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2d Session } { No. 94-1632

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

SEPTEMBER 20, 1976.—Ordered to be printed

Mr. MURPHY of New York, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 521]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 521) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Outer Continental Shelf Lands Act Amendments of 1976".

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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; and

(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,

PURPOSES

SEC. 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 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 oil spill 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; and

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

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;*".

(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 marches, 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 ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marches, 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, esthetic, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, recreation, air and water, 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 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 non-coastal 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, spill-

ages, 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 as (2) (A) and by adding at the end of that paragraph the following: "The determination and publication of the projected lines defining the area shall be completed within one year after the date of enactment of this sentence.

"(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, including any dispute involving international boundaries between the jurisdictions of the United States and Canada and between the jurisdictions of the United States and Mexico.".

(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. At each stage in the formulation and promulgation 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, after hearing, that continued activity pur-

suant to such lease or permit would cause serious harm or damage, which would not decrease over a reasonable period of time, 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 environment, 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 clean-up 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);

"(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 the establishment of and procedures for Regional Outer Continental Shelf Advisory Boards in accordance with section 19 of this Act;

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

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

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

"(11) 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 nonproduction lease fails to comply with any of the provisions of this Act, or of the lease, or of the regula-

tions 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 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 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 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 loyalty 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 of the production saved, removed, or sold, with a cash bonus as determined by the Secretary;

"(C) cash bonus bid 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;

"(G) cash bonus bids for 1 per centum shares of an undivided working interest in the lease area, such shares to be awarded on the basis of the value of the bid per share, with a fixed share of the net profits derived from the production of oil and gas pursuant to a lease to be determined by the Secretary; or

"(H) cash bonus bids for 1 per centum shares of an undivided working interest in the lease area, such shares to be awarded on the basis of the value of the bid per share, and with a fixed or diminishing royalty based upon the production derived from operation pursuant to the lease.

"(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 pior 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)(A) In the event bids are accepted for less than 100 per centum of the lease area offered under subparagraph (G) or (H) of paragraph (1), the Secretary may reoffer the unleased portion for such period of time as he determines to be reasonable.*

"*(B) The Secretary shall, by regulation, provide for the cancellation of any lease sale held pursuant to subparagraph (G) or (H) of paragraph (1), if the total amount to be paid for all shares sold does not represent a fair return to the Federal Government.*

"*(C) The Secretary shall establish standards and procedures for the formation of a joint working group in an area leased pursuant to subparagraph (G) or (H) of paragraph (1), and shall approve one or more operators for, and the terms of management of, activities on such lease area. The United States, represented by the Secretary, shall be considered a nonvoting party to any joint working group formed pursuant to such standards and procedures.*

"*(6)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection, in accordance with subparagraphs (B) and (C) of this paragraph, so as to accomplish the purposes and policies of this Act, including (i) providing a fair return to the Federal Government, (ii) increasing completition, (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. In order to select a bid to accomplish these purposes and policies, the Secretary may, in his discretion, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding alternatives set forth in paragraph (1) of this subsection.*

"*(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and national policies fo this Act, require each bidder to submit bids for any area of the outer Continental Shelf in*

accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random or determined by the Secretary to be desirable for the acquisition of valid statistical data and otherwise consistent with the provisions of this Act.

"*(C)(i) 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.*

"*(ii) If, during the first year following enactment of this subsection, the Secretary finds that compliance with the limitation set forth in clause (i) 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 (i) 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 thereafter, for that year, exceed such limitation if either the Senate or the House of Representatives passes a resolution of approval of the Secretary's finding within thirty days after receipt of such report (not including days when Congress is not in session).*

"*(iii) Clauses (iv) through (xi) 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.*

"*(iv) A resolution approving 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.*

"*(v) If the committee, to which has been referred any resolution approving 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.

"*(vi) 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.*

"*(vii) 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.*

"*(viii) 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.*

"*(ix) 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.*

"*(x) 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.*

"*(xi) 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.*

"*(D) 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—*

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

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

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

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

"*(v) 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; and

"(vi) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph.

"(7) The Secretary may, by regulation, permit submission of bids made jointly by or on behalf of two or more persons for an oil and gas lease under this Act unless more than one of the joint bidders, directly or indirectly, controls or is chargeable worldwide with an average daily production of one million six hundred thousand barrels a day or more, or the equivalent, in crude oil, natural gas, and liquified petroleum products.

"(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 Attorney General of the United States and the Federal Trade Commission of the proposed issuance. Such notification shall contain such information as the Attorney General and 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. If the Attorney General or 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 lease may be issued if the Secretary finds that an applicant for a lease, or a lessee, is not meeting due diligence requirements on other leases. Innocent or non-negligent parties to any joint lease which is cancelled due to the failure of one or more partners to exercise due diligence on other leases may seek damages for such loss from the responsible partner or partners.

"(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) Upon receipt of nominations for any lands within three miles of the seaward boundary of any coastal State, the Secretary shall offer the Governor of such coastal State the opportunity to jointly lease any area which the Secretary approves for lease which he concludes, in consultation with Governor of the coastal State may contain a field, geological structure, or trap which may be located within both Federal and State owned lands.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to jointly lease any such area. If the Governor accepts the offer, the Secretary and Governor shall jointly offer such area for lease under mutually acceptable terms which shall be consistent with the provisions of this Act, 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 such terms within a reasonable period of time, the Secretary may lease the federally owned portion of such area in accordance with this Act.

"(4) All bonuses, royalties, rents, and net profit shares obtained pursuant to a lease for lands within three miles of the seaward boundary of any coastal State, whether or not such lease is issued jointly by the

Secretary and the Governor of such coastal State, shall be placed in an escrow account until such time as the Secretary and the Governor of such coastal State determine, on the basis of geological or other information, the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.".

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) Any agency of the United States, and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations 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) Beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of 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.

