Staff Summary for December 10-11, 2025

2. General Public Comments for Items Not on the Agenda

Today's Item **Information ☒** **Action ☐**

Receive public comment regarding topics within the Commission's authority that are not included on either day of the December 10-11, 2025 agenda.

Summary of Previous/Future Actions

- **Today, receive written and verbal comments and requests** **December 10-11, 2025**
- Consider granting, denying, or referring requests February 11-12, 2026

Background

This item is to provide members of the public an opportunity to address the Commission on topics not on the agenda. Staff may include written materials and comments received prior to the meeting as exhibits in the meeting binder (if received by the written comment deadline), or as supplemental materials and comments at the meeting (if received by the supplemental comment deadline).

General public comments are categorized into two types: (1) requests for non-regulatory action and (2) informational-only comments. Under the Bagley-Keene Open Meeting Act, the Commission cannot discuss or take action on any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, non-regulatory requests generally follow a two-meeting cycle (receipt and direction); the Commission will determine the outcome of non-regulatory requests received at today's meeting at the next regularly scheduled Commission meeting, following staff evaluation (currently February 11-12, 2026).

Significant Public Comments

1. New, non-regulatory requests are summarized in Exhibit 1; the original written requests are provided as exhibits 2 and 3.
2. Informational comments are provided as exhibits 4 through 16.

Recommendation

Commission staff: Consider whether to add any future agenda items to address issues that are raised during public comment.

Exhibits

1. Summary of new, non-regulatory requests received by December 1, 2025
2. A western Joshua tree (WJT) hazard management permit applicant reports that some of their personal information is published online and requests its immediate removal, along with a meeting with Department staff to discuss WJT policy matters, received October 19, 2025

3. Amberlyn Marasigan, Environment California, requests that the Commission sign on to a letter of support for passage of a federal wildlife corridor bill aimed at ensuring safe migration for wildlife species, received October 19, 2025
4. Josh Wels opposes the Catalina Conservancy's permit application to eradicate deer on Catalina Island, citing lack of credible population data, hunting program mismanagement, and potential value of the isolated deer herd in combating chronic wasting disease, and urges the Commission and Department to prioritize biodiversity and disease prevention during permit evaluation, received October 3, 2025
5. Steve Rebuck shares a link to a 2017 article in National Fisherman Magazine on The Nature Conservancy's role in the groundfish fishery and quota access in Morro Bay, citing harm to fishermen and urging exclusion of environmental groups from controlling fishing access, received October 3, 2025
6. Tom Hafer, Secretary, Morro Bay Commercial Fisherman's Organization, submits links to articles on the impacts of offshore wind farms and provides a copy of the Outer Continental Shelf Lands Act, alleging a violation and lack of required monitoring surveys, received October 7 through December 1, 2025
7. Phoebe Lenhart shares a link to an article, "From Droughts to Human Mistakes, California Salmon Near Extinction," received October 19, 2025
8. Two representative samples of 11 email messages, received between November 3 and December 1, 2025, highlight the damages and losses suffered by residents and ranchers in northern California due to recent wolf attacks on livestock.
9. Don Striepeke questions the ban on sport harvest of gooseneck barnacles, citing healthy populations and incidental take during mussel collection, making regulated harvesting a reasonable option, received November 9, 2025
10. Greg Fontana expresses concern about mountain lion population management in the San Francisco Bay area, advocating for reinstating depredation policies to reduce livestock loss and public safety incidents, received November 15, 2025
11. Kathleen Hayden forwards a letter addressed to the Sustainability Planning Division of San Diego County, requesting recognition of *Equus caballus* as an indigenous species and updates to San Diego County's Multiple Species Conservation Program (MSCP) Resource Management Plan, received November 17, 2025
12. The California Dungeness Crab Task Force submits its annual report, with updates and management and policy recommendations to the Department, Commission, and Joint Committee on Fisheries and Aquaculture, received November 20, 2025
13. Keith Rootsaert, Founder, Giant Giant Kelp Restoration Project, updates the Commission on the continued presence of the marine heat wave in Monterey Bay, sharing sunlight and temperature measurements recorded at Tanker's Reef, received November 20, 2025
14. Hannah Williams proposes requiring ropeless gear for the Dungeness crab season to reduce whale entanglements, received November 26, 2025

15. Zoe Collins, Marine Protected Area (MPA) Program Coordinator, Heal the Bay, highlights the organization's contributions and support in advancing the 2023 MPA Decadal Management Review recommendations. The organization remains committed to assisting the Department and its partners in achieving the Marine Life Protection Act goals. Received December 1, 2025.
16. Chris Goldblatt, CEO, Fish Reef Project, highlights the successes of this not-for-profit in re-establishing kelp ecosystems by deploying "sea cave" reef units, which provide an area for marine life to rebuild and thrive. Founded in 2012, the project has successfully installed over 500,000 biogenic reefs in over 70 countries around the world, including in Goleta, California. Received November 26, 2025.

Motion (N/A)

California Fish and Game Commission
Receipt List for Non-Regulatory Requests Received by 5:00 PM on
December 1, 2025 Public Comment Deadline for This Meeting

Date Received	Name/Organization of Requestor	Subject of Request	Short Description	FGC Receipt Scheduled	FGC Action Scheduled
10/19/2025	Permit Applicant (requested anonymity)	Western Joshua Tree (WJT) Hazard Management Permit	Requests the removal of personal information published on CEQANET and a meeting arranged with Department staff to discuss WJT policy matters.	12/10-11/2025	2/11-12/2026
10/19/2025	Amberlyn Marasigan Enviroment California	Federal Wildlife Corridor Bill	Requests the Commission's endorsement of a letter supporting the passage of a federal wildlife corridor bill aimed at ensuring safe migration for wildlife species.	12/10-11/2025	2/11-12/2026

Outlook

Privacy WJT Hazard Permit, Issues with the WJT Conservation Act/CDFW Policies

From [redacted]>
Date Sun 10/19/2025 04:40 PM
To FGC <FGC@fgc.ca.gov>; Supervisor Rowe <Supervisor.Rowe@bos.sbcounty.gov>; Assemblymember.Wallis@assembly.ca.gov <Assemblymember.Wallis@assembly.ca.gov>

California Fish and Game Commission:
Executive Director
Melissa Miller-Henson

cc. CA Assemblymember Wallis, SBC Supervisor Dawn Rowe

I recently applied for a Western Joshua Tree Hazard Management Permit which has resulted in a CEQA Exemption for removal of fallen limbs and trimming.

What has resulted is that the CDFW is now releasing to the world wide web my name, home address "other location info" and parcel number along with specific permit information.

See link-[redacted]

I have also attached screenshots of my private information

I understand that the CA State legislature decided to rezone my entire home and property into a Western Joshua Tree preserve, that CDFW is merely acting on the requirements of the WJT Conservation Act.

As a longtime environmentalist / Community Advocate I have followed this overzealous effort by doing exactly what the CDFW requires. As a result I have also had to obtain 2 Joshua Tree Surveys ($1200), no "takes", to do work on my house in only 3 years. A new limb has now dropped in my driveway so expect another WJT Hazard Management Permit application.

In addition I am the group leader for the Pioneertown Area Firewise Community. We are located in a high fire area in the Morongo Basin. I have sent a letter to CDFW District 6 to ask whether I should direct 400 homeowners to contact the CDFW to request a WJT CEQA Exemption so that we can legally create fire safe boundaries around our homes. See the bottom of this email for information on this issue.

1. PRIVACY ISSUE-

Is there any reason why my personal information has to be so public? I have taken care to put my property in trust and pay a service to remove personal information on the WWW. Do you have NO concern for my privacy

and security?

I am requesting that this information be removed from CEQANET immediately.

Please respond back to this email so I know what is being done.

2. WJT Conservation/CDFW WJT Policies

Last week I met with elected State officials to explain the havoc that the WJT Conservation ACT has caused in the Morongo Basin. I have been involved in land use, environmental and conservation issues for nearly 50 years and am aghast at this situation.

There are approximately 4 million Western Joshua Trees and 10 million Eastern Joshua Trees in Southern California---- so why is CDFW staff so concerned about the trees 10 feet from my house or in disturbed soil 100 ft out?

The WJT is a succulent which spreads through rhizomes in a system yet each stem is now an individual tree. I calculated the cost to replace my main house septic (22 stems, rhizomes trunks and still multiplying tree clumps) and the "take" fee would be over $10,000. The seeds germinate on their own and are popping up in areas where I don't want a tree, yet I cannot remove anything without a "take permit".

In my opinion the cure for this nightmare is a requirement that the CDFW consider the conservation value of land in determining permitting requirements/WJT policies. What this means is that areas with existing suburban residential housing or in commercial areas that have low conservation value it would be appropriate to use "Native Desert Plant" or "Heritage Tree" policies to protect the Joshua Trees. This is similar to how most General Plans, Conservation Plans, and wildlife linkage studies look at land. Even the WJT Conservation Act includes language that encourages policies for new construction to happen in already developed or disturbed lands. Why is the CDFW slapping on huge fees for new residential urban infill projects in Yucca Valley to a point where it's cheaper to buy another lot and develop in a more rural area in the Morongo Basin with no or limited public services?

In Pioneertown, which is an area of environmental critical concern, it would be appropriate to differentiate between a 100' boundary around an existing structure (low conservation value) and WJT habitat. 90% of my property is pristine Joshua Tree Woodlands and I support the current CDFW protections for this "wild" area.

I would be happy to discuss these issues with the CDFW staff. **I need to resolve the Firewise fuel reduction issues ASAP due to public safety.** Could you please set up a meeting?

Please remove my address/parcel information if you forward this email.

Consider this an SOS signal and NOT a white flag.

[redacted] Pioneertown

---------- EMAIL TO DISTRICT 6 CDFW

Oct. 17 2025
To- AskRegion6@wildlife.ca.gov
From- FirewisePioneertown@gmail.com
Dear CDFW,
I am the group leader for the Pioneertown Area Firewise Community. We are a community in a high fire zone (see map). Our town experienced devastating losses in the 2006 Sawtooth Complex fire https://en.wikipedia.org/wiki/Sawtooth_Complex_Fire

Many of us have lost our fire insurance or have had the rates go up 300% in the last few years.
The CA Insurance Commission "Safer from Wildfire" encourages homeowners to reduce fuel hazards out to 100 feet of our homes. In addition we receive insurance discounts for fuel reduction. To keep this certification as a Firewise

Community we must document 400 hours of volunteer work dedicated to creating fire safe boundaries around our home.

Pioneertown is considered a Joshua Tree Woodlands with tens of thousands of acres of conservation land (primarily owned by The Wildlands Conservancy and the Mojave Land Trust) along with the Sand to Snow National Monument. We understand that our community is an important area for Joshua Trees but how do we protect our family and homes from wildfires.?

I read the CDFW's policy on fire harding/fire safe practices here https://wildlife.ca.gov/Conservation/Environmental-Review/WJT/FAQ

Do you want me to instruct 400 homeowners to contact the CDFW and apply for a CEQA exemption/permit to reduce fuel hazards (primarily habitat not Western Joshua Trees) within 100 feet of their homes. Or can you suggest a better way to handle this situation?

[redacted]
Pioneertown Area Firewise Community
[redacted]

ern Joshua Tree Hazard Management Project (Western Joshua Tree Conservation Ac Permit No. [redacted])

ary

SCH Number	[redacted]
Public Agency	California Department of Fish and Wildlife, Habitat Conservation Planning (CDFW)
Document Title	Western Joshua Tree Hazard Management Project (Western Joshua Tree Conservation Act Permit No. [redacted])
Document Type	NOE - Notice of Exemption
Received	8/7/2024
Posted	8/7/2024
Document Description	The California Department of Fish and Wildlife is issuing a western Joshua tree hazard management permit to Ke rie Aley (Permit No. [redacted]) pursuant to Fish and Game Code section 1927.4 for a project to trim anc remove six living western Joshua tree limbs, to trim and remove one dead and attached western Joshua tree limb and to remove several dead and detached western Joshua tree limbs . Western Joshua tree hazard management permits are issued to property owners for the purpose of removing or trimming a dead western Joshua tree or trimming a living western Joshua tree, provided that the dead western Joshua tree or any limb to be removed meet one of the following conditions: (A) has fallen over and is within 30 feet of a structure; (B) is leaning against an existing structure; or (C) creates an imminent threat to public health or safety.

Contact Information

Name	Mika Samoy
Agency Name	California Department of Fish and Wildlife, Habitat Conservation Planning Branch
Job Title	Environmental Scientist
Contact Types	Lead/Public Agency
Address	Habitat Conservation Planning Branch-Native Plant Program P.O. Box 944209 Sacramento, CA 94244-2090
Phone	[redacted]
Email	[redacted]

Location

Cities	Pioneertown
Counties	San Bernardino
Regions	Southern California
Zip	[redacted]
Parcel #	[redacted]
Other Location Info	[redacted] Pioneertown, CA

Notice of Exemption

Exempt Status	Categorical Exemption
Type, Section or Code	California Code of Regulations, Title 14, Section 15304, Class 4 and Section 15301, Class 1
Reasons for Exemption	The Project consists of minor private alterations in the condition of land or vegetation which do not involve the removal of healthy, mature trees, and the Project involves maintenance of existing landscaping and native growth that involves negligible or no expansion to existing public or private structure use.
County Clerk	San Bernardino

Attachments

Notice of Exemption

Disclaimer: The Governor's Office of Land Use and Climate Innovation (LCI) accepts no responsibility for the content or accessibility of these documents. To obtain an attachment in a different format, please contact the lead agency at the contact information listed above. For more information, please visit LCI's Accessibility Site.

From: Amberlyn Marasigan <amarasigan@environmentcalifornia.org>
Sent: Sunday, October 19, 2025 5:21 PM
To: FGC <FGC@fgc.ca.gov>
Subject: Hunting Groups Tell Congress: Support Wildlife Corridors

Hello Mike,

My name is Amberlyn Marasigan, and I am reaching out with a quick favor: Environment California is working to pass a federal wildlife corridors bill, which will help species from ducks to deer to elk (and more!) move freely during their migrations. We need your group's help to pass this bill by signing on to a letter of support.

The bill in Congress is called the Wildlife Movement through Partnerships Act, authored by Republican Representative Ryan Zinke of Montana. The bill focuses on reconnecting fractured habitats that wildlife in this country need in order to not only survive, but thrive.

The bill will also help reduce the estimated $200 million dollars Californians spend on healthcare and car repairs that result from wildlife-vehicle collisions.

We need to show Congress all of the types of businesses and groups that support this bill: hunting groups, campgrounds, fishing businesses, gear outfitters, motorcyclists, conservation groups, outdoor recreationalists and more. Our goal is to get 250 businesses or groups like yours to sign on to this letter, which we will deliver to Congress. Can we count on your support?

I appreciate your time. If you have any questions, please don't hesitate to email or call: [redacted] I'll give you a call this week to follow up.

Thank you for your time and consideration,

Amberlyn Marasigan

Amberlyn Marasigan
amarasigan@environmentcalifornia.org

Outlook

Catalina Deer Eradication Permit Application Objection

From Joshua Wels <[redacted]>
Date Fri 10/03/2025 07:59 PM
To Dillingham, Tim [redacted]>; FGC <FGC@fgc.ca.gov>; charlton.bonham [redacted]>

Tim Dillingham, Charlton Bonham & CFG Commissioners,

Good morning. I am a hunter who is opposed to the permit application the Catalina Conservancy has initiated. Along with many others, I have hunted the island first hand and have not witnessed many of the conditions they state are present including the deer population levels that they estimate without credible scientific evidence.

Why can't the population be managed to help the islands biodiversity thrive versus wiping out the animals that have been on the island for 95 years? There is no urgent crisis to solve here. Rhe Conservancy states that they have tried a hunting program without success they need. However, they set the program up to fail without the right manager to handle the program. They put an individual with no wildlife management background to handle permitting, delay announcements and seasons and make it impossible for the hunts to succeed. Then after a haphazard program with not acutal dollars expended, they claim a $250k loss despite $100k in plm tag revenue.

My additional concern today is whether or not the development of Chronic Wasting Disease entering California is being considered in the application process. Catalina presents a unique benefit to the state in the future battle with the disease. The isolation of the herd keeps it out of risk of the spread of the disease and in the future this may be an invaluable asset to the species. It would be a disaster to eradicate these animals, not knowing if they might be a critical part of the future of the species as the battle against CWD continues.

CDFW News | Chronic Wasting Disease Confirmed in California Deer Population—CDFW Urges Hunters to be Vigilant and Participate in Disease Surveillance Efforts

I'd appreciate if these issues are addressed as part of the permit evaluation.

Please make the Conservancy live with the deer. When they know eradication isn't the answer, they can bring in the right team to manage the wildlife.

Thank you for your hard work and dedication to our state's wildlife.

Best Regards,

Joshua Wels
Tustin, CA Resident.

Outlook

Fw: California captain wary of NGO investment | National Fisherman

From Steve Rebuck <[redacted]>
Date Sun 10/19/2025 12:49 PM
To Ashcraft, Susan [redacted]>; FGC <FGC@fgc.ca.gov>; Shuman, Craig [redacted]
[redacted]>
Cc CHRISJVOSS [redacted]>; Jack Likins <[redacted]>

----- Forwarded Message -----
From: David Kirk [redacted]
To: Steve Rebuck [redacted]
Sent: Wednesday, December 18, 2019 at 12:14:23 PM PST
Subject: California captain wary of NGO investment | National Fisherman

https://www.nationalfisherman.com/viewpoints/west-coast-pacific/california-captain-wary-ngo-investment/

From: mbcfo member <mbcfo1972@gmail.com>
Sent: Tuesday, October 7, 2025 09:59 PM
To: Doug Boren <douglas.boren@boem.gov>; CentralCoast@Coastal <CentralCoast@coastal.ca.gov>; Andrea Chmelik <Andrea.Chmelik@asm.ca.gov>; Dobroski, Nicole@SLC <Nicole.Dobroski@slc.ca.gov>; Eckerle, Jenn@CNRA <Jenn.Eckerle@resources.ca.gov>; Executive Officer of SLC <ExecutiveOfficer.Public@slc.ca.gov>; ExecutiveStaff@Coastal <ExecutiveStaff@coastal.ca.gov>; FGC <FGC@fgc.ca.gov>; Flint, Scott@Energy <Scott.Flint@energy.ca.gov>; bgibson@co.slo.ca.us <bgibson@co.slo.ca.us>; Greg Haas <greg.haas@mail.house.gov>; Nancy Hann <nancy.hann@noaa.gov>; Harland, Eli@Energy <Eli.Harland@energy.ca.gov>; Dr. Caryl Hart <CommissionerCHart@coastal.ca.gov>; Gonzalez, Kathleen@Waterboards <Kathleen.Gonzalez@Waterboards.ca.gov>; Huckelbridge, Kate@Coastal <Kate.Huckelbridge@coastal.ca.gov>; Kalua, Kaitlyn@CNRA <Kaitlyn.Kalua@resources.ca.gov>; Kato, Grace@SLC <Grace.Kato@slc.ca.gov>; Zara Landrum <zlandrum@morrobayca.gov>; Liu, Serena@Waterboards <Serena.Liu@waterboards.ca.gov>; Lucchesi, Jennifer@DOC <Jennifer.Lucchesi@conservation.ca.gov>; robert@californiamsf.org <robert@californiamsf.org>; McNair, Heather@Coastal <Heather.McNair@coastal.ca.gov>; Deanna Meier <DEANNA.MEIER@tetratech.com>; Meshkati, Shahed@SLC <Shahed.Meshkati@slc.ca.gov>; Jennifer Miller <jennifer.miller@boem.gov>; Miller-Henson, Melissa; Michael Milstein <michael.milstein@noaa.gov>; Monary, Chris@Waterboards <Chris.Monary@Waterboards.ca.gov>; NMFS <nmfs.pa@noaa.gov>; Norway Embassy in Washington DC <emb.washington@mfa.no>; Ocean@ios.doi.gov <Ocean@ios.doi.gov>; Payne, Elizabeth@Waterboards <Elizabeth.Payne@waterboards.ca.gov>; Reece, Elizabeth@Waterboards <Elizabeth.Reece@Waterboards.ca.gov>; John Romero <john.romero@boem.gov>; Street, Joseph@Coastal <Joseph.Street@coastal.ca.gov>; Vierra, Amy@SLC <Amy.Vierra@slc.ca.gov>; Faick, Kat@Waterboards <Kat.Faick@Waterboards.ca.gov>; Clint Weirick <clint.weirick@sen.ca.gov>; Carla Wixom <cwixom@morrobayca.gov>; Wyer, Holly@Coastal <holly.wyer@coastal.ca.gov>; Susan Zaleski <Susan.Zaleski@boem.gov>
Subject: Offshore wind farms causing navigational hazards and lethal collisions

Vessel in deadly sinking after wind turbine collision 'failed to keep lookout
Recharge

Drifting oil tanker almost hits North Sea wind farm in 'near disaster'

Tom Hafer
Secretary MBCFO
[redacted]
[redacted]

Outlook

Outer Continental Shelf Lands Act violation

From mbcfo member <mbcfo1972@gmail.com>

Date Tue 11/04/2025 11:01 AM

To Doug Boren <douglas.boren@boem.gov>; John Romero <john.romero@boem.gov>; CentralCoast@Coastal <CentralCoast@coastal.ca.gov>; Andrea Chmelik <Andrea.Chmelik@asm.ca.gov>; Dobroski, Nicole@SLC <Nicole.Dobroski@slc.ca.gov>; Eckerle, Jenn@CNRA <Jenn.Eckerle@resources.ca.gov>; Executive Officer of SLC <ExecutiveOfficer.Public@slc.ca.gov>; ExecutiveStaff@Coastal <ExecutiveStaff@coastal.ca.gov>; FGC <FGC@fgc.ca.gov>; Flint, Scott@Energy <Scott.Flint@energy.ca.gov>; bgibson@co.slo.ca.us <bgibson@co.slo.ca.us>; Greg Haas <greg.haas@mail.house.gov>; Nancy Hann <nancy.hann@noaa.gov>; Harland, Eli@Energy <Eli.Harland@energy.ca.gov>; Dr. Caryl Hart <CommissionerCHart@coastal.ca.gov>; Gonzalez, Kathleen@Waterboards <Kathleen.Gonzalez@Waterboards.ca.gov>; Huckelbridge, Kate@Coastal <Kate.Huckelbridge@coastal.ca.gov>; Kalua, Kaitlyn@CNRA <Kaitlyn.Kalua@resources.ca.gov>; Kato, Grace@SLC <Grace.Kato@slc.ca.gov>; Zara Landrum <zlandrum@morrobayca.gov>

Cc Doug Burgam <exsec@ios.doi.gov>

To whom it should concern,

The lack of time-series monitoring studies of potential impacts from the project is a violation of the Outer Continental Shelf Lands Act (OCSLA). They are required in the OCSLA to begin within 6 months of issuance of the lease and before any aspect of the project has begun, including site surveys. To date ZERO studies have been initiated. BOEM failed to require them as they should have. The commercial fishing community has been asking for BACI studies of the MBWEA for over 3 years now to no avail and now we see that it was actually legally required by the OCSLA. You should have never allowed Site Surveys before monitoring studies were implemented.

See Section 20 page 36 of the OCSLA **"*Each study required by paragraph (1) of this subsection shall be commenced not later than six months after the date of enactment of this section with respect to any area or region where a lease sale has been held***
...time-series and data trend information to identify any significant changes in the quality and productivity of the environment. "

Sincerely,

Tom Hafer
Secretary MBCFO

OUTER CONTINENTAL SHELF LANDS ACT

[The Act of August 7, 1953, Chapter 345, as Amended]

[As Amended Through P.L. 116–283, Enacted January 1, 2021]

¿Currency: This publication is a compilation of the text of Act of August 7, 1953, Chapter 345. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at https://www.govinfo.gov/app/collection/comps/

¿Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).

