases, the maintenance and operation of which are authorized under this Act, shall contain, or be construed to contain a provision whereby authority is vested in the Secretary, upon a recommendation of the Secretary of Defense, dur-

ing a state of war or national emergency declared by the Congress or the President of the United States after the effective date of this Act, to suspend operations under any lease; and all such leases shall contain or be construed to contain provisions for the payment of just compensation to the lessee whose operations are thus suspended.

(d) The United States reserves and retains the right to designate by and through the Secretary of Defense, with the approval of the President, as areas restricted from exploration and operation that part of the outer Continental Shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on any part of the surface of such area except with the concurrence of the Secretary of Defense; and if operations or production under any lease theretofore issued on lands within any such restricted area shall be suspended, any payment of rentals, minimum royalty, and royalty prescribed by such lease likewise shall be suspended during such period of suspension of operation and production, and the term of of such lease shall be extended by adding thereto any such suspension period, and the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

(e) All uranium, thorium, and all other materials determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the subsoil or seabed of the outer Continental Shelf are hereby reserved for the use of the United States.

(f) The United States reserves and retains the ownership of and the right to extract all helium, under such rules and regulations as shall be prescribed by the Secretary, contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this Act, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas.

SEC. 13. NAVAL PETROLEUM RESERVE EXECUTIVE ORDER REPEALED.—Executive Order Numbered 10426, dated January 16, 1953, entitled "Setting Aside Submerged Lands of the Continental Shelf as a Naval Petroleum Reserve", is hereby revoked.

SEC. 14. PRIOR CLAIMS NOT AFFECTED.—Nothing herein contained shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this Act and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: *Provided, however*, That nothing herein contained is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact applies to the lands subject to this Act or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything herein contained.

[SEC. 15. REPORT BY SECRETARY.—As soon as practicable after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a report detailing the amounts of all moneys received and expended in connec-

tion with the administration of this Act during the preceding fiscal year.]

"*SEC. 15. ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:*

"*(1) A report on the leasing and production program in the outer Continental Shelf during each fiscal year, which shall include—*

"*(A) a detailed accounting of all moneys received and expended;*

"*(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;*

"*(C) a summary of management, supervision, and enforcement activities;*

"*(D) a list of all shut-ins and flaring wells; and*

"*(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.*

"*(2) A report, prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General and any plans for implementing recommended administrative changes and drafts of any proposed legislation, and which shall contain—*

"*(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized;*

"*(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;*

"*(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;*

"*(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and*

"*(E) an evaluation of present measures and a description of additional measures to increase the supply of oil and gas to independent refiners and distributors.*"

SEC. 16. APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 17. SEPARABILITY.—If any provision of this Act, or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby.

"*Sec. 18. Outer Continental Shelf Leasing Program.*—(*a*) *The Secretary, pursuant to procedures set forth in subsections* (*c*) *and* (*d*), *shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall indicate as precisely as practicable the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following priciples:*

"(*1*) *Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the nenewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.*

"(*2*) *Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—*

"(*A*) *existing information concerning the geographical, geological, and ecological characteristics of such regions.*

"(*B*) *an equitable sharing of developmental benefits and environmental risks among the various regions;*

"(*C*) *the location of such regions with respect to, and the relative needs of, regional and national energy markets;*

"(*D*) *the location of such regions with respect to other uses of the sea and seabed, including fisheries, intracoastal navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;*

"(*E*) *the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;*

"(*F*) *laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;*

"(*G*) *policies and plans promulgated by coastal States pursuant to the Coastal Zone Management Act of 1972* (*16 U.S.C. 1451 et seq.*).

"(*3*) *The Secretary shall elect the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.*

"(*4*) *Leasing activities shall be conducted to assure receipt of fair market value for the oil and gas owned by the Federal Government.*

"(*b*) *The leasing program shall include estimates of the appropriations and staff required to—*

"(*1*) *obtain resource information and any other information needed to prepare the leasing program required by this section;*

"(*2*) *analyze and interpret the exploratory data and any other*

information which may be compiled under the authority of this Act;

"*(3) conduct environmental baseline studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1967 (42 U.S.C. 4332(2)(C)); and*

"*(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.*

"*(c)(1) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider suggestions from any other person.*

"*(2) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (3) of this subsection, the Secretary shall transmit a copy of such proposed program to the Governor of each affected State for review and comment. If any such comment is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating hereto, shall accompany such proposed program when it is submitted to the Congress.*

"*(3) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, the Governors of affected States, and shall publish such proposed program in the Federal Register.*

"*(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General shall submit comments on the anticipated effects of such proposed program upon competition, and any State, local government, Regional Outer Continental Shelf Advisory Board, or other person may submit comments and recommendations as to any aspect of such proposed program.*

"*(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or local government was not accepted.*

"*(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.*

"(e) *The Secretary shall review the leasing program approved under this section at least once each year, and he may revise and reapprove such program, at any time, in the same manner as originally developed.*

"(f) *The Secretary shall, by regulation, establish procedures for—*

"(1) *receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;*

"(2) *public notice of and participation in development of the leasing program;*

"(3) *review by State and local governments which may be impacted by the proposed leasing;*

"(4) *periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the Outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and*

"(5) *coordination of the program with the management program being developed by any State for approval pursuant to section 305 of the Coastal Zone Management Act of 1972 and consistency, to the extent practicable, with the management program of any State which has been approved pursuant to section 306 of such Act.*

Such procedures shall be applicable to any revision or reapproval of the leasing program.

"(g) *the Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. The Secretary shall maintain the confidentiality of all proprietary data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.*

"(h) *The heads of all Federal departments and agencies shall provide the Secretary with any nonproprietary information he requests to assist him in preparing the leasing program. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.*

"*Sec. 19. Coordination With Affected States and Local Governments.—*

"(a) *Any Governor of any affected State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan.*

"(b) *Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or receipt of such development and production plan.*

"(c) *The Secretary shall accept such recommendations if he determines, after having provided the Governor the opportunity for full consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For the purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies*

of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. The Secretary's determination that recommendations are not consistent with the national security shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious.

"*(d) The Secretary is authorized to enter cooperative agreements with affected coastal States for purposes which are consistent with this Act, and applicable Federal law. Such agreements may include the sharing of information, the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations and stipulations relevant to OCS operations both on and offshore.*

"*SEC. 20. BASELINE AND MONITORING STUDIES.—(a) (1) The Secretary shall conduct a study of any area or region included in any lease sale in order to establish baseline information concerning the status of the human, marine, and coastal environment of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region.*

"*(2) Each study required by paragraph (1) shall be commenced not later than six months from the date of enactment of this section with respect to any area or region where a lease sale has been held before such date of enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held before such date of enactment. The Secretary may utilize information collected in any study prior to the date of enactment of this section in conducting any such study.*

"*(3) In addition to developing baseline information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota resulting from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.*

"*(b) Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish baseline information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.*

"*(c) The Secretary of Commerce shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States.*

To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies or are monitoring the affected human, marine, or coastal environment, the Secretary of Commerce may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"*(d) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.*

"*(e) In executing his responsibilities under this section the Secretary is authorized and directed, to the maximum extent practicable, to enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization or entity with funds appropriated to the Secretary of the Interior pursuant to this Act.*

"*SEC. 21. SAFETY REGULATIONS.—(a) Upon the enactment of this section, the Secretary, the Secretary of Labor, and the Secretary of the department in which the Coast Guard is operating shall, in consultation with each other and other agency heads as appropriate, promptly commence a study of the adequacy of existing safety regulations, and of the technology, equipment, and techniques available for the exploration, production, and development of natural resources, with respect to the outer Continental Shelf. The results of this study shall be submitted to the President who shall submit to the Congress a plan of action which he proposes to take to promote safety and health in the exploration, production, and development of natural resources of the outer Continental Shelf.*

"*(b) In exercising their respective responsibilities for floating, temporarily fixed or permanently fixed structures for the exploration, production, and development of the natural resources of the outer Continental Shelf, the Secretary, and the Secretary of the department in which the Coast Guard is operating, shall require the use of the best available and safest technology which the Secretary determines to be economically achievable, taking into account the incremental costs and benefits of utilizing such technology, wherever failure of equipment would have a significant effect on safety, health, on the environment, on all new drilling and production operations and, wherever practicable, on existing operations.*

"*(c) Nothing in this section or in section 22 of this Act shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, except as it applies to diving practices, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety.*

"(*d*) *The Secretary of the Department in which the Coast Guard is operating with the assistance of the Secretary of Labor shall establish and promulgate interim regulations or standards applying to the diving activities in the waters above the outer Continental Shelf. Notwithstanding section 4(b)(1) of the Occupational Safety and Health Act of 1970, such regulations shall be promulgated and enforced by the two agencies provided the two agencies coordinate their activities in a manner which avoids duplication of effort and maximizes protection of employees.*

