

reasons of public safety, administration, or to assure the continued viability of a particular fish or wildlife population. Notwithstanding any other provision of this Act or other law, the Secretary, after consultation with the State and adequate notice and public hearing, may temporarily close any public lands (including those within any conservation system unit), or any portion thereof, to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. If the Secretary determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, the Secretary may immediately close the public lands, or any portion thereof, to the subsistence uses of such population and shall publish the reasons justifying the closure in the Federal Register. Such emergency closure shall be effective when made, shall not extend for a period exceeding sixty days, and may not subsequently be extended unless the Secretary affirmatively establishes, after notice and public hearing, that such closure should be extended.

(Pub. L. 96-487, title VIII, §816, Dec. 2, 1980, 94 Stat. 2430.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

SUBCHAPTER III—FEDERAL NORTH SLOPE LANDS STUDIES, OIL AND GAS LEASING PROGRAM AND MINERAL ASSESSMENTS

§ 3141. Overall study program

(a) Area designated

The Secretary shall initiate and carry out a study of all Federal lands (other than submerged lands on the Outer Continental Shelf) in Alaska north of 68 degrees north latitude and east of the western boundary of the National Petroleum Reserve—Alaska, other than lands included in the National Petroleum Reserve—Alaska and in conservation system units established by this Act.

(b) Purposes

The study shall utilize a systematic interdisciplinary approach to—

- (1) assess the potential oil and gas resources of these lands and make recommendations concerning future use and management of those resources including an evaluation of alternative transportation routes needed for oil and gas development;
- (2) review the wilderness characteristics, and make recommendations for wilderness designation, of these lands; and
- (3) study, and make recommendations for protection of, the wildlife resources of these lands.

(c) Findings

After completion of the study, the Secretary shall make findings on—

(1) the potential oil and gas resources of these lands;

(2) the impact of oil and gas development on the wildlife resources on these lands, particularly the Arctic and Porcupine caribou herds and the polar bear;

(3) the national need for development of the oil and gas resources of all or any portion of these lands;

(4) the national interest in preservation of the wilderness characteristics of these lands; and

(5) the national interest in protection of the wildlife resources of these lands.

(d) Consultations; opportunity for public review and comment

In the course of the study, the Secretary shall consult with the Secretary of Energy and other Federal agencies, the State of Alaska, Native Village and Regional Corporations, the North Slope Borough, the Alaska Land Use Council and the Government of Canada. The Secretary shall provide an opportunity for public review and comment on a draft study and proposed findings prior to their final approval.

(e) Report to President and Congress; annual report to Congress

The Secretary shall submit the study and his findings to the President and the Congress no later than eight years after December 2, 1980. The Secretary shall submit annual reports to Congress on the progress in carrying out this subchapter.

(f) Selection and conveyance of land by State and Natives unaffected

Nothing in this subchapter shall be construed as impeding, delaying, or otherwise affecting the selection and conveyance of land to the State pursuant to the Alaska Statehood Act, or any other Federal law referred to in section 3102(3)(A) of this title, and to the Natives pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] and this Act.

(Pub. L. 96-487, title X, §1001, Dec. 2, 1980, 94 Stat. 2448.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (f), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in subsec. (f), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Alaska Statehood Act, referred to in subsec. (f), is Pub. L. 85-508, July 7, 1958, 72 Stat. 339, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

§ 3142. Arctic National Wildlife Refuge coastal plain resource assessment

(a) Purpose

The purpose of this section is to provide for a comprehensive and continuing inventory and as-

assessment of the fish and wildlife resources of the coastal plain of the Arctic National Wildlife Refuge; an analysis of the impacts of oil and gas exploration, development, and production, and to authorize exploratory activity within the coastal plain in a manner that avoids significant adverse effects on the fish and wildlife and other resources.

(b) Definitions

As used in this section—

(1) The term “coastal plain” means that area identified as such in the map entitled “Arctic National Wildlife Refuge”, dated August 1980.