AN ACT To provide for the jurisdiction of the United States over the submerged lands of the outer Continental Shelf, and to authorize the Secretary of the Interior to lease such lands for certain purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Outer Continental Shelf Lands Act".

¿43 U.S.C. 1301 note

SEC. 2. DEFINITIONS.—When used in this Act—

(a) The term "outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, Eighty-third Congress, first session), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

(b) The term "Secretary" means the Secretary of the Interior, except that with respect to functions under this Act transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term "Secretary" means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be;

(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, minerals;

(d) The term "person" includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation;

(e) The term "coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced

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

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

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

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

(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State 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 marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

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

(i) The term ''human environment'' means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living condi-

tions, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf;

(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 minerals, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, 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 paying quantities is made and 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 minerals in paying quantities, including geophysical activity, drilling, platform construction, and operation of all onshore support facilities, and which are for the purpose of ultimately producing the minerals discovered;

(m) The term "production" means those activities which take place after the successful completion of any means for the removal of minerals, including such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and workover drilling;

(n) The term "antitrust law" means—

(1) the Sherman Act (15 U.S.C. 1 et seq.);

(2) the Clayton Act (15 U.S.C. 12 et seq.);

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

(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); 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 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;

(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)); and

(q) The term "minerals" includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be pro-

duced from "public lands" as defined in section 103 of the Federal Land Policy and Management Act of 1976.

¿43 U.S.C. 1331

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

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

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

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

(4) since exploration, development, and production of the minerals 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 and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts;

(B) the distribution of a portion of the receipts from the leasing of mineral resources of the outer Continental Shelf adjacent to State lands, as provided under section 8(g), will provide affected coastal States and localities with funds which may be used for the mitigation of adverse economic and environmental effects related to the development of such resources; and

(C) such States, and through such States, affected local governments, 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, minerals of the outer Continental Shelf. [1]

(5) the rights and responsibilities of all States and, where appropriate, local governments, 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

[1] So in law. The period probably should be a semicolon.

technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillage, 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.

¿43 U.S.C. 1332

SEC. 4. LAWS APPLICABLE TO OUTER CONTINENTAL SHELF.—(a)

(1) JURISDICTION OF THE UNITED STATES ON THE OUTER CONTINENTAL SHELF.—

(A) IN GENERAL.—The Constitution and laws and civil and political jurisdiction of the United States are extended, to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State, to—

(i) the subsoil and seabed of the outer Continental Shelf;

(ii) all artificial islands on the outer Continental Shelf;

(iii) installations and other devices permanently or temporarily attached to the seabed, which may be erected thereon for the purpose of exploring for, developing, or producing resources, including non-mineral energy resources; or

(iv) any such installation or other device (other than a ship or vessel) for the purpose of transporting or transmitting such resources.

(B) LEASES ISSUED EXCLUSIVELY UNDER THIS ACT.—Mineral or energy leases on the outer Continental Shelf shall be maintained or issued only under the provisions of this Act.

(2)(A) To the extent that they are applicable and not inconsistent with this Act or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each adjacent State, now in effect or hereafter adopted, amended, or repealed are hereby declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf, and the President shall determine and publish in the Federal Register such projected lines extending seaward and defining each such area. All of such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

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

(3) The provisions of this section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State

for any purpose over the seabed and subsoil of the Outer Continental Shelf, or the property and natural resources thereof or the revenues therefrom.

(b) With respect to disability or death of an employee resulting from any injury occurring as the result of operations conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing, or transporting by pipeline the natural resources, or involving rights to the natural resources, of the subsoil and seabed of the outer Continental Shelf, compensation shall be payable under the provisions of the Longshoremen's and Harbor Workers' Compensation Act. For the purposes of the extension of the provisions of the Longshoremen's and Harbor Workers' Compensation Act under this section—

(1) the term "employee" does not include a master or member of a crew of any vessel, or an officer or employee of the United States or any agency thereof or of any State or foreign government, or of any political subdivision thereof;

(2) the term "employer" means an employer any of whose employees are employed in such operations; and

(3) the term "United States" when used in a geographical sense includes the outer Continental Shelf and artificial islands and fixed structures thereon.

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

(d)(1) The Secretary of the Department in which the Coast Guard is operating shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the artificial islands, installations, and other devices referred to in subsection (a) or on the waters adjacent thereto, as he may deem necessary.

(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 regulation issued under this Act, and the owner shall pay the cost of such marking.

(e) The authority of the Secretary of the Army to prevent obstruction to navigation in the navigable waters of the United States is hereby extended to the artificial islands, installations, and other devices referred to in subsection (a).

(f) The specific application by this section of certain provisions of law to the subsoil and seabed of the outer Continental Shelf and the artificial islands, installations, and other devices referred to in subsection (a) or to acts or offenses occurring or committed thereon shall not give rise to any inference that the application to such is-

lands and structures, acts, or offenses of any other provision of law is not intended.

¿43 U.S.C. 1333

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 rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, not withstanding any other provisions herein, such rules and regulations shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this Act. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. 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. In considering any regulations and in preparing any such views the Attorney General shall consult with the Federal Trade Commission. 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 national interest, to facilitate proper development of a lease or to allow for the construction or negotiation for use of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by suspension or prohibition under clause (A) or (B) 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 with respect to such lease or permit;

(2) with respect to cancellation of any lease or permit—

(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment;

(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit in force;

(B) that such cancellation 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; [2]

(C) that such cancellation 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 canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oilspill, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues, from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement), except that (I) with respect to leases issued before the date of enactment of this subparagraph, such compensation shall be equal to the amount specified in clause (i) of this subparagraph; and (II) in the case of joint leases which are canceled due to the failure of one or more partners to exercise due diligence, the innocent parties shall have the right to seek damages for such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question;

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

(4) for unitization, pooling, and drilling agreements;

(5) for the subsurface storage of oil and gas from any source other than by the Federal Government;

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

(7) for the prompt and efficient exploration and development of a lease area; and

(8) for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), to the extent that activities authorized under this Act significantly affect the air quality of any State.

(b) The issuance and continuance in effect of any lease, or of any assignment or other transfer of any lease, under the provisions

[2] Probably should end with "and".

of this Act shall be conditioned upon compliance with regulations issued under this Act.

(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act, 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, of the lease, or of the regulations issued under this Act, such lease may be forfeited and canceled by a 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 minerals, or under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 21(b) of this Act) assuring maximum environmental protection by utilization of the best available and safest technologies, including the safest practices for pipeline burial and upon the express condition that oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from submerged lands or outer Continental Shelf lands in the vicinity of the pipelines in such proportionate amounts as the Federal Energy Regulatory Commission, in consultation with the Secretary of Energy, 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) Except as provided in paragraph (2), every permit, license, easement, right-of-way, or other grant of authority for the transportation by pipeline on or across the outer Continental Shelf of oil or gas shall require that the pipeline be operated in accordance with the following competitive principles:

(A) The pipeline must provide open and nondiscriminatory access to both owner and nonowner shippers.

(B) Upon the specific request of one or more owner or nonowner shippers able to provide a guaranteed level of throughput, and on the condition that the shipper or shippers requesting such expansion shall be responsible for bearing their proportionate share of the costs and risks related thereto, the Federal Energy Regulatory Commission may, upon finding, after a full hearing with due notice thereof to the interested parties, that such expansion is within technological limits and economic feasibility, order a subsequent expansion of throughput capacity of any pipeline for which the permit, license, ease-

ment, right-of-way, or other grant of authority is approved or issued after the date of enactment of this subparagraph. This subparagraph shall not apply to any such grant of authority approved or issued for the Gulf of Mexico or the Santa Barbara Channel.

(2) The Federal Energy Regulatory Commission may, by order or regulation, exempt from any or all of the requirements of paragraph (1) of this subsection any pipeline or class of pipelines which feeds into a facility where oil and gas are first collected or a facility where oil and gas are first separated, dehydrated, or otherwise processed.

(3) The Secretary of Energy and the Federal Energy Regulatory Commission shall consult with and give due consideration to the views of the Attorney General on specific conditions to be included in any permit, license, easement, right-of-way, or grant of authority in order to ensure that pipelines are operated in accordance with the competitive principles set forth in paragraph (1) of this subsection. In preparing any such views, the Attorney General shall consult with the Federal Trade Commission.

(4) Nothing in this subsection shall be deemed to limit, abridge, or modify any authority of the United States under any other provision of law with respect to pipelines on or across the outer Continental Shelf.

(g)(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 of Energy 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.

(h) The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify the Governor of any affected State and the Secretary may thereafter recommend such changes in such action as are considered appropriate.

(i) 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.

(j) COOPERATIVE DEVELOPMENT OF COMMON HYDROCARBON-BEARING AREAS.—

(1) FINDINGS.—

(A) The Congress of the United States finds that the unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing geological area underlying the Federal and State boundary may result in a number of harmful national effects, including—

(i) the drilling of unnecessary wells, the installation of unnecessary facilities and other imprudent operating practices that result in economic waste, environmental damage, and damage to life and property;

(ii) the physical waste of hydrocarbons and an unnecessary reduction in the amounts of hydrocarbons that can be produced from certain hydrocarbon-bearing areas; and

(iii) the loss of correlative rights which can result in the reduced value of national hydrocarbon resources and disorders in the leasing of Federal and State resources.

(2) PREVENTION OF HARMFUL EFFECTS.—The Secretary shall prevent, through the cooperative development of an area, the harmful effects of unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing area underlying the Federal and State boundary.

¿43 U.S.C. 1334

SEC. 6. MAINTENANCE OF LEASES ON OUTER CONTINENTAL SHELF.—(a) The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if—

(1) such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from the effective date of this Act, or within such further period or periods as provided in section 7 hereof or as may be fixed from time to time by the Secretary;

(2) such lease was issued prior to December 21, 1948, and would have been on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing it had the State had authority to issue such lease;

(3) there is filed with the Secretary, within the period or periods specified in paragraph (1) of this subsection, (A) a certificate issued by the State official or agency having jurisdiction over such lease stating that it would have been in force and effect as required by the provisions of paragraph (2) of this subsection, or (B) in the absence of such certificate, evidence in the form of affidavits, receipts, canceled checks, or other documents that may be required by the Secretary, sufficient to prove that such lease would have been so in force and effect;

(4) except as otherwise provided in section 7 hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and the effective date of this Act, which have not been paid in accordance with the provisions thereof, or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in para-

graph (1) of this subsection, and all rents, royalties, and other sums payable under such lease after the effective date of this Act, are paid to the Secretary, who shall deposit such payments in the Treasury in accordance with section 9 of this Act;

(5) the holder of such lease certifies that such lease shall continue to be subject to the overriding royalty obligations existing on the effective date of this Act;

(6) such lease was not obtained by fraud or misrepresentation;

(7) such lease, if issued on or after June 23, 1947, was issued upon the basis of competitive bidding;

(8) such lease provides for a royalty to the lessor on oil and gas of not less than 12½ per centum and on sulphur of not less than 5 per centum in amount or value of the production saved, removed, or sold from the lease, or, in any case in which the lease provides for a lesser royalty, the holder thereof consents in writing, filed with the Secretary, to the increase of the royalty to the minimum herein specified;

(9) the holder thereof pays to the Secretary within the period or periods specified in paragraph (1) of this subsection an amount equivalent to any severance, gross production, or occupation taxes imposed by the State issuing the lease on the production from the lease, less the State's royalty interest in such production, between June 5, 1950, and the effective date of this Act and not heretofore paid to the State, and thereafter pays to the Secretary as an additional royalty on the production from the lease, less the United States' royalty interest in such production, a sum of money equal to the amount of the severance, gross production, or occupation taxes which would have been payable on such production to the State issuing the lease under its laws as they existed on the effective date of this Act;

(10) such lease will terminate within a period of not more than five years from the effective date of this Act in the absence of production or operations for drilling, or, in any case in which the lease provides for a longer period, the holder thereof consents in writing, filed with the Secretary, to the reduction of such period so that it will not exceed the maximum period herein specified; and

(11) the holder of such lease furnishes such surety bond, if any, as the Secretary may require and complies with such other reasonable requirements as the Secretary may deem necessary to protect the interests of the United States.

(b) Any person holding a mineral lease, which as determined by the Secretary meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with (1) its provisions as to the area, the minerals covered, rentals and, subject to the provisions of paragraphs (8), (9) and (10) of subsection (a) of this section, as to royalties and as to the term thereof and of any extensions, renewals, or replacements authorized therein or heretofore authorized by the laws of the State issuing such lease, or, if oil or gas was not being produced in paying quantities from such lease or or before December 11, 1950, or if production in paying quantities has ceased since June 5, 1950, or if the primary term of such lease has

expired since December 11, 1950, then for a term from the effective date hereof equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of such State, and (2) such regulations as the Secretary may under section 5 of this Act prescribe within ninety days after making his determination that such lease meets the requirements of subsection (a) of this section: *Provided, however,* That any rights to sulphur under any lease maintained under the provisions of this subsection shall not extend beyond the primary term of such lease or any extension thereof under the provisions of such subsection (b) unless sulphur is being produced in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by such lease on the date of expiration of such primary term or extension: *Provided further,* That if sulphur is being produced in paying quantities on such date, then such rights shall continue to be maintained in accordance with such lease and the provisions of this Act: *Provided further,* That, if the primary term of a lease being maintained under subsection (b) hereof has expired prior to the effective date of this Act and oil or gas is being produced in paying quantities on such date, then such rights to sulphur as the lessee may have under such lease shall continue for twenty-four months from the effective date of this Act and as long thereafter as sulphur is produced in paying quantities, or drilling, well working, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by the lease.

(c) The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or under the lease, or respecting activities conducted under the lease, prior to the effective date of this Act.

(d) Any person complaining of a negative determination by the Secretary of the Interior under this section may have such determination reviewed by the United States District Court for the District of Columbia by filing a petition for review within sixty days after receiving notice of such action by the Secretary.

(e) In the event any lease maintained under this section covers lands beneath navigable waters, as that term is used in the Submerged Lands Act, as well as lands of the outer Continental Shelf, the provisions of this section shall apply to such lease only insofar as it covers lands of the outer Continental Shelf.

¿43 U.S.C. 1335

SEC. 7. CONTROVERSY OVER JURISDICTION.—In the event of a controversy between the United States and a State as to whether or not lands are subject to the provisions of this Act, the Secretary is authorized, notwithstanding the provisions of subsections (a) and (b) of section 6 of this Act, and with the concurrence of the Attorney General of the United States, to negotiate and enter into agreements with the State, its political subdivision or grantee or a lessee thereof, respecting operations under existing mineral leases and

payment and impounding of rents, royalties, and other sums payable thereunder, or with the State, its political subdivision or grantee, respecting the issuance or nonissuance of new mineral leases pending the settlement or adjudication of the controversy. The authorization contained in the preceding sentence of this section shall not be construed to be a limitation upon the authority conferred on the Secretary in other sections of this Act. Payments made pursuant to such agreement, or pursuant to any stipulation between the United States and a State, shall be considered as compliance with section 6(a)(4) hereof. Upon the termination of such agreement or stipulation by reason of the final settlement or adjudication of such controversy, if the lands subject to any mineral lease are determined to be in whole or in part lands subject to the provisions of this Act, the lessee, if he has not already done so, shall comply with the requirements of section 6(a), and thereupon the provisions of section 6(b) shall govern such lease. The notice concerning "Oil and Gas Operations in the Submerged Coastal Lands of the Gulf of Mexico" issued by the Secretary on December 11, 1950 (15 F. R. 8835), as amended by the notice dated January 26, 1951 (16 F. R. 953), and as supplemented by the notices dated February 2, 1951 (16 F. R. 1203), March 5, 1951 (16 F. R. 2195), April 23, 1951 (16 F. R. 3623), June 25, 1951 (16 F. R. 6404), August 22, 1951 (16 F. R. 8720), October 24, 1951 (16 F. R. 10998), December 21, 1951 (17 F. R. 43), March 25, 1952 (17 F. R. 2821), June 26, 1952 (17 F. R. 5833), and December 24, 1952 (18 F. R. 48), respectively, is hereby approved and confirmed.

¿43 U.S.C. 1336

SEC. 8. LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.—(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. Such regulations may provide for the deposit of cash bids in an interest-bearing account until the Secretary announces his decision on whether to accept the bids, with the interest earned thereon to be paid to the Treasury as to bids that are accepted and to the unsuccessful bidders as to bids that are rejected. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

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

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

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

(H) cash bonus bid with royalty at no less than 12 and ½ per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary, which suspensions may vary based on the price of production from the lease; or

(I) subject to the requirements of paragraph (4) of this subsection, any modification of bidding systems authorized in subparagraphs (A) through (G), or any other systems of bid variables, terms, and conditions which the Secretary determines to be useful to accomplish the purposes and policies of this Act, except that no such bidding system or modification shall have more than one bid variable.

(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 after the date of the lease sale.

(3)(A) 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.

(B) In the Western and Central Planning Areas of the Gulf of Mexico and the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude and in the Planning Areas offshore Alaska, the Secretary may, in order to—

(i) promote development or increased production on producing or non-producing leases; or

(ii) encourage production of marginal resources on producing or non-producing leases;

through[3] primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.

[3] Indentation so in original. Probably should be flush.

(C)(i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv)(I), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400–800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 10(a) of the Administrative Procedures Act (5 U.S.C. 702), only for

actions filed within 30 days of the Secretary's determination or redetermination.

(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

(I) For new production, as defined in clause (iv)(I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

(II) For new production, as defined in clause (iv)(II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

(iv) For purposes of this subparagraph, the term "new production" is—

(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or

(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

(v) During the production of volumes determined pursuant to clauses (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds $28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.

(4)(A) The Secretary of Energy shall submit any bidding system authorized in subparagraph (H) of paragraph (1) to the Senate and House of Representatives. The Secretary may institute such bidding system unless either the Senate or the House of Representatives passes a resolution of disapproval within thirty days after receipt of the bidding system.

(B) Subparagraphs (C) through (J) of this paragraph 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 paragraph, 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.

(C) A resolution disapproving a bidding system submitted pursuant to this paragraph 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 Representative, as the case may be.

(D) If the committee to which has been referred any resolution disapproving the bidding system of the Secretary has not reported the resolution at the end of ten 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 bidding system which has been referred to the committee.

(E) 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 one 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.

(F) 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 bidding system.

(G) When the committee has reported, or has been discharged from further consideration of, a resolution as provided in this paragraph, 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.

(H) Debate on the resolution is limited to not more than two 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.

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

(J) 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 bidding system shall be decided without debate.

(5)(A) 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 policies of this Act, require, as to no more than 10 per centum of the tracts offered each year, 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 for the acquisition of valid statistical data if such bidding alternative is otherwise consistent with the provisions of this Act.

(B) The bidding systems authorized by paragraph (1) of this subsection, other than the system authorized by subparagraph (A), shall be applied to not less than 20 per centum and not more than 60 per centum of the total area offered for leasing each year during the five-year period beginning on the date of enactment of this subsection, unless the Secretary determines that the requirements set forth in this subparagraph are inconsistent with the purposes and policies of this Act.

(6) At least ninety days prior to notice of any lease sale under subparagraph (D), (E), (F), or, if appropriate, (H) 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.

(7) After an oil and gas lease is granted pursuant to any of the work commitment options of paragraph (1) of this subsection—

(A) the lessee, at its option, shall deliver to the Secretary upon issuance of the lease either (i) a cash deposit for the full amount of the exploration work commitment, or (ii) a performance bond in form and substance and with a surety satisfactory to the Secretary, in the principal amount of such exploration work commitment assuring the Secretary that such commitment shall be faithfully discharged in accordance with this sec-

tion, regulations, and the lease; and for purposes of this subparagraph, the principal amount of such cash deposit or bond may, in accordance with regulations, be periodically reduced upon proof, satisfactory to the Secretary, that a portion of the exploration work commitment has been satisfied;

(B) 50 per centum of all exploration expenditures on, or directly related to, the lease, including, but not limited to (i) geological investigations and related activities, (ii) geophysical investigations including seismic, geomagnetic, and gravity surveys, data processing and interpretation, and (iii) exploratory drilling, core drilling, redrilling, and well completion or abandonment, including the drilling of wells sufficient to determine the size and area extent of any newly discovered field, and including the cost of mobilization and demobilization of drilling equipment, shall be included in satisfaction of the commitment, except that the lessee's general overhead cost shall not be so included against the work commitment, but its cost (including employee benefits) of employees directly assigned to such exploration work shall be so included; and

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

(8) Not later than thirty days before any lease sale, the Secretary shall submit to the Congress and publish in the Federal Register a notice—

(A) identifying any bidding system which will be utilized for such lease sale and the reasons for the utilization of such bidding system; and

(B) designating the lease tracts selected which are to be offered in such sale under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (H) of paragraph (1), and the reasons such lease tracts are to be offered under a particular bidding system.

(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 because of unusually deep water or other unusually adverse conditions,

and as long after such initial period as oil or gas is 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 systems set forth in subsection (a) of this section;

(4) entitle the lessee to explore, develop, and produce the oil and gas 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 during the initial lease term or thereafter pursuant to section 5 of this Act;

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

(7) provide a requirement that the lessee offer 20 per centum of the crude oil, condensate, and natural gas liquids produced on such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.

(c)(1) Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of such lease sale, except that the Attorney General, after consultation with the Federal Trade Commission, may agree to a shorter review period.

(2) The Attorney General may, in consultation with the Federal Trade Commission, conduct such antitrust review on the likely effects the issuance of such leases would have on competition as the Attorney General, after consultation with the Federal Trade Commission, deems appropriate and shall advise the Secretary with respect to such review. The Secretary shall provide such information as the Attorney General, after consultation with the Federal Trade Commission, may require in order to conduct any antitrust review pursuant to this paragraph and to make recommendations pursuant to paragraph (3) of this subsection.

(3) The Attorney General, after consultation with the Federal Trade Commission, may make such recommendations to the Secretary, including the nonacceptance of any bid, as may be appropriate to prevent any situation inconsistent with the antitrust laws. If the Secretary determines, or if the Attorney General advises the Secretary, after consultation with the Federal Trade Commission and prior to the issuance of any lease, that such lease may create or maintain a situation inconsistent with the antitrust laws, the Secretary may—

(A) refuse (i) to accept an otherwise qualified bid for such lease, or (ii) to issue such lease, notwithstanding subsection (a) of this section; or

(B) issue such lease, and notify the lessee and the Attorney General of the reason for such decision.

(4)(A) Nothing in this subsection shall restrict the power under any other Act or the common law of the Attorney General, the Federal Trade Commission, or any other Federal department or agency

to secure information, conduct reviews, make recommendations, or seek appropriate relief.

(B) Neither the issuance of a lease nor anything in this subsection shall modify or abridge any private right of action under the antitrust laws.

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

(e) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General.

(f) 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.

(g)(1) At the time of soliciting nominations for the leasing of lands containing tracts wholly or partially within three nautical miles of the seaward boundary of any coastal State, and subsequently as new information is obtained or developed by the Secretary, the Secretary, in addition to the information required by section 26 of this Act, shall provide the Governor of such State—

(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

(B) at the request of the Governor of such State, all information from all sources concerning the geographical, geological, and ecological characteristics of such tracts;

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

(D) at the request of the Governor of such State, an identification of any field, geological structure, or trap located wholly or partially within three nautical miles of the seaward boundary of such coastal State, including all information relating to the entire field, geological structure, or trap.