"(*e*) *The Secretary of Commerce, in cooperation with the Secretary of the Department in which the Coast Guard is operating, and the Director of the National Institutes of Occupational Safety and Health, shall conduct studies of underwater diving techniques and equipment suitable for protection of human safety and improvement of diver performance. Such studies shall include but not be limited to: decompression and excursion table development and improvement; all aspects of diver physiological restraints, and protective gear for exposure to hostile environments.*

"*Sec. 22.* Enforcement of Environmental and Safety Regulations.—(*a*) *The Secretary and the Secretary of the Department in which the Coast Guard is operating shall consult with each other regarding the enforcement of environmental and safety regulations promulgated pursuant to this Act, and each may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency, for the enforcement of their respective regulations.*

"(*b*) *The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—*

"(*1*) *scheduled onsite inspection at least once a year of each facility on the outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and*

"(*2*) *periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.*

"(*c*) *The Secretary, the Secretary of the Department in which the Coast Guard is operating or their authorized representatives, upon presenting appropriate credentials to the owner or operator of a facility subject to subsection (b), shall be authorized—*

"(*1*) *to enter without delay any part of the facility; and*

"(*2*) *to examine such documents and records as are pertinent to such an inspection.*

"(*d*)(*1*) *The Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall make an investigation and public report on each major fire and major oil spillage occurring as a result of operations conducted pursuant to this Act. For the purpose of this subsection, the term 'major oil spillage' means any discharge from a single source of more than two hundred barrels of oil over a period of thirty days or of more than*

fifty barrels over a single twenty-four hour period. In addition, such Secretary may make an investigation and report of any lesser oil spillage.

"*(2) In any investigation conducted pursuant to this subsection, the Secretary of the Department in which the Coast Guard is operating shall have the power to subpena witnesses and to require the production of books, papers, documents, and any other evidence relating to such investigation.*

"*SEC. 23. CITIZEN SUITS.—(a) Except as provided in subsection (b) of this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this Act—*

"*(1) against any person including—*

"*(A) the United States,*

"*(B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution who is alleged to be in violation of the provisions of this Act or the regulations promulgated thereunder; or*

"*(C) any other person who is alleged to be in violation of any rule, regulation, order, or permit issued pursuant to this Act; or*

"*(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act which is not discretionary with the Secretary or with the appropriate.*

"*(b) No action may be commenced—*

"*(1) under subsection (a)(1) of this section—*

"*(A) prior to sixty days after the plaintiff has given notice in writing under oath of the violation (i) to the Secretary, and (ii) to any alleged violator; or*

"*(B) if the Secretary or his authorized representative has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the provisions of this Act, or any rule, regulation, order, or permit issued pursuant to this Action, but in any such action in a court of the United States any person having a legal interest which is or may be adversely affected may intervene as a matter of right; or*

"*(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice in writing under the oath of such action to the Secretary, in such manner as the Secretary shall by regulation prescribe, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.*

"*(c)(1) Except as provided in subsection (g) of this section, any action pursuant to this section may be brought only in the judicial district having jurisdiction under section 4(b) of this Act.*

"*(2) In such action under this section, the Secretary, if not a party, may intervene as a matter of right.*

"*(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litiga-*

tion, including reasonable attorney and expert witness fees to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in sufficient amount to compensate for any losses or damages suffered in accordance with the Federal Rules of Civil Procedure.

"*(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek any other relief (including relief against the Secretary).*

"*(f) Any resident of the United States who is injured in any manner through the failure of any operator to comply with any rule, regulation, order, or permit issued pursuant to this Act may bring an action for damages (including reasonable attorney and expert witness fees) only in the judicial district having jurisdiction under section 4(b) of this Act.*

"*(g)(1) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.*

"*(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.*

"*(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General of the United States.*

"*(4) Any action of the Secretary specified in paragraph (1)* or *(2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a).*

"*(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if such objections have been submitted to the Secretary during the administrative proceedings related to the actions involved.*

"*(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.*

"(7) *Upon the filing of the record with the court, pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.*

"(*h*) *Except as to causes of action which the court considers of greater importance, any action under this section shall take precedence on the docket over all other causes of action and shall be set for hearing at the earliest practical date and expedited in every way.*

"*Sec. 24. Remedies and Penalties.*—(*a*) *At the request of the Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act or any regulation or order issued under this Act.*

"(*b*) *If any person fails to comply with any provision of this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, as applicable, may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.*

"(*c*) *Any person who knowingly and willfully (1) violates any provision of this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.*

"(*d*) *Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.*

"(*e*) *The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties offered by any other law or regulation.*

"*Sec. 25. Oil and Gas Development and Production.—(a) (1) Prior to development and production pursuant to an oil and gas lease issued or maintained after the enactment of this section, or issued or maintained prior to the enactment of this section upon which no oil or gas has been discovered in commercial quantities prior to the effective date of this Section, in any region of the outer Continental Shelf, other than the Gulf of Mexico or the Santa Barbara Channel, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.*

"*(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development or production of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all enviromental and safety safeguards to be implemented.*

"*(3) Except for interpretive data, which, pursuant to regulations prescribed by the Secretary, constitute confidential or previleged information, the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State, and (B) make such plan and statement available to any other appropriate interstate regional entity, the executive of any affected local government area, and the public.*

"*(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any region of the outer Continental Shelf, other than the Gulf of Mexico or the Santa Barbara Channel, unless such lease requires that development and production of reserves be carried out in accordance with a plan which complies with the requirements of this section.*

"*(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—*

"*(1) the specific work to be performed;*

"*(2) a description of all offshore facilities and operations proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;*

"*(3) the environmental safeguards to be implemented on the outer Continued Shelf and how such safeguards are to be implemented;*

"*(4) all safety standards to be met and how such standards are to be met;*

"*(5) an expected rate of development and production and a time schedule for performance; and*

"*(6) such other relevant information as the Secretary may by regulation require.*

"*(d) (1) The Secretary shall at least once, prior to approving a development and production plan in any area or region, as defined by*

the Secretary, of the outer Continental Shelf, other than the Gulf of Mexico or the Santa Barbara Channel, declare approval of such plan to be a major Federal action.

"*(2) The Secretary may require lessees on adjacent or nearby leases to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.*

"*(e) The Secretary shall transmit for review and commend the draft environmental impact statement or the development and production plan if approval of such plan has not been declared to be a major Federal action, to the Governor of any affected State, the executive of any affected local government area, or any interested person. Comments on development and production plans shall be returned to the Secretary within sixty days. The draft environmental impact statement or the comments on the development and production plan shall be available to the general public.*

"*(f) (1) After reviewing the record of any public hearing held with respect to a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (e) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepare pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (d) of this section, or one hundred and twenty days after the period provided for comment under subsection (f) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment. Any modification required by the Secretary which affects land use and water use of the coastal zone of affected States approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall be consistent with such program unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii). The Secretary shall disapprove a plan—*

"*(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal laws;*

"*(B) if those activities described in the plan which affect land use and water use of the coastal zone of a Stae with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) are not concurred with by such State pursuant to section 307(c) of such Act; and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii);*

"*(C) if operations threaten national security of national defense; or*

"*(D)(1) if in the Secretary's determination, because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environmental, or other exceptional circumstances, implementation of the plan would probably cause serious harm or damage to life (including aquatic life), to property, to any mineral deposits in areas leased or not yet leased, or to the marine, coastal or human environments, and if he deter-*

mines that the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time and if he determines that the advantages of disapproving the plan outweigh the advantages of development and production. If a plan is disapproved under clause (A), the lessee shall not be entitled to compensation because of such disapproval. If a plan is disapproved under clause (B), the lessee shall not be entitled to compensation because of such disapproval unless (i) the lease was issued and (ii) the lessee had submitted to the Secretary a development and production plan before approval of the coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455). If a plan is disapproved under clause (C) or (D) or under clause (B) where (i) the lease was issued and (ii) the lessee had submitted to the Secretary a development and production plan before approval of the coastal zone management program, the term of the lease shall be duly extended, and at any time within five years after said disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of a plan in accordance with this subsection. Upon expiration of such five-year period, or at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease, and the lessee shall be entitled to receive such compensation as he shows to the Secretary is equal to the lesser of (i) the fair value of the cancelled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including cost of compliance with all applicable regulations in operating waters, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated with respect to the lease, or (ii) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease, and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement): Provided, That with respect to leases issued before the date of enactment of this Act, such compensation shall be equal to the amount specified in item (i) of this sentence. The Secretary may, at any time within the five-year period, described in subparagraph (C), require the lessee to submit a plan of development and production for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately cancel such lease, without compensation, under the provisions of section 5(c) of this Act.