"(g) At least once in each frontier area, the Secretary shall seek qualified applicants to conduct geological explorations, including core and test drilling, for oil and gas resources in those areas and subsurface geological structures of the outer Continental Shelf which the Secretary, upon the basis of information available to him and advice of the Geological Survey of the Department of the Interior, regards as having the greatest likelihood of containing significant oil and gas accumulations. The Secretary shall, by regulation specify the length of time during which he will seek such applicants.

"(h) The Secretary is authorized and directed to contract for exploratory drilling on geological structures which the Secretary, in his discretion, determines should be explored by the Federal Government for national security or environmental reasons or for the purpose of expediting development in frontier areas. Such exploratory drilling shall not be done in areas included in the leasing program prepared pursuant to section 18 of this Act.

"(i) For purposes of subsections (g) and (h) of this section, neither the Gulf of Mexico nor the Santa Barbara Channel shall be considered to be frontier areas.".

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 possible 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.) which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;*

"(H) *recommendations and advice given by any Regional Outer Continental Shelf Advisory Board established pursuant to this Act; and*

"(I) *whether the oil and gas producing industry will have sufficient resources, including equipment and capital, to bring about the exploration, development, and production of oil and gas in such regions in an expeditious manner.*

"(3) *The Secretary shall select 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 the Regional Outer Continental Shelf Advisory Boards, 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, local government, or Regional Outer Continental Shelf Advisory Board 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 to assure consistency, to the maximum 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 Regional Outer Continental Shelf Advisory Boards.*—(a) *The Governors of affected States may establish Regional Outer Continental Shelf Advisory Boards for their regions with such membership as they may determine, after consultation with the Secretary and the Secretary of Commerce.*

"(b) *Representatives of the Secretary, the Secretary of Commerce, the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, the Commandant of the Coast Guard, the Administrator of the Environmental Protection Agency, and the Administrator of the Occupational Safety and Health Administration shall be entitled to participate as observers in the deliberations of any Board established pursuant to subsection (a) of this section.*

"(c) *Each Board established pursuant to subsection (a) shall advise the Secretary on all matters relating to outer Continental Shelf oil and gas development, including development of the leasing program required by section 18 of this Act, approval of development and production plans required pursuant to section 25 of this Act, implementation of baseline and monitoring studies, and the preparation of environ-*

mental impact statements prepared in the course of the implementation of the provisions of this Act.

"(d) If any Regional Advisory Board or the Governor of any affected State—

"(1) makes specific 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; and

"(2) submits such recommendations to the Secretary within sixty days after receipt of notice of such proposed lease sale or of such development and production plan,

the Secretary shall accept such recommendations, unless he determines they are not consistent with national security or the overriding national interest. For purposes of this subsection, a determination of overriding national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner, consistent with the policies of this Act. If the recommendations from State Governors or Regional Advisory Boards conflict with each other, the Secretary shall accept any of those recommendations which he finds to be the most consistent with the national interest. If the Secretary finds that he cannot accept recommendations made pursuant to this subsection, he shall communicate, in writing, to such Governor or such Board the reasons for rejection of such recommendations. The Secretary's determination that recommendations are not consistent with the national security or the overriding 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.

"SEC. 20. BASELINE AND MONITORING STUDIES.—"(a)(1) The Secretary of Commerce, in cooperation with 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 of Commerce may utilize information collected in any study prior to the date of enactment of this section in conducting any such study.

"(3) The Secretary of Commerce shall, after being notified of the submission of any development and production plan in an area or region under study, complete such study and submit it to the Secretary prior to the date for final approval of any development and production plan required by section 25 of this Act for any lease area. Failure of the Secretary of Commerce to complete any such study in a lease area shall not be a basis for precluding the approval of a development and production plan by the Secretary, unless the Secretary, in his discretion, finds such failure to be an appropriate basis for such preclusion.

"(4) *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 of Commerce 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 of Commerce 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 of Commerce 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 of Commerce shall submit to the Secretary and 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.*

"*Sec. 21. Safety Regulations.*—(a)(1)(A) *Safety regulations which apply to the construction and operation of any fixed structure and artificial island on the outer Continental Shelf shall be promulgated and periodically revised. Except as provided in subparagraph (B), such regulations shall be developed by the Secretary with the concurrence of the Administrator of the Environmental Protection Agency, the Secretary of the Army, and the Secretary of the Department in which the Coast Guard is operating.*

"(B) *Regulations for occupational safety and health shall be developed with the concurrence of the Secretary of Labor.*

"(2) *In promulgating regulations under this section, the Secretary shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technology, wherever failure of equipment would have a significant effect on occupational or public health, safety, or the environment.*

"(b) *Upon the date of enactment of this section, the National Academy of Engineering shall commence a study of the adequacy of existing safety regulations and of technology, equipment, and techniques for operations with respect to the outer Continental Shelf, including the subjects listed in subsection (a) of this section. Not later than nine months after the date of enactment of this section, the results of such study and recommendations for improved safety regulations shall be submitted to the Congress, the Secretary, and the Secretary of the Department in which the Coast Guard is operating.*

"(c) (1) *Within one year after the date of enactment of this section, the applicable Federal officials, in consultation with other affected Federal agencies and departments, shall complete a review of existing safety regulations, consider the results and recommendations of the study required by subsection (b), and promulgate a complete set of new safety regulations (which may incorporate outer Continental Shelf orders) which shall apply to operations on the outer Continental Shelf or any region thereof. Such complete set of new safety regulations—*

"(A) *shall take effect so that there is no period of time between the expiration of such existing safety regulations and the effective date of such new safety regulations; and*

"(B) *shall include any safety regulation in effect on the date of enactment of this section which such Federal officials find should be retained.*

No safety regulation (other than a field order) promulgated pursuant to this subsection shall reduce the degree of safety or protection to the environment afforded by safety regulations previously in effect.