The provisions of the first sentence of subsection (c) and the provisions of subsections (e)–(h) of section 26 of this Act shall be applicable to the release by the Secretary of any information to any coastal State under this paragraph. In addition, the provisions of subsections (c) and (e)–(h) of section 26 of this Act shall apply in their entirety to the release by the Secretary to any coastal State of any information relating to Federal lands beyond three nautical miles of the seaward boundary of such coastal State.

(2) Notwithstanding any other provision of this Act, the Secretary shall deposit into a separate account in the Treasury of the United States all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of any Federal tract which lies wholly (or, in the case of Alaska, partially until seven years from the date of settlement of any boundary dispute that is the subject of an agreement under section 7 of this Act entered into prior to January 1, 1986 or until April 15, 1993 with respect to any other tract) within three nautical miles of the sea-

ward boundary of any coastal State, or, (except as provided above for Alaska) in the case where a Federal tract lies partially within three nautical miles of the seaward boundary, a percentage of bonuses, rents, royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of such tract equal to the percentage of surface acreage of the tract that lies within such three nautical miles. Except as provided in paragraph (5) of this subsection, not later than the last business day of the month following the month in which those revenues are deposited in the Treasury, the Secretary shall transmit to such coastal State 27 percent of those revenues, together with all accrued interest thereon. The remaining balance of such revenues shall be transmitted simultaneously to the miscellaneous receipts account of the Treasury of the United States.

(3) Whenever the Secretary or the Governor of a coastal State determines that a common potentially hydrocarbon-bearing area may underlie the Federal and State boundary, the Secretary or the Governor shall notify the other party in writing of his determination and the Secretary shall provide to the Governor notice of the current and projected status of the tract or tracts containing the common potentially hydrocarbon-bearing area. If the Secretary has leased or intends to lease such tract or tracts, the Secretary and the Governor of the coastal State may enter into an agreement to divide the revenues from production of any common potentially hydrocarbon-bearing area, by unitization or other royalty sharing agreement, pursuant to existing law. If the Secretary and the Governor do not enter into an agreement, the Secretary may nevertheless proceed with the leasing of the tract or tracts. Any revenue received by the United States under such an agreement shall be subject to the requirements of paragraph (2).

(4) The deposits in the Treasury account described in this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

(5)(A) When there is a boundary dispute between the United States and a State which is subject to an agreement under section 7 of this Act, the Secretary shall credit to the account established pursuant to such agreement all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of any Federal tract which lies wholly or partially within three nautical miles of the seaward boundary asserted by the State, if that money has not otherwise been deposited in such account. Proceeds of an escrow account established pursuant to an agreement under section 7 shall be distributed as follows:

(i) Twenty-seven percent of all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after

September 18, 1978, of any tract which lies wholly within three nautical miles of the seaward boundary asserted by the Federal Government in the boundary dispute, together with all accrued interest thereon, shall be paid to the State either—

(I) within thirty days of December 1, 1987, or

(II) by the last business day of the month following the month in which those revenues are deposited in the Treasury, whichever date is later.

(ii) Upon the settlement of a boundary dispute which is subject to a section 7 agreement between the United States and a State, the Secretary shall pay to such State any additional moneys due such State from amounts deposited in or credited to the escrow account. If there is insufficient money deposited in the escrow account, the Secretary shall transmit, from any revenues derived from any lease of Federal lands under this Act, the remaining balance due such State in accordance with the formula set forth in section 8004(b)(1)(B) of the Outer Continental Shelf Lands Act Amendments of 1985.

(B) This paragraph applies to all Federal oil and gas lease sales, under this Act, including joint lease sales, occurring after September 18, 1978.

(6) This section shall be deemed to take effect on October 1, 1985, for purposes of determining the amounts to be deposited in the separate account and the States' shares described in paragraph (2).

(7) When the Secretary leases any tract which lies wholly or partially within three miles of the seaward boundary of two or more States, the revenues from such tract shall be distributed as otherwise provided by this section, except that the State's share of such revenues that would otherwise result under this section shall be divided equally among such States.

(h) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title or interest in, any submerged lands.

(i) In order to meet the urgent need for further exploration and development of the sulphur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding sulphur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulphur and meet the requirements of subsection (a) of section 6 of this Act, and which sulphur leases shall be offered for bid by sealed bids and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

(j) A sulphur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of not more than ten years and so long thereafter as sulphur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon, (3) require the payment to the United States of such royalty as may be specified in the lease but not less than 5 per centum of the gross production

of value of the sulphur at the wellhead, and (4) contained such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe at the time of offering the area for lease.

(k)(1) The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

(2)(A) Notwithstanding paragraph (1), the Secretary may negotiate with any person an agreement for the use of Outer Continental Shelf sand, gravel and shell resources—

(i) for use in a program of, or project for, shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency; or

(ii) for use in a construction project, other than a project described in clause (i), that is funded in whole or in part by or authorized by the Federal Government.

(B) In carrying out a negotiation under this paragraph, the Secretary may assess a fee based on an assessment of the value of the resources and the public interest served by promoting development of the resources. No fee shall be assessed directly or indirectly under this subparagraph against a Federal, State, or local government agency.

(C) The Secretary may, through this paragraph and in consultation with the Secretary of Commerce, seek to facilitate projects in the coastal zone, as such term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453), that promote the policy set forth in section 303 of that Act (16 U.S.C. 1452).

(D) Any Federal agency which proposes to make use of sand, gravel and shell resources subject to the provisions of this Act shall enter into a Memorandum of Agreement with the Secretary concerning the potential use of those resources. The Secretary shall notify the Committee on Merchant Marine and Fisheries and the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on any proposed project for the use of those resources prior to the use of those resources.

(l) Notices of sale of leases, and the terms of bidding authorized by this section shall be published at least thirty days before the date of sale in accordance with rules and regulations promulgated by the Secretary.

(m) All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with section 9 of this Act.

(n) The issuance of any lease by the Secretary pursuant to this Act, or the making of any interim arrangements by the Secretary pursuant to section 7 of this Act shall not prejudice the ultimate settlement or adjudication of the question as to whether or not the area involved is in the outer Continental Shelf.

(o) The Secretary may cancel any lease obtained by fraud or misrepresentation.

(p) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government, may grant a lease, easement, or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law, if those activities—

(A) support exploration, development, production, or storage of oil or natural gas, except that a lease, easement, or right-of-way shall not be granted in an area in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium;

(B) support transportation of oil or natural gas, excluding shipping activities;

(C) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

(D) use, for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under this Act, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium.

(2) PAYMENTS AND REVENUES.—(A) The Secretary shall establish royalties, fees, rentals, bonuses, or other payments to ensure a fair return to the United States for any lease, easement, or right-of-way granted under this subsection.

(B) The Secretary shall provide for the payment of 27 percent of the revenues received by the Federal Government as a result of payments under this section from projects that are located wholly or partially within the area extending three nautical miles seaward of State submerged lands. Payments shall be made based on a formula established by the Secretary by rulemaking no later than 180 days after the date of enactment of this section that provides for equitable distribution, based on proximity to the project, among coastal states that have a coastline that is located within 15 miles of the geographic center of the project.

(3) COMPETITIVE OR NONCOMPETITIVE BASIS.—Except with respect to projects that meet the criteria established under section 388(d) of the Energy Policy Act of 2005, the Secretary shall issue a lease, easement, or right-of-way under paragraph (1) on a competitive basis unless the Secretary determines after public notice of a proposed lease, easement, or right-of-way that there is no competitive interest.

(4) REQUIREMENTS.—The Secretary shall ensure that any activity under this subsection is carried out in a manner that provides for—

(A) safety;

(B) protection of the environment;

(C) prevention of waste;

(D) conservation of the natural resources of the outer Continental Shelf;

(E) coordination with relevant Federal agencies;

(F) protection of national security interests of the United States;

(G) protection of correlative rights in the outer Continental Shelf;

(H) a fair return to the United States for any lease, easement, or right-of-way under this subsection;

(I) prevention of interference with reasonable uses (as determined by the Secretary) of the exclusive economic zone, the high seas, and the territorial seas;

(J) consideration of—

(i) the location of, and any schedule relating to, a lease, easement, or right-of-way for an area of the outer Continental Shelf; and

(ii) any other use of the sea or seabed, including use for a fishery, a sealane, a potential site of a deepwater port, or navigation;

(K) public notice and comment on any proposal submitted for a lease, easement, or right-of-way under this subsection; and

(L) oversight, inspection, research, monitoring, and enforcement relating to a lease, easement, or right-of-way under this subsection.

(5) LEASE DURATION, SUSPENSION, AND CANCELLATION.—The Secretary shall provide for the duration, issuance, transfer, renewal, suspension, and cancellation of a lease, easement, or right-of-way under this subsection.

(6) SECURITY.—The Secretary shall require the holder of a lease, easement, or right-of-way granted under this subsection to—

(A) furnish a surety bond or other form of security, as prescribed by the Secretary;

(B) comply with such other requirements as the Secretary considers necessary to protect the interests of the public and the United States; and

(C) provide for the restoration of the lease, easement, or right-of-way.

(7) COORDINATION AND CONSULTATION WITH AFFECTED STATE AND LOCAL GOVERNMENTS.—The Secretary shall provide for coordination and consultation with the Governor of any State or the executive of any local government that may be affected by a lease, easement, or right-of-way under this subsection.

(8) REGULATIONS.—Not later than 270 days after the date of enactment of the Energy Policy Act of 2005, the Secretary, in consultation with the Secretary of Defense, the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, heads of other relevant departments and agencies of the Federal Government, and the Governor of

any affected State, shall issue any necessary regulations to carry out this subsection.

(9) EFFECT OF SUBSECTION.—Nothing in this subsection displaces, supersedes, limits, or modifies the jurisdiction, responsibility, or authority of any Federal or State agency under any other Federal law.

(10) APPLICABILITY.—This subsection does not apply to any area on the outer Continental Shelf within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument.

¿43 U.S.C. 1337

SEC. 9. DISPOSITION OF REVENUES.—All rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

¿43 U.S.C. 1338

¿SEC. 10. Repealed by section 8(b) of P.L. 104–185, 110 Stat. 1717.

SEC. 11. GEOLOGICAL AND GEOPHYSICAL EXPLORATIONS.—(a)(1) Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to aquatic life in such area.

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

(b) Except as provided in subsection (f) of this section, 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) Except as otherwise provided in the Act, 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, including regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of 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 the Secretary shall disapprove such plan if he determines that (A) any proposed activity under such plan would

result in any condition described in section 5(a)(2)(A)(i) of this Act, and (B) such proposed activity cannot be modified to avoid such condition. If the Secretary disapproves a plan under the preceding sentence, he may, subject to section 5(a)(2)(B) of this Act, cancel such lease and the lessee shall be entitled to compensation in accordance with the regulations prescribed under section 5(a)(2)(C) (i) or (ii) of this Act.

(2) The Secretary shall not grant any license or permit for any activity described in detail in an exploration plan and affecting any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), unless the State concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to section 307(c)(3)(B) (i) or (ii) of such Act, or the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act.

(3) 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.

(4) 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 significant 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)(1) Exploration activities pursuant to any lease for which a drilling permit has been issued or for which an exploration plan has been approved, prior to ninety days after the date of enactment of this subsection, shall be considered in compliance with this section, except that the Secretary may, in accordance with section 5(a)(1)(B) of this Act, order a suspension or temporary prohibition of any exploration activities and require a revised exploration plan.

(2) The Secretary may require the holder of a lease described in paragraph (1) of this subsection to supply a general statement in accordance with subsection (c)(4) of this section, or to submit other information.

(3) Nothing in this subsection shall be construed to amend the terms of any permit or plan to which this subsection applies.

(g) Any permit for geological explorations authorized by this section shall be issued only if the Secretary determines, in accordance with regulations issued by the Secretary that—

(1) the applicant for such permit is qualified;

(2) the exploration will not interfere with or endanger operations under any lease issued or maintained pursuant to this Act; and

(3) such exploration will not be unduly harmful to aquatic life in the area, result in pollution, create hazardous or unsafe conditions, unreasonably interfere with other uses of the area, or disturb any site, structure, or object of historical or archeological significance.

(h) The Secretary shall not issue a lease or permit for, or otherwise allow, exploration, development, or production activities within fifteen miles of the boundaries of the Point Reyes Wilderness as depicted on a map entitled "Wilderness Plan, Point Reyes National Seashore", numbered 612–90,000–B and dated September 1976, unless the State of California issues a lease or permit for, or otherwise allows, exploration, development, or production activities on lands beneath navigable waters (as such term is defined in section 2 of the Submerged Lands Act) of such State which are adjacent to such Wilderness.

¿43 U.S.C. 1340

SEC. 12. RESERVATIONS.—(a) The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf.

(b) In time of war, or when the President shall so prescribe, the United States shall have the right of first refusal to purchase at the market price all or any portion of any mineral produced from the outer Continental Shelf.

(c) All leases issued under this Act, and leases, the maintenance and operation of which are authorized under this Act, shall contain or be construed to contain a provision whereby authority is vested in the Secretary, upon a recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or the President of the United States after the effective date of this Act, to suspend operations under any lease; and all such leases shall contain or be construed to contain provisions for the payment of just compensation to the lessee whose operations are thus suspended.

(d) The United States reserves and retains the right to designate by and through the Secretary of Defense, with the approval of the President, as areas restricted from exploration and operation that part of the outer Continental Shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on any part of the surface of such area except with the concurrence of the Secretary of Defense; and if operations or production under any lease theretofore issued on lands within any such restricted area shall be suspended, any payment of rentals, minimum royalty, and royalty prescribed by such lease likewise shall be suspended during such period of suspension of operation and production, and the term of such lease shall be extended by adding thereto any such suspension period,

and the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

(e) All uranium, thorium, and all other materials determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the subsoil or seabed of the outer Continental Shelf are hereby reserved for the use of the United States.

(f) The United States reserves and retains the ownership of and the right to extract all helium, under such rules and regulations as shall be prescribed by the Secretary, contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this Act, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas.

¿43 U.S.C. 1341

SEC. 13. NAVAL PETROLEUM RESERVE EXECUTIVE ORDER REPEALED.—Executive Order Numbered 10426, dated January 16, 1953, entitled "Setting Aside Submerged Lands of the Continental Shelf as a Naval Petroleum Reserve", is hereby revoked.

¿43 U.S.C. 524 note

SEC. 14. PRIOR CLAIMS NOT AFFECTED.—Nothing herein contained shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this Act and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: *Provided, however,* That nothing herein contained is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact applies to the lands subject to this Act or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything herein contained.

¿43 U.S.C. 1342

¿SEC. 15. Repealed by section 901(l)(1) of Public Law 105–362, 112 Stat. 3290.

SEC. 16. APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

¿43 U.S.C. 1331 note

SEC. 17. SEPARABILITY.—If any provision of this Act, or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby.

¿43 U.S.C. 1331 note

SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d) of this section, shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall consist of a schedule of proposed lease sales indicating, 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, 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) the relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and

(H) relevant environmental and predictive information for different areas of the outer Continental Shelf.

(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 lands leased and the rights conveyed 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 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 1969 (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 requirement of applicable laws 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 any interested Federal agency, including the Attorney General, in consultation with the Federal Trade Commission, and from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider any suggestions from the executive of any affected local government in such an affected State, which have been previously submitted to the Governor of such State, and 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 submit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor may solicit comments from those executives of local governments in his State which he, in his discretion, determines will be affected by the proposed program. If any comment by such Governor 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 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, and the Governors of affected States, and shall publish such proposed program in the Federal Register. Each Governor shall, upon request, submit a copy of the proposed leasing program to the executive of any local government affected by the proposed program.

(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General may, after consultation with the Federal Trade Commission, submit comments on the

anticipated effects of such proposed program upon competition. Any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

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

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

(e) The Secretary shall review the leasing program approved under this section at least once each year. He may revise and reapprove such program, at any time, and such revision and reapproval, except in the case of a revision which is not significant, shall be 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) consideration of the coastal zone management program being developed or administered by an affected coastal State pursuant to section 305 or section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454, 1455).

Such procedures shall be applicable to any significant 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. Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged or 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 nonprivileged or nonproprietary information he requests to assist him in preparing the leasing program and may provide the Secretary with any privileged or proprietary information he requests to assist him in preparing the leasing program. Privileged or proprietary information provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

¿43 U.S.C. 1344

SEC. 19. COORDINATION AND CONSULTATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS.—(a) Any Governor of any affected State or the executive of any affected local government in such State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan. Prior to submitting recommendations to the Secretary, the executive of any affected local government in any affected State must forward his recommendations to the Governor of such State.

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

(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

(d) The Secretary's determination that recommendations provide, or do not provide, for a reasonable balance between the national interest and the well-being of the citizens of the affected State 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.

(e) The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this Act and other applicable Federal law. Such agreements may include, but need not be limited to, the sharing of information (in accordance with the provisions of section 26 of this Act), the joint utilization of available expertise, the facilitating of permitting pro-

cedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.

¿43 U.S.C. 1345

SEC. 20. ENVIRONMENTAL STUDIES.—(a)(1) The Secretary shall conduct a study of any area or region included in any oil and gas lease sale or other lease in order to establish information needed for assessment and management of environmental impacts on the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas or other mineral development in such area or region.

(2) Each study required by paragraph (1) of this subsection shall be commenced not later than six months after the date of enactment of this section with respect to any area or region where a lease sale has been held or announced by publication of a notice of proposed lease sale 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 or scheduled before such date of enactment. In the case of an agreement under section 8(k)(2), each study required by paragraph (1) of this subsection shall be commenced not later than 6 months prior to commencing negotiations for such agreement or the entering into the memorandum of agreement as the case may be. The Secretary may utilize information collected in any study prior to such date of enactment.

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

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

(c) The Secretary shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State of local government, or from any person,

for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

(d) The Secretary shall consider available relevant environmental information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

(e) As soon as practicable after the end of every 3 fiscal years, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

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

¿43 U.S.C. 1346

SEC. 21. SAFETY REGULATIONS.—(a) Upon the date of enactment of this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies, promptly commence a joint study of the adequacy of existing safety and health regulations and of the technology, equipment, and techniques available for the exploration, development, and production of the minerals of the outer Continental Shelf. The results of such study shall be submitted to the President who shall submit a plan to the Congress of his proposals to promote safety and health in the exploration, development, and production of the minerals of the outer Continental Shelf.

(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technologies which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies.

(c) The Secretary of the Department in which the Coast Guard is operating shall promulgate regulations or standards applying to unregulated hazardous working conditions related to activities on the Outer Continental Shelf when he determines such regulations or standards are necessary. The Secretary of the Department in which the Coast Guard is operating may from time to time modify

any regulations, interim or final, dealing with hazardous working conditions on the Outer Continental Shelf.

(d) Nothing in this Act shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety.

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

(f)(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the heads of other appropriate Federal departments and agencies for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

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

¿43 U.S.C. 1347

SEC. 22. ENFORCEMENT.—(a) The Secretary, the Secretary of the Department in which the Coast Guard is operating, and the Secretary of the Army shall enforce safety and environmental regulations promulgated pursuant to this Act. Each such Federal department may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of other Federal departments and agencies for the enforcement of their respective regulations.

(b) It shall be the duty of any holder of a lease or permit under this Act to—

(1) maintain all places of employment within the lease area or within the area covered by such permit in compliance with occupational safety and health standards and, in addition, free from recognized hazards to employees of the lease holder or permit holder or of any contractor or subcontractor operating within such lease area or within the area covered by such permit on the outer Continental Shelf;

(2) maintain all operations within such lease area or within the area covered by such permit in compliance with regulations intended to protect persons, property, and the environment on the outer Continental Shelf; and

(3) allow prompt access, at the site of any operation subject to safety regulations, to any inspector, and to provide such documents and records which are pertinent to occupational or

public health, safety, or environmental protection, as may be requested.

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

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

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

(d)(1) The Secretary or 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 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 during a period of thirty days. All holders of leases or permits issued or maintained under this Act shall cooperate with the appropriate Secretary in the course of any such investigation.

(2) The Secretary or the Secretary of the Department in which the Coast Guard is operating 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 the appropriate Secretary in the course of any such investigation.

(e) The Secretary, or, in the case of occupational safety and health, the Secretary of the Department in which the Coast Guard is operating, may review any allegation from any person of the existence of a violation of a safety regulation issued under this Act.

(f) In any investigation conducted pursuant to this section, the Secretary 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 district courts of the United States. Such Secretary, or his designee, shall administer all necessary oaths to any witnesses summoned before such investigation.

¿43 U.S.C. 1348

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

(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the Secretary and any other appropriate Federal official, to the State in which the violation allegedly occurred or is occurring, and to any alleged violator; or

(B) if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action in a court of the United States any person having a legal interest which is or may be adversely affected may intervene as a matter of right.

(3) An action may be brought under this subsection immediately after notification of the alleged violation in any case in which the alleged violation constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff.

(4) In any action commenced pursuant to this section, the Attorney General, upon the request of the Secretary or any other appropriate Federal official, may intervene as a matter of right.

(5) 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 attorney and expert witness 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 a sufficient amount to compensate for any loss or damage suffered, in accordance with the Federal Rules of Civil Procedure.

(6) Except as provided in subsection (c) of this section, all suits challenging actions or decisions allegedly in violation of, or seeking enforcement of, the provisions of this Act, or any regulation promulgated under this Act, or the terms of any permit or lease issued by the Secretary under this Act, shall be undertaken in accordance with the procedures described in this subsection. Nothing in this section shall restrict any right which any person or class of persons may have under any other Act or common law to seek appropriate relief.

(b)(1) Except as provided in subsection (c) of this section, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with (A) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the minerals, of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such minerals, or (B) 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.

(2) Any resident of the United States who is injured in any manner through the failure of any operator to comply with any rule, regulation, order, or permit issued pursuant to this Act may bring an action for damages (including reasonable attorney and expert witness fees) only in the judicial district having jurisdiction under paragraph (1) of this subsection.

(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 Appeal 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.

(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) of this section.

(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 the issues upon which such objections are based have been submitted to the Secretary during the administrative proceedings related to the actions involved.

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

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

¿43 U.S.C. 1349

SEC. 24. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, the Attorney Gen-

eral 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, any regulation or order issued under this Act, or any term of a lease, license, or permit issued pursuant to this Act.

(b)(1) Except as provided in paragraph (2), if any person fails to comply with any provision of this Act, or any term of a lease, or permit issued pursuant to 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 $20,000 for each day of the continuance of such failure. The Secretary 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. The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor.

(2) If a failure described in paragraph (1) constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty may be assessed without regard to the requirement of expiration of a period allowed for corrective action.

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

¿43 U.S.C. 1350

SEC. 25. OIL AND GAS DEVELOPMENT AND PRODUCTION.—(a)(1) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in any area of the outer Continental Shelf, other than the Gulf of Mexico, or issued or maintained prior to such date of enactment in any area of the outer Continental Shelf, other than the Gulf of Mexico, with respect to which no oil or gas has been discovered in paying quantities prior to such date of enactment, 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 and 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 any privileged or proprietary information (as such term is defined in regulations issued by the Secretary), 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, upon request, to the executive of any affected local government, and (B) make such plan and statement available to any appropriate interstate regional entity 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, unless such lease requires that development and production activities 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 facilities and operations located on the outer Continental Self which are proposed by the lessee of known by him (whether or not owned or operated by such lessee) to be directly related to 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 much 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) The Secretary shall not grant any license or permit for any activity described in detail in a plan affecting any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), unless the State concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to section 307(c)(3)(B) (i) or (ii) of such Act, or the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act.