"*(2) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan*

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should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"*(g) The Secretary may approve any revision of an approved plan proposed by the operator if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (g) of this section.*

"*(h) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may, after notice to such owner of such failure and expiration of any reasonable period allowed for corrective action, and after an opportunity for a hearing, be forfeited, canceled, or terminated, subject to the right of judicial review, in accordance with the provisions of section 23(b) of this Act. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.*

"*(i) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Power Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Power Commission shall agree as to which of them shall prepare an environmental impact statement pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting such studies pursuant to that agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Power Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Power Commission, shall promulgate rules to implement this subsection, but the Federal Power Commission shall retain sole authority with respect to rules and procedure applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.*

"*SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a)(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data obtained from*

such acvtivity and shall provide copies of such specific data, and any interpretation of any such data, as the Secretary may request. Such data and interpretation shall be provided in accordance with regulations which the Secretary shall prescribe.

"*(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.*

"*(C) Whenever any data is provided to the Secretary, pursuant to subparagraph (A) of this paragraph—*

"*(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and*

"*(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permittee, the Secretary shall pay the reasonable cost of processing and reproducing such data, pursuant to such regulations as he may prescribe.*

"*(2) Each Federal agency shall provide the Secretary with any data obtained by such Federal agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.*

"*(b) (1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.*

"*(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.*

"*(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the releease of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State or any Regional Advisory Board unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.*

"*(d) (1) The Secretary shall transmit to any affected State and any appropriate Regional Advisory Board—*

"*(A) a copy of all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act;*

"(B) (i) *the summary of data prepared by the Secretary pursuant to subsection (b) (2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b) (1) of this subsection, unless the Secretary determines that transmittal of such data prepared pursuant to subsection (b) (1) would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and*

"(C) *any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.*

"(2) *Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which said activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.*

"(c) *Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.*

"(f) *If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State will he finds that such State can and will comply with such regulations.*

"(g) *The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b) (9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency) pursuant to section 11 of this Act.*

"*Sec. 27. Federal Purchase and Disposition of Oil and Gas.*—(a) (1) *Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease or permit issued or maintained in accordance with this Act, shall, on demand of the Secretary, be paid in oil or gas.*

"(2) *The United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease or permit issued in accordance with this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the well-head of the oil and gas saved, removed or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.*

"(3) *Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Administrator of the Federal Energy Administration, for disposal within the Federal Government.*

"(b) (1) *The Secretary, pursuant to such terms as he determines and in the absence of any provision of law which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a) (2) of this section.*

"(2) *Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a) (2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish notice of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.*

"(3) *Whenever a provision of law is in effect which provides for the mandatory allocation of such oil in amounts or at prices determined by such provision, or regulations issued in accordance with such provision, the Secretary may only sell such oil in accordance with such provision of law or regulations.*

"(c) (1) *Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a) (2) of this section.*

"(2) *Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained to the provisions of this subsection, the Secretary may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocated or lottery sale of such gas to any person servicing such re-*

gion, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to allocating any gas pursuant to this paragraph, the Secretary shall consult with the Federal Power Commission.

"*(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained. In the event that net profit share oil or gas produced pursuant to the bidding system authorized in subparagraphs (G) and (H) of section 8(a)(1) of this Act is sold back to the lessee and lessees, each party shall be eligible to purchase a pro rata share according to its per centum interest.*

"*(e) As used in this section—*

"*(1) the term 'regulated price' means the highest price—*

"*(A) at which Federal oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act;*

"*(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act and any rule or order issued under such Act; or*

"*(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas produced pursuant to a lease or permit issued in accordance with this Act; and*

"*(2) the term 'small refiner' means an owner of an existing refinery or refineries, including refineries not in operation, who qualifies as a small business concern under the rules of the Small Business Administration and who is unable to purchase in the open market and adequate supply of crude oil to meet the needs of his existing refinery capacities.*

"*(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf, as provided in section 12(b) of this Act.*

"*SEC. 28. LIMITATION ON EXPORT.—(a) Except as provided in subsection (d), any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969 (50 App. U.S.C. 2401 et seq.).*

"*(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.*

"*(c) The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of dis-*

approval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

"*(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States.*

"*SEC. 29. RESTRICTIONS OF EMPLOYMENT.—No fulltime officer or employee of the Department of Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Department, employment or compensation, directly or indirectly, from any person, persons, association, corporation, or other entity subject to regulation under this Act.*".

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

DEFINITIONS

SEC. 301. As used in this title, unless the context indicates otherwise, the term—

(1) "cleanup costs" means all reasonable and actual costs, including administrative and other costs, to the Federal Government, to any State or local government, or to any foreign government, or to their contractors or subcontractors, of (A) removing or attempting to remove oil discharged from any offshore facility or vessel, or (B) taking other measures to prevent such discharge, or to reduce or mitigate damages to the public health or welfare, or to public property, including shorelines, beaches, and the natural resources of the marine environment;

(2) "damages" means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include clean-up costs;

(3) "discharge" includes any spilling, leaking, pumping, pouring, emptying, or dumping, regardless of whether it occurred intentionally or unintentionally;

(4) "offshore facility" includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the outer Continental Shelf (as the term outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a))), and is located on the outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term deepwater port is de-

fined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

(5) "Fund" means the Offshore Oil Pollution Compensation Fund established under section 302(a) of this title;

(6) "owner" means (A) with respect to an offshore facility, any person owning such facility, whether by lease, permit, contract, license, or other form of agreement, (B) with respect to any facility abandoned without prior approval of the Secretary of the Interior, the person who owned such facility immediately prior to such abandonment, and (C) with respect to a vessel, any person owning such vessel;

(7) "operator" means (A) with respect to an offshore facility, any person operating such facility, whether by lease, permit, contract, license, or other form of agreement, and (B) with respect to a vessel, any person operating or chartering by demise such vessel;

(8) "person" means an individual, a public or private corporation, partnership, or other association, or a government entity;

(9) "person in charge" means the individual immediately responsible for the operations of an offshore facility or vessel;

(10) "Secretary" means the Secretary of Transportation;

(11) "revolving account" means the account in the Treasury of the United States which is established under section 302(b) of this title;

(12) "incident" means any occurrence or series of related occurrencies, involving one or more offshore facilities or vessels, which cause or pose an imminent threat of oil pollution; and

(13) "vessel" means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the outer Continental Shelf (as the term "outer Continental Shelf" is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a))), and which is transporting oil directly from an offshore facility, and such term specifically excludes any watercraft or other contrivance which is operating in the navigable waters of the United States (as the term "navigable waters" is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362)).

ESTABLISHMENT OF THE FUND AND THE REVOLVING ACCOUNT

SEC. 302. (a) There is established within the Department of Transportation an Offshore Oil Production Compensation Fund. The Fund may sue or be sued in its own name.

(b) There is established in the Treasury of the United States a revolving account, without fiscal year limitation, which shall be available to the Fund to carry out the provisions of this title.

PROHIBITION

SEC. 303. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful, is prohibited.

NOTIFICATION

SEC. 304. (a) Any person in charge of an offshore facility or vessel shall, as soon as he has knowledge of any discharge of oil from such offshore facility or vessel which may be in violation of section 303 of this title, immediately notify the Secretary of such discharge.

(b) Any person in charge of an offshore facility or vessel who fails to immediately notify the Secretary, as required by subsection (a) of this section, shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both, except that no person convicted under this section shall also be convicted for the same failure to notify under section 311(b)(5) of the Federal Water Pollution Control Act.

(c) Notification received pursuant to this section or information obtained by the exploitation of such notification shall not be used against any person providing such notification in any criminal case, except a prosecution for perjury or for giving a false statement.

REMOVAL OF DISCHARGED OIL

SEC. 305. (a) Whenever any oil is discharged from any offshore facility or vessel in violation of section 303 of this title, the President shall act to remove or arrange for the removal of such oil, unless he determines such removal will be done properly and expeditiously by the owner or operator of such offshore facility or vessel.

(b) Removal of oil and actions to minimize damage from oil discharged shall, to the greatest extent possible, be in accordance with the National Contingency Plan for removal of oil and hazardous substances established pursuant to section 311(c)(2) of the Federal Water Pollution Control Act.

(c) Whenever the President acts to remove a discharge of oil pursuant to this section, he is authorized to draw upon the money available in the revolving account. Such money shall be used to pay promptly for all cleanup costs incurred by the President in removing such oil or in minimizing damage caused by such oil discharge.