"(2) *Within sixty days after date of enactment of this section, the Secretary of Labor shall promulgate interim regulations or standards pursuant to the Occupational Safety and Health Act of 1970 applying to diving activities in the waters above the outer Continental Shelf, and to other unregulated hazardous working conditions for which he, in consultation with the Secretary and the Secretary of the Department in which the Coast Guard is operating, determines such regulations or standards are necessary. Such regulations or standards may be modified from time to time as necessary, and shall remain in effect until final regulations or standards are promulgated.*

"(d) *Nothing in this section shall affect or duplicate any authority provided by law to the Secretary of Transportation to establish and enforce pipeline safety standards and regulations.*

"(e) *The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any agency or department of the Federal Government and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.*

"SEC. 22. ENFORCEMENT.—(a) *The Secretary and the Secretary of the Department in which the Coast Guard is operating shall strictly enforce safety and environmental regulations promulgated pursuant to this Act. The Secretary and the Secretary of Labor shall strictly enforce occupational and public health regulations promulgated pursuant to this Act. All operations authorized pursuant to this Act shall be regularly inspected for purposes of enforcing applicable regulations.*

"(b) *All holders of leases and permits under this Act shall—*

"(1) *be responsible jointly with any empployer or subcontractor for the maintenance of occupational safety and health, environmental protection, and other safeguards, in accordance with regulations intended to protect persons, property, and the environment on the outer Continental Shelf pursuant to this Act, and any other Act applicable to activities in or on the outer Continental Shelf; and*

"(2) *allow prompt access, at the site of any operation subject to safety regulations, to any inspector, and provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.*

"(c) *The Secretary, with the concurrence of the Secretary of Labor and the Secretary of the Department in which the Coast Guard is operating, shall, within one hundred and twenty days after the date of enactment of this section, promulgate regulations applicable to the outer Continental Shelf to provide for representatives of the Federal Government to undertake—*

"(1) *physical observation, at least once each year, of all installations, fixed or mobile, including rigs, platforms, diving boats, and apparatus;*

"(2) *the testing of all safety equipment designed to prevent or ameliorate occupational hazards, blowouts, fires, spillages, or other major accidents; and*

"(3) *periodic onsite inspection without advance notice to the lessee or permittee, to assure compliance with occupational and public health, safety, or environmental protection regulations.*

"(d) (1) *The Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on each major fire and each major oil spillage occurring as a result of operations conducted pursuant to this Act, and he may, in his discretion, make an investigation and report of lesser oil spillages. For purposes of this subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil over a period of thirty days. All holders of leases or permits issued or maintained under this Act shall cooperate with such Secretary in the course of any such investigation.*

"(2) *The Secretary of Labor shall make an investigation and public report on any death or serious injury occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of any injury. For purposes of this subsection, a serious injury is one resulting in substantial impairment of any bodily unit or function. All holders of leases or permits issued or maintained under this Act shall cooperate with such Secretary in the course of any such investigation.*

"(3) *For purposes of carrying out their responsibilities under this section, the Secretary, the Secretary of Labor, and the Secretary of the Department in which the Coast Guard is operating may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency.*

"(e) *The Secretary, or, in the case of occupational safety and health, the Secretary of Labor, shall consider any allegation from any person of the existence of a violation of a safety regulation issued under this Act. The respective Secretary shall answer such allegation no*

later than 90 days after receipt thereof, stating whether or not such alleged violation exists and, if so, what action has been taken.

"(f) In any investigation conducted pursuant to this section, the Secretary, the Secretary of Labor, or the Secretary of the Department in which the Coast Guard is operating shall have power to summon witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process as in the United States district court. Such Secretary, or his designee, shall administer all necessary oaths to any witnesses summoned before such investigation.

"(g) The Secretary shall, after consultation with the Secretary of Labor and the Secretary of the Department in which the Coast Guard is operating, include in his annual report to Congress required by section 15 of this Act the number of violations of safety regulations reported or alleged, the investigations undertaken, the results of such investigations, and any administrative or judicial action taken as a result of such investigations.

"(h) Subject to judicial review, whenever the Secretary finds, after notice and a hearing, that the owner or operator of any lease—

"(1) has, by a repeated course of conduct, failed to comply with safety regulations promulgated under section 21 of this Act, and such failures have resulted in a clear and present danger to occupational or public health, safety, or the environment; or

"(2) has established an overall pattern of failing to comply, without lawful justification, with regulations which are to assure the maximum, efficient, and safe development of such lease or leases;

the Secretary shall cancel any such lease or leases which are the subject matter of such violations. Cancellation of a lease pursuant to this subsection shall not entitle a lessee to any compensation.

"SEC. 23. CITIZEN SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.(a)(1) Except as provided in this section, any person having an interest which is or can be adversely affected may commence a civil action on his own behalf—

"(A) against any person, including the United States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of any provision of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act; and

"(B) against any Federal official referred to in section 21(a)(1) of this Act where there is alleged a failure of such official to perform any act or duty under this Act which is not discretionary.

"(2) No action may be commenced—

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

"(i) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the appropriate Federal official and to any alleged violator; and

"(ii) if such official or the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States with respect to such matter, but in any

such action any person adversely affected or aggrieved may intervene as a matter or right; or

"(B) under subsection (a)(1)(B) of this section prior to sixty days after the plantiff has given notice of such action, in writing under oath, to the Federal Government official, in such manner as such official shall by regulation prescribe, except that such action may be brought immediately after such notification in any case in which the violation alleged constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff.

"(3) In any action commenced pursuant to this section, the appropriate Federal official or the Attorney General, if not a party, may intervene as a matter of right.

"(4) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorneys' fees, to any party, whenever such 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 accordance with the Federal Rules of Civil Procedure.

"(5) Except as provided in subsection (c) of this section, nothing in this section shall restrict any right which any person or class of persons may have under this or any other Act or common law to seek enforcement of any provision of this Act and any regulation promulgated under this Act, or to seek any other relief, including relief against the appropriate Federal official.

"(b) Except as provided in subsection (c) of this section, the United States district courts shall have jurisdiction of cases and controversies arising out of, or in connection with (1) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the natural resources of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such natural resources, or (2) the cancellation, suspension, or termination of a lease or permit under this Act. 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 State nearest the place the cause of action arose.