(e)(1) At least once the Secretary shall declare the approval of a development and production plan in any area or region (as defined by the Secretary) of the outer Continental Shelf, other than the Gulf of Mexico, to be a major Federal action.

(2) The Secretary may require lessees of tracts for which development and production plans have not been approved, 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.

(f) If approval of a development and production 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, and upon request, to the executive of any local government, and shall make such draft available to any appropriate interstate regional entity and the public.

(g) If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State and the executive of any affected local government shall have sixty days from the date of receipt of the plan from the Secretary to submit comments and recommendations. Prior to submitting recommendations to the Secretary, the executive of any affected local government must forward his recommendations to the Governor of his State. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

(h)(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (g) 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 (e) of this section, or sixty days after the period provided for comment under subsection (g) 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, including compliance with the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act. Any modification required by the Secretary which involves activities for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal

Zone Management Act of 1972 (16 U.S.C. 1455) must receive concurrence by such State with respect to the consistency certification accompanying such plan pursuant to section 307(c)(3)(B) (i) or (ii) of such Act unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act. The Secretary shall disapprove a plan—

(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act;

(B) if any of the activities described in detail in the plan for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) do not receive concurrence by such State with respect to the consistency certification accompanying such plan pursuant to section 307(c)(3)(B) (i) or (ii) of such Act and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act;

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

(D) if the Secretary determines, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

(2)(A) If a plan is disapproved—

(i) under subparagraph (A) of paragraph (1); or

(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455),

the lessee shall not be entitled to compensation because of such disapproval.

(B) If a plan is disapproved—

(i) under subparagraph (C) or (D) of paragraph (1); or

(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972, and such approval occurs after the lessee has submitted a plan to the Secretary,

the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of such plan in accordance with this subsection.

(C) Upon expiration of the five-year period described in subparagraph (B) of this paragraph, or, in the Secretary's discretion, 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 compensation in accordance with section 5(a)(2)(C) of this Act. The Secretary may, at any time within the five-year period described in subparagraph (B) of this paragraph, require the lessee to submit a development and production plan for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately initiate procedures to cancel such lease, without compenation, under the provisions of section 5(c) of this Act.

(3) 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.

(i) The Secretary may approve any revision of an approved plan proposed by the lessee 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 human, marine, and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (f) of this section.

(j) 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 be canceled in accordance with sections 5 (c) and (d). 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.

(k) 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 Energy Regulatory 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 Energy Regulatory 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 such agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact state-

ment or duplicate such studies with respect to such portion of such plan, but the Federal Energy Regulatory 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 Energy Regulatory Commission, shall promulgate rules to implement this subsection, but the Federal Energy Regulatory Commission shall retain sole authority with respect to rules and procedures 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.

(l) The Secretary may require the provisions of this section to apply to an oil and gas lease issued or maintained under this Act, which is located in that area of the Gulf of Mexico which is adjacent to the State of Florida, as determined pursuant to section 4(a)(2) of this Act.

¿43 U.S.C. 1351

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 and information (including processed, analyzed, and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribed.

(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 and information 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 information;

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

(iii) by a permittee, in the form and manner of processing which is utilized by such permittee in the normal conduct of his business, the Secretary shall pay such permittee the reasonable cost of reproducing such data and information for the Secretary and shall pay at the lowest rate available to any purchaser for processing such data and information the costs attributable to such processing; and

(iv) by the permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall

pay such permittee the reasonable cost of processing and reproducing such data and information for the Secretary,

pursuant to such regulations as he may prescribe.

(2) Each Federal department and agency shall provide the Secretary with any data obtained by such Federal department or agency 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) Data and 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, and upon request, to any affected local government, 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 or proprietary information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

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

(A) an index, and upon request copies 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, but no information transmitted by the Secretary under this subsection shall identify any particular tract with the name or names of any particular party so as not to compromise the competitive position of any party or parties participating in the nominations;

(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 section, unless the Secretary determines that transmittal of such data prepared pursuant to such 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) Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defenses set forth in subsection (f)(2) of this section, and to hold the United States harmless from any violations of the regulations prescribed pursuant to subsection (c) that the State or its employees may commit.

(f)(1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations prescribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

(2) In any action commenced against the Federal Government or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of such suit was acting outside the scope of his employment in revealing such information.

(g) 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.

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

¿43 U.S.C. 1352

SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—(a)(1) Except as may be necessary to comply with the provi-

sions 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 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 issued or maintained 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 Secretary of Energy, for disposal within the Federal Government.

(b)(1) The Secretary, except as provided in this subsection, 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 Secretary of Energy, 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 allocation or lottery sale to assure such access and shall publish notice of such allocation or sale, and the terms thereof, at least thirty days in advance. 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) The Secretary may only sell or otherwise dispose of oil described in paragraph (1) of this subsection in accordance with any provision of law, or regulations issued in accordance with such provisions, which provide for the Secretary of Energy to allocate, transfer, exchange, or sell oil in amounts or at prices determined by 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 Secretary of Energy, the Federal Energy Regulatory Commission 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 pursuant to the provisions of this section, the Secretary of the Interior may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocation 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 selling or allocating any gas pursuant to this subsection, the Secretary shall consult with the Federal Energy Regulatory 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.

(e) As used in this section—

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

(A) at which 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 Act, any other Act, regulations governing natural gas pricing, or any rule or order issued under any such Act or any such regulations; 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; and

(2) the term ''small refiner'' has the meaning given such term by Small Business Administration Standards 128.3–8 (d) and (g), as in effect on the date of enactment of this section or as thereafter revised or amended.

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

¿43 U.S.C. 1353

SEC. 28. LIMITATION ON EXPORT.—(a) Except as provided in subsection (d) of this section, 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, or which is exchanged or exported pursuant to an existing international agreement.

¿43 U.S.C. 1354

SEC. 29. RESTRICTIONS ON EMPLOYMENT.—No full-time officer or employee of the Department of the 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—

(1) within two years after his employment with the Department has ceased—

(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before;

(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to; or

(C) knowingly aid or assist in representing any other person (except the United States) in any formal or informal appearance before,

any department, agency, or court of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, regulation, order, lease, permit, rulemaking, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee; or

(2) within one year after his employment with the Department has ceased—

(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before; or

(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to,

the Department of the Interior, or any officer or employee thereof, in connection with any judicial, rulemaking, regulation, order, lease, permit, regulation, or other particular matter which is pending before the Department of the Interior or in which the Department has a direct and substantial interest.

¿43 U.S.C. 1355

SEC. 30. DOCUMENTATION, REGISTRY, AND MANNING REQUIREMENTS.—(a) Within six months after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall issue regulations which require that any vessel, rig, platform, or other vehicle or structure—

(1) which is used at any time after the one-year period beginning on the effective date of such regulations for activities pursuant to this Act and which is built or rebuilt at any time after such one-year period, when required to be documented by the laws of the United States, be documented under the laws of the United States;

(2) which is used for activities pursuant to this Act, comply, except as provided in subsection (b), with such minimum standards of design, construction, alteration, and repair as the Secretary or the Secretary of the Department in which the Coast Guard is operating establishes; and

(3) which is used at any time after the one-year period beginning on the effective date of such regulations for activities pursuant to this Act, be manned or crewed, except as provided in subsection (c), by citizens of the United States or aliens lawfully admitted to the United States for permanent residence.

(b) The regulations issued under subsection (a)(2) of this section shall not apply to any vessel, rig, platform, or other vehicle or structure built prior to the date of enactment of this section, until such time after such date as such vehicle or structure is rebuilt.

(c) The regulations issued under subsection (a)(3) of this section shall not apply—

(1) to any vessel, rig, platform, or other vehicle or structure if—

(A) specific contractual provisions or national registry manning requirements in effect on the date of enactment of this section provide to the contrary;

(B) there are not a sufficient number of citizens of the United States, or aliens lawfully admitted to the United States for permanent residence, qualified and available for such work; or

(C) the President makes a specific finding, with respect to the particular vessel, rig, platform, or other vehicle or structure, that application would not be consistent with the national interest; and

(2) to any vessel, rig, platform, or other vehicle or structure, over 50 percent of which is owned by citizens of a foreign nation or with respect to which the citizens of a foreign nation have the right effectively to control, except to the extent and

to the degree that the President determines that the government of such foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploration, development, or production of oil and gas in its offshore areas.

¿43 U.S.C. 1356

SEC. 31. COASTAL IMPACT ASSISTANCE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) COASTAL POLITICAL SUBDIVISION.—The term ''coastal political subdivision'' means a political subdivision of a coastal State any part of which political subdivision is—

(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the coastal State as of the date of enactment of the Energy Policy Act of 2005; and

(B) not more than 200 nautical miles from the geographic center of any leased tract.

(2) COASTAL POPULATION.—The term ''coastal population'' means the population, as determined by the most recent official data of the Census Bureau, of each political subdivision any part of which lies within the designated coastal boundary of a State (as defined in a State's coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)).

(3) COASTAL STATE.—The term ''coastal State'' has the meaning given the term in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

(4) COASTLINE.—The term ''coastline'' has the meaning given the term ''coast line'' in section 2 of the Submerged Lands Act (43 U.S.C. 1301).

(5) DISTANCE.—The term ''distance'' means the minimum great circle distance, measured in statute miles.

(6) LEASED TRACT.—The term ''leased tract'' means a tract that is subject to a lease under section 6 or 8 for the purpose of drilling for, developing, and producing oil or natural gas resources.

(7) LEASING MORATORIA.—The term ''leasing moratoria'' means the prohibitions on preleasing, leasing, and related activities on any geographic area of the outer Continental Shelf as contained in sections 107 through 109 of division E of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3063).

(8) POLITICAL SUBDIVISION.—The term ''political subdivision'' means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs.

(9) PRODUCING STATE.—

(A) IN GENERAL.—The term ''producing State'' means a coastal State that has a coastal seaward boundary within 200 nautical miles of the geographic center of a leased tract within any area of the outer Continental Shelf.

(B) EXCLUSION.—The term ''producing State'' does not include a producing State, a majority of the coastline of which is subject to leasing moratoria, unless production was occurring on January 1, 2005, from a lease within 10 nautical miles of the coastline of that State.

(10) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

(A) IN GENERAL.—The term ''qualified Outer Continental Shelf revenues'' means all amounts received by the United States from each leased tract or portion of a leased tract—

(i) lying—

(I) seaward of the zone covered by section 8(g); or

(II) within that zone, but to which section 8(g) does not apply; and

(ii) the geographic center of which lies within a distance of 200 nautical miles from any part of the coastline of any coastal State.

(B) INCLUSIONS.—The term ''qualified Outer Continental Shelf revenues'' includes bonus bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued under this Act.

(C) EXCLUSION.—The term ''qualified Outer Continental Shelf revenues'' does not include any revenues from a leased tract or portion of a leased tract that is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on January 1, 2005.

(b) PAYMENTS TO PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

(1) IN GENERAL.—The Secretary shall, without further appropriation, disburse to producing States and coastal political subdivisions in accordance with this section $250,000,000 for each of fiscal years 2007 through 2010.

(2) DISBURSEMENT.—In each fiscal year, the Secretary shall disburse to each producing State for which the Secretary has approved a plan under subsection (c), and to coastal political subdivisions under paragraph (4), such funds as are allocated to the producing State or coastal political subdivision, respectively, under this section for the fiscal year.

(3) ALLOCATION AMONG PRODUCING STATES.—

(A) IN GENERAL.—Except as provided in subparagraph (C) and subject to subparagraph (D), the amounts available under paragraph (1) shall be allocated to each producing State based on the ratio that—

(i) the amount of qualified outer Continental Shelf revenues generated off the coastline of the producing State; bears to

(ii) the amount of qualified outer Continental Shelf revenues generated off the coastline of all producing States.

(B) AMOUNT OF OUTER CONTINENTAL SHELF REVENUES.—For purposes of subparagraph (A)—

(i) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2007 and 2008 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2006; and

(ii) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2009 and 2010 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2008.

(C) MULTIPLE PRODUCING STATES.—In a case in which more than one producing State is located within 200 nautical miles of any portion of a leased tract, the amount allocated to each producing State for the leased tract shall be inversely proportional to the distance between—

(i) the nearest point on the coastline of the producing State; and

(ii) the geographic center of the leased tract.

(D) MINIMUM ALLOCATION.—The amount allocated to a producing State under subparagraph (A) shall be at least 1 percent of the amounts available under paragraph (1).

(4) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

(A) IN GENERAL.—The Secretary shall pay 35 percent of the allocable share of each producing State, as determined under paragraph (3) to the coastal political subdivisions in the producing State.

(B) FORMULA.—Of the amount paid by the Secretary to coastal political subdivisions under subparagraph (A)—

(i) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

(I) the coastal population of the coastal political subdivision; bears to

(II) the coastal population of all coastal political subdivisions in the producing State;

(ii) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

(I) the number of miles of coastline of the coastal political subdivision; bears to

(II) the number of miles of coastline of all coastal political subdivisions in the producing State; and

(iii) 50 percent shall be allocated in amounts that are inversely proportional to the respective distances between the points in each coastal political subdivision that are closest to the geographic center of each leased tract, as determined by the Secretary.

(C) EXCEPTION FOR THE STATE OF LOUISIANA.—For the purposes of subparagraph (B)(ii), the coastline for coastal political subdivisions in the State of Louisiana without a coastline shall be considered to be ⅓ the average length of the coastline of all coastal political subdivisions with a coastline in the State of Louisiana.

(D) EXCEPTION FOR THE STATE OF ALASKA.—For the purposes of carrying out subparagraph (B)(iii) in the State of Alaska, the amounts allocated shall be divided equally

among the two coastal political subdivisions that are closest to the geographic center of a leased tract.

(E) EXCLUSION OF CERTAIN LEASED TRACTS.—For purposes of subparagraph (B)(iii), a leased tract or portion of a leased tract shall be excluded if the tract or portion of a leased tract is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on that date.

(5) NO APPROVED PLAN.—

(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in subparagraph (C), in a case in which any amount allocated to a producing State or coastal political subdivision under paragraph (4) or (5) is not disbursed because the producing State does not have in effect a plan that has been approved by the Secretary under subsection (c), the Secretary shall allocate the undisbursed amount equally among all other producing States.

(B) RETENTION OF ALLOCATION.—The Secretary shall hold in escrow an undisbursed amount described in subparagraph (A) until such date as the final appeal regarding the disapproval of a plan submitted under subsection (c) is decided.

(C) WAIVER.—The Secretary may waive subparagraph (A) with respect to an allocated share of a producing State and hold the allocable share in escrow if the Secretary determines that the producing State is making a good faith effort to develop and submit, or update, a plan in accordance with subsection (c).

(c) COASTAL IMPACT ASSISTANCE PLAN.—

(1) SUBMISSION OF STATE PLANS.—

(A) IN GENERAL.—Not later than July 1, 2008, the Governor of a producing State shall submit to the Secretary a coastal impact assistance plan.

(B) PUBLIC PARTICIPATION.—In carrying out subparagraph (A), the Governor shall solicit local input and provide for public participation in the development of the plan.

(2) APPROVAL.—

(A) IN GENERAL.—The Secretary shall approve a plan of a producing State submitted under paragraph (1) before disbursing any amount to the producing State, or to a coastal political subdivision located in the producing State, under this section.

(B) COMPONENTS.—The Secretary shall approve a plan submitted under paragraph (1) if—

(i) the Secretary determines that the plan is consistent with the uses described in subsection (d); and

(ii) the plan contains—

(I) the name of the State agency that will have the authority to represent and act on behalf of the producing State in dealing with the Secretary for purposes of this section;

(II) a program for the implementation of the plan that describes how the amounts provided

under this section to the producing State will be used;

(III) for each coastal political subdivision that receives an amount under this section—

(aa) the name of a contact person; and

(bb) a description of how the coastal political subdivision will use amounts provided under this section;

(IV) a certification by the Governor that ample opportunity has been provided for public participation in the development and revision of the plan; and

(V) a description of measures that will be taken to determine the availability of assistance from other relevant Federal resources and programs.

(3) AMENDMENT.—Any amendment to a plan submitted under paragraph (1) shall be—

(A) developed in accordance with this subsection; and

(B) submitted to the Secretary for approval or disapproval under paragraph (4).

(4) PROCEDURE.—Not later than 90 days after the date on which a plan or amendment to a plan is submitted under paragraph (1) or (3), the Secretary shall approve or disapprove the plan or amendment.

(d) AUTHORIZED USES.—

(1) IN GENERAL.—A producing State or coastal political subdivision shall use all amounts received under this section, including any amount deposited in a trust fund that is administered by the State or coastal political subdivision and dedicated to uses consistent with this section, in accordance with all applicable Federal and State laws, only for one or more of the following purposes:

(A) Projects and activities for the conservation, protection, or restoration of coastal areas, including wetland.

(B) Mitigation of damage to fish, wildlife, or natural resources.

(C) Planning assistance and the administrative costs of complying with this section.

(D) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

(E) Mitigation of the impact of outer Continental Shelf activities through funding of onshore infrastructure projects and public service needs.

(2) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by a producing State or coastal political subdivision is not consistent with this subsection, the Secretary shall not disburse any additional amount under this section to the producing State or the coastal political subdivision until such time as all amounts obligated for unauthorized uses have been repaid or reobligated for authorized uses.

(3) LIMITATION.—Not more than 23 percent of amounts received by a producing State or coastal political subdivision for

any 1 fiscal year shall be used for the purposes described in subparagraphs (C) and (E) of paragraph (1).

(e) EMERGENCY FUNDING.—

(1) IN GENERAL.—In response to a spill of national significance under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), at the request of a producing State or coastal political subdivision and notwithstanding the requirements of part 12 of title 43, Code of Federal Regulations (or a successor regulation), the Secretary may immediately disburse funds allocated under this section for 1 or more individual projects that are—

(A) consistent with subsection (d); and

(B) specifically designed to respond to the spill of national significance.

(2) APPROVAL BY SECRETARY.—The Secretary may, in the sole discretion of the Secretary, approve, on a project by project basis, the immediate disbursal of the funds under paragraph (1).

(3) STATE REQUIREMENTS.—

(A) ADDITIONAL INFORMATION.—If the Secretary approves a project for funding under this subsection that is included in a plan previously approved under subsection (c), not later than 90 days after the date of the funding approval, the producing State or coastal political subdivision shall submit to the Secretary any additional information that the Secretary determines to be necessary to ensure that the project is in compliance with subsection (d).

(B) AMENDMENT TO PLAN.—If the Secretary approves a project for funding under this subsection that is not included in a plan previously approved under subsection (c), not later than 90 days after the date of the funding approval, the producing State or coastal political subdivision shall submit to the Secretary for approval an amendment to the plan that includes any projects funded under paragraph (1), as well as any information about such projects that the Secretary determines to be necessary to ensure that the project is in compliance with subsection (d).

(C) LIMITATION.—If a producing State or coastal political subdivision does not submit the additional information or amendments to the plan required by this paragraph, or if, based on the information submitted by the Secretary determines that the project is not in compliance with subsection (d), by the deadlines specified in this paragraph, the Secretary shall not disburse any additional funds to the producing State or the coastal political subdivisions until the date on which the additional information or amendment to the plan has been approved by the Secretary.

¿43 U.S.C. 1356a

SEC. 32. TRANSBOUNDARY HYDROCARBON AGREEMENTS.

(a) AUTHORIZATION.—After the date of enactment of the Bipartisan Budget Act of 2013, the Secretary may implement the terms of any transboundary hydrocarbon agreement for the management of transboundary hydrocarbon reservoirs entered into by the Presi-

dent and approved by Congress. In implementing such an agreement, the Secretary shall protect the interests of the United States to promote domestic job creation and ensure the expeditious and orderly development and conservation of domestic mineral resources in accordance with all applicable United States laws governing the exploration, development, and production of hydrocarbon resources on the Outer Continental Shelf.

(b) SUBMISSION TO CONGRESS.—

(1) IN GENERAL.—No later than 180 days after all parties to a transboundary hydrocarbon agreement have agreed to its terms, a transboundary hydrocarbon agreement that does not constitute a treaty in the judgment of the President shall be submitted by the Secretary to—

(A) the Speaker of the House of Representatives;

(B) the Majority Leader of the Senate;

(C) the Chair of the Committee on Natural Resources of the House of Representatives; and

(D) the Chair of the Committee on Energy and Natural Resources of the Senate.

(2) CONTENTS OF SUBMISSION.—The submission shall include—

(A) any amendments to this Act or other Federal law necessary to implement the agreement;

(B) an analysis of the economic impacts such agreement and any amendments necessitated by the agreement will have on domestic exploration, development, and production of hydrocarbon resources on the Outer Continental Shelf; and

(C) a detailed description of any regulations expected to be issued by the Secretary to implement the agreement.

(c) IMPLEMENTATION OF SPECIFIC TRANSBOUNDARY AGREEMENT WITH MEXICO.—The Secretary may take actions as necessary to implement the terms of the Agreement between the United States of America and the United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico, signed at Los Cabos, February 20, 2012, including—

(1) approving unitization agreements and related arrangements for the exploration, development, or production of oil and natural gas from transboundary reservoirs or geological structures;

(2) making available, in the limited manner necessary under the agreement and subject to the protections of confidentiality provided by the agreement, information relating to the exploration, development, and production of oil and natural gas from a transboundary reservoir or geological structure that may be considered confidential, privileged, or proprietary information under law;

(3) taking actions consistent with an expert determination under the agreement; and

(4) ensuring only appropriate inspection staff at the Bureau of Safety and Environmental Enforcement or other Federal agency personnel designated by the Bureau, the operator, or the lessee have authority to stop work on any installation or other device or vessel permanently or temporarily attached

to the seabed of the United States that may be erected thereon for the purpose of resource exploration, development or production activities as approved by the Secretary.

(d) SAVINGS PROVISIONS.—Nothing in this section shall be construed—

(1) to authorize the Secretary to participate in any negotiations, conferences, or consultations with Cuba regarding exploration, development, or production of hydrocarbon resources in the Gulf of Mexico along the United States maritime border with Cuba or the area known by the Department of the Interior as the "Eastern Gap"; or

(2) as affecting the sovereign rights and the jurisdiction that the United States has under international law over the Outer Continental Shelf that appertains to it.