DUTIES AND POWERS

SEC. 306. (a) In order to carry out the purposes of this title, the Secretary shall—

(1) administer and maintain the Fund, in accordance with the provisions of this title;

(2) establish regulations and provide for the fair and expeditious settlement of claims, in accordance with section 313 of this title;

(3) provide public access to information, in accordance with section 319(a) of this title;

(4) submit an annual report, in accordance with section 320 of this title; and

(5) perform such other functions as are prescribed by law.

(b) In the performance of his duties under this title, the Secretary is authorized to—

(1) utilize, with the consent of the agency concerned, the services, or personnel, on a reimbursable or replacement basis or other-

wise, of any Federal Government agency, of any State or local government agency, or of any organization, to perform such functions on behalf of the Fund as are necessary or appropriate;

(2) make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this title;

(3) conduct such studies and investigations, obtain such data and information, and hold such meetings or public hearings as may be necessary or appropriate to facilitate the exercise of any authority granted to, or the performance of any duty imposed on, the Fund under this title;

(4) enter into such contracts, agreements, and other arrangements as are deemed necessary or appropriate for the acquisition of material, information, or other assistance related to, or required by, the implementation of this title; and

(5) issue and enforce orders during proceedings conducted pursuant to this title, including issuing subpenas, administering oaths, compelling the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, and the taking of depositions.

RECOVERABLE DAMAGES

SEC. 307. Damages may be recovered under this title for—

(1) the value of any loss or injury, at the time such loss or injury is incurred, with respect to any real or personal property which is damaged or destroyed as a result of a discharge of oil;

(2) (A) the cost to the owner of restoring, repairing, or replacing any real or personal property which is damaged or destroyed by a discharge of oil, (B) any income necessarily lost by such owner during the time such property is being restored, repaired, or replaced, and (C) any reduction in the value of such property caused by such discharge;

(3) any loss of income or impairment of earning capacity for a period of not to exceed five years due to damages to real or personal property, or to natural resources, without regard to ownership of such property or resources, which are damaged or destroyed by a discharge of oil, if the claimant derives at least 25 per centum of his earnings from activities which utilize such property or natural resources;

(4) any costs and expenses incurred by the Federal Government or any State government in the restoration, repair, or replacement of natural resources which are damaged or destroyed by a discharge of oil; and

(5) any loss of tax revenue by the Federal Government or any State or local government for a period of not to exceed one year due to injury to real or personal property resulting from a discharge of oil.

CLEANUP COSTS AND DAMAGES

SEC. 308. (a) All cleanup costs incurred by the President, the Secretary, or any other Federal, State, or local official or agency, in con-

nection with a discharge of oil shall be borne by the owners and operator of the offshore facility or vessel from which the discharge occurred.

(b) Notwithstanding any other provision of law and except as provided in subsection (d) of this section, the owner and operator of an offshore facility shall be held jointly and severally liable, without regard to fault, for damages which result from a discharge of oil from such offshore facility. Such liability shall not exceed $35,000,000, except that if it can be shown that (1) such damages were the result of gross negligence or willful misconduct within the privity and knowledge of such owner or operator, or of the person in charge of such offshore facility, or (2) such discharge was the result of a violation of applicable safety, construction, or operating standards or regulations, such owner and operator shall be jointly and severally liable for the full amount of such damages.

(c) Notwithstanding any other provision of law and except as provided in subsection (d) of this section, the owner and operator of a vessel shall be jointly and severally liable, without regard to fault, for damages which result from a discharge of oil from such vessel. Such liability shall not exceed $150 per gross registered ton, except that if it can be shown that (1) such damages were the result of gross negligence or willful misconduct within the privity and knowledge of such owner or operator, or of the person in charge of such vessel, or (2) such discharge was the result of a violation of applicable safety, construction, or opearting standards or regulations, such owner and operator shall be jointly and severally liable for the full amount of such damages.

(d) No liability shall be imposed under subsection (b) (c) of this section to the extent the owner or operator establishes that the discharge of oil or that any damages resulting from such discharge were caused by (1) an act of war, or (2) the negligent or intentional act of the damaged party or of any third party (including any government entity.)

(e) (1) To the extent that liability is not imposed, pursuant to subsection (d) (2) of this section, on the owner or operator of an offshore facility or vessel for cleanup costs or damages resulting from a discharge of oil from such facility or vessel, the damaged party or third party whose negligent or intentional act caused such discharge or any damages resulting from such discharge shall, if such damaged party or third party is also an offshore facility or vessel, be liable for such cleanup costs or damages to the same extent as if such discharge had occurred from the offshore facility or vessel of such damaged party or third party.

(2) Payment of cleanup costs or damages by the owner or operator of any offshore facility or vessel to any person pursuant to this title shall be subject to such owner or operator acquiring by subrogation all rights of such person to recover such cleanup costs or damages from any other person.

(3) The provisions of this section shall not in any way affect or limit any rights which an owner or operator of an offshore facility or vessel, or the Fund, may have against any third party whose acts may have caused or contributed to a discharge of oil.

(f) Notwithstanding any other provision of this title, no person shall be liable under this title for payment of cleanup costs or damages to any government of a foreign country, or any citizen of a foreign country not a resident of the United States, unless (1) such payment is authorized by a treaty or executive agreement between such country and the United States, or (2) the Secretary of State, in consultation with the Attorney General, certifies that such country provides an adequate and substantially similar remedy for United States claimants for cleanup costs and damages related to discharges of oil produced from the Continental Shelf of such country.

(g) Any owner or operator of any offshore facility or vessel liable for damages to any person pursuant to subsection (b), (c), or (e)(1) of this section shall also be liable to such person for interest on the amount of such damages for which such owner or operator is liable, at the existing commercial interest rate, from the date the claim or amended claim including such damages was presented to the date on which the damages are paid. Such interest shall not be subject to any limitation of liability specified in subsection (b) or (c) of this section.

DISBURSEMENTS FROM THE REVOLVING ACCOUNT

SEC. 309. (a) Amounts in the revolving account shall be available for disbursement and shall be disbursed by the Fund for only the following purposes:

(1) Administrative and personnel expenses of the Fund.

(2) Cleanup costs resulting from the discharge of oil which are incurred pursuant to this title or pursuant to any State or local law, and costs of the removal of oil incurred by the owner or operator of an offshore facility or vessel to the extent that the discharge of such oil was caused solely by an act of war or negligence on the part of the Federal Government in establishing and maintaining aids to navigation.

(3) Subject to the provisions of section 313 of this title, all damages not actually compensated pursuant to section 308(b) or (c) of this title.

(b) Payment of compensation by the Fund shall be subject to the Fund acquiring by subrogation all rights of the claimant to recover cleanup costs or damages from the person responsible for such discharge. The Fund shall diligently pursue recovery for any such subrogated rights.

(c) Notwithstanding any other provision of this section, the Fund shall not be liable to pay (1) cleanup costs and damages of any claimant to the extent that the discharge of oil or any damages resulting from such discharge were caused by the negligent or intentional act of the damaged party, or (2) damages of any claimant to the extent that the discharge of oil or any damages resulting from such discharge were caused by an act of war.

(d) In all claims or actions by the Fund against the owner, operator, or person providing financial responsibility, the Fund shall recover (1) except as otherwise provided in this title, the amount the Fund has paid to the claimant or to any government entity undertaking cleanup operations, without reduction, (2) interest on that amount,

at the existing commercial interest rate, from the date upon which the request for reimbursement was issued from the Fund to the owner, operator, or such person, to the date on which the Fund is paid by such owner, operator, or person, and (3) all reasonable and actual administrative costs incurred by the Secretary and disbursed by the Fund in connection with such claim or action, including costs of investigation, processing, hearings, appeals, and collection. Costs recovered pursuant to clause (3) of this subsection shall not be subject to any limitation of liability applicable to such owner, operator, or person providing financial responsibility, under the provisions of subsection (b) or (c) of section 308 of this title.

(e) Whenever the amount in the revolving account is not sufficient to pay cleanup costs and damages for which the Fund is liable pursuant to this section, the Fund may issue, in an amount not to exceed $500,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. Moneys obtained by the Fund under this subsection shall be deposited in the revolving account, and redemptions of any such notes or other obligations shall be made by the Fund from the revolving account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by such Secretary of the Treasury shall be treated as public debt transactions of the United States.

FEE COLLECTION; DEPOSITS IN REVOLVING ACCOUNT

SEC. 310. (a) (1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The collection of the fee imposed pursuant to paragraph (1) of this subsection shall continue until the amount in the revolving account totals at least $100,000,000, whereupon imposition of such fee may be suspended by the Secretary. Thereafter, the Secretary shall from time to time and in accordance with the limitation set forth in the first sentence of paragraph (1) of this subsection, modify by regulation the amount of the fee, if any, to be collected under this subsection in order to maintain the revolving account at a level of not less than $100,000,000 and not more than $200,000,000. For purposes of

this paragraph, all sums deposited pursuant to subsection (b) of this section shall be included in the calculation of the balance in the revolving account.