(2) The term “exploratory activity” means surface geological exploration or seismic exploration, or both, for oil and gas within the coastal plain.

(c) Baseline study

The Secretary, in consultation with the Governor of the State, Native Village and Regional Corporations, and the North Slope Borough within the study area and interested persons, shall conduct a continuing study of the fish and wildlife (with special emphasis on caribou, wolves, wolverines, grizzly bears, migratory waterfowl, musk oxen, and polar bears) of the coastal plain and their habitat. In conducting the study, the Secretary shall—

(A) assess the size, range, and distribution of the populations of the fish and wildlife;

(B) determine the extent, location and carrying capacity of the habitats of the fish and wildlife;

(C) assess the impacts of human activities and natural processes on the fish and wildlife and their habitats;

(D) analyze the potential impacts of oil and gas exploration, development, and production on such wildlife and habitats; and

(E) analyze the potential effects of such activities on the culture and lifestyle (including subsistence) of affected Native and other people.

Within eighteen months after December 2, 1980, the Secretary shall publish the results of the study as of that date and shall thereafter publish such revisions thereto as are appropriate as new information is obtained.

(d) Guidelines

(1) Within two years after December 2, 1980, the Secretary shall by regulation establish initial guidelines governing the carrying out of exploratory activities. The guidelines shall be based upon the results of the study required under subsection (c) of this section and such other information as may be available to the Secretary. The guidelines shall include such prohibitions, restrictions, and conditions on the carrying out of exploratory activities as the Secretary deems necessary or appropriate to ensure that exploratory activities do not significantly adversely affect the fish and wildlife, their habitats, or the environment, including, but not limited to—

(A) a prohibition on the carrying out of exploratory activity during caribou calving and immediate post-calving seasons or during any other period in which human activity may have adverse effects;

(B) temporary or permanent closing of appropriate areas to such activity;

(C) specification of the support facilities, equipment and related manpower that is appropriate in connection with exploratory activity; and

(D) requirements that exploratory activities be coordinated in such a manner as to avoid unnecessary duplication.

(2) The initial guidelines prescribed by the Secretary to implement this subsection shall be accompanied by an environmental impact statement on exploratory activities. The initial guidelines shall thereafter be revised to reflect changes made in the baseline study and other appropriate information made available to the Secretary.

(e) Exploration plans

(1) After the initial guidelines are prescribed under subsection (d) of this section, any person including the United States Geological Survey may submit one or more plans for exploratory activity (hereinafter in this section referred to as “exploration plans”) to the Secretary for approval. An exploration plan must set forth such information as the Secretary may require in order to determine whether the plan is consistent with the guidelines, including, but not limited to—

(A) a description and schedule of the exploratory activity proposed to be undertaken;

(B) a description of the equipment, facilities, and related manpower that would be used in carrying out the activity;

(C) the area in which the activity would be undertaken; and

(D) a statement of the anticipated effects that the activity may have on fish and wildlife, their habitats and the environment.

(2) Upon receiving any exploration plan for approval, the Secretary shall promptly publish notice of the application and the text of the plan in the Federal Register and newspapers of general circulation in the State. The Secretary shall determine, within one hundred and twenty days after any plan is submitted for approval, if the plan is consistent with the guidelines established under subsection (d) of this section. If the Secretary determines that the plan is so consistent, he shall approve the plan: except that no plan shall be approved during the two-year period following December 2, 1980. Before making the determination, the Secretary shall hold at least one public hearing in the State for purposes of receiving the comments and views of the public on the plan. The Secretary shall not approve of any plan submitted by the United States Geological Survey unless he determines that (1) no other person has submitted a plan for the area involved which meets established guidelines and (2) the information which would be obtained is needed to make an adequate report under subsection (h) of this section. The Secretary, as a condition of approval of any plan under this section—