¿43 U.S.C. 1356b

From: mbcfo member <mbcfo1972@gmail.com>
Sent: Saturday, November 8, 2025 02:19 PM
To: Doug Boren <douglas.boren@boem.gov>; CentralCoast@Coastal <CentralCoast@coastal.ca.gov>; Andrea Chmelik <Andrea.Chmelik@asm.ca.gov>; Dobroski, Nicole@SLC <Nicole.Dobroski@slc.ca.gov>; Eckerle, Jenn@CNRA <Jenn.Eckerle@resources.ca.gov>; Executive Officer of SLC <ExecutiveOfficer.Public@slc.ca.gov>; ExecutiveStaff@Coastal <ExecutiveStaff@coastal.ca.gov>; FGC <FGC@fgc.ca.gov>; Flint, Scott@Energy <Scott.Flint@energy.ca.gov>; bgibson@co.slo.ca.us <bgibson@co.slo.ca.us>; Greg Haas <greg.haas@mail.house.gov>; Nancy Hann <nancy.hann@noaa.gov>; Harland, Eli@Energy <Eli.Harland@energy.ca.gov>; Dr. Caryl Hart <CommissionerCHart@coastal.ca.gov>; Gonzalez, Kathleen@Waterboards <Kathleen.Gonzalez@Waterboards.ca.gov>; Huckelbridge, Kate@Coastal <Kate.Huckelbridge@coastal.ca.gov>; Kalua, Kaitlyn@CNRA <Kaitlyn.Kalua@resources.ca.gov>; Kato, Grace@SLC <Grace.Kato@slc.ca.gov>; Zara Landrum <zlandrum@morrobayca.gov>; Liu, Serena@Waterboards <Serena.Liu@waterboards.ca.gov>; Lucchesi, Jennifer@DOC <Jennifer.Lucchesi@conservation.ca.gov>; robert@californiamsf.org <robert@californiamsf.org>; McNair, Heather@Coastal <Heather.McNair@coastal.ca.gov>; Deanna Meier <DEANNA.MEIER@tetratech.com>; Meshkati, Shahed@SLC <Shahed.Meshkati@slc.ca.gov>; Jennifer Miller <jennifer.miller@boem.gov>; Miller-Henson, Melissa ; Michael Milstein <michael.milstein@noaa.gov>; Monary, Chris@Waterboards <Chris.Monary@Waterboards.ca.gov>; NMFS <nmfs.pa@noaa.gov>; Norway Embassy in Washington DC <emb.washington@mfa.no>; Ocean@ios.doi.gov <Ocean@ios.doi.gov>; Payne, Elizabeth@Waterboards <Elizabeth.Payne@waterboards.ca.gov>; Reece, Elizabeth@Waterboards <Elizabeth.Reece@Waterboards.ca.gov>; John Romero <john.romero@boem.gov>; Street, Joseph@Coastal <Joseph.Street@coastal.ca.gov>; Vierra, Amy@SLC <Amy.Vierra@slc.ca.gov>; Faick, Kat@Waterboards <Kat.Faick@Waterboards.ca.gov>; Clint Weirick <clint.weirick@sen.ca.gov>; Carla Wixom <cwixom@morrobayca.gov>; Wyer, Holly@Coastal <holly.wyer@coastal.ca.gov>; Susan Zaleski <Susan.Zaleski@boem.gov>
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dredgewire.com

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Secretary MBCFO

The Severe Ecological Ramifications of Offshore Windfarms in the Atlantic

There is an old scientific maxim that complex systems rarely behave as planners expect. For decades, environmental policy has marched in the opposite direction—insisting that ever-larger interventions can be sketched out on whiteboards, implemented by decree, and assumed to behave as the architects intend. Offshore wind development is one of the latest manifestations of this technocratic impulse. The rhetoric surrounding it is full of confidence: these vast industrial installations are treated as benevolent intrusions upon the marine environment, as if nature would politely adapt to accommodate the turbines.

Yet here we have a study published in *Science Advances*, a journal not known for challenging the climate orthodoxy, suggesting that thousands of offshore turbines along the U.S. East Coast will significantly alter ocean physics, Sea surface warming and ocean-to-atmosphere feedback driven by large-scale offshore wind farms under seasonally stratified conditions.

Accepting the study's findings *at face value*, the implications for marine ecosystems are not trivial; they are structural. They challenge the notion that "green" energy infrastructure is harmless or ecologically restorative. Quite the contrary: the study describes a persistent reshaping of the upper ocean—one that affects temperature, mixing, upwelling circulation, stratification, and atmospheric stability.

The consequences for marine life flow directly from these physical changes. For a region whose fisheries and ecological dynamics depend heavily on subtle balances in ocean stratification, nutrient cycling, and the Mid-Atlantic Cold Pool, even small-but-persistent distortions can ripple across the food web.

The purpose of this essay is to examine those ramifications. Not through speculative catastrophism, but through careful

reading of what the researchers themselves report. This post does not contest the study's methodology. It does not challenge its assumptions. It simply takes the authors at their word and asks: **If this is correct, what happens next?**

And in doing so, one encounters a great irony. The same movement that claims to champion the protection of marine ecosystems may be planting the seeds of a long-term ecological reorganization—engineered not by CO_2 emissions, but by the physical footprint of the so-called solution.

A Study That Quietly Admits What Policy Makers Loudly Deny

The study begins with a statement that should have immediately raised questions when offshore turbines were first proposed:

> ***"Offshore wind farms may induce changes in the upper ocean and near-surface atmosphere through coupled ocean-atmosphere feedbacks."*** *(p. 2)*

That sentence alone would have shut down other kinds of offshore development. Imagine the regulatory reaction if an oil company casually admitted that new drilling platforms "may induce changes in the upper ocean." Yet for wind turbines, such declarations are treated as benign observations.

The authors further acknowledge:

> ***"The role of air-sea interactions mediated by offshore wind farms remains poorly understood."*** *(p. 2)*

If one substitutes "deepwater drilling rigs" or "extensive trawling operations" into that sentence, the precautionary principle would be invoked immediately. Instead, until the Trump administration began to intervene, offshore wind development proceeded at historic scale, while scientists only now begin studying the consequences.

This is not skepticism in the cultural sense; this is skepticism in the scientific sense—the active suspension of assumption until evidence is available. The study presents precisely that evidence: that large-scale wind installations do not merely sit atop the ocean surface as silent sentinels. They reshape the environment around them.

Wake-Induced Changes: A Subtle Physical Distortion with Outsized Ecological Meaning

What the study documents is not dramatic, but persistent. And in ecological systems, consistency over time is more consequential than magnitude.

The central finding:

> ***"Simulated cumulative reductions in wind stress due to large-scale wind farm clusters lead to sea surface warming of 0.3° to 0.4°C and a shallower mixed layer."*** *(p. 2)*

That sentence deserves to be read twice. It is the heart of the matter.

These turbines weaken wind stress—something that should surprise no one, since extracting energy from the wind must reduce the wind's momentum. But what has been largely ignored is what happens next: the ocean responds to the reduced stress by warming, restratifying, and retreating from the usual summer mixing regime.

The authors quantify the structural changes:

- **Wind speeds decrease by 20–30% at hub height** (p. 4)
- **Wind stress decreases by 10–20% within lease areas** (p. 6)
- **Ocean turbulent kinetic energy decreases** (p. 6; Fig. 4D)
- **Mixed layer depth shoals by ~20%** (p. 6–7; Fig. 3B)
- **Stratification increases sharply at the mixed-layer base** (p. 6–7; Fig. 3E)
- **Upward heat flux increases (ocean-to-atmosphere) by 3–10 W/m²** (p. 7; Fig. 2F)

- **SST warming reaches up to 1°C in some summers** (p. 9; Fig. 6D–M)

These are not trivial adjustments. They indicate that the entire physics of the shelf region is being nudged into a new state—not by climate change, but by the turbines themselves.

The authors phrase this in neutral scientific language, but ecological interpretation does not require activist rhetoric. Every one of these parameters—mixing, stratification, upwelling, heat flux—controls the availability of nutrients, the timing of phytoplankton blooms, the distribution of fish, and the structure of food webs.

They write:

> ***"These changes may drive oceanic and ecological responses."*** *(p. 3)*

That understated phrase is the closest the paper comes to discussing consequences. It is left to others to extend the implications.

The Mixed Layer: A Five-Meter Engine of the Atlantic's Biological Productivity

The Mid-Atlantic Bight sees a shallow summer mixed layer—only about 5 meters deep. The authors emphasize this:

> ***"The mixed layer depth... remain[s] less than 5 m near the wind farms."*** *(p. 6)*

In such environments, even a one-meter shoaling is proportionally enormous. A 20% reduction in mixed-layer depth shrinks the zone where nutrients, light, and turbulence combine to support primary productivity.

The model shows:

> ***"With the wind farms in place, the MLD decreases by about 1 m, a 20% reduction."*** *(p. 6–7)*

A thinner mixed layer:

- Restricts nutrient entrainment
- Increases stratification
- Changes the ratio of light to nutrients
- Favors smaller phytoplankton at the expense of larger diatoms
- Alters the base of the food web

That is not conjecture. Those are established dynamics in marine ecology.

The authors further note:

> ***"Ocean warming is concentrated within the mixed layer, while cooling occurs below."*** *(p. 6–7)*

This creates a sharper thermocline—a physical barrier to mixing. Nature does stratification on its own in summer, but the turbines are sharpening the knife.

Upwelling Weakening: The Quiet Undermining of a Fisheries Engine

One of the most consequential findings appears in the analysis of the New Jersey coast. Offshore wind installations, by reducing alongshore wind stress, also reduce the Ekman transport that drives coastal upwelling.

The study presents clear evidence:

> ***"Upwelling-favorable alongshore wind stress is weakened shoreward of the wind farms."*** *(p. 11; Fig. S12A)*

And:

> ***"In the absence of wind farms, the 21.6°C isotherm outcrops 20 to 30 km offshore... with the wind farms, it remains at the subsurface."*** *(p. 11; Fig. S12B)*

This is unambiguous: the turbines alter upwelling.

Upwelling is not a side detail of oceanography. It is the mechanism that delivers nutrients into the photic zone, sets the stage for plankton bloom timing, and influences fish

recruitment. The Mid-Atlantic may not have the dramatic upwelling of the California Current, but its modest upwelling pulses are critical to ecosystem function.

If the turbines consistently suppress these events—something the model indicates—then:

- Coastal nutrient supply declines
- Primary productivity shifts
- Larval transport pathways change
- Populations that depend on cooler bottom waters (e.g., flounder, surfclams, scallops) lose thermal refuge

These are **system-level** impacts.

The authors themselves connect the dots by citing prior research:

> ***"Large wind farm clusters may affect nearshore stratification and formation of the Cold Pool (a key subsurface water mass supporting regional fisheries and ecosystems)."*** *(p. 3)*

Thus, even before their own analysis, the researchers admit the stakes are large.

The Cold Pool: A Vulnerable Cornerstone of Atlantic Ecology

The Mid-Atlantic Cold Pool—the mass of cool, dense bottom water that persists through summer—is a defining feature of this region's ecology. It shapes species distributions, migration timing, recruitment, and survival.

The study's findings read like a recipe for perturbing this structure:

- **Reduced wind stress**
- **Weaker mixing**
- **Shallower mixed layer**
- **Increased stratification**
- **Altered upwelling circulation**

The authors state:

> ***"These patterns... are consistent with reductions in wind stress, TKE, and turbulent mixing."*** *(p. 7)*

Reduced mixing and altered upwelling are precisely the conditions that affect Cold Pool erosion and renewal. If wind farms cause summer stratification to intensify and persist, the Cold Pool may warm or shrink, shifting habitat ranges for commercially important fish and shellfish.

This is not speculation; it is well-known oceanographic mechanics.

Ecosystem Fragmentation: Industrial-Scale Habitat

Patch Creation

The SST anomalies in the study are highly localized, forming coherent warm patches anchored to turbine arrays.

As the authors note:

> ***"The SST warming appears consistently in all cases and is spatially well aligned with the largest offshore wind farm areas."*** *(p. 9)*

The warming is not diffuse—it is patchy. Marine organisms capable of sensing temperature differences (virtually all fish, zooplankton, and many invertebrates) will respond to these patches. Depending on species:

- Some will avoid the warm zones
- Some will aggregate along the thermal edges
- Some will shift migration routes around them
- Some will find newly altered predator-prey relationships

This is the ecological equivalent of installing dozens of parking lots across a forest and wondering if wildlife will "adapt."

Nature adapts, but not always in ways humans prefer.

The Model Shows Persistent, Not Transient, Alterations

A key observation in the time series analysis:

> ***"SST warming emerges within days... the SST anomaly patterns show substantial temporal variability."*** *(p. 13; Fig. 6C)*

The warming does not dissipate. It oscillates within a range but remains locked to the turbine footprint across years.

That persistence is significant. If marine life can count on a consistent patch of anomalously warm water, it will reorganize around that feature. What is a "small" deviation to the human eye becomes a stable environmental landmark for species that rely on fine-scale cues.

Elsewhere the authors add:

> ***"The SST warming... accounts for ~50 to 60% of the... interannual SST variability."*** *(p. 9)*

If accurate, this means the turbines are creating a signal comparable to natural year-to-year fluctuations. Ecologically, that is massive.

Atmospheric Feedbacks Matter: The Ocean Becomes a Heat Source

The study's most striking feedback mechanism is that the ocean begins transferring heat upward.

As stated:

> ***"The warm SST response is associated with positive anomalies of 3 to 5 W/m²... up to 10 W/m² off New Jersey."*** *(p. 7; Fig. 2F)*

And:

> ***"SST warming exceeds 2-m air temperature... leading to upward heat fluxes and a more unstable marine atmospheric boundary layer."*** *(p. 7; Fig. 4E)*

This turns the nearshore region into a modest heat engine—a new thermal feature in the coastal climate system. The warmer ocean surface destabilizes the atmosphere, increasing turbulence, slightly modifying wind stress, and participating in a feedback loop that reinforces the original warming.

For ecology, this is not merely a meteorological curiosity. Changes in surface turbulence affect:

- Gas exchange (oxygen, CO_2)
- Surface nutrient retention
- Larval dispersal
- Air-sea interactions that drive biogeochemical cycles

These are not minor couplings.

Scale Matters: Thousands of Turbines Create a Regional Effect

The study models **1418 turbines** (p. 3–4; Fig. 1A). At that density, wake effects are not limited to individual turbines; they merge into cluster-scale phenomena.

The authors write:

> ***"Cumulative reductions in wind stress due to large-scale wind farm clusters"*** *(p. 2)*
> ***"...widespread SST warming has been reported... in association with floating offshore wind farms."*** *(p. 9)*

Large arrays behave differently than single turbines. Once clusters reach a certain size, the region behaves as a new boundary condition.

Marine ecosystems evolved with seasonal cycles, not with industrial gradients anchored in fixed positions year after year.

The Authors' Understated Warnings

The study contains several understated but serious acknowledgments:

1. **"These changes lead to a shallower mixed layer... enhanced stratification... altered upwelling."** (p. 12; Fig. 10B)
2. **"These changes may influence downstream ocean circulation and biogeochemical cycling."** (p. 3)

3. **“Assessing potential oceanographic impacts… may require a coupled modeling approach.”** (p. 2)
4. **“Upper-ocean processes may play an important role in shaping SST responses.”** (p. 14)

Each of these statements admits uncertainty in a system where uncertainty is risk, not permission.

The Irony: The “Green” Project That Warms the Water

The ecological implications are clear:

- **Surface waters warm**
- **Stratification increases**
- **Mixing weakens**
- **Upwelling diminishes**
- **Deep waters receive less energy**
- **Thermal anomalies persist year after year**

This is not what one expects from a supposedly climate-mitigating technology.

The system warms itself—not through CO_2 emissions, but through mechanical interference with natural wind stress.

The authors acknowledge:

> ***“The SST warming exceeds 2-m air temperature warming.”*** *(p. 7)*

In other words, the warming is *not* driven by atmospheric climate change. It is turbine-induced.

This raises a fundamental question: **How can a technology be sold as protecting marine ecosystems if it reorganizes them?**

Even if one believes in a looming climate catastrophe, the logic fails. You do not fix environmental uncertainty by imposing additional uncertainty.

Historical Precedent: Technocratic Interventions Rarely Go as Planned

Marine history is full of cases where subtle physical distortions produced large ecological reconfigurations:

- Salmon runs collapsed when river temperatures rose by fractions of a degree.
- European fisheries reorganized when stratification in the North Sea shifted.
- Harmful algal blooms proliferated where upwelling weakened.
- Lobster populations in New England moved northward due to small temperature changes.

A 0.3–1°C warming anchored to industrial infrastructure is not subtle.

The authors even note similar findings in Europe:

> ***"Reduced wind stress... suppresses vertical mixing... leading to stronger stratification and warming... shown to influence downstream ocean circulation and biogeochemical cycling."*** *(p. 3, citing Christiansen et al.)*

Ocean ecosystems are structured around patterns of mixing, not around human preferences.

The Policy Problem: Decisions Are Being Made Before the Science Is Done

Consider this admission:

> ***"The role of two-way wake-ocean interaction... remains poorly understood."*** *(p. 3)*

Yet offshore wind farms are being approved and constructed at unprecedented scale.

In any other context, a statement like that would trigger a pause in development, not an acceleration. It would invite environmental review, not political slogans. But offshore wind has been insulated from scrutiny because it is sheltered under the umbrella of climate virtue.

From a scientific viewpoint, that is backwards. In a complex

system, it is not the well-understood interventions that cause surprises. It is the poorly understood ones.

The Ecosystem Consequences: A Conservative, Evidence-Grounded Summary

Taking the study entirely at face value, the following ecological ramifications are likely:

1. **Reduced Nutrient Input to Surface Waters**
    - Shoaling of the mixed layer reduces entrainment of nutrient-rich deep water.
    - Reduced upwelling limits nutrient pulses to the euphotic zone.
2. **Shift in Phytoplankton Community Composition**
    - Stronger stratification favors small, slow-growing phytoplankton.
    - Diatoms—which support many fisheries—decline in stratified, nutrient-poor conditions.
3. **Changes in Zooplankton Dynamics**
    - Food availability changes in timing and magnitude.
    - Temperature shifts alter reproductive cycles.
4. **Altered Fish Habitat and Distribution**
    - Species tracking cooler waters will shift away from turbine-induced warm patches.
    - Predation patterns and migration timing may be disrupted.

5. **Potential Stress on Cold Pool–Dependent Species**
    - Weakened mixing and altered upwelling may shrink or warm the Cold Pool.
    - Surfclams, scallops, cod, flounder, and others rely on its stability.
6. **Increased Likelihood of Harmful Algal Blooms**
    - Strong stratification and warm surface layers create ideal conditions for dinoflagellate blooms.
7. **Habitat Fragmentation**
    - Persistent thermal anomalies act as ecological boundaries.
    - Species distributions become patchier.
8. **Long-Term Restructuring of Regional Ecosystems**
    - Persistent changes in stratification and upwelling could reorganize food webs.
    - Recovery is unlikely without removal of turbines, as the physical forcing is structural.

These are not alarmist conclusions. They derive directly from the physics described in the paper.

The Bigger Picture: Offshore Wind as an Uncontrolled Experiment

The most responsible way to interpret this study is not through emotional rhetoric, but through clear-eyed pragmatism.

Policymakers are currently transforming large regions of the Atlantic into industrial corridors. Yet the science is only beginning to examine the consequences. The authors themselves describe their work as foundational, not definitive. They note:

> ***"Additional uncertainty quantification is necessary... turbulence closure approaches... may influence the evolution of simulated SST and MLD responses."*** *(p. 14)*

In other words, the model may underestimate or overestimate effects; the true impacts remain unknown.

The responsible response to uncertainty is caution.

The political response has been acceleration.

In the name of sustainability, central planners have deployed a technology whose ecological consequences they cannot predict. They presume that a system as complex as the Atlantic continental shelf will behave according to their intentions rather than according to its physics.

But physics always wins.

Conclusion: The Need for Real Skepticism, Not Slogans

This essay has not attempted to argue that offshore wind

turbines will cause ecological collapse. Instead, it argues for something far more modest and far more scientific: **If you change the physics of the ocean, you change the ecology of the ocean.**

The study's authors have done the scientific community a service by quantifying that physical change:

- Reduced wind stress
- Shallower mixed layers
- Increased stratification
- Altered upwelling
- Persistent sea-surface warming
- Modified atmospheric boundary layer stability

None of this is speculative. It is what their model produced. And if we accept their work at face value—as this post explicitly does—then the ecological ramifications are not uncertain; they are inevitable.

Not because of catastrophism, but because ocean ecology *is* ocean physics.

The genuine skeptic—the scientist who suspends disposition rather than parrots consensus—must therefore acknowledge that offshore wind development in the Atlantic constitutes a large-scale environmental experiment whose outcomes are unknown, and whose risks have been systematically

downplayed.

It is time to retire the simplistic narrative that “green” infrastructure cannot harm ecosystems. The turbines do not know they are green. They obey no moral imperative. They only reduce wind stress. They only alter mixing. They only warm the water.

And the Atlantic will respond accordingly.

5

Article Rating

Outlook

From droughts to human mistakes, California salmon near extinction | Opinion

From Phoebe Lenhart <[redacted]>
Date Sun 10/19/2025 04:10 PM
To FGC <FGC@fgc.ca.gov>

Phoebe Lenhart

From droughts to human mistakes, California salmon near extinction | Opinion
https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fl.smartnews.com%2Fp-6qb3U3hS%2FHVByYW&data=05%7C02%7Cfgc%40fgc.ca.gov%7C3af2007697ba4e685bd308de0f64b6de%7C4b633c25efbf40069f1507442ba7aa0b%7C0%7C0%7C638965122420486976%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiIwLjAuMDAwMCIsIlAiOiJXaW4zMiIsIkFOIjoiTWFpbCIsIldUIjoyfQ%3D%3D%7C0%7C%7C%7C&sdata=%2FAuXXxYC%2FOEnw6YBfN5H7z4i3mLRrRzGx6i3yrkjrV0%3D&reserved=0

Sent from my iPhone

Outlook

Wolves in Northern California

From Leanna Stevens <[redacted]>
Date Tue 11/11/2025 01:31 AM
To FGC <FGC@fgc.ca.gov>

To whom it concerns,
I grew up in Sierra County, CA and had the good fortune to ride horseback all over Sierra, Plumas and parts of Lassen counties with my dog at my side from the time I was 10 years old, and I feel sad that a child can no longer do this in Sierra, Plumas, Lassen, Modoc, and other counties. Wolves have made it unsafe. The so-called experts say that a wolf won't attack man, but I am sure they will, being an apex predator in areas that no longer have enough of their natural prey to sustain them. Lions will, so what is to stop a pack of wolves? There was once hundreds of deer in Sierra County... too many to count... grazing in the hills and fields right along with the cattle. today you're lucky to see four or five in a group. Development, devastating fires from forest mismanagement, mismanagement of lions and bears, and other challenges have depleted the herds to where there are not enough prey animals to feed the predators that were already there, let alone wolves, which have not been in Northern California for probably 100 years. This situation is not fair to the wolves either. They are set up to fail from the start. What did you think would happen in these areas? Harmony and balance? How can there be balance where it's already unbalanced in favor of predators? Naturally the wolves will go after livestock, pets, and quite possibly children. They are certainly getting bold, and the forest services' non-lethal hazing methods have only served to make them more used to man, or smarter about avoiding Conflict while continuing to kill livestock. It is an injustice not to allow ranchers And rural folks to protect their pets and livestock. If you don't want them shot and killed then trap them and take them to an area where they won't get into trouble, and can flourish. Please see this failed experiment for what it is and end this nonsense before a human loses their life.
Respectfully,
Leanna Stevens
Minden, Nevada
[redacted]

Outlook

Wolf Concerns

From Megan Law <[redacted]>
Date Sun 11/16/2025 01:13 PM
To FGC <FGC@fgc.ca.gov>

I am writing to express concern on my families' behalf regarding the wolf/ livestock conflicts in Northern California, specifically in Tehama and Modoc counties. My husband and I have a cattle operation, along with my parents and sister and brother in law. We have as a family dealt with the wolves since 2016 with the establishment of the Lassen Pack in Westwood, CA. We have watched as they have killed cattle right next to our corral and headquarters, eating fresh weaned calves and also just killing for the fun of it. They have eaten the calves out of first calf heifers having their first ever calf and chewing on the heifers while they have been in labor. Last summer, my sister found dead cows and cows with their hind ends chewed up but still alive. The poor cows were in such bad condition they then had to be euthanized. With the large forest allotments, it's almost impossible to quantify the losses, especially on baby calves when they are consumed quickly. Our cows are trained to respect our cow dogs and we have noticed a huge difference in how they handle after living in wolf country. They are flighty and on the fight and having dogs makes them so mad it almost isn't worth it. Without the help of the dogs, we need to hire more cowboys to get the same jobs done, which greatly adds to the expenses of our operation. The stress on the cattle results in poor breed ups, higher abortion rates, and overall worse herd health. It's also sad to see the animals we work so hard to care for and are attached to have to fall victim to being chased and eaten by animals and we have to stand by and watch it happen just because some other people tell us the wolves are important and have more of a right to be here than we do. We have been very patient and have obeyed all laws in regards to the wolves being introduced but it's pretty difficult to do so at times, creating huge animosity and resentment towards the Fish and Wildlife Commission. We have purchased a LGD to have around our house because we don't feel safe having our baby daughter outside in our yard at times with wolves so close. I don't feel like living in fear of your child's safety due to wild animals is a problem we should have to live with. The ability to protect ourselves, our animals and our livelihood is an inherent right we should have and delisting the gray wolf should be a top priority.