"(c)(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 preceedings 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.*

"*(d) 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.*

"*(e) Notwithstanding any other provision of this section, this section shall not apply to any action which is commenced to require compliance with any provision of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

"*SEC. 24. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Secretary of Labor, 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 Labor, 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 occupational or public 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 development and production pursuant to an oil and gas lease or maintained under this Act 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 to an appropriate Regional Outer Continental Shelf Advisory Board established pursuant to section 19 of this Act, 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 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) After review of a plan submitted pursuant to this section in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Secretary shall declare his findings as to whether development and production pursuant to the lease or set of leases (which set includes such lease and other leases which cover adjacent or nearby areas to the area covered by such lease) is a major Federal action.*

"*(2) The Secretary shall at least once, prior to major development in any area or region of the outer Continental Shelf, other than the Gulf of Mexico or the Santa Barbara Channel, declare development and production pursuant to a lease or set of leases to be a major Federal action.*

"*(3) 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) If development and production pursuant to a plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, any appropriate Regional Outer Continental Shelf Advisory Board, any appropriate interstate regional entity, and the executive of any affected local government area, for review, and comment, and shall make such draft available to the general public.*

"*(f) If developmet and production pursuant to a plan is not found to be a major Federal action, the Governor of any affected State, any appropriate Regional Outer Continental Shelf Advisory Board, and the executive of any affected local government area shall have ninety days from receipt of the plan from the Secretary to submit comments and recommendations. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.*

"*(g) (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 (f) 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 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, except that any modification requested by the Secretary shall be, to the maximum extent practicalbe, consistent with the coastal zone management programs of affected States approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455). The Secretary shall disapprove a plan only (A) if the lessee fails to demonstrate that he can comply with the requirements of this Act and other applicable Federal law, (B) if the plan is not and cannot be made, to the maximum extent practicable, consistent with the coastal zone management programs of affected States approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), or (C) if because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, the proposed plan cannot be modified to insure a safe operation. If a plan is disapproved under clauses (A) or (B) of this paragraph, the lessee shall not be entitled to compensation because of such disapproval. If the plan is disapproved under clause (C) of this paragraph, 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). 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 imme-

diately 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.

"(h) 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.

"(i) 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.

"(j) 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 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 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 release 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 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 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 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 Federl 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 (II) of section 8(a)(1) of this Act is sold back to the lessee or 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 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 full-time 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 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 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 Pollution 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 pursant 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 replace 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.

(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 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) (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) qualification 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 accord-

ance 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 neces-

sary, 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

(h)(1) Except as provided in paragraph (2) of this subsection, the shall be deemed presented to the Secretary for payment by the Fund. 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 refere 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 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 com-

plained 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 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 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—MISCELLANEOUS PROVISIONS

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 401. (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 nd recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 402. 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. 403. 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. 404. 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. 405. (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, 1977, 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.

RELATIONSHIP TO EXISTING LAW

SEC. 406. 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.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

JOHN M. MURPHY,
MO UDALL,
PATSY T. MINK,
JOSHUA EILBERG,
GERRY E. STUDDS,
CHRISTOPHER J. DODD,
WILLIAM J. HUGHES,
GEORGE MILLER,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
LEE METCALF,
JAMES ABOUREZK,
FLOYD K. HASKELL,
JOHN GLENN,
RICHARD (DICK) STONE,
DALE BUMPERS,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 521) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the House amendment and the conference substitute are noted below, except for clerical corrections and conforming changes made necessary by agreements reached by the conferees. In addition, an explanation of the differences and a discussion of the conference committee's intent as to certain provisions are also noted below. The amendments, the discussion of the amendments, and the discussion of the intent of the managers as to certain provisions are keyed to the pages and lines of the House amendment to the text of the Senate bill.

1. Technical Amendment—Elimination of "Coastal"

Page 4, beginning on line 19, strike out "the various coastal States and other States" and insert in lieu thereof "various States".

Page 4, line 22, strike out "coastal and other".

Page 19, line 21, strike out "coastal".

Page 20, line 2, strike out "coastal".

Explanation

These amendments strike out the word "coastal" in describing certain types of states. The House amendment to S. 521 does not contain a definition of "coastal state" but rather includes coastal states within the definition of "adjacent states".

2. Technical Amendment—Elimination of Finding and Purpose on Financial Assistance to States

Page 5, strike out lines 3 through 8 and redesignate the succeeding paragraphs accordingly.

Page 7, strike out lines 12 through 14 and redesignate the succeeding paragraphs accordingly.

Explanation

These amendments strike out the Congressional Finding and Purpose relating to federal financial assistance to the States to deal with the impact of offshore development and production. Such a federal

financial assistance provision was deleted from the final House version of S. 521, and this deletion was accepted by the Senate in conference. Financial assistance is impacted states was provided in the Coastal Zone Management Act Amendments of 1976, recently enacted into law, P.L. 94–370.

3. Technical Amendment—Relocation of "Sunshine in Government" Section

Page 7, strike out line 23 and all that follows down through line 13 on page 9.

Page 128, strike out lines 16 through 22 and insert in lieu thereof the following:

SUNSHINE IN GOVERNMENT

"SEC. 405. (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, 1977, 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 non-regulatory policymaking 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.

Page 129, after line 22, insert the following:

RELATIONSHIP TO EXISTING LAW

SEC. 406. 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.

In the table of contents on the first page, strike out "SEC. 103. Sunshine in Government.".

In the table of contents on page 2, strike out "SEC. 405. Relationship to existing law." and insert in lieu thereof—

"SEC. 405. Sunshine in Government.
"SEC. 406. Relationship to existing law.".

Explanation

This amendment moves section 103 (Sunshine in Government) to title IV of the bill (Miscellaneous Provisions) and makes certain technical changes in that section. This amendment also moves section 405 (Relationship to Existing Law) to the end of title IV, and makes appropriate modifications in the table of contents to reflect these changes. This section more properly belongs in the "Miscellaneous Provisions" title than in the title "Findings and Purposes".