(b) All sums received through fee collection, reimbursements, fines, penalties, investments, and judgments pursuant to this title shall be deposited in the revolving account.

(c) All sums not needed for the purposes specified in this title shall be prudently invested in income-producing securities issued by the United States and approved by the Secretary of the Treasury.

FINANCIAL RESPONSIBILITY

SEC. 311. (a) Each owner or operator of an offshore facility shall establish and maintain, under rules and regulations prescribed by the President, evidence of financial responsibility based on the capacity of the offshore facility and other relevant factors. Financial responsibility may be established by any one, or a combination of, the following methods acceptable to the President: (1) evidence of insurance, (2) surety bonds, (3) qualifications as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the President.

(b) Each owner or operator of a vessel over three hundred gross registered tons (other than a vessel which is not self-propelled and which does not carry oil as cargo of fuel) shall establish and maintain under rules and regulations prescribed by the Federal Maritime Commission, evidence of financial responsibility based on the liability requirements of this title and the tonnage of the vessel. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one, or combination, of the following methods acceptable to the President: (1) evidence of insurance, (2) surety bonds, (3) qualifications as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the President.

(c) Any claim for cleanup costs and damages by any claimant or by the Fund may be brought directly against the surety, the insurer, or any other person providing financial responsibility.

(d) Any person who fails to comply with the provisions of this section or any regulation issued under this section shall be subject to a fine of not more than $25,000.

(e) The President shall adjust the requirements established under this section and the limit of liability under section 308 of this title annually, by an amount equal to the annual percentage change in the wholesale price index.

(f) No owner or operator of an offshore facility or vessel who establishes and maintains evidence of financial responsibility in accordance with this section shall be required under any State law, rule, or regulation to establish any other evidence of financial responsibility in connection with liability for the discharge of oil from such offshore facility or vessel. Evidence of compliance with the financial responsibility requirement of this section shall be accepted by a State in lieu

of any other requirement of financial responsibility imposed by such State in connection with liability for the discharge of oil from such offshore facility or vessel.

TRUSTEE OF NATURAL RESOURCES

SEC. 312. (a) The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for damages to such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.

CLAIMS PROCEDURE

SEC. 313. (a) The Secretary shall prescribe, and may from time to time amend, regulations for the filing, processing, settlement, and adjudication of claims for cleanup costs and damages resulting from the discharge of oil from an offshore facility or vessel.

(b) (1) Whenever the Secretary receives information from any person alleging the discharge of oil from any offshore facility or vessel in violation of section 303 of this title, he shall notify the owner and operator of such offshore facility or vessel of such allegation. Such owner or operator may, within five days after receiving such notification, deny such allegations, or deny liability for damages for any of the reasons set forth in section 308(d) of this title.

(2) Any denial made pursuant to paragraph (1) of this subsection shall be adjudicated in accordance with the provisions of subsection (i) of this section.

(c) (1) If a denial is not made pursuant to subsection (b) (1) of this section, the owner and operator, or the person providing financial responsibility, shall advertise, in accordance with regulations promulgated by the Secretary, in any area where damages may occur, the procedures under which claims may be presented to such owners and operator or such person providing financial responsibility. The Secretary shall publish the text of such advertisement, in modified form if necessary, in the Federal Register. If any person fails to make any advertisement required by this paragraph, the Secretary shall do so and such person shall pay the costs of such advertisement.

(2) If a denial is made pursuant to subsection (b) of this section, the Secretary shall advertise and publish procedures under which claims may be presented to the Secretary for payment by the Fund from the revolving account.

(3) Any advertisement made under this subsection shall commence no later than fifteen days after the date of the notification and shall continue for a period of no less than thirty days. Such advertisement shall be repeated thereafter in such modified form as may be necessary, but not less frequently than once each calendar quarter for a total period of five years.

(d) (1) Any claim presented to any person under subsection (c) (1) of this section, or to the Secretary for payment from the Fund, shall be presented within one year after the date of discovery of any dam-

ages for which such claim is made, except that no such claim may be presented after the end of the five-year period beginning on the date on which advertising was commenced pursuant to subsection (c) of this section.

(2) Each person's damage claims arising from one incident which are presented to the Secretary shall be slated in one form, which may be amended to include new claims as they are discovered. Damages which are known or reasonably should be known, and which are not included in the claim at the time compensation is made, shall be deemed waived.

(e)(1) Except as provided in subsection (f) of this section, all claims shall be presented (A) to the owner and operator, or (B) to the person providing financial responsibility.

(2) Any person to whom a claim has been presented pursuant to paragraph (1) of this subsection shall promptly notify the claimant of the rights which such claimant may have under this title and notify the Secretary of receipt of such claim.

(f) The following claims may be presented to the Secretary for payment by the Fund from the revolving account:

(1) Any claim for damages resulting from any discharge with respect to which a denial has been made pursuant to subsection (b)(1) of this section.

(2) Any claim which has been presented to any person pursuant to subsection (c)(1) of this section, if such person—

(A) has not accepted liability for such claim for any reason,

(B) submits to the claimant a written offer for settlement of the claim, which the claimant rejects for any reason, or

(C) has not settled such claim by agreement with the claimant within sixty days after the date on which (i) such claim was presented, or (ii) advertising was commenced pursuant to subsection (c) of this section, whichever date is later.

(g) In the case of a claim which has been presented to any person under subsection (e)(1) of this section, and which may be presented to the Secretary under subsection (f)(2) of this section, such person shall, within two days after a request by the claimant, transmit directly to the Secretary such claim and such other supporting documents as the Secretary may by regulation prescribe, and such claim shall be deemed presented to the Secretary for payment by the Fund.

(h)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall use the facilities and services of private insurance and claims adjusting organizations in administering this section and may contract to pay compensation for such facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, upon a showing by the Secretary that advertising is not reasonably practicable, and advance payments may be made. A payment to a claimant, for a single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary.

(2) In extraordinary circumstances in which the services of such private organizations are inadequate, the Secretary may use Federal personnel to administer the provisions of this section, to the extent necessitated by such extraordinary circumstances.

(i) The following matters in dispute shall be submitted to the Secretary and adjudicated pursuant to the provisions of this section:

(1) Upon the petition of a claimant, in the case of a claim which has been presented to the Secretary for payment by the Fund, and in which the Secretary—

(A) has, for any reason, denied liability for such claim; or

(B) has not settled such claim by agreement with such claimant within ninety days after the date on which (i) such claim was presented to the Secretary, or (ii) advertising was commenced pursuant to subsection (c)(2) of this section, whichever date is later.

(2) Upon the petition of the owner and operator or the person providing financial responsibility, who is or may be liable for cleanup costs and damages pursuant to section 308 of this title—

(A) any denial made pursuant to subsection (b)(1) of this section;

(B) any objection to an exception to the limit of liability set forth in section 308 (b) or (c) of this title; and

(C) the amount of any payment or proposed payment by the fund which may be recovered from such owner and operator, or such person providing financial responsibility, pursuant to section 309(d) of this title.

(j)(1) Upon receipt of any matter in dispute submitted for adjudication pursuant to subsection (i) of this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

(2) For purposes of any hearing conducted pursuant to this subsection the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues presented for determination.

(3) A hearing conducted under this subsection shall be conducted within the United States judicial district within which the matter in dispute occurred, or, if such matter occurred within two or more districts, in any of the affected districts or, if such matter in dispute occurred outside of any district, in the nearest district.

(k) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid from the revolving account shall be certified to the Fund which shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

JUDICIAL REVIEW

SEC. 314. (a) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner may, no later than sixty days after such decision is made, seek judicial review

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of such decision (1) in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or (2) in the United States Court of Appeals for the District of Columbia.

(b) In any case in which the person responsible for the discharge, or the Fund, seeks judicial review, attorneys' fees and court costs shall be awarded to the claimant if the decision of the hearing examiner is affirmed.

CLASS ACTIONS

SEC. 315. (a) The Attorney General may act on behalf of any group of damaged citizens which the Secretary determines would be more adequately represented as a class in the recovery of claims under this title. Sums recovered shall be distributed to the members of such group, except that the reasonable and actual costs incurred by the Attorney General in representing such class shall be paid out of such sums recovered, and shall be deposited in the Treasury of the United States, and credited to miscellaneous receipts. The Attorney General shall not commence any action under this subsection against the Fund or any other department, agency, or instrumentality of the United States.