Regards,
Megan Law

Outlook

goose neck barnacles

From don striepeke <[redacted]>
Date Sun 11/09/2025 09:44 AM
To FGC <FGC@fgc.ca.gov>

why is there no sport harvest allowed in california ? there is no shortage..... incidental death occurs when taking mussels. makes sense to have harvesting. also, good food!

Outlook

Mountain Lion

From Greg Fontana <[redacted]>
Date Sat 11/15/2025 08:25 AM
To FGC <FGC@fgc.ca.gov>

As far as all the data on mountain lion that people are asking about, it has been corruptly covered up. Without traditional hunting, and with this new agenda of not allowing the ranchers to use the depredation policy, SF Bay Area authorities have covered up the paper trail of a major lion problem. All so they can list the big cats as threatened, manipulate the public, receive donation money, then assume no liability as more kids are attacked on SF Bay Area hiking trails. But people are getting more aware that SF Bay Area authorities have failed themselves, their supporters, the CA voters, and taxpayers due to bad management practices.

In the late 2001's to about 2013 the lion problem was about $10,000 in livestock damage for my father in about a 7-8 year time period. Mainly on the Big Dipper in La Honda which is owned by The Mid Peninsula Regional Open Space District. The last year my father had cows there, in just a couple of months, 5 yearlings were confirmed to be killed by lions. Mid Pen had the lions chasing the cattle and eating the cattle on game cameras. When the cattle were finally chased out towards Highway 35, two yearlings were never found, and one yearling was attacked by a neighboring guard dog but survived. Mid Pen did reimburse my father for the 5 confirmed lion kills. But because of the liability issue, my father moved the cows to another smaller location and sold them a month early for another financial loss because the cattle did not gain enough weight. Being forced to abandon the grazing on Big Dipper also created a major fire hazard for the entire La Honda California area in rural San Mateo County.

Then from 2014 to 2016 the problem increased to $20,000 in livestock damage in 3 years with the problem escalating down through San Gregorio and the Purisma/Lobitos Creek Area near Half Moon Bay. At this point local ranchers were warning authorities of the escalating problem, but authorities ignored all warnings. The next year (meaning the fall 2017 and spring 2018 calving season the problem increased to $10,000 in one year with the problem escalating further into the urban communities including San Francisco and The Peninsula.

By the 2020s cougars walking through SF Bay Area neighborhoods have increased to a regular thing. People have them on cameras all the time eating house cats off peoples' porches, dogs dragged off in broad daylight right in front of their owners, and children being mauled. The lions can no longer branch out any further. They cannot swim The Pacific Ocean or San Francisco Bay which means they are surrounded by water in 3 out of 4 directions. The freeway south near Santa Cruz is a difficult concrete obstacle. The problem will only persist at the fault of SF Bay Area authorities for harassing law-abiding ranchers for using the depredation policy to stabilize the cougar population, feed a nation, and protect our communities from catastrophic wildfires as requested by the CA voters. Under the state law it still remains that, “We The People of The State of California,” are in charge of the great cats. Not this incompetent coalition of dishonest SF Bay Area land management authorities.

Outlook

MSCP criteria to include rare DNA

From Kathleen Hayden <[redacted]>

Date Mon 11/17/2025 01:12 PM

To Oakes, Chelsea <chelsea.oakes@sdcounty.ca.gov>; CSteiner@sdzwa.org <CSteiner@sdzwa.org>; Tom King <[redacted]>; Office of Historic Preservation Wayne Donaldson <[redacted]>; FGC <FGC@fgc.ca.gov>

_11-17-2025

Chelsea Oakes, MPH, REHS

Interim Chief | Sustainability Planning Division

Hello Chelsea,

The millions of dollars spent to clone the Przywalski give rise to the preservation issue of other rare DNA found in some of America's wild horse herds, such as the Coyote Canyon wild horses.

Managed for extinction, the political agenda has circumvented mandates and been prejudiced against conservation, restoration, and preservation in county, state, and federal Resource Management Plans(CEQA) This is not limited to BLM as you suggest. Dr. King submitted the Coyote Canyon Wild Horse District to the Federal Register through SHPO and Coyote Canyon Caballos d Anza non profit submitted a proposal to the San Diego Historic Site Board.

https://www.animalsaroundtheglobe.com/the-dna-of-ancient.../. excerps The reconstruction of ancient horse DNA has raised important ethical considerations regarding genetic heritage and ownership... Several indigenous communities with strong historical connections to horse cultures, particularly in North America and Central Asia, have expressed interest in participating in research decisions and having access to findings that pertain to their cultural heritage.
 Coyote Canyon horses have rare Turkoman DNA (see attached), which requires critical habitat that can provide conservation, preservation and management of small bands on segregated parcels. (https://www.thoughtco.com/recently-extinct-horses-1093352.) "Long story short, the Turkoman Horse was the mount favored by the Turkic tribespeople.... has gone extinct...)

https://www.sandiegocounty.gov/content/dam/sdc/pds/ProjectPlanning/docs/Cultural_Guidelines.pdf.

https://science.sandiegozoo.org/news/birth-cloned-przewalski%E2%80%99s-foal-offers-genetic-diversity-endangered-species.

Please consider the enclosed information to amend the MSCP Resource Management plan.

Respectfully submitted

Kathleen Hayden

Coyote Canyon Caballos d' Anza

_____

Interim Chief | Sustainability Planning Division chelsea.oakes@sdcounty.ca.gov Oakes, Chelsea

Aug 11, 2025, 3:13 PM

Good Afternoon Kathleen,

Thank you for reaching out. While we understand your email was directed to the Bureau of Land Management (BLM), we would like to reaffirm our position in light of the recent court ruling in Nevada. As previously discussed, it is the responsibility of the BLM to implement the Wild-Free Roaming Horses and Burros Act and manage associated Herd Management Areas (HMAs). Conversely, the County of San Diego's (County) Multiple Species Conservation Program (MSCP) is intended to provide programmatic compliance with the federal and state endangered species acts, and long-term protection of the species protected under those acts. Because the Coyote Canyon Heritage Herd is not currently listed or proposed to be listed under the federal or state endangered species acts, including as a Distinct Population Segment, the County has previously determined that this species does not meet our criteria to be included as a Covered Species within the MSCP. Additionally, there are no existing HMAs in San Diego County and land under County ownership is limited and incontiguous. It is therefore unlikely to support a viable population due to the limited size and distribution.

We appreciate your time in providing your thoughts and concerns regarding the relocation of the Coyote Canyon Heritage Herd. Due to the reasons stated above, at this time the County is not able to assist in your efforts to relocate the herd to public lands.

Thank you.

Chelsea Oakes, MPH, REHS

Interim Chief | Sustainability Planning Division chelsea.oakes@sdcounty.ca.gov

Kathleen Hayden <

Chelsea et al,

I am contesting your decision to exclude San Diego's native cultural and historic wild horse herd from the MSCP. The RMP may be fatally flawed for much of the same reasons as Ramona Wildlife Preserve's Resource Management and the Federal Southcoast plan is fatally flawed. Agencies that have neglected to implement the requisites of four acts of Congress do not excuse them from the mandates to include the Coyote Canyon Wild Horses as a native American cultural and historic Resource.

RE Ramona Wildlife Preserve. The owner of the property was the bank sponsor. Mike McCollum and Barry Jones (Rancho Buho, LLC), as joint venture partners in the bank, have successfully established conservation and mitigation banks across southern California, and will be primarily responsible for day to day operation of the Bank." from Agenda Item Four page 9-12 SAN DIEGUITO RIVER PARK JOINT POWERS AUTHORITY Friday, July 19, 2013 County Administrative Center 1600 Pacific Highway, Room 302/303 San Diego http://www.sdrp.org/archive/jpa/Agen071913.pdf

On September 03, 2013, when Barry Jones (the principal biologist for the Ramona Grasslands Conservation bank) was asked to list the Coyote Canyon heritage herd on the inventory list of cultural and natural resources, he replied, "This is something I am not passionate about and am too busy even if I were to be of any assistance. Plus I have never heard of the USFWS listing an introduced species like the horse."

A notice in the federal register dated June 10, 2014, from Friends of Animals and The Cloud Foundation, requesting that the distinct population segment (DPS) of North American wild horses on all U.S. federal public lands be listed as an endangered or threatened species under the Act.

Upon receiving sufficient documentation, California is required to update its historic and native plant/animal inventories. The inventory component is vital to local preservation programs when data is incorporated into the statewide Historical Resources Inventory (SHRI), which includes information on historical resources that have been identified and evaluated through one of the programs that OHP administers under the National Historic Preservation Act or the California Public Resources Code.

Because the designated Coyote Canyon Heritage Herd landscape and has been identified numerous times in local , state and federal management plans, including the Coyote Canyon Public Use Plan, and a nomination to the Federal Register, it meets the criteria for recording as a RESOURCE on the inventory of native and historical and cultural resources in local, state and federal Resource Management Plans such as Multiple Species Conservation Plans. Agencies must implement the mandated requirements to comply with the mandates to remedy the flawed RMPs.

From webpage "Research on the archaeology of the Santa Maria Valley was conducted at San Diego State University's South Coastal Information Center (SCIC) and at the San Diego Historical Society by Dr. Susan M. Hector, principal investigator. Dr. Hector also obtained and evaluated archaeological and cultural resource studies in the Santa Maria Valley as part of the background research for the restoration project. Based on the results of this investigation, a systematic survey of the unsurveyed properties would most likely result in the discovery of additional cultural resources. During the prehistoric period (the era before the founding of the San Diego Mission in 1769),

Native Americans occupied the Santa Maria Valley for many thousands of years.

The people living in the area at the time of Spanish contact are known as the Kumeyaay people. The Santa Maria Valley was home to the village of Pamo, a large, complex civilization, for many hundreds of years. Pamo was a collective of Kumeyaay Indians living and working areas within Santa Maria Valley. The village was seamlessly integrated into one of the last remnants of extensive grassland habitat in coastal Southern California.

The rich environment within the Ramona Grasslands provided abundant resources for the Pamo villagers. Of particular and unique importance was the native grassland. The plants and animals distinctive to this habitat contributed toward the large number of people who lived in the Pamo village complex.

The cultural resources within the Santa Santa Maria Creek and Ramona Grasslands areas are particularly important to preserve because the sites exist at a landscape scale and the area contains a wide variety of residential, activity-based, and ceremonial archaeological locations. It is extremely rare in California to find an entire settlement complex of villages that can be preserved undisturbed in an intact natural landscape also supporting rare and endangered species."

" Mitigation and conservation Banking generally provides safe harbor for rare and specific sensitive species that occur on the site. The California Environmental Quality Act (CEQA) section 15380.A plant or animal may be treated as rare or endangered even if it has not been placed on an official list when its survival and reproduction in the wild are in immediate jeopardy from one or more causes. Includes loss of habitat, disease, and predation

1755. The Legislature finds and declares all of the following: (a) That it is the policy of this state:: (1) To maintain sufficient populations of all species of wildlife and native plants and the habitat necessary to insure their continued existence at the optimum levels possible to insure the policies stated in paragraphs (2), (3), and (4). (2) To provide for the beneficial use and enjoyment of wildlife and native plants by all citizens of the state. (3) To perpetuate native plants and all species of wildlife for their intrinsic and ecological values, as well as for their direct benefits to man.(4) To provide for aesthetic, educational, and non appropriative uses of the various wildlife and native plant species. (b) That the conservation and enhancement of wildlife species which are not the object of hunting and native plant species is in the general public interest and it is appropriate that the cost of programs to achieve such conservation and enhancement, including thebiological and botanical research necessary thereto, and the diffusion of the information resulting therefrom to the public, be borne to the extent necessary by general public funds.

Respectfully submitted for reconsideration.

Kathleen

From: Kathleen Hayden [redacted] sent: Sunday, **July 6, 2025** 5:37 PM

To: BLM Alex <Aneiberg@ca.blm.gov>; BLM Alexander G Neibergs <aneiberg@blm.gov>; Potter, Andrew <Andrew.Potter@sdcounty.ca.gov>; FGG, Public Comment <PublicComment@sdcounty.ca.gov>

Subject: To BLM Coyote Canyon Heritage Herd HMA Alex_Neibergs@ca.blm.gov

Dear Alex,

Hope all is well with you. Look forward to seeing you sooner than later. We have two new members in the tribe..both a stud colt, Kawi, and a filly, Sable.

Please forward this request to BLM officers and officials to network with San Diego and Riverside counties to re-establish the native Coyote Canyon heritage herd as a Resource in the Resource Management Plans...i.ehttps://www.fws.gov/sites/default/files/documents/FAQ%20San%20Diego%20County%20MSCPsjw%20web_revised.pdf

This recent ruling of 2024 may be critical to the restoration of an HMA for the restoration of the critically endangered Coyote Canyon Herd on the San Diego/Riverside County Multiple Species Conservation Plans.

On March 28, 2024, Judge Du the "federal judge in Reno, Nev., found that U.S. land managers failed to adopt a legal herd management plan or conduct the necessary environmental review before 31 mustangs died during the roundup of more than 2,000 animals in Nevada the previous summer. "The court finds that BLM must be compelled to prepare a herd management area plan (HMAP)," Du wrote in the 29-page ruling issued Thursday sets a precedent that will provide more protection for mustangs going forward. "The court finds that BLM must be compelled to prepare a herd management area plan (HMAP)," ..for the long-term health of the herds and the rangeland in a particular area. "The duty to prepare an HMA arose as soon as the BLM created the HMAs," That duty arose when BLM promulgated the regulation 38 years ago in 1986. BLM's decades-long delays in developing and approving HMAPs have therefore been 'nothing short of egregious' and clearly violate the rule of reason."

Please forward this to appropriate and interested parties. Looking forward to feedback and a long overdue visit. Greetings also from Harley.

Sincerely, Kat

PERSPECTIVES FROM THE FIELD: Wild Horses Are Cultural Resources | Environmental Practice | Cambridge

Original Message -----From: Alex_Neibergs@ca.blm.gov To: Kathleen Hayden Cc: Tom_Pogacnik@blm.gov ; David_Sjaastad@ca.blm.govSent: Friday, **April 11, 2003** 5:24 PMSubject: Re: please send additional info

Hi Kat,

The Decision Record for the Northern and Eastern Colorado Desert and the Northern and Eastern Mojave Desert Coordinated Management Plans was signed in December 2002. These plans included public, local and state agencies, in which the plan addressed a multitude of resource management issues including wild horses and burros. The major emphasis was for the recovery of the threatened and endangered desert tortoise and other federal listed plant and animal species. The outcome changed several HMAs and emphasized that where these animals are to be managed, a herd management area plan would be developed, which would include input from the public, local and state agencies.

We do have Interagency Agreements, Memorandum of Understandings and Cooperative Agreements with other land agencies and land owners, which mostly addresses how removals would occur and how the animals would be placed into the National Wild Horse and Burro Adoption Program.

I do have a copy of the California Strategic Plan for Management of Wild Horses and Burros on Public Lands date April 1994. However, many changes have occurred since this time and this document needs to be updated.The coordinated management plans demonstrates a publication for input and partnerships with public/local/and state agencies. However with all the changes brought about to the California Desert District HMAs by the 1994 California Desert Protection Act and the two coordinated management plans,all the herd area management plans

(HMAPS) are outdated and **no revised HMAPS have been written.** If you I could provide you copies of any documents mentioned here, please let me know.

Alex

Outlook

Re: San Diego MSCP excludes native Resource

From Kathleen Hayden <[redacted]>
Date Sat 08/16/2025 10:30 AM
To FGC <FGC@fgc.ca.gov>
Cc Kathleen Hayden <kats@ehayden.org>

Dear Director Miller-Henson, Please accept the correct draft as the original was incomplete.

Aug 15 2025

California Fish and Game Commission Executive Director

Melissa Miller-Henson fgc@fgc.ca.gov

(916) 653-4899 or (916) 653-7229P.O. Box 944209, Sacramento, CA 94244-2090

Dear Director Miller-Henson

San Diego's local, state, federal, and MSCP Resource management plans exclude the native Resource of protected wild horses. This requires USFWS reconsideration regarding the statement of: Miner, Karen [redacted] To: Kathleen Hayden

"When and if available scientific information convinces the experts that determine the checklist of native species to North America that Equus caballus should be considered as an indigenous species, they will make the change in the next revision to the list, and then we would take that fact into consideration for inclusion on our state animal lists."

https://en.wikipedia.org/wiki/Wild_horse#DistributionScientific naming of the species.

In 2003, the International Commission on Zoological Nomenclature decided that the scientific names of the wild species have priority over the scientific names of domesticated species, therefore mandating the use of Equus ferus for both the wild and the domesticated horse if the two taxa are considered conspecific.

Wild and domesticated horses are often considered conspecific, meaning they belong to the same species, which is scientifically named Equus ferus. However, they are sometimes classified as separate subspecies, with domesticated horses referred to as Equus ferus caballus and wild horses as Equus ferus ferus or Przewalski's horse.

See also, https://www.sciencedirect.com/science/article/abs/pii/S1871141308000747

In some sources including MSW 3 (2005), the domesticated and wild horses were considered a single species, with the valid scientific name for such a single horse species being Equus ferus,[58] although

MSW erroneously used E. caballus for this (enlarged) taxon on account of a mis-interpretation of the then-recent ICZN ruling on the matter,[59] refer Groves & Grubb, 2011.[60] The wild tarpan subspecies is E. f. ferus, Przewalski's horse is E. f. przewalskii, while the domesticated horse is nowadays normally (but not exclusively) treated as a separate species, E. caballus.

https://www.sci.news/?s=przewalski+

While N.America is the native home of the Equis species then does the ancient DNA breeding found in US wild horses qualify them as a Resource in fatally flawed Resource management Plans? … In light of the recent discoveries that the Przewalski horse is a feral species, instead of the last wild horses on the planet. Over 157 Przewalski's horses have been born at the San Diego Zoo and Safari Park, and their offspring have been sent to zoos and reintroduction projects around the world, while America's feral/ wild horses are denied status as a Resource in RMPs.

Please consider Equus caballus as an indigenous species, make the change in the next revision to the list, and take that fact into consideration for inclusion on state animal lists.

Respectfully submitted,

Kathleen Hayden

[redacted]

On Fri, Aug 15, 2025 at 4:20 PM Kathleen Hayden <[redacted]> wrote:

> California Fish and Game Commission Executive Director
>
> Melissa Miller-Henson
>
> fgc@fgc.ca.gov | (916) 653-4899 or (916) 653-7229
>
> P.O. Box 944209, Sacramento, CA 94244-2090
>
> Dear Director Miller-Henson
>
> San Diego MSCP excludes native Resource needs USFWS reconsideration. Former Correspondence rom**:** Miner, Karen[redacted]
>
> **Sent:** Thursday, March 03, 2016 4:18 PM
> **To:** Kathleen Hayden
> **Subject:** RE: CA data base of special concern mammals.
>
> Interesting theory.
>
> When and if available scientific information convinces the experts that determine the checklist of native species to North America that *Equus caballus* should be considered as an indigenous species, they will make the change in the next revision to the list, and then we would take that fact into consideration for inclusion on our state animal lists.
>
> Thanks
>
> Interim Chief | Sustainability Planning Division chelsea.oakes@sdcounty.ca.gov Oakes, Chelsea
>
> Aug 11, 2025, 3:13 PM
>
> Good Afternoon, Kathleen,
>
> Thank you for reaching out. While we understand your email was directed to the Bureau of Land Management (BLM), we would like to reaffirm our position in light of the recent court ruling in Nevada. As previously

discussed, it is the responsibility of the BLM to implement the Wild-Free Roaming Horses and Burros Act and manage associated Herd Management Areas (HMAs). Conversely, the County of San Diego's (County) Multiple Species Conservation Program (MSCP) is intended to provide programmatic compliance with the federal and state endangered species acts and long-term protection of the species protected under those acts. Because the Coyote Canyon Heritage Herd is not currently listed or proposed to be listed under the federal or state endangered species acts, including as a Distinct Population Segment, the County has previously determined that this species does not meet our criteria to be included as a Covered Species within the MSCP. Additionally, there are no existing HMAs in San Diego County and land under County ownership is limited and incontiguous. It is therefore unlikely to support a viable population due to its limited size and distribution.

We appreciate your time in providing your thoughts and concerns regarding the relocation of the Coyote Canyon Heritage Herd. Due to the reasons stated above, at this time the County is not able to assist in your efforts to relocate the herd to public lands.

Thank you.

Chelsea Oakes, MPH, REHS

Interim Chief | Sustainability Planning Division chelsea.oakes@sdcounty.ca.gov

Kathleen Hayden <[redacted]

to Chelsea, Rami, Tyler, Tai, Marvin, Madison, Jacob, Stephanie, Anne, Crystal, Andrew, Public, Alexander, bcc: melodyo, bcc: Chamise, bcc: me, bcc: Robert, bcc: Dorise, bcc: William, bcc: cathy, bcc: [redacted] bcc: Candace, bcc: Bruce, bcc: Atty, bcc: Gus, bcc: Trudy

Chelsea et al,

I am contesting your decision to exclude San Diego's native cultural and historic wild horse herd from the MSCP. The RMP may be fatally flawed for much of the same reasons as Ramona Wildlife Preserve's Resource Management and the Federal Southcoast plan is fatally flawed. Agencies that have neglected to implement the requisites of four acts of Congress do not excuse them from the mandates to include the Coyote Canyon Wild Horses as a native American cultural and historic Resource.

RE Ramona Wildlife Preserve. The owner of the property was the bank sponsor. Mike McCollum and Barry Jones (Rancho Buho, LLC), as joint venture partners in the bank, have successfully established conservation and mitigation banks across southern California, and will be primarily responsible for day to day operation of the Bank." from Agenda Item Four page 9-12 SAN DIEGUITO RIVER PARK JOINT POWERS AUTHORITY Friday, July 19, 2013 County Administrative Center 1600 Pacific Highway, Room 302/303 San Diego http://www.sdrp.org/archive/jpa/Agen071913.pdf

On September 03, 2013, when Barry Jones (the principal biologist for the Ramona Grasslands Conservation bank) was asked to list the Coyote Canyon heritage herd on the inventory list of cultural and natural resources, he replied, "This is something I am not passionate about and am too busy even if I were to be of any assistance. Plus I have never heard of the USFWS listing an introduced species like the horse."

A notice in the federal register dated June 10, 2014, from Friends of Animals and The Cloud Foundation, requesting that the distinct population segment (DPS) of North American wild horses on all U.S. federal public lands be listed as an endangered or threatened species under the Act.

Upon receiving sufficient documentation, California is required to update its historic and native plant/animal inventories. The inventory component is vital to local preservation programs when data is incorporated into the statewide Historical Resources Inventory (SHRI), which includes information on historical resources that have been identified and evaluated through one of the programs that OHP administers under the National Historic Preservation Act or the California Public Resources Code.