4. Technical Amendments—Printing Errors and Clerical Changes

Page 17, trke out lines 12 through 15 and insert in lieu thereof the following:

(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

Page 20, line 3, strike out "isand" and insert "island".

Page 24, line 1, insert "an" immediately before "oil".

Page 26, line 2, strike out the period after "8".

Explanation

These amendments correct printing errors in the House engrossed bill.

5. Amendment—Applicability of State Law

Page 17, strike out line 21 and all that follows down through line 7 on page 19, and insert the following:

(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:

The determination and publication of the projected lines defining the area shall be completed within one year after the date of enactment of this sentence.

Explanation

The Senate bill did not change the existing law with respect to applicability of state law to OCS activity. Section 19(f) of the Deepwater Ports Act of 1974 (88 Stat. 2126) amended Section 4 of the Outer Continental Shelf Lands Act to provide that current state law

would apply. The House amendment would apply state civil law only as updated every five years. This amendment would delete this provision and thus maintain the status quo.

6. Amendment—Coast Guard Authority to Mark Obstructions

Page 20, line 25, strike out "shall" and insert "may".

Explanation

This amendment will readopt the original language of the Outer Continental Shelf Lands Act of 1953, leaving the Coast Guard with discretionary authority to mark obstructions to navigation. This is consistent with existing Coast Guard authority as to all other aids to navigation. In many cases, due to the close proximity of OCS structures, not all such structures need be marked, and marking all devices could possibly confuse the navigator.

7. Technical Amendment—General Regulatory Authority

Page 22, line 3, strike out "findings, purposes, and".

Explanation

The House amendment states that leasing regulations shall be "in furtherance of the findings, purposes, and policies of this Act." The Senate bill had no comparable provision. This amendment deletes the reference to "findings" and "purposes" as they are not included as sections of the Outer Continental Shelf Lands Act, but rather only as sections of the 1976 Amendments.

Section 204, amending section 5 of the Outer Continental Shelf Lands Act, provides that "in the enforcement of * * * laws and regulations, the Secretary shall cooperate with the relevant agencies of the * * * affected states." The managers on the part of the House and the Senate, in accepting this language, wished to insure that states would be adequately consulted as to enforcement procedures. There was no intent to require the Federal Government to enforce compliance by permittees and lessees with state conservation or other laws or regulations as to activities on the Outer Continental Shelf.

8. Amendments—Rates of Production

On page 27, line 17, strike the words "which is efficient and" and insert the following:

> which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles and which is

Explanation

This amendment essentially adopts the language of Section 106(e)(1) of the Energy Policy and Conservation Act (P.L. 94–163) in defining the maximum efficient rate of production and is similar to the language used in Section 7420(6) of the Naval Petroleum Reserves Production Act of 1976 (P.L. 94–258). This amendment recognizes that engineering, economic and safety factors must be considered in setting such a rate.

9. Technical Amendment—Payment of Cash Bonus Installments

Page 30, line 12, strike out "authorization of development and production" and insert "approval of the development and production plan".

Explanation

This amendment makes a clarifying change in the provision dealing with deferment of cash bonus, to make it clear that the date for final payment of any installment cash bonus is the date of approval of the development and production plan.

10. Amendment—Allocation of Costs for Net Profit Bids

On page 31, lines 1 through 3, strike "shall be allocated proportionately to the value of the respective amount of oil and gas produced" and insert the following:

> , 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.

Explanation

Rather than allocating costs between oil and gas strictly on the basis of dollar value of production, this amendment (1) allows allocation of identifiable costs to the appropriate mineral, and (2) provides for allocation of common costs on the Btu equivalent basis of the respective amounts of oil and gas produced. This allocation of costs common to both oil and gas recognizes that the regulated price of interstate natural gas is usually lower on a Btu-equivalent basis than the price of oil.

11. Amendment—Price at Which Leases Under So-Called "Phillips System" Are Awarded

Page 29, lines 17 to 20, delete the words "at a price which is equal to the average price per share of the highest responsible qualified bids tendered for not more than 100 per centum of the lease area" and insert "on the basis of the value of the bid per share".

Page 29, line 25, to Page 30, line 3, delete the words "at a price which is equal to the average price per share of the highest responsible qualified bids tendered for not more than 100 per centum of the lease area" and insert "on the basis of the value of the bid per share".

Page 31, line 4, to page 32, line 21, delete from "(5) (A) In the case of" to "to the initial bidding process.", and insert:

> (5) (A) In the event bids are accepted for less than 100 per centum of the lease area offered under subparagraph (G) or (H) of paragraph (1), the Secretary may reoffer the unleased portion for such period of time as he determines to be reasonable.

Page 32, line 22, change (C) to (B).
Page 33, line 3, change (D) to (C).

Explanation

The House amendment required bidders to pay more than they bid, if they bid less than the average, and this could have caused serious administrative problems impairing experimentation with this bidding system. Many such bidders would drop out. Reoffer of the remaining shares at the average price might or might not result in sale of 100 percent of the working interest. While this problem could also arise under the "Phillips plan", as now provided in this amendment, it is far less likely to do so.

Selling a one percent interest to different people at different prices is a business phenomenon that occurs regularly, and is a generally accepted practice wherever auctions or bargaining take place. No unfairness, either actual or apparent, exists as long as participants are aware of the rules by which the sale will be conducted, and can adjust their bidding strategies accordingly.

12. Amendment—Use of Alternative Bidding Systems

Page 34, strike out line 25 and insert the following:

> (ii) If, during the first year following enactment of this subsection, the Secretary finds that compliance with the limitation set forth in clause (i) 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

Explanation

The Senate bill limited the use of cash bonus bidding to not more than fifty percent of the acreage offered in frontier areas. The House amendment put this requirement at 66⅔ percent. Both versions provide for exceptions after Congressional Review. The proposed Senate amendment would adopt the House approach with one modification taken directly from the Senate bill. This would allow the Secretary, during the first year after enactment, without Congressional approval, to use cash bonus bidding for more than two-thirds of the areas offered for lease if he found that compliance with the limitation would unduly delay OCS oil and gas development.