(b) If, within ninety days after a discharge of oil in violation of section 303 of this title has occurred, the Attorney General fails to act on behalf of a group who may be entitled to compensation, any member of such group may maintain a class action to recover such damages on behalf of such group. Failure of the Attorney General to act in accordance with this subsection shall have no bearing on any class action maintained in accordance with this subsection.

(c) In any case in which the number of members of the class seeking the recovery of claims under this title exceeds one thousand, publishing notice of the action in the Federal Register and in local newspapers serving the areas in which the damaged parties reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

REPRESENTATION

SEC. 316. The Secretary shall initially request the Attorney General to promptly institute court actions and to appear and represent the Fund for all claims under this title. Unless the Attorney General notifies the Secretary that he will institute such action or will otherwise appear within a reasonable time, attorneys appointed by the Secretary shall appear and represent the Fund.

JURISDICTION AND VENUE

SEC. 317. (a) The United States district courts shall have original jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district (1) wherein the damage complained of occurred, or, if such damage occurred outside of any dis-

trict, in the nearest district, or (2) wherein the defendant resides, may be found, or has its principal office. For the purposes of this section, the Fund shall reside in the District of Columbia.

ACCESS TO RECORDS

SEC. 318. (a) Each person responsible for contributing to the Fund in accordance with this title shall keep such records and furnish such information as the Secretary shall prescribe in regulations. Collection shall be at such times and in such manner as shall be prescribed in such regulations.

(b) The Secretary shall have access to any books, documents, papers, and records of such person relevant to the administration of this title, and shall undertake regular examinations of and audits on the collection of fees.

(c) The Comptroller General shall have access to any books, documents, papers, records, and other information of any person liable to contribute to the Fund, relevant to the administration of this title, and to all books, documents, papers, records and other information of the Fund.

PUBLIC ACCESS TO INFORMATION

SEC. 319. (a) Copies of any communication, document, report, or information transmitted between any official of the Federal Government and any person concerning liability and compensation for damages resulting from the discharge of oil from an offshore facility or vessel shall be made available to the public for inspection and shall be available for the purpose of reproduction at a reasonable cost, to the public upon identifiable request.

(b) Nothing contained in this section shall be construed to require the release of any information of the kind described in subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

ANNUAL REPORT

SEC. 320. Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives (1) a report on the administration of the Fund during such fiscal year, (2) a summary of the management and enforcement activities of the Fund, and (3) recommendations to the Congress for such additional legislative authority as may be necessary to improve the management of the Fund and the administration of the liability provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 321. (a) There is authorized to be appropriated for the administration of this title $10,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, and $5,000,000 for the fiscal year ending September 30, 1979.

(b) There are also authorized to be appropriated to the Fund from time to time such amounts as may be necessary to carry out the pur-

poses of the applicable provisions of this title, including the entering into contracts pursuant to section 306(b)(4) of this title, any disbursements of funds pursuant to section 309(a) of this title, and the issuance of notes or other obligations pursuant to section 309(e) of this title.

(c) Nothwithstanding any other provision of this title, the authority to make contracts pursuant to section 306(b)(4) of this title, to make disbursements pursuant to section 309(a) of this title, to issue notes of other obligations pursuant to section 309(e) of this title, and to charge and collect fees pursuant to section 310(a) of this title shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

(d) There are hereby authorized to be appropriated to the Fund such sums as may be necessary to reimburse the Fund for amounts paid for cleanup costs and damages in connection with discharges of oil caused by the negligent or intentional act of any department, agency, or instrumentality of the United States.

RELATIONSHIP TO OTHER LAW

SEC. 322. (a) Except as otherwise provided in this title, this title shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil resulting in damages or cleanup costs within the jurisdiction of any State.

(b) Any person who receives compensation for damages or cleanup costs pursuant to this title shall be precluded from recovering compensation for the same damages or cleanup costs pursuant to any other State or Federal law. Any person who receives compensation for damages or cleanup costs pursuant to any other State or Federal law shall be precluded from receiving compensation for the same damages or cleanup costs under this title.

TITLE IV—FISHERMEN CONTINGENCY FUND

DEFINITIONS

SEC. 401. As used in this title, the term—

(1) "citizen of the United States" means any person who is a United States citizen by law, birth, or naturalization, any State, any agency of a State or a group of States, or any corporation, partnership, or association organized under the laws of any State which has as its president or other chief executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth, or naturalization, and which has at least 75 per centum of the interest of therein owned by citizens of the United States. Seventy-five per centum of the interest in the corporation shall not be deemed to be owned by citizens of the United States—

(A) if the title to 75 per centum of its stock is not vested in such citizens free from any trust of fiduciary obligation in favor any person not a citizen of the United States;

(B) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States;

(C) if through any contract or understanding it is so arranged that more than 25 per centum of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or

(D) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States;

(2) "commercial fishing" means all aspects of commercial harvesting and handling of living marine resources; and

(3) "Secretary" means the Secretary of Commerce.

ESTABLISHMENT OF THE FISHERMEN'S CONTINGENCY FUND

SEC. 402. (a) There is established within the Department of Commerce, a Fishermen's Contingency Fund (hereinafter referred to as the "Fund") for the purpose of providing compensation for damages to commercial fishing vessels and gear and resulting loss of profits due to activities of oil and gas exploration, development, and production on the Outer Continental Shelf. The Fund may sue or be sued in its own name by citizens of the United States.

(b) There is established in the Treasury of the United States a revolving account without fiscal year limitation, which shall be available to the Fund to carry out the provisions of this title.

(c) Amounts in the revolving account shall be available for disbursement and shall be disbursed by the Fund for only the following purposes:

(1) administrative and personnel expenses of the Fund; and

(2) the payment of any claim in accordance with the decision of the Secretary pursuant to this title.

FISHERMEN'S CLAIMS BOARD

SEC. 403. (a) There is established a Fishermen's Claims Board (hereafter called the Board) for the purpose of investigating and recommending to the Secretary the amount to be paid on claims against the Fund.

(b) The Board shall consist of one representative from each of the National Oceanic and Atmospheric Administration, the Coast Guard, and the Bureau of Land Management and three representatives each of the fishing industry and the oil industry.

(c) Selection and appointment of the members of the Board shall be as follows:

(1) Representatives of Government agencies shall be appointed by the head of the department in which such agency is located.

(2) Representatives of the oil industry shall be appointed by the Secretary of the Interior.

(3) Representatives of the fishing industry shall be appointed by the Regional Fishing Management Councils in accordance with a procedure established by the Secretary.

(d) Each representative shall serve on the Board for a period of three years, except that one-third of the Board, as determined by the

Secretary, shall be replaced every year starting one year after the Board is established.

(e) Administrative and other expenses incurred by the Board and its members in carrying out its responsibilities shall be paid out of the Fund.

(f) The representatives of the Board shall meet from time to time or whenever necessary to carry out the provisions of this section.

(g) The minimum number of representatives necessary to investigate and recommend on a claim shall be one member for each of the government agencies, oil industry, and fishing industry.

DUTIES AND POWERS OF THE SECRETARY

SEC. 404. (a) In order to carry out the purposes of this title, the Secretary shall—

(1) prescribe, and may from time to time amend, regulations for the filing, processing, and the fair and expeditious settlement of claims pursuant to this title, including a time limitation on the filing of such claims;

(2) establish and classify all potential hazards to commercial fishing caused by outer Continental Shelf activities, including all obstructions on the bottom, throughout the water column, and on the surface;

(3) establish regulations for all materials, equipment, tools, containers, and all other items used on the outer Continental Shelf to be properly stamped or labeled with the owners' identification prior to actual use.

(4) administer and maintain the Fund, in accordance with the provisions of this title; and

(5) perform such other functions as are necessary to carry out the provisions of this title.

(b) In the performance of his duties under this title, the Secretary is authorized to—

(1) utilize, with the consent of the agency concerned, the services or personnel, on a reimbursable or replacement basis or otherwise, of any Federal Government agency, of any State or local government agency, or of any organization, to perform such functions on behalf of the Fund as are necessary or appropriate;

(2) make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this title;

(3) conduct such studies and investigations, obtain such data and information, and hold such meetings or public hearings as may be necessary or appropriate to facilitate the exercise of any authority granted to, or the performance of any duty imposed on, the Fund under this title;

(4) enter into such contracts, agreements, and other arrangements as are deemed necessary or appropriate for the acquisition of material, information, or other assistance related to, or required by, the implementation of this title; and

(5) issue and enforce orders during proceedings conducted pursuant to this title, including issuing subpenas, administering oaths, compelling the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, and the taking of depositions.