Because the designated Coyote Canyon Heritage Herd landscape and has been identified numerous times in local , state and federal management plans, including the Coyote Canyon Public Use Plan, and a nomination to the Federal Register, it meets the criteria for recording as a RESOURCE on the inventory of native and historical and cultural resources in local, state and federal Resource Management Plans such as Multiple Species

Conservation Plans. Agencies must implement the mandated requirements to comply with the mandates to remedy the flawed RMPs.

From webpage “Research on the archaeology of the Santa Maria Valley was conducted at San Diego State University's South Coastal Information Center (SCIC) and at the San Diego Historical Society by Dr. Susan M. Hector, principal investigator. Dr. Hector also obtained and evaluated archaeological and cultural resource studies in the Santa Maria Valley as part of the background research for the restoration project. Based on the results of this investigation, a systematic survey of the unsurveyed properties would most likely result in the discovery of additional cultural resources. During the prehistoric period (the era before the founding of the San Diego Mission in 1769),

Native Americans occupied the Santa Maria Valley for many thousands of years.

The people living in the area at the time of Spanish contact are known as the Kumeyaay people. The Santa Maria Valley was home to the village of Pamo, a large, complex civilization, for many hundreds of years. Pamo was a collective of Kumeyaay Indians living and working areas within Santa Maria Valley. The village was seamlessly integrated into one of the last remnants of extensive grassland habitat in coastal Southern California.

The rich environment within the Ramona Grasslands provided abundant resources for the Pamo villagers. Of particular and unique importance was the native grassland. The plants and animals distinctive to this habitat contributed toward the large number of people who lived in the Pamo village complex.

The cultural resources within the Santa Santa Maria Creek and Ramona Grasslands areas are particularly important to preserve because the sites exist at a landscape scale and the area contains a wide variety of residential, activity-based, and ceremonial archaeological locations. It is extremely rare in California to find an entire settlement complex of villages that can be preserved undisturbed in an intact natural landscape also supporting rare and endangered species.”

" Mitigation and conservation Banking generally provides safe harbor for rare and specific sensitive species that occur on the site. The California Environmental Quality Act (CEQA) section 15380.A plant or animal may be treated as rare or endangered even if it has not been placed on an official list when its survival and reproduction in the wild are in immediate jeopardy from one or more causes. Includes loss of habitat, disease, and predation

1755. The Legislature finds and declares all of the following: (a) That it is the policy of this state:: (1) To maintain sufficient populations of all species of wildlife and native plants and the habitat necessary to insure their continued existence at the optimum levels possible to insure the policies stated in paragraphs (2), (3), and (4). (2) To provide for the beneficial use and enjoyment of wildlife and native plants by all citizens of the state.(3) To perpetuate native plants and all species of wildlife for their intrinsic and ecological values, as well as for their direct benefits to man.(4) To provide for aesthetic, educational, and non appropriative uses of the various wildlife and native plant species. (b) That the conservation and enhancement of wildlife species which are not the object of hunting and native plant species is in the general public interest and it is appropriate that the cost of programs to achieve such conservation and enhancement, including thebiological and botanical research necessary thereto, and the diffusion of the information resulting therefrom to the public, be borne to the extent necessary by general public funds.

Respectfully submitted for reconsideration.

Kathleen

From: Kathleen Hayden [redacted] sent: Sunday, **July 6, 2025** 5:37 PM

To: BLM Alex <Aneiberg@ca.blm.gov>; BLM Alexander G Neibergs <aneiberg@blm.gov>; Potter, Andrew <Andrew.Potter@sdcounty.ca.gov>; FGG, Public Comment <PublicComment@sdcounty.ca.gov>

Subject: To BLM Coyote Canyon Heritage Herd HMA Alex_Neibergs@ca.blm.gov

Dear Alex,

Hope all is well with you. Look forward to seeing you sooner than later. We have two new members in the tribe..both a stud colt, Kawi, and a filly, Sable.

Please forward this request to BLM officers and officials to network with San Diego and Riverside counties to re-establish the native Coyote Canyon heritage herd as a Resource in the Resource Management Plans...i.ehttps://www.fws.gov/sites/default/files/documents/FAQ%20San%20Diego%20County%20MSCPsjw%20web_revised.pdf

This recent ruling of 2024 may be critical to the restoration of an HMA for the restoration of the critically endangered Coyote Canyon Herd on the San Diego/Riverside County Multiple Species Conservation Plans.

On March 28, 2024, Judge Du the "federal judge in Reno, Nev., found that U.S. land managers failed to adopt a legal herd management plan or conduct the necessary environmental review before 31 mustangs died during the roundup of more than 2,000 animals in Nevada the previous summer. "The court finds that BLM must be compelled to prepare a herd management area plan (HMAP)," Du wrote in the 29-page ruling issued Thursday sets a precedent that will provide more protection for mustangs going forward. "The court finds that BLM must be compelled to prepare a herd management area plan (HMAP)," ..for the long-term health of the herds and the rangeland in a particular area. "The duty to prepare an HMA arose as soon as the BLM created the HMAs," That duty arose when BLM promulgated the regulation 38 years ago in 1986. BLM's decades-long delays in developing and approving HMAPs have therefore been 'nothing short of egregious' and clearly violate the rule of reason."

Please forward this to appropriate and interested parties. Looking forward to feedback and a long overdue visit. Greetings also from Harley.

Sincerely, Kat

PERSPECTIVES FROM THE FIELD: Wild Horses Are Cultural Resources | Environmental Practice | Cambridge

Original Message -----From: Alex_Neibergs@ca.blm.gov To: Kathleen Hayden Cc: Tom_Pogacnik@blm.gov ; David_Sjaastad@ca.blm.govSent: Friday, **April 11, 2003** 5:24 PMSubject: Re: please send additional info

Hi Kat,

The Decision Record for the Northern and Eastern Colorado Desert and the Northern and Eastern Mojave Desert Coordinated Management Plans was signed in December 2002. These plans included public, local and state agencies, in which the plan addressed a multitude of resource management issues including wild horses and burros. The major emphasis was for the recovery of the threatened and endangered desert tortoise and other federal listed plant and animal species. The outcome changed several HMAs and emphasized that where these animals are to be managed, a herd management area plan would be developed, which would include input from the public, local and state agencies.

We do have Interagency Agreements, Memorandum of Understandings andCooperative Agreements with other land agencies and land owners, which mostly addresses how removals would occur and how the animals would be placed into the National Wild Horse and Burro Adoption Program.

I do have a copy of the California Strategic Plan for Management of Wild Horses and Burros on Public Lands date April 1994. However, many changes have occurred since this time and this document needs to be updated.The coordinated management plans demonstrates a publication for input and partnerships with public/local/and state agencies. However with all the changes brought about to the California Desert District HMAs by the 1994 California Desert Protection Act and the two coordinated management plans,all the herd area management plans (HMAPS) are outdated and **no revised HMAPS have been written.** If you I could provide you copies of any documents mentioned here, please let me know.

Alex

COLLEGE OF VETERINARY MEDICINE &
BIOMEDICAL SCIENCES

Department of Veterinary Integrative Biosciences

TEXAS A&M UNIVERSITY

ANCESTRAL EQUINE DNA REPORT

Name of Horse: DON COYOTE **Owner's Name:** Coyote Cayon Caballos d'Anza

Lab Accession # 131404

No	BREED	1st	2nd	3rd	No	Breed	1st	2nd	3rd
1	Akhal Teke				26	Lipizzaner			
2	Cream Draft				27	Lusitano			
3	Saddlebred				28	Mangalarga			
4	Andalusian				29	Mangalarga Marchador			
5	Arabian				30	Missouri Fox Trotter			
6	Argentine Criollo				31	Mountain Pleasure Horse			
7	Belgian Draft				32	Morgan Horse			
8	Campolina				33	Noriker			
9	Caspian				34	Norwegian Fjord			
10	Chilean Criollo				35	Percheron			
11	Cleveland Bay				36	Peruvian Paso			
12	Clydesdale				37	Puerto Rican Paso Fino	X		
13	Dales Pony				38	Quarter Horse			
14	Exmoor Pony				39	Rocky Mountain Horse			
15	Fell Pony				40	Shetland Pony			
16	Selle Francais				41	Shire			
17	Friesian				42	Standardbred			
18	Galiceno				43	Suffolk			
19	Garrano				44	Tennessee Walker			
20	Hackney Horse				45	Thoroughbred			
21	Haflinger				46	Trakehner			
22	Hanoverian				47	Turkoman			X
23	Holsteiner				48	Venezuelan Criollo		X	
24	Highland Pony				49	Welsh Pony			
25	Icelandic Horse				50	Colombian Paso Fino			

Please see website for explaination: http://vetmed.tamu.edu/animalgenetics/horse-ancestry

Animal Genetics Laboratory
Dr. Rytis Juras, Director
VBEC Receiving - VICI Rm 126
4458 TAMU
College Station, TX 77843-4458
Tel. 979-845-6524
rjuras@cvm.tamu.edu

2025 Annual Report: Dungeness Crab Task Force Recommendations and Progress Update

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Submitted to:

- Joint Committee on Fisheries and Aquaculture, Mike McGuire, Chair
- Joint Committee on Fisheries and Aquaculture, Diane Papan, Vice Chair
- California Fish and Game Commission, Erika Zavaleta, President
- California Department of Fish and Wildlife, Charlton Bonham, Director

Copied to:

- California Ocean Protection Council, Jenn Eckerle, Executive Director
- California Fish and Game Commission, Melissa Miller-Henson, Executive Director
- California Fish and Game Commission, Susan Ashcraft, Marine Advisor
- California Department of Fish and Wildlife, Craig Shuman, Marine Region Manager
- Pacific States Marine Fisheries Commission, Caren Braby, Sr. Program Manager
- Joint Committee on Fisheries and Aquaculture, Chris Nielsen, Consultant

Date:

November 20, 2025

Prepared By:

The Dungeness Crab Task Force (DCTF), with support from Strategic Earth Consulting.

For questions regarding this report or the DCTF recommendations, please contact:
Strategic Earth Consulting
1171 Robertson Blvd., Suite 352, Los Angeles, CA 90035
✉ Email: info@dungenesscrabtaskforce.com
https://opc.ca.gov/dungeness-crab-task-force/

EXECUTIVE SUMMARY

The Dungeness Crab Task Force (DCTF) submits this annual report in accordance with Fish and Game Code §8276.4, which requires the DCTF to provide updates and recommendations regarding the management of California's Dungeness crab fishery to the Joint Committee on Fisheries and Aquaculture (the Legislature), the California Department of Fish and Wildlife (CDFW), and the Fish and Game Commission. This report summarizes the DCTF's 2025 discussions, consensus recommendations, and priorities to support an adaptive, sustainable, and economically viable crab fishery. The DCTF continues to serve as a critical advisory body to the Legislature, CDFW, and the

Fish and Game Commission, helping ensure management decisions are informed by input from the fleet and other stakeholders.

Key Highlights:

- **Legislative Recommendations for a fishery omnibus bill** to extend sunset dates for Dungeness crab statutes (Fish and Game Code §8276.1–8280.6 and §9002.5), ensuring continuity of current management programs while allowing periodic review and updates. In addition, recommendations were made to follow up on and request the Legislature's support in advancing the DCTF's 2024 outstanding recommendations, including management of surplus Dungeness crab trap limit program funds, extending the gear servicing requirement to align with the recreational fishery or the commercial fisheries in Oregon and Washington, and the development of legal pathways for vessels to transit closed management zones with crab onboard.

- **Guidance to California fisheries managers, including the Legislature and CDFW**, to help them advocate on behalf of California's Dungeness crab fishery on federal marine life entanglement issues that impact this state-managed fishery.

- **Request to establish a regular Title 14 rulemaking schedule** for CDFW to adaptively manage the Risk Assessment and Mitigation Program (RAMP) and other aspects of the commercial Dungeness crab fishery, ensuring proactive, transparent, and coordinated management of the Dungeness crab fishery in alignment with DCTF guidance.

- **Recommendation for CDFW to develop a means for in-season lost gear recovery when a depth restriction is in place,** ensuring timely gear recovery, to reduce whale entanglement risk.

Details on the DCTF's recommendations are available in this report and in the DCTF's October 15-16, 2025 meeting summary.

The DCTF appreciates the opportunity to advance and inform the management of the Dungeness crab fishery in partnership with the Legislature, CDFW, and FGC. The DCTF's work was completed pursuant to Fish and Game Code (FGC) §8276.4 with financial support as directed by Fish and Game Code §8276.5.

Additional information, including background details about the Dungeness crab fishery and the DCTF, is available on the DCTF webpage.

BACKGROUND INFORMATION

DCTF VOTES AND ANALYSIS

The DCTF developed the following recommendations during a two-day meeting on October 15-16, 2025. The recommendations reflect the agreements of DCTF Members present at the meeting (as per the voting protocols defined in the DCTF Charter). However, in some cases, the recommendations are not the *verbatim* language used when the votes were taken. Because of the iterative nature of the conversations at the DCTF meetings, the language of some recommendations has been adjusted to improve clarity. The additional context and the voting record will be included in the meeting summary, which will be posted on the DCTF's webpage when available. Explanatory notes are provided below each recommendation when necessary.

DCTF RECOMMENDATIONS — October 15-16, 2025

Summary of Recommendations

Recommendation #	Legislative, Regulatory, or Administrative Change Requested?	Audience for Recommendation	Vote Count (14 affirmatives needed to pass a recommendation)
1: Request for a fishery omnibus bill	[X] Legislative [ ] Regulatory [ ] Administrative	[X] Legislature [ ] CDFW [ ] FGC	16 affirmative (9 up, 7 sideways) 1 opposed 4 absent
2: Guidance to California fishery managers on federal issues that impact the commercial Dungeness crab fishery	[ ] Legislative [ ] Regulatory [ ] Administrative	[X] Legislature [X] CDFW [X] FGC	16 affirmative (16 up) 1 opposed 4 absent
3: Establish a Regular CDFW Rulemaking and Adaptive Management Schedule	[X] Legislative [ ] Regulatory [ ] Administrative	[X] Legislature [X] CDFW [ ] FGC	16 affirmative(16 up) 0 opposed 5 absent
4: Create a means for lost gear recovery when a depth restriction is in place	[ ] Legislative [X] Regulatory [X] Administrative	[ ] Legislature [X] CDFW [ ] FGC	16 affirmative (16 up) 0 opposed 5 absent

General Dungeness Crab Fishery Management

FGC §8276.4 mandates that the DCTF discuss refining commercial Dungeness crab fishery management and the need for statutory changes to accomplish DCTF objectives. The DCTF identified relevant regulatory and legislative needs to help resolve issues the industry has faced in recent years.

Recommendation 1. Request for a fisheries omnibus bill.

The DCTF requests a fishery omnibus bill to address the following Dungeness crab fishery priorities:

- Extend the sunset dates for Fish and Game Code §8276.1, §8276.2, §8276.3, §8276.4, §8276.5, §8279.1, §8280.1, §8280.2, §8280.3, §8280.4, §8280.6, and §9002.5 to April 1, 2039.
- Reaffirm the DCTF's 2024 recommendations to:
    - Transfer surplus funds in the Dungeness crab account (§8276.5) to the Pacific States Marine Fisheries Commission and require an annual accounting audit of the account (Recommendation 1a)
    - Increase the 96-hour gear servicing requirement (Recommendation 2)
    - Allow vessels to transit a closed area with crab onboard (Recommendation 3)

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
9	7	1	0	4

Rationale/Context:
The California Dungeness crab fishery is managed by the Legislature, and a fisheries omnibus bill in the 2026-27 legislative cycle would address a number of fishery priorities. Below is additional information, rationale, and context on Recommendation 1.

Sunsetting Fish and Game Codes

The Dungeness crab management framework established in the California Fish and Game Code, including §§8276.1–8276.5, §§8279.1, §§8280.1–8280.4, §8280.6, and §9002.5, provides the statutory foundation for the orderly and sustainable operation of California's Dungeness crab fishery. These sections collectively govern critical aspects of the fishery, including permit structure, trap limits, gear marking, lost gear recovery, vessel operations, and the DCTF. Many of these code sections will become inoperable on April 1, 2029. An extension of these code sections will ensure the commercial fishery can maintain effective governance without disruption or uncertainty that could arise if statutory authorities lapse, especially as the fishery continues to respond to marine life entanglement issues. Reauthorizing these sections would also ensure the continuation of the DCTF, which has proven instrumental in advising the Legislature on the commercial Dungeness crab fishery and in facilitating communication between the fleet, regulators, and policymakers. The DCTF looks forward to continuing to review these code sections every few years and providing guidance to the Legislature on modifications to ensure the statutes reflect current management needs and are relevant and supportive of a sustainable, economically viable, and environmentally responsible Dungeness crab fishery.

Managing the Dungeness Crab Account's Surplus

Fish and Game Code §8276.5 establishes the Dungeness Crab Trap Limit Program (DCTLP). Revenues collected through the DCTLP are deposited in the Dungeness Crab Account, and their use is restricted to 1) administration and enforcement of the DCTLP; and 2) supporting the administration and facilitation of the DCTF. As of the 2023–24 fiscal year, the most recent accounting shows an end-of-year balance of approximately $3 million in the Dungeness Crab Account (see Appendix 4). At the October 2025 DCTF meeting, the California Department of Fish

and Wildlife (CDFW) reported that the Department of Finance requires the account to maintain a reserve sufficient to cover CDFW's two-year spending authority of $1.1 million. This leaves an estimated excess balance of at least $828,000 in the account.

In 2024, the DCTF recommended that these excess funds be used to support fleet-identified priorities. Recommendation 1a from the 2024 Legislative Report stated:

"The DCTF recommends the surplus funds sitting in the Dungeness Crab Account (FGC §8276.5) that continue to accrue in excess of CDFW and the DCTF's expenditures be deposited in an interest-bearing account managed and overseen by the Pacific States Marine Fisheries Commission (PSMFC). Any continued surplus in the Dungeness crab account should be deposited to PSMFC biannually. The DCTF expects PSMFC to work in partnership with the DCTF and CDFW to use these funds in a fashion that is in alignment with the DCTF's identified priorities. The funds should not be used without approval from the DCTF and should not be utilized by the Tri-State Dungeness Crab Commission."

The DCTF remains interested in working collaboratively with PSMFC to identify and advance appropriate funding priorities. Potential uses may include, but are not limited to, gear retrieval programs, vessel surveys, applied research, and the testing or adoption of new technologies that enhance fishery operations and sustainability.

Consistent with Fish and Game Code §8276.5, which requires CDFW to provide an annual accounting of DCTLP expenditures, the DCTF further recommends that PSMFC provide an annual audit of the interest-bearing account. Transparent and responsible management of these funds will help ensure that revenues generated through the DCTLP are used effectively and support the long-term needs and priorities of the Dungeness crab industry.

If a surplus continues to accrue, the DCTF may provide a future recommendation to address and prevent an ongoing surplus.

96-Hour Gear Servicing Requirement

The DCTF continues to reaffirm their 2024, 2021, and 2020 recommendations to amend the 96-hour (4 days) gear servicing requirement (FGC §9004) to allow no less than a 7-day and up to a 9-day soak time, weather permitting, for commercial Dungeness crab, in alignment with §29.80 Title 14, CCR for the California recreational Dungeness crab fishery.

Servicing commercial gear every 96 hours, particularly later in the season when crab abundance is lower, is neither economically viable nor environmentally efficient. The cost of vessel operations and crew time often exceeds the value of the catch, and requiring frequent trips increases fuel consumption and emissions. Allowing a longer servicing interval would reduce these economic and environmental burdens while improving operational flexibility. Fishermen have also noted that the current 96-hour limit discourages retrieval of lost gear, as they must prioritize servicing gear within the short legal timeframe rather than locating displaced traps.

The DCTF acknowledges concerns expressed by CDFW and environmental organizations regarding potential entanglement risk or increased gear loss; however, there is no evidence that extending the servicing interval would increase either case. The DCTF emphasizes that the fleet strongly opposes marine life entanglements and would not support any measure that could increase such risk. Furthermore, neighboring states of Oregon and Washington don't have service interval limits, but require a landing every two weeks (OAR 635-005-0485 and WAC 220-340-480).

Regarding gear loss, the DCTF maintains that loss is primarily caused by weather and marine traffic, not servicing intervals. The fishery already has several mechanisms to address gear loss, including: a lost fishing gear recovery program (Fish and Game Code §9002.5; §132.7, Title 14, CCR), in-season and post-season retrieval allowances (§132.2, Title 14, CCR), and the RAMP (§132.8, Title 14, CCR), which provide an ability to account for these efforts.

Maintaining the 96-hour servicing interval imposes unnecessary economic and environmental costs on the fleet without providing measurable conservation benefits. A service interval of no less than 7 days and up to 9 days would promote regulatory consistency, environmental efficiency, and economic viability while maintaining strong protections for marine life.

Transiting a Closed Area with Crab Onboard

In 2024, the DCTF unanimously adopted a recommendation (Recommendation 3) for the development of legal pathways to allow fishermen to transit a closed management zone while in possession of Dungeness crab, under strict conditions. FGC §8276.1(c) makes it unlawful to "take or possess Dungeness crab from any waters closed", and, as a result, CDFW Law Enforcement has determined that vessels may only transit a closed area with traps onboard only if no crab are onboard the vessel. These regulations create operational burdens for fishermen working near open management zones who need to land crab legally while complying with closures.

To address this, the DCTF recommends that vessel operators:

1. **Submit a declaration** to CDFW's Marine Enforcement Division before transit, designating the port of landing and outlining procedures in case of mechanical failure or breakdown during transit.

2. **Transit continuously** along a direct, expeditious route without stopping or loitering, consistent with federal and California regulations.

3. Have a **CDFW-approved electronic monitoring system** fully operational during transit to ensure compliance.

4. **Secure gear** so that traps are rendered unusable (e.g., trap doors tied open, traps strapped to the deck), similar to transit rules in Oregon, Washington, and federal groundfish fisheries.

The DCTF further recommends that CDFW provide an exemption process for vessels experiencing mechanical issues during transit. Electronic monitoring devices would record deviations, allowing enforcement and management to account for unavoidable circumstances while maintaining protection of crab in closed zones.

This approach balances regulatory compliance, operational efficiency, and enforcement needs, providing fishermen with a legal pathway to transport crab without compromising closed zone protections.

Recommendation 2. Guidance to California fishery managers on federal issues that impact the commercial Dungeness crab fishery

The DCTF recommends that California fishery managers, including the California Legislature and CDFW, advocate to the National Marine Fisheries Service (NMFS) to delist Humpback whale populations that have recovered and are no longer considered endangered under the Endangered Species Act (ESA). Where additional information is required for this action, the DCTF recommends prioritizing funding for research to support informed decision-making.

The DCTF further recommends that the Legislature and CDFW advocate for NMFS to adjust the entanglement triggers that lead to fishing restrictions and management actions in the Dungeness crab fishery to be less restrictive, ensuring management actions balance protection of whale populations with the operational and economic needs of the fleet.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	0	1	0	4

Rationale/Context:
This recommendation was developed in part as a response to how the DCTF could respond to the NMFS's 2025 request for comments on the Executive Order on Restoring American Seafood Competitiveness, which directs federal agencies to improve the sustainability, resilience, and competitiveness of U.S. seafood fisheries. The commercial Dungeness crab fishery is a state-managed fishery; however, federal drivers such as the ESA and Marine Mammal Protection Act (MMPA) are threatening the economic viability of the fleet.