13. Technical Amendment—Approval of Use of Bonus Bid System

Page 35, strike out lines 13 through 24 and insert the following:

> (iii) Clauses (iv) through (xi) 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.

Page 36, line 6, strike out "Committee" and insert "committee".

Explanation

This amendment rewrites clause (iii) as to the approval of use of the bonus bid system in more than one-third of the leases offered so as to conform this provision to the standard language used in provisions relating to the approval resolution process.

14. Amendment—Terms of Leases

Page 39, line 16, to page 40, line 3, strike from "(2) be for a period" to "lease;" and insert:

(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 usually adverse weather conditions,
and as long after such initial period as oil or gas may be produced from an area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

Explanation

The Senate bill provided for lease terms of up to ten years in areas of usually deep water or unusually adverse weather conditions. The House amendment only allowed for a five-year extension of a five-year lease in such cases. This amendment adopts the Senate provision.

15. Amendment—Anti-Trust Provision

Page 41, line 5, strike out "would" and insert "may".

Explanation

The House amendment added provisions for antitrust review of proposed leases, which were not in the Senate bill. These provisions were modeled on those in the Naval Petroleum Reserves Production Act of 1976 (Public Law 94–258) and the Federal Coal Leasing Amendments Act (Public Law 94–377).

Among other things, Section 205(b) of the House amendment requires the Secretary of the Interior to notify the Attorney General and the FTC thirty days before the issuance or extension of any proposed lease, and "(s)uch notification shall contain such information as the Attorney General and the Federal Trade Commission may require in order to advise the Secretary as to whether such lease or extension would create or maintain a situation inconsistent with the antitrust laws".

From a technical antitrust standpoint, the correct word is "may". The object of the antitrust section of the OCS bill is to permit the Justice Department and the Federal Trade Commission to challenge potentially anticompetitive leases before they are issued, i.e., in their incipiency. In this regard, the purpose is identical to that of section 7 of the Clayton Act, which prohibits corporate acquisitions "where . . . the effect of such acquisition may be substantially to lessen competition . . . ." (emphasis added.)

This amendment simply substitutes "may" for "would".

16. Discussion—Joint Federal State leasing

The House amendment added a provision, page 42, line 8, to page 45, line 25, allowing joint Federal/State leasing of lands "within three miles of the seaward boundary of any coastal State." The Managers on behalf of both the House and Senate retained this provision in the conference report. Under this provision, the Secretary of the Interior must supply "all information", about the characteristics of the ad-

jacent zone if there is a potentiality of a joint lease. This information, the Managers agreed, would not be of an unlimited scope, but rather would be limited to the geographical, geological, and ecological characteristics deemed relevant and important in an evaluation by the coastal States as to agreeing to a joint lease.

The requirement that "all information" be supplied must be read in light of Section 26, requiring regulations as to confidential or privileged information. Regulations as to confidentiality, to be prepared pursuant to Section 26, should require that the Secretary make a preliminary determination, as promptly as possible and certainly no later than immediately after soliciting nominations for an area, as to whether a proposed Federal lease area contains a field or geological structure or trap that extends into State tidelands. Only if the existence of such a common formation is so determined, all information, including otherwise confidential or privileged data, is to be made accessible to the Governor or his designated representative. Knowledge so obtained would be subject, under Section 26, to applicable Federal confidentiality provisions. Individuals securing permits, or other authorization, to conduct pre-lease studies would, through these regulations, be aware of this limited pre-lease availability. Thus, a Governor, as a potential joint lessor, would have the same information available as the Federal Government, and private survery and exploration firms would be assured of confidentiality.

17. Amendment—On-Structure Permits—Definition of frontier areas

On page 47, after subsection (h), add the following new subsection:

'(i) For purposes of subsections (g) and (h) of this section, neither the Gulf of Mexico nor the Santa Barbara Channel shall be considered to be frontier areas.

Explanation

It was the intention of the House in its amendment to limit the provision providing for the Secretary to seek qualified applicants for on-structure drilling permits to frontier areas, and not to require such action by the Secretary in previously-developed regions. This amendment clarifies the language of the provision so as to conform with its intent.

18. Amendment—Drilling

Page 47, strike out line 6 and insert the following:

and gas accumulations. The Secretary shall, by regulation, specify the length of time during which he will seek such applicants.

(h) The Secretary is authorized and directed to contract for exploratory drilling on geological structures which the Secretary, in his discretion, determines should be explored by the Federal Government for national security or environmental reasons or for the purpose of expediting development in frontier areas. Such exploratory drilling shall not be done in areas included in the leasing program prepared pursuant to section 18 of this Act.

Explanation

In connection with oil and gas exploration on the OCS, the House amendment contains a provision (Sec. 206) which requires the Secretary "at least once in each frontier area" to "seek qualified applicants" to conduct geological explorations, including core and test drilling, in areas having the greatest likelihood of containing oil and gas. The Senate bill has no comparable requirement.

While this provision for possible on-structure stratigraphic drilling by private industry is reasonable, it appears desirable to set a specific limit on the length of time during which the Secretary must "seek qualified applicants." This amendment would authorize and direct the Secretary to set a specific deadline.

In addition, the Senate bill (new Section 19) provides for a comprehensive OCS oil and gas information gathering program, including requirements for detailed mapping and an experimental program of exploratory drilling under government contract. $500 million was authorized to be appropriated for such drilling. The House amendment has no comparable provision.

This amendment would allow a federal exploratory drilling program to be carried out under contract with private industry. This would be limited to situations where the Secretary of the Interior, *in his discretion*, determined that government exploration was needed for national security or environmental reasons or to expedite development in frontier areas. Areas included in the five-year leasing program would be excluded from federal exploration.

19. Technical Amendment—Leasing Program

Page 53, strike out line 1 and all that follows down through line 25 on page 54, and insert in lieu thereof the following:

(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 the Regional Outer Continental Shelf Advisory Boards, 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, local government, or Regional Outer Continental Shelf Advisory Board 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.