RECOVERABLE DAMAGES AND SUBROGATION OF RIGHTS

SEC. 405. (a) Damages and loss to profit to commercial fishing vessels and gear may be recovered under this title for—

(1) the replacement value of any loss of all or part of a commercial fishing vessel which is damaged or destroyed as a result of oil and gas exploration, development, or production on the Outer Continental Shelf;

(2) the replacement value of any loss of all or part of gear used for commercial fishing as a result of oil and gas exploration, development, or production on the outer Continental Shelf; and

(3) the loss of revenue to a commercial fishing vessel and crew due to oil and gas exploration, development, or production on the outer Continental Shelf; such loss of revenue shall be based on the average daily revenue of the affected vessel and crew averaged over the previous year, and the vessel and crew shall be compensated for each day that it can be proven that the losses occurred.

(b) Payment of compensation by the Fund shall be subject to the Fund acquiring by subrogation all rights of the claimant to recover for damages and losses so compensated for. The Secretary shall diligently pursue recovery for any such subrogated rights.

(c) Those persons involved in outer Continental Shelf activities, identified as having caused damages to a fishing vessel, gear, or loss of revenue

shall reimburse the Fund for such amounts that it has paid to the claimant for such damage.

BURDEN OF PROOF

SEC. 406. In any claim pursuant to this title there shall be a presumption in favor of such claim if the claimant establishes—

(1) that the vessel and crew were actually fishing in an area prescribed by the Secretary of Commerce as an area affected by outer Continental Shelf activities;

(2) that an immediate report on the location of any obstacle and the nature of the damage was made;

(3) that there was no previous or existing record on nautical charts or the Notice to Mariners that such an obstacle exists in the area; and

(4) in lieu of a record of such an obstacle, no proper surface marker or lighted buoy was attached or closely anchored to the obstacle;

(5) that the damage or loss of revenue was received after the enactment of this Act.

FEE COLLECTION; DEPOSITS IN REVOLVING ACCOUNT

SEC. 407. (a) (1) The Secretary, with the cooperation of the Secretary of the Interior, shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 1 cent per barrel of oil and fifty-six hundred cubic feet of gas obtained from the outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The collection of the fee imposed pursuant to paragraph (1) of this subsection shall continue until the amount in the revolving ac-

count of the Fund totals at least $2,000,000, whereupon imposition of such fee may be suspended by the Secretary. Thereafter, the Secretary shall from time to time and in accordance with the limitation set forth in the first sentence of paragraph (1) of this subsection, modify by regulation the amount of the fee, if any, to be collected under this subsection in order to maintain the revolving account at a level of not less than $2,000,000 and not more than $5,000,000. For purposes of this paragraph, all sums deposited pursuant to subsection (b) of this section shall be included in the calculation of the balance in the revolving account.

(b) All sums received pursuant to this title shall be deposited in the revolving account.

(c) All sums not needed for the purposes specified in this title shall be prudently invested in income-producing securities issued by the United States and approved by the Secretary of the Treasury.

JUDICIAL REVIEW

SEC. 408. (a) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of the Secretary on a claim under this title may, no later than sixty days after such decision is made, seek judicial review of such decision (1) in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or (2) in the United States Court of Appeals for the District of Columbia.

(b) In any case in which the person responsible for damage to commercial fishing vessels or gear seeks judicial review, attorneys' fees and court costs shall be awarded to the claimant if the decision of the Secretary is affirmed.

JURISDICTION AND VENUE

SEC. 409. (a) The United States district courts shall have original jurisdiction over all controversies arising under this title other than those described in section 408, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district (1) wherein the damage complained of occurred, or, if such damage occurred outside of any district, in the nearest district, or (2) wherein the defendant resides, may be found, or has its principal office. For the purposes of this section, the Fund shall reside in the District of Columbia.

REPRESENTATION

SEC. 410. The Secretary shall initially request the Attorney General to promptly institute court actions and to appear and represent the Fund for all claims under this title. Unless the Attorney General notifies the Secretary that he will institute such action or will otherwise appear within a reasonable time, attorneys appointed by the Secretary shall appear and represent the Fund.

ACCESS TO RECORDS

SEC. 411. (a) Each person responsible for contributing to the Fund in accordance with this title shall keep such records and furnish such information as the Secretary shall prescribe in regulations. Collection shall be at such times and in such manner as shall be prescribed in such regulations.

(b) The Secretary shall have access to any books, documents, papers, and records of such person relevant to the administration of this title, and shall undertake regular examinations of and audits on the collection of fees.

(c) The Comptroller General shall have access to any books, documents, papers, records, and other information of any person liable to contribute to the Fund, relevant to the administration of this title, and to all books, documents, papers, records, and other information of the Fund.

ANNUAL REPORT

SEC. 412. Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives (1) a report on the administration of, and payments from, the Fund during such fiscal year, and (2) recommendations to the Congress for such additional legislative authority as may be necessary to improve the management of the Fund and the administration of the liability provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 413. (a) There is authorized to be appropriated for the administration of this title $200,000 for each fiscal year ending prior to October 1, 1990.

(b) There is also authorized to be appropriated as an initial deposit and to maintain the revolving account of the Fund amounts not exceeding $500,000. Further amounts are authorized to be appropriated to maintain the Fund not to exceed $590,000 until fees pursuant to subsection 407(a)(1) can be collected. Such amounts shall be repaid by the Fund to the Treasury as soon as practicable with interest in an amount determined by the Secretary of the Treasury using the average rate of interest paid on indebtedness by the Treasury.

(c) Notwithstanding any other provision of this title, the authority to pay claims pursuant to section 407 shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

TITLE V—MISCELLANEOUS PROVISIONS

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 501. (a) In a report submitted within six months after the date of enactment of this Act, and his annual report thereafter, the Secretary shall list all shut-in oil and gas wells and wells flaring natural

gas on leases issued under the outer Continental Shelf Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 502. As soon as feasible and no later than ninety days after the date of enactment of this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 503. The Federal Power Commission shall, pursuant to its authority under section 7 of the Natural Gas Act, permit any natural gas distributing company which engages, directly or indirectly, in development and production of natural gas from the Outer Continental Shelf to transport to its service area for distribution any natural gas obtained by such natural gas distributing company from such development and production. For purposes of this section, the term "natural gas distributing company" means any person (1) engaged in the distribution of natural gas at retail, and (2) regulated or operated as a public utility by a State or local government.

ANTIDISCRIMINATION PROVISIONS

SEC. 504. Each agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act, shall take such affirmative action as deemed necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale or employment, conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Amendments of 1964.

SEC. 505. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to the provisions of this Act or the Outer Continental Shelf Lands Act,

shall, beginning on February 1, 1978, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceeding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

COASTAL ZONE MANAGEMENT ACT OF 1972 AS AMENDED

SEC. 308. (a) * * *

[(b)(1) The Secretary shall make grants annually to coastal states, in accordance with the provisions of this subsection.

[(2) The amounts granted to coastal states under this subsection shall be, with respect to any such state for any fiscal year, the sum of the amounts calculated, with respect to such state, pursuant to subparagraphs (A), (B), (C), and (D):

[(A) An amount which bears, to one-third of the amount appropriated for the purpose of funding grants under this subsection for such fiscal year, the same ratio that the amount of outer Continental Shelf acreage which is adjacent to such state and which is newly leased by the Federal Government in the

immediately preceding fiscal year bears to the total amount of outer Continental Shelf acreage which is newly leased by the Federal Government in such preceding year.

[(B) An amount which bears, to one-sixth of the amount appropriated for such purpose for such fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in such year from all of the outer Continental Shelf acreage which is leased by the Federal Government.

[(C) An amount which bears, to one-sixth of the amount appropriated for such purpose for such fiscal year, the same ratio that the volume of oil and natural gas produced from Outer Continental Shelf acreage leased by the Federal Government which is first landed in such state in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government which is first landed in all by the coastal states in such year.

[(D) An amount which bears, to one-third of the amount appropriated for such purpose for such fiscal year the same ratio that the number of individuals residing in such state in the immediately preceding fiscal year who obtain new employment in such year as a result of new or expanded outer Continental Shelf energy activities bears to the total number of individuals residing in all of the coastal state in such year who obtain new employment in such year as a result of such outer Continental Shelf energy activities.

[(3)(A) The Secretary shall determine annually the amounts of the grants to be provided under this subsection and shall collect and evaluate such information as may be necessary to make such determinations. Each Federal department, agency, and instrumentality shall provide to the Secretary such assistance in collecting and evaluating relevant information as the Secretary may request. The Secretary shall request the assistance of any appropriate state agency in collecting and evaluating such information.