The RAMP program (§132.8, Title 14, CCR) was implemented to mitigate marine life entanglements in the Dungeness crab fishery and serves as an essential tool for the fishery to obtain an incidental take permit and comply with the ESA and MMPA. While research has shown that humpback whale populations have continued to grow since 1989[1,2] indicating that delisting the Mexico-Pacific stock of humpback whales may be warranted, CDFW, in consultation with NMFS, has continued to keep entanglement triggers/standards for the fishery low. As populations increase, the probability of interactions with fishing gear naturally rises; however, the trigger of three entanglements to close the fishery disproportionately impacts the industry. Until the stock is removed from the ESA list, triggers for management actions and closures in the Dungeness crab fishery will remain low, causing continued economic harm to the Dungeness crab fishery and California fishing fleets. The DCTF recommends that the California Legislature and CDFW encourage NMFS and the federal government to revisit the Recovery Plan for the Mexico-Pacific stock of humpback whales and prioritize funding for research targeting a population assessment as needed to delist this stock.

[1] Calambokidis, J. and J. Barlow. 2020. Updated abundance estimates for blue and humpback whales along the U.S. West Coast using data through 2018, U.S. Department of Commerce, NOAA Technical Memorandum NMFS-SWFSC-634. https://repository.library.noaa.gov/view/noaa/27104
[2] NOAA Fisheries. 2023. Humpback Whale (*Megaptera novaeangliae kuzira*) Mainland Mexico - California - Oregon - Washington Stock. https://www.fisheries.noaa.gov/s3/2023-08/Humpback-Whale-Mainland-Mexico-2022.pdf

The DCTF encourages fishing associations and other partners to incorporate this recommendation into advocacy and discussions with the federal administration and Executive Branch, fostering collaboration toward the shared goal of thriving fisheries and healthy whale populations.

Recommendation 3. Establish a Regular CDFW Rulemaking and Adaptive Management Schedule

The DCTF recommends that the Legislature require CDFW to establish a rulemaking schedule for the California Code of Regulations, Title 14 (CCR T14), so that the fishery and the associated RAMP program can be adaptively managed as informed by DCTF recommendations.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	0	0	0	5

Rationale/Context:
CDFW developed the RAMP at the direction of the Legislature to reduce whale entanglement risk in the Dungeness crab fishery. In the second half of 2025, CDFW completed the regulatory process for the second iteration of RAMP regulations, reflecting the agency's ongoing commitment to incorporating new information, fishermen's input, and adaptive management principles into the program.

As the updated RAMP regulations are implemented, the DCTF recognizes the need to establish a regular rulemaking schedule to support adaptive management with ongoing review and improvement of RAMP and other components of the fishery, such as the lost gear retrieval program. A formalized, recurring process and timeline would allow fishery managers to proactively adjust regulations in response to changing ocean conditions, whale populations, and fishery dynamics—rather than relying on ad hoc updates.

A structured rulemaking schedule would also improve transparency, predictability, and efficiency in regulatory updates, while ensuring alignment with stakeholder priorities and DCTF recommendations. A predictable timeline would provide fishermen, managers, and other stakeholders with clearer expectations for when regulatory items will be reviewed and discussed, improving participation and coordination across all levels of management. Regular adaptive management would also support better coordination with federal partners, including NMFS, particularly as the West Coast Take Reduction Team develops strategies to protect whales.

The precedent for such a process already exists. The Fish and Game Commission currently publishes an anticipated regulatory timetable each year outlining the expected timing of major regulatory items. For example:

- **February:** Review new petitions and update the rulemaking timetable.
- **April / June:** Discuss or adopt items identified earlier in the year.
- **October:** Review and act on additional regulatory matters.

While this example timetable is not legally binding, it serves as a transparent planning tool that helps stakeholders anticipate when topics will be discussed and promotes consistent engagement. A similar approach for the Dungeness crab fishery would provide predictability, streamline

planning, and strengthen accountability.

In addition, emergency rulemaking processes should remain available for urgent or unforeseen management needs, ensuring the state can act swiftly when necessary.

Establishing a recurring, timely, and transparent regulatory review cycle would reinforce California's commitment to adaptive management, improve stakeholder participation, and strengthen the long-term sustainability and resilience of the Dungeness crab fishery.

Recommendation 4. Create a means for lost gear recovery when a depth restriction is in place

The DCTF recommends that CDFW develop a mechanism to authorize vessels to retrieve more than six lost or derelict traps outside depth restriction zones during the fishing season when a depth restriction is in effect.

Vote of all DCTF Members (ex officio Members abstained):

Thumbs up	Thumbs Sideways	Thumbs Down	Abstained	Absent
16	0	0	0	5

Rationale/Context:
When a depth restriction is implemented under the RAMP program, fishing gear often migrate into restricted areas or may be left behind in areas that were previously open to fishing. Currently, permitted commercial Dungeness crab vessels may retrieve no more than six lost or derelict traps per trip during the season, including when a depth restriction is in place. This limit can be challenging because gear often accumulates in high-risk zones due to currents or adverse weather, rather than noncompliance. Timely recovery of this gear is critical to reduce whale entanglements, minimize environmental impacts, and prevent gear from being scattered until after the season closes.

Section 132.2 of Title 14 of the California Code of Regulations allows permit holders to request a waiver so that someone may be exempted from the in-season allowance of 6 traps in order to retrieve their gear under hardship conditions (e.g., vessel or operator incapacitation). However, this provision would not exempt someone from retrieving more trap gear in the closed depth-restricted area.

To resolve this limitation, a statutory or regulatory change may be needed to allow vessels to transit open areas under RAMP protocols while conducting retrievals. If large quantities of lost gear remain unrecovered, CDFW enforcement may be called to remove the gear and issue citations, but the fleet prefers to conduct this gear recovery when possible.

The DCTF recommends that CDFW explore mechanisms for in-season retrieval beyond the current six-trap limit when a depth restriction due to RAMP is in place. The DCTF also recommends that CDFW follow up with the DCTF on this recommendation and share its assessment of the regulatory or statutory changes needed to implement it in future seasons.

DCTF NEXT STEPS

The DCTF appreciates the continued collaboration of CDFW, the Fish and Game Commission, the Ocean Protection Council, and the Legislature. The DCTF also acknowledges the contributions of fishing industry members, environmental organizations, and other partners committed to the sustainable management of California's Dungeness crab fishery.

The DCTF anticipates meeting again in the Fall of 2026 to continue addressing high-priority topics and emerging issues related to the Dungeness crab fishery. The DCTF's Executive Committee will continue to meet between now and then, helping to advance discussions and develop ideas for the full DCTF's review and deliberations. The DCTF may meet before this time, should any timely issues arise, that would benefit from the DCTF's guidance. Following each meeting, the DCTF plans to continue issuing these reports to ensure that recommendations are shared promptly and can inform management actions while they remain relevant. The DCTF remains committed to supporting the needs of the Dungeness crab industry, the Legislature, CDFW, and the Fish and Game Commission, providing guidance on the priorities outlined in this report and responding to new challenges as they emerge, all in pursuit of a sustainable, safe, and resilient fishery.

Outlook

Monterey MHW continues

From Keith Rootsaert <keith@g2kr.com>
Date Thu 11/20/2025 01:16 PM
To FGC <FGC@fgc.ca.gov>
Cc Ashcraft, Susan [redacted]>; Dawn Hayes - NOAA Federal <dawn.hayes@noaa.gov>; Mills, Charmaine <charmaine.mills@asm.ca.gov>; Kacy Cooper NOAA Affiliate <kacy.cooper@noaa.gov>

Dear FGC Commissioners and staff,

I promised at the last FGC meeting that we would keep you all updated on the MHW we are experiencing in Monterey.

In an effort to be as accurate as possible, I measured the temperature and sunlight with at depth with four (4) HOBO Pendant MX Temperature/Light data loggers (MX2202) attached to a buoy chain at Tanker's Reef.. We reported it out to the diving community on social media and this is our latest report:

BEGIN

Diving by Decimals - Temperature and Sunlight are limiting factors for giant kelp growth. We set temperature and light sensors on a buoy chain at Tanker's Reef when the water was green as it transitioned through a storm to become clearer. These two graphs show temperature and sunlight at various depths sampled every 15 minutes.

When there was a green thermocline the sunlight at the bottom was lower and as the water cleared up due to storms and high tidal exchange the sunlight at the bottom improved. The green water is caused by fertilizer nitrate runoff from the Salinas River and causes the thermocline and the light reduction at depth. That green water also can cause a red tide of dinoflagellates that blocks even more sunlight for the kelp and feeds the bryozoans that live on the kelp, degrading the kelp even further.

Our usual Monterey water temperature is 50 to 55 degrees all year long. Giant kelp is thermally limited at 58 degrees, doesn't grow, and starts to degrade. Kelp likes about 350 lumens (10% of available sunlight) to grow well. Giant kelp canopy extends to the surface where the water is the warmest but there is also the most sunlight.

Presently there is very little kelp canopy at Tanker's Reef which is not unusual for the fall season. However, the high water temperatures above 55 degrees is yet another Marine Heat

Wave. Due to climate change, the MHWs are occurring more often, are more intense, and last longer. Now they are happening even late in the year.

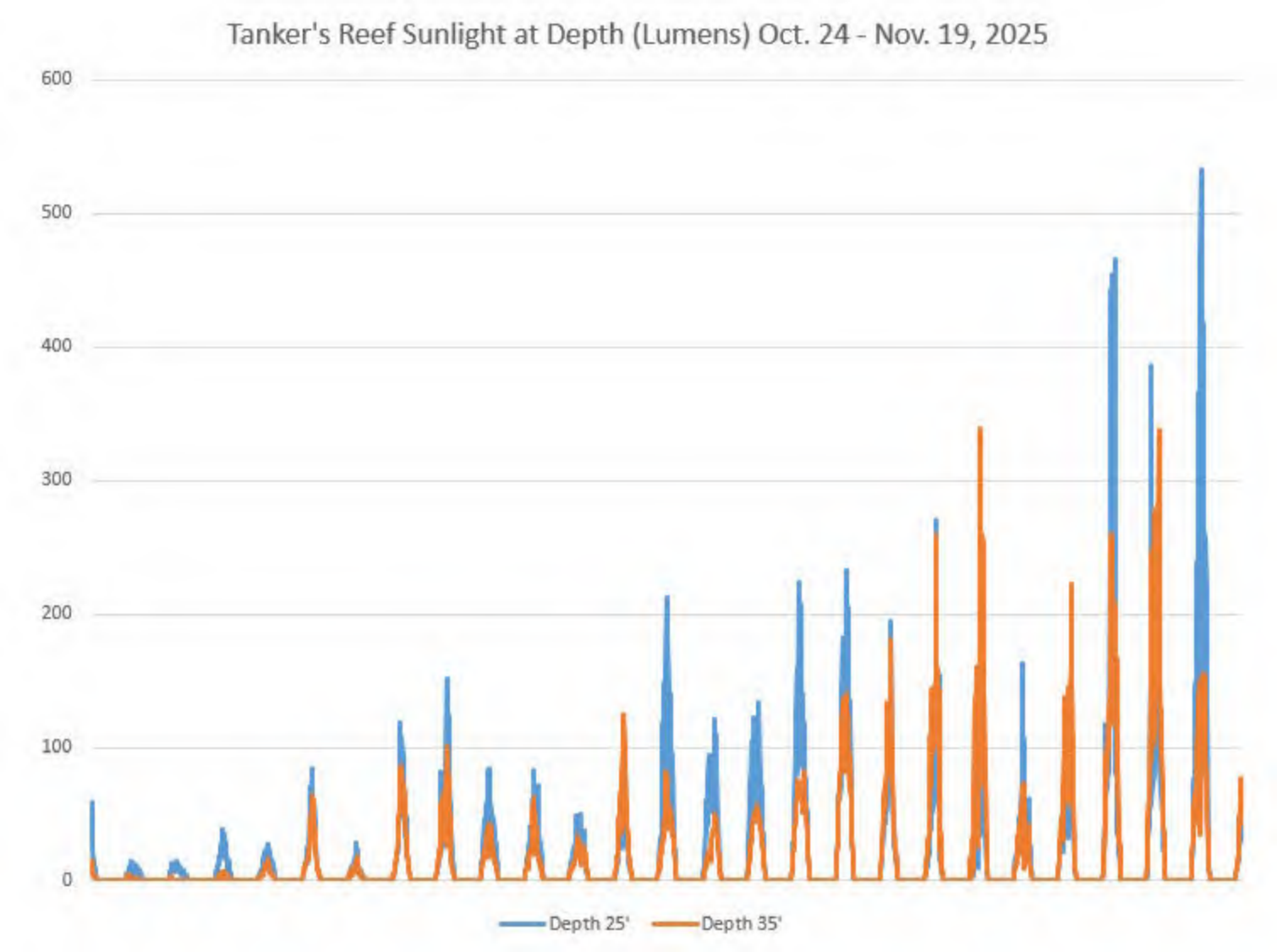
END

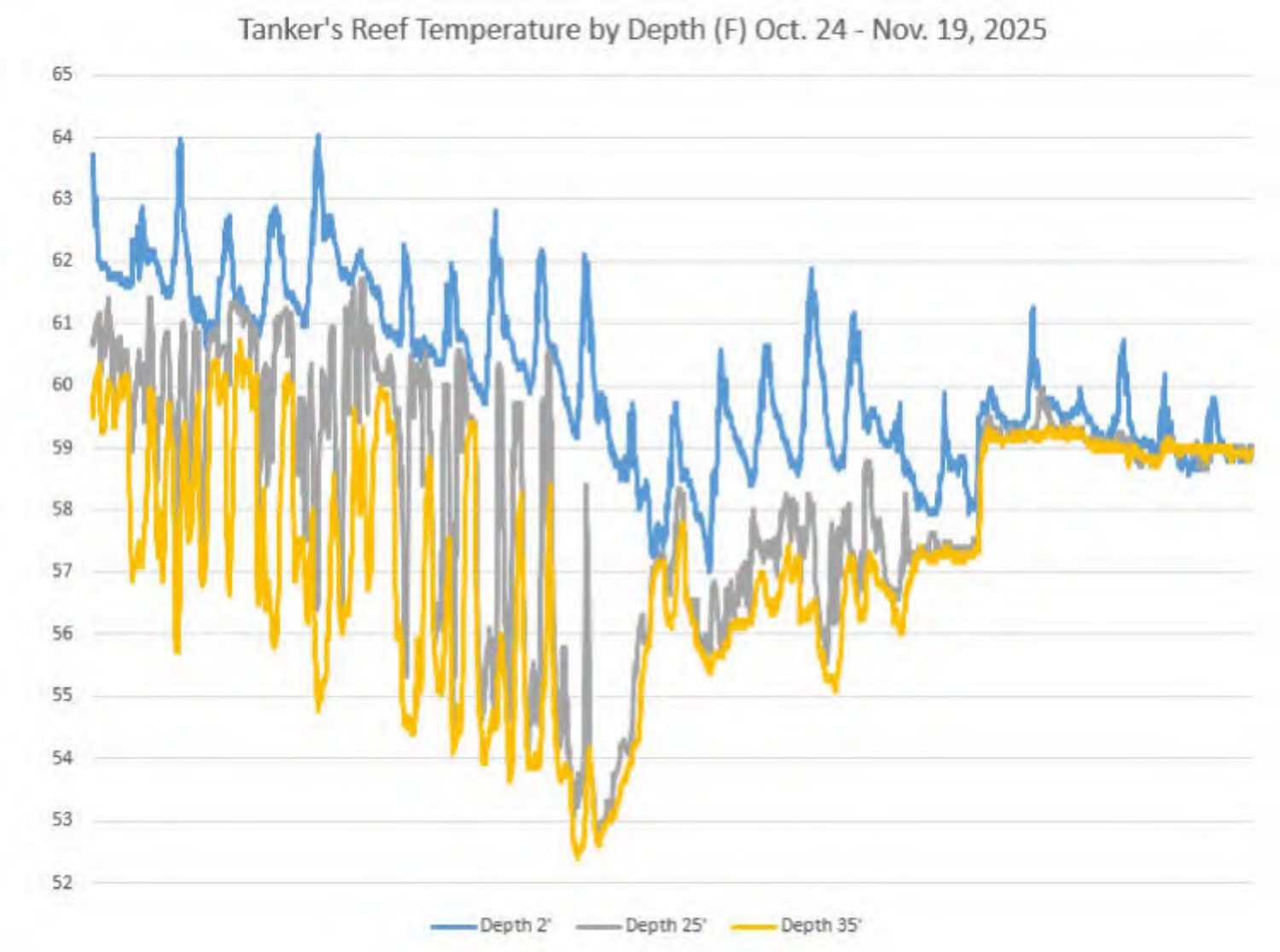
We will continue to monitor the situation and report back at the next FGC meeting in December. **Please include the report and pictures above in the written comments for the Public Comments agenda item for the next FGC meeting on December 11th.**

Thank you,

Keith Rootsaert
Giant Giant Kelp Restoration
408-206-0721

Giant Giant Kelp
Restoration Project


Tanker's Reef Sunlight at Depth (Lumens) Oct. 24 - Nov. 19, 2025
600
500
400
300
200
100
0
Depth 25'
Depth 35'


Tanker's Reef Temperature by Depth (F) Oct. 24 - Nov. 19, 2025
65
64
63
62
61
60
59
58
57
56
55
54
53
52
Depth 2'
Depth 25'
Depth 35'

Outlook

Ropeless Gear

From Hannah Williams <[redacted]>
Date Wed 11/26/2025 11:22 AM
To FGC <FGC@fgc.ca.gov>

Please demand ropeless gear for Dungeness crab season to save whales!

Thank you,
Hannah

Heal the Bay
1444 9th Street
Santa Monica, CA
90401
(310) 451-1500

December 1, 2025

California Fish and Game Commission
Marine Resources Committee
P.O. Box 944209
Sacramento, CA 94244-2090

Submitted electronically to fgc@fgc.ca.gov

Subject: Agenda Item 25 General public comment for items not on the agenda;
Heal the Bay's Contribution to CDFW Marine Protected Area Decadal Management Review Adaptive Management Implementation

Dear President Zavaleta and Honorable Commissioners,

Heal the Bay is an environmental nonprofit operating in the unceded lands of coastal Indigenous Peoples and Native Nations of the Tongva, Chumash, Fernandeño Tataviam Band of Mission Indians, and Kizh Nation tribes, otherwise known as Los Angeles. For 40 years, our organization has worked to make our local coastal waters and watersheds safe, healthy, and clean. As part of this work, Heal the Bay has collaborated with the Fish and Game Commission for many years, in particular related to California's Marine Protected Area Network.

As 2025 concludes, we first want to thank the Fish and Game Commission (FGC) and the California Department of Fish and Wildlife (CDFW) staff for their dedication to adaptive management, science, and partnership in the management of California's natural resources. In years past, December Commission meetings have included a Marine Region annual report in which organizations highlight their work from the year. While this agenda item is not listed, we hope to outline the work we have undertaken to support the efforts of the FGC and CDFW in this letter.

Our primary contribution to long-term MPA monitoring is our management of LA's MPA Watch community science program, which provides data about anthropogenic uses of MPAs. We have been managing this program since 2011, and submit bi-annual data reports to MPA management agencies including the FGC and CDFW synthesizing activity trends and violation hotspots. In 2025, volunteers submitted 251 surveys across our four mainland MPAs. We continue to offer our support to CDFW and the FGC in providing data and data analysis regarding human use of MPAs from our MPA Watch chapter.

We next highlight the work we have undertaken to support the implementation of CDFW's Marine Protected Area (MPA) Decadal Management Review's (DMR) recommendations.

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(310) 451-1500

Beyond MPA Watch program management, we have undertaken extensive work to support MPA initiatives, which are summarized below categorized by the DMR's management pillars:

Justice, Equity, Diversity, and Inclusion	
DMR Recommendation	**Organization Contribution and Activities**
Recommendation 8: Evaluate the accessibility of MPAs to various community groups.	During the summer of 2025, Heal the Bay piloted an Intercept Survey project for the MPA Watch Program. This project, originally designed by the UC Davis Center for Community and Citizen Science, complements our pre-existing MPA Watch program (outlined in more detail below) and trains volunteers to conduct 5-minute surveys with beachgoers to better understand their drive for visiting, knowledge of MPAs, and barriers to accessing the coast. In Los Angeles, our pilot team administered 49 surveys, and were able to better understand the geographic range of beachgoers. Preliminary results suggest that MPAs in Malibu are less frequently visited by those residing outside the immediate Malibu region, while MPAs in Palos Verdes are more frequently visited by those residing outside the immediate surrounding area. This preliminary data suggests a need to address access barriers to Malibu area MPAs for those who live further away. For example, survey respondents identified travel and parking as key access barriers. We look forward to future opportunities to support this survey as it is piloted in other regions across California. The long term goal is for this survey to be included in the MPA Watch program, if funding becomes available.

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Research and Monitoring	
DMR Recommendation	**Organization Contribution and Activities**
Recommendation 12: Invest in improving understanding of the human dimensions of MPAs and develop a human dimensions working group and research agenda.	Heal the Bay's MPA Watch program provides a unique opportunity for CDFW and FGC to invest in the human dimension of MPAs by supporting more advanced interpretation of the program's data. The aforementioned Intercept Survey also presents an opportunity to expand the types of data collected, and Heal the Bay is open to collaborations in data collection and analyzing these datasets in the future.
Recommendation 13: Explore the use of innovative technologies such as remote sensing, drones, and eDNA, to enhance and streamline traditional monitoring projects.	Between 2019 and 2025, Heal the Bay led a program in collaboration with the Eagle lab at UCLA that uses environmental DNA (eDNA) and community science to measure biodiversity within MPAs. This project trained community scientists to collect monthly water samples from inside and outside the MPAs of Malibu monthly, and taught those volunteers about MPAs and marine science in the process. eDNA from those samples was extracted and processed and that data are currently being analyzed. We plan to share results from this study in the coming year, providing insights on how eDNA can be used to potentially augment long-term MPA monitoring practices. We continue to collaborate with Dr. Eagle's lab to identify needs and funding resources to continue similar projects.
Recommendation 14: Develop a comprehensive community science strategy for MPAs and better utilize community science to	In addition to our MPA Watch program, Heal the Bay frequently hosts BioBlitz events that encourage natural observation and stewardship while adding information to international datasets. These events utilize the iNaturalist application to record observations, and we are working with research teams at UCLA to understand ways to interpret and apply the data from these events to better analyze biodiversity

supplement core monitoring programs.	trends and species distribution ranges. While not a substitute for core monitoring programs of the MPA Network, these activities provide opportunities for communities to engage in MPA science.

Outreach and Education	
DMR Recommendation	**Organization Contribution and Activities**
Recommendation 16: Conduct more targeted outreach to specific audiences to connect stakeholders with coastal resources and to encourage stewardship and compliance with regulations. **Justice, Equity, Diversity, and Inclusion Recommendation 7:** Expand targeted outreach and education materials and events to underrepresented user groups.	Heal the Bay engages in many outreach activities that highlight CA's MPA network. Heal the Bay owns and operates an aquarium underneath the Santa Monica pier that has an educational exhibit about the MPA Network. The Aquarium primarily reaches tourist and youth field trip audiences. In 2024 the aquarium hosted 8,015 students from 238 schools, about 83% of which are considered Title 1, which is a federal designation that provides financial assistance to schools with a high percentage of low-income families. Heal the Bay has supported the efforts of the LA MPA Collaborative in their youth fishing trips. These youth come from far inland to experience the ocean, often for the first time, and learn about responsible angling practices and MPAs. Heal the Bay has joined the trips as education docents and works closely with the LA Rod and Reel club to teach youth the basics of angling. The initiative has proven to be very fruitful and meaningful for youth participants. This year, we also collaborated with the CDFW's Fishin' in the City program to host a beach cleanup and pier fishing event for Coastal Cleanup Day. This event brought groups from Los Angeles' South Bay to the Redondo Pier and taught them the basics of responsible angling. We brought representatives from