Page 49, line 17, strike out "subsection (c)" and insert in lieu thereof "subsections (c) and (d)".

Explanation

This amendment rearranges subsections (c) and (d) of new section 18 of the Outer Continental Shelf Lands Act so that the requirements of such subsections with respect to the procedures to be followed by the Secretary in the preparation, publication, and approval of the leasing program are set forth in chronological order.

20. Amendment—Recommendations of Governors and Regional Advisory Boards

Page 58, strike out lines 12 through 20 and insert the following:

in a balanced manner, consistent with the policies of this Act. If the recommendations from State Governors or Regional Advisory Boards conflict with each other, the Secretary shall accept any of those recommendations which he finds to be the most consistent with the national interest. If the Secretary finds that he cannot accept recommendations made pursuant to this subsection, he shall communicate, in writing, to such Governor or such Board the reasons for rejection of such recommendations. The Secretary's determination that recommendations are not consistent with the national security or the

overriding 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.

Explanation

Both the Senate bill and the House amendment provide for establishment of Regional OCS Advisory Boards, and require the Secretary to accept the recommendations of such Boards and of State Governors unless he determines such recommendations are not consistent with the national interest.

The Senate bill provided that the Secretary's determination of overriding national interest would be final unless determined in a judicial review to be arbitrary or capricious. The House amendment broadened the scope of judicial review of the Secretary's determination.

This amendment retains the House language but adds the original Senate limitation on judicial review of the overriding of a State Governor or Regional Board recommendations.

21. Amendment—Development of Safety Regulations

Page 61, line 19, insert "(A)" immediately after "(a)(1)".

Page 61, strike out line 23 and all that follows down through line 10 on page 62, and insert in lieu thereof the following:

Except as provided in subparagraph (B), such regulations shall be developed by the Secretary with the concurrence of the Administrator of the Environmental Protection Agency, the Secretary of the Army, and the Secretary of the Department in which the Coast Guard is operating.

(B) Regulations for occupational safety and health shall be developed with the concurrence of the Secretary of Labor.

Explanation

The Senate bill provides for the safety regulations to be prepared by the Secretary of the Interior with the concurrence of the Environmental Protection Agency and the Coast Guard.

The House amendment splits up this responsibility. Regulations are to be developed by the Secretary (1) for the protection of the environment with the EPA or the Secretary of Commerce (NOAA), (2) for the avoidance of navigational hazards, with the Army or Coast Guard, (3) for occupational safety and health with the Secretary of Labor (OSHA) or Coast Guard.

The amendment adopts the original Senate approach but specifies, as did the House amendment, that regulations relating to occupational safety and health will be developed with the concurrence of the Secretary of Labor.

It is the intention of the managers that OSHA, with primary jurisdiction over occupational safety and health industry-wide and having its special expertise, not be displaced in exercising primary responsibility in development, enforcement and promulgation of regulations concerning occupational safety and health on the Outer Continental Shelf by action of any other agency. Expressed differently, the Coast Guard and the Interior Department, by cooperating with OSHA in

matters concerning occupational safety and health, or independently regulating, should not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health, so as to totally exclude OSHA.

Accordingly, under the final version of S. 521 should the Coast Guard or the Interior Department or any other Federal agency act to regulate occupational safety and health on the Outer Continental Shelf, OSHA will retain its joint enforcement authority and its power to veto regulations concerning occupational safety and health affecting the Outer Continental Shelf, not withstanding section 4(b)(1) of the Occupational Safety and Health Act of 1970.

22. Amendment—Standard of Technology

Page 62, line 15, strike out "economically achievable,".

Explanation

The Senate bill provides that the Secretary's safety regulations must require use of the best available technology on all new OCS operations and, wherever practicable, on already existing operations.

The House amendment retained this provision but refers to best available and safest technology "*economically achievble*". (Emphasis added.)

This amendment would retain the House language except for the words "economically achievable". There is no need for this qualification with respect to existing operations where the "whenever practicable" test would apply. With respect to new operations, adding an "economically achievable" test could lead to use of less safe equipment in marginal development situations.

23. Technical Amendment—Safety Regulation Promulgation

Page 63, line 9, insert "new" immediately before "safety".

Page 63, line 12, strike out "Any safety regulation" and all that follows through line 16, and insert in lieu thereof the following: Such complete set of new safety regulations—

> (A) shall take effect so that there is no period of time between the expiration of such existing safety regulations and the effective date of such new safety regulations; and
>
> (B) shall include any safety regulation in effect on the date of enactment of this section which such Federal officials find should be retained.

No safety regulation (other than a field order)

Explanation

This amendment clarifies the procedure to be followed with respect to the review of existing safety regulations and the promulgation of a complete set of new safety regulations. The provisions require that the existing safety regulations not expire before the new set of safety regulations take effect and that the new set of safety regulations include any existing safety regulations which the applicable federal officials determine should be retained.

24. Amendment—Inspection Frequency

Page 65, line 23, strike out "twice" and insert "once".

Explanation

The Senate bill requires the Secretary to provide for physical observation of OCS installations at least one a year. The House amendment provides for twice a year inspection. This amendment adopts the original Senate requirement. This is a statutory minimum and does not preclude more frequent inspections where appropriate.

25. Amendment—Response to Allegation of Violations

Page 67, strike out lines 9 through 13 and insert the following:

> (e) The Secretary, or, in the case of occupational safety and health, the Secretary of Labor shall consider any allegation from any person of the existence of a violation of a safety regulation issued under this Act. The respective Secretary shall answer such allegation no later than 90 days after receipt thereof, stating whether or not such alleged violation exists and, if so, what action has been taken.

Explanation

Both the Senate bill and the House amendment require the relevant official to consider any allegation of the existence of a violation of a safety regulation. The Senate bill specifically required that an allegation be answered within 90 days.

This amendment adds this requirement to the House amendment.

26. Amendment—Citizen Suits—Standing

Page 69, line 5, between "agency" and "for", insert "(to the extent permitted by the eleventh amendment to the Constitution)".