[(B) For purposes of making calculations under paragraph (2), outer Continental Shelf acreage is adjacent to a particular coastal state if such acreage lies on that state's side of the extended lateral seaward boundaries of such state. The extended lateral seaward boundaries of a coastal state shall be determined as follows:

[(i) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before July 26, 1976), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

[(ii) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by an interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be

determined according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and the Contiguous Zone, and extended on the basis of such principles.

[(iii) If, after July 26, 1976, two or more coastal states enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

[(C) For purposes of making calculations under this subsection, the transitional quarter beginning July 1, 1976, and ending September 30, 1976, shall be included within the fiscal year ending June 30, 1976.

[(4) Each coastal state shall use the proceeds of grants received by it under this subsection for the following purposes (except that priority shall be given to the use of such proceeds for the purpose set forth in subparagraph (A)):

[(A) The retirement of state and local bonds, if any, which are guaranteed under subsection (d)(2) of this section; except that, if the amount of such grants is insufficient to retire both state and local bonds, priority shall be given to retiring local bonds.

[(B) The study of, planning for, development of, and the carrying out of projects and programs in such state which are—

[(i) necessary, because of the unavailability of adequate financing under any other subsection, to provide new or improved public facilities and public services which are required as a direct result of new or expanded outer Continental Shelf energy activity; and

[(ii) of a type approved by the Secretary as eligible for grants under this paragraph, except that the Secretary may not disapprove any project or program for highways and secondary roads, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care.

[(C) The prevention, reduction, or amelioration of any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource if such loss results from coastal energy activity.

[(5) The Secretary, in a timely manner, shall determine that each coastal state has expended or committed, and may determine that such state will expend or commit, grants which such state has received under this subsection in accordance with the purposes set forth in paragraph (4). The United States shall be entitled to recover from any coastal state an amount equal to any portion of any such grant received by such state under this subsection which—

[(A) is not expended or committed by such state before the close of the fiscal year immediately following the fiscal year in which the grant was disbursed, or

[(B) is expended or committed by such state for any purpose other than a purpose set forth in paragraph (4).

Before disbursing the proceeds of any grant under this subsection to any coastal state, the Secretary shall require such state to provide adequate assurances of being able to return to the United States any amounts to which the preceding sentence may apply.]

"(*b*)(*1*) *The Secretary shall, in addition to any financial assistance provided to, or available to, coastal States pursuant to any other subsection of this section, distribute grants annually in accordance with the provisions of this subsection. The moneys received under this subsection shall be expended by each State receiving such grants solely for the purpose of reducing or ameliorating adverse impacts resulting from the exploration for, or the development or production of, energy resources or resulting from the location, construction, expansion, or operation of a related energy facility and/or for projects designed to provide new or additional public facilities and public services which are related to such exploration, development production, location, construction, expansion, or operation, except that such grants shall initially be designated by each receiving State to retire State and local bonds, if any, which are guaranteed under section 308(d)(1), and section 308(d)(2) and section 308(d)(3) of this Act: Provided, That if the amount of such grants is insufficient to retire both State and local bonds, priority shall be given to retiring local bonds.*

"(*2*) *Subject to the expenditure requirements of Section 308(b)(1), each coastal State shall be entitled to receive a grant under this subsection if such State is, on the first day of each fiscal year.*

"(*a*) *adjacent to outer Continental Shelf lands on which oil or natural gas is being produced; or*

"(*b*) *permitting crude oil or natural gas to be landed in its coastal zone; Provided, That such crude oil or natural gas has been produced on adjacent outer Continental Shelf lands of such State or on outer Continental Shelf lands which are adjacent to another State and transported directly to such State. In the event that a State is landing oil or natural gas produced adjacent to another State, the landing State shall be eligible for grants under this subsection at a rate half as great as that to which it would be eligible in any given year if the oil or natural gas produced adjacent to that State were also landed in that State.*

"(*3*) *States defined in section 308(b)(2) shall become eligible to receive such automatic grants in the first year that the amount of such oil or natural gas landed in the State or produced on outer Continental Shelf lands adjacent to the State (as determined by the Secretary) exceeds a volume of one hundred thousand barrels per day of oil or an equivalent volume of natural gas. There are authorized to be appropriated for this purpose sufficient funds to provide such States with grants in the amount of 20 cents per barrel or its equivalent during the first year, 10 cents per barrel or its equivalent during the third year, and 8 cents per barrel or its equivalent during the fourth and all succeeding years during which oil or gas is landed in such a State or produced on outer Continental Shelf lands adjacent to such a State: Provided, That (A) such funds shall not exceed $100.000,000 for the fiscal year ending September 30, 1978: $100.000. for the fiscal year ending September 30, 1979; and (B) such funds shall be limited to payments for the first one and one-half million barrels of oil (or its*

gas equivalent) per day per State for the ten succeeding fiscal years. The amount of such grant to each such State in any given year shall be calculated on the basis of the previous year's volume of oil or natural gas landed in the State or produced adjacent ot the State. For the purposes of this section, one barrel of crude oil equals six thousand cubic feet of natural gas.

"(4) Any funds provided to any State pursuant to section 308(b) which are not expended in accordance with the purposes authorized herein shall be returned to the Treasury of the United States by such State.".

RELATIONSHIP TO EXISTING LAW

SEC. 507. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

SEC. 508. Upon the effective date of the provisions of the law creating a Department of Energy, or upon the effective date of this Act, whichever is later, the functions vested in the Secretary by this Act related to those Federal leasing functions designated for transfer from the Secretary to the Secretary of Energy in such law creating a Department of Energy shall be transferred to and vested in the Secretary of Energy.

ENERGY POLICY AND CONSERVATION ACT OF 1975

SEC. 105. (a) The Secretary of the Interior shall, not later than 30 days after the date of enactment of this Act, prescribe and make effective a rule which prohibits the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than an affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in such person. Such rule shall define affiliate relationships and significant ownership interests.

(b) As used in this section:

(1) The term "major oil company" means any person who, individually or together with any other person with respect to which such person has an affiliate relationship or significant ownership interest, produced during a prior 6-month period specified by the Secretary, an average daily volume of 1,600,000 barrels of crude oil, natural gas liquids equivalents, and natural gas equivalents.

(2) One barrel of natural gas equivalent equals 5,626 cubic feet of natural gas measured at 14.73 pounds per square inch (MSL) and 60 degrees Fahrenheit.

(3) One barrel of natural gas liquids equivalent equals 1.454 barrels of natural gas liquids at 60 degrees Fahrenheit.

[(c) The Secretary may, by amendment to the rule, exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development problems.]

"(c) *If the Secretary determines that exploration and development will occur only if the exemption is granted, he may exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development problems.*"

(d) *This section shall not be construed to prohibit the unitization of producing fields to increase production or maximize ultimate recovery of oil or natural gas, or both.*

(e) *The Secretary shall study and report to the Congress, not later than 6 months after the date of enactment of this Act, with respect to the feasibility and desirability of extending the prohibition on joint bidding to—*

(1) *bidding for any right to develop crude oil, natural gas, and natural gas liquids on Federal lands other than those located on the Outer Continental Shelf; and*

(2) *bidding for any right to develop coal and oil shale on such lands.*

RELATIONSHIP TO EXISTING LAW

SEC. 507. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

RELATIONSHIP TO DEPARTMENT OF ENERGY

SEC. 508. Upon the effective date of the provisions of the law creating a Department of Energy, or upon the effective date of this Act, whichever is later, the functions vested in the Secretary by this Act related to those Federal leasing functions designated for transfer from the Secretary to the Secretary of Energy in such law creating a Department of Energy shall be tranferred to and vested in the Secretary of Energy.

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Calendar No. 263

95TH CONGRESS 1st Session } SENATE { REPORT No. 95–285

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION BILL, 1978

JUNE 21 (legislative day, MAY 18), 1977.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H.R. 7556]

The Committee on Appropriations, to which was referred the bill, (H.R. 7556) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, reports the same to the Senate with various amendments and presents herewith information relative to the changes made.

AMOUNT IN NEW BUDGET (OBLIGATIONAL) AUTHORITY

Amount of bill as passed House	$7,606,119,500
Amount of Senate bill over comparable House	40,486,500
Amount added by Senate for items not considered by House	[1] 56,716,000
Total bill as reported to Senate	7,703,322,000
Amount of appropriations, 1977	13,315,030,802
Amount of budget estimates, 1978, as amended	7,477,556,500
The bill as reported to the Senate:	
Under the appropriations for 1977	[1] 5,611,708,802
Over the estimates for 1978	225,765,500

[1] Excludes supplemental appropriations for fiscal year 1977 of $11,515,000 in Title VI that are $1,060,000 under the supplemental estimates and were not considered by the House.

91-685 O—77——1