(A) may require that such modifications be made to the plan as he considers necessary and appropriate to make it consistent with the guidelines;

(B) shall require that all data and information (including processed, analyzed and interpreted information) obtained as a result of carrying out the plan shall be submitted to the Secretary; and

(C) shall make such data and information available to the public except that any processed, analyzed and interpreted data or information shall be held confidential by the Secretary for a period of not less than two years following any lease sale including the area from which the information was obtained and: *Provided*, That the Secretary shall prohibit by regulation any person who obtains access to such data and information from the Secretary or from any person other than a permittee from participation in any lease sale which includes the areas from which the information was obtained and from any commercial use of the information. The Secretary shall require that any permittee shall make available such data to any person at fair cost.

(f) Modification to exploration plans

If at any time while exploratory activity is being carried out under an exploration plan approved under subsection (e) of this section, the Secretary, on the basis of information available to him, determines that continuation of further activities under the plan or permit will significantly adversely affect fish or wildlife, their habitat, or the environment, the Secretary may suspend the carrying out of activities under the plan or permit for such time, make such modifications to the plan or to the terms and conditions of the permit (or both suspend and so modify) as he determines necessary and appropriate.

(g) Civil penalties

(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, to have violated any provision of a plan approved under subsection (e) of this section or any term or condition of a permit issued under subsection (f) of this section, or to have committed any act prohibited under subsection (d) of this section shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$10,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and, with respect to the violator, the history of any prior offenses, his demonstrated good faith in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty

imposed, as provided in section 2112 of title 28. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5.

(3) If any person fails to pay an assessment of a civil penalty against him under paragraph (1) after it has become final, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection unless the matter is pending in court for judicial review or recovery of assessment.

(h) Report to Congress

Not earlier than five years after December 2, 1980, and not later than five years and nine months after such date, the Secretary shall prepare and submit to Congress a report containing—

(1) the identification by means other than drilling of exploratory wells of those areas within the coastal plain that have oil and gas production potential and estimate of the volume of the oil and gas concerned;

(2) the description of the fish and wildlife, their habitats, and other resources that are within the areas identified under paragraph (1);

(3) an evaluation of the adverse effects that the carrying out of further exploration for, and the development and production of, oil and gas within such areas will have on the resources referred to in paragraph (2);

(4) a description of how such oil and gas, if produced within such area, may be transported to processing facilities;

(5) an evaluation of how such oil and gas relates to the national need for additional domestic sources of oil and gas; and

(6) the recommendations of the Secretary with respect to whether further exploration for, and the development and production of, oil and gas within the coastal plain should be permitted and, if so, what additional legal authority is necessary to ensure that the adverse effects of such activities on fish and wildlife, their habitats, and other resources are avoided or minimized.

(i) Effect of other laws

Until otherwise provided for in law enacted after December 2, 1980, all public lands within the coastal plain are withdrawn from all forms of entry or appropriation under the mining laws, and from operation of the mineral leasing laws, of the United States.

(Pub. L. 96-487, title X §1002, Dec. 2, 1980, 94 Stat. 2449; Pub. L. 97-394, title I, §110, Dec. 30, 1982, 96 Stat. 1982.)

AMENDMENTS

1982—Subsec. (e)(2)(C). Pub. L. 97-394 inserted proviso that the Secretary prohibit by regulation any person

who obtains access to such data and information from the Secretary or from any person other than a permittee from participation in any lease sale which includes the areas from which the information was obtained and from any commercial use of the information, and that Secretary require that any permittee make available such data to any person at fair cost.

§ 3143. Production of oil and gas from Arctic National Wildlife Refuge prohibited

Production of oil and gas from the Arctic National Wildlife Refuge is prohibited and no leasing or other development leading to production of oil and gas from the range shall be undertaken until authorized by an Act of Congress.

(Pub. L. 96-487, title X, §1003, Dec. 2, 1980, 94 Stat. 2452.)