Explanation

Previous Acts, such as the Federal Water Pollution Control Act and the Clean Air Act, specifically contain a parenthetical phrase limiting standing where the Constitution so requires. This amendment is intended to conform the citizen suits provision of S. 521 to its original intention by adding the parenthetical phrase, so as to avoid any unintentional inference.

> (A) shall take effect so that there is no period of time between the expiration of such existing safety regulations and the effective date of such new safety regulations; and
>
> (B) shall include any safety regulation in effect on the date of enactment of this section which such Federal officials find should be retained.

27. Amendment—Citizens' Suits—Common Law Remedies

Page 70, line 23, insert after "Act" the first time it appears therein the following: "or common law".

Explanation

Both the Senate bill and the House amendment contain similar provisions relating to citizen suits to enforce the OCS law and regulations. This amendment is a technical one. It is simply designed to assure that the provisions of the bill (new section 23) do not restrict any right to relief which anyone may have under common law.

28. Technical Amendment—Applicability of Development and Production Plan Requirement

Page 76, lines 1 to 4, after "Shelf" delete from "where" to "Channel" and insert "other than the Gulf of Mexico or the Santa Barbara Channel,"

Page 77, line 5, after "Act" insert the following: "in any region of the outer Continental Shelf other than the Gulf of Mexico or the Santa Barbara Channel,"

On page 78, lines 15 to 18, after "Shelf" delete from "where" to "Channel,"; and insert "other than the Gulf of Mexico or the Santa Barbara Channel,"

Explanation

It was the intention of the House in its amendment to not require submission and approval of a development and production plan in any developed OCS region. The only two such regions are the Santa Barbara Channel and the Gulf of Mexico. This amendment explicitly names these two areas as excluded from the development and production plan requirement so as to conform to the original intent of the provision.

Thus, the development and production plan requirement does apply to leases for areas on the Atlantic Coast; off of Alaska, and, except for the Santa Barbara Channel area; off of Southern California and the Pacific Coast.

29. Technical Amendments—Grammatical and Clerical Errors

Page 82, line 25, insert a comma after "Act".

Page 87, line 20, strike out "to".

Page 89, line 6, strike out the comma.

Explanation

These amendments make conforming grammatical and clerical changes to the engrossed House bill.

30. Discussion—Small Refiner

The House amendment, in a new Section 27, grants authority to the Secretary of the Interior to dispose of oil he obtains under the Act to "Small refiners". A "small refiner" is defined on page 93, lines 18 to 24, as an owner of a refinery or of refineries "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...."

It is intended that the Secretary, from time to time, classify those refiners eligible for preferential access to OCS oil obtained under Section 27 and that, while the refiner must be a small business concern, the Secretary is to have the discretion to adopt the definitions of "small refiner", either as employed by the Small Business Administration, or in any other manner consistent with federal policy as to refineries reflected in the Mineral Leasing Act of 1920, as amended on July 13, 1946; in the Small Business Act; in the Emergency Petroleum Allocation Act of 1973; and in various federal antitrust laws and federal programs.

31. Amendment—Oil Spill Liability—"Act of God" Defense

Page 105, line 15, insert "or" immediately before "(2)"; and strike out lines 17 and 18 and insert in lieu thereof "tity)."

Explanation

The Senate bill contains an oil spill liability provision (new Section 23) modeled after the Trans-Alaska Pipeline Authorization Act of 1973 (Title II of P.L. 93–153) and the Deepwater Port Act of 1974 (P.L. 93–672).

The House amendment contains a more extensive provision (Title III) which applies to oil spills from any OCS facility, and any transportation device, including vessels, for delivery of oil and gas from such a facility. This Title is modeled after the Comprehensive Oil Pollution Liability and Compensation Act of 1975 proposed by the President on July 9, 1975.

This amendment would accept the House amendment with one change. The House amendment provides that a lessee is not liable for damage from an oil spill caused by "a natural phenomenon of an exceptional, inevitable, and irresistable character." This would eliminate this "secular act of God" defense which was not included in the Senate bill. This would encourage OCS operators to make their installations as earthquake and hurricane proof as possible.

32. Technical Amendments—Oil Spill Liability

Page 110, line 25, strike out "collection of such fee may be suspended" and insert "imposition of such fee may be suspended by the Secretary".

Page 120, line 16, strike out "(A)" and insert "(1)".

Page 120, line 20, strike out "(B)" and insert "(2)".

Page 121, line 12, strike out "agency" and insert "department, agency, or instrumentality".

Page 125, line 20, strike out "agency" and insert "department, agency, or instrumentality".

Explanation

These amendments clarify certain provisions in the oil spill title by making it explicit that it is the Secretary of Transportation who has authority to suspend the imposition of the three-cents-per-barrel fee; by applying the provisions to any "department, agency, or instrumentality" of the United States; and by making certain technical numerical changes.

33. Amendment—Rule and Regulation Review

Page 128, strike out line 23 and all that follows down through line 15 on page 129; and on page 2, strike out "Sec. 406. Rule and Regulation Review.".

Explanation

The House amendment contains a provision (Section 406) providing for Congressional veto of any rule or regulation issued under the Act if either House of Congress passes a resolution of disapproval within 60 days after its adoption. The Senate bill has no such provision.

This amendment would delete Section 406 of the House amendment. The constitutionality of Congressional vetoes of Executive regulations is currently being litigated. In addition, there is general legislation on this subject currently pending in both Houses. Inclusion of a specific veto provision in S. 521 at this time is not appropriate.

JOHN M. MURPHY,
MO UDALL,
PATSY T. MINK,
JOSHUA EILBERG,
GERRY E. STUDDS,
CHRISTOPHER J. DODD,
WILLIAM J. HUGHES,
GEORGE MILLER,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
LEE METCALF,
JAMES ABOUREZK,
FLOYD K. HASKELL,
JOHN GLENN,
RICHARD (DICK) STONE,
DALE BUMPERS,
MARK O. HATFIELD,
Managers on the Part of the Senate.

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