§ 3144. Wilderness portion of study

(a) Suitability of lands for preservation as wilderness; report to President

As part of the study, the Secretary shall review the suitability or nonsuitability for preservation as wilderness of the Federal lands described in section 3141 of this title and report his findings to the President.

(b) Presidential recommendations to Congress

The President shall advise the Senate and the House of Representatives of his recommendations with respect to the designation of the area or any part thereof as wilderness together with a map thereof and a definition of its boundaries.

(c) Preservation of wilderness character and potential

Subject to valid existing rights and the provisions of section 3142 of this title, the wilderness study area designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System. Already established uses may be permitted to continue, subject to such restrictions as the Secretary deems desirable, in the manner and degree in which the same were being conducted on December 2, 1980.

(Pub. L. 96-487, title X, §1004, Dec. 2, 1980, 94 Stat. 2452.)

§ 3145. Wildlife resources portion of study and impact of potential oil spills in Arctic Ocean

(a) Wildlife resources

The Secretary shall work closely with the State of Alaska and Native Village and Regional Corporations in evaluating the impact of oil and gas exploration, development, production, and transportation and other human activities on the wildlife resources of these lands, including impacts on the Arctic and Porcupine caribou herds, polar bear, muskox, grizzly bear, wolf, wolverine, seabirds, shore birds, and migratory waterfowl. In addition the Secretary shall consult with the appropriate agencies of the Government of Canada in evaluating such impacts particularly with respect to the Porcupine caribou herd.

(b) Oil spills

(1) The Congress finds that—

(A) Canada has discovered commercial quantities of oil and gas in the Amalagak region of the Northwest Territory;

(B) Canada is exploring alternatives for transporting the oil from the Amalagak field to markets in Asia and the Far East;

(C) one of the options the Canadian Government is exploring involves transshipment of oil from the Amalagak field across the Beaufort Sea to tankers which would transport the oil overseas;

(D) the tankers would traverse the American Exclusive Economic Zone through the Beaufort Sea into the Chuckchi Sea and then through the Bering Straits;

(E) the Beaufort and Chuckchi Seas are vital to Alaska's Native people, providing them with subsistence in the form of walrus, seals, fish, and whales;

(F) the Secretary of the Interior has conducted Outer Continental Shelf lease sales in the Beaufort and Chuckchi Seas and oil and gas exploration is ongoing;

(G) an oil spill in the Arctic Ocean, if not properly contained and cleaned up, could have significant impacts on the indigenous people of Alaska's North Slope and on the Arctic environment; and

(H) there are no international contingency plans involving our two governments concerning containment and cleanup of an oil spill in the Arctic Ocean.

(2)(A) The Secretary of the Interior, in consultation with the Governor of Alaska, shall conduct a study of the issues of recovery of damages, contingency plans, and coordinated actions in the event of an oil spill in the Arctic Ocean.

(B) The Secretary shall, no later than January 31, 1991, transmit a report to the Congress on the findings and conclusions reached as the result of the study carried out under this subsection.

(c) Treaty negotiations

The Congress calls upon the Secretary of State, in consultation with the Secretary of the Interior, the Secretary of Transportation, and the Governor of Alaska, to begin negotiations with the Foreign Minister of Canada regarding a treaty dealing with the complex issues of recovery of damages, contingency plans, and coordinated actions in the event of an oil spill in the Arctic Ocean.

(d) Report to Congress

The Secretary of State shall report to the Congress on the Secretary's efforts pursuant to this section no later than June 1, 1991.

(Pub. L. 96-487, title X, §1005, Dec. 2, 1980, 94 Stat. 2453; Pub. L. 101-380, title VIII, §8302, Aug. 18, 1990, 104 Stat. 572.)

AMENDMENTS

1990—Pub. L. 101-380 inserted “and impact of potential oil spills in Arctic Ocean” in section catchline, designated existing text as subsec. (a), and added subsecs. (b) to (d).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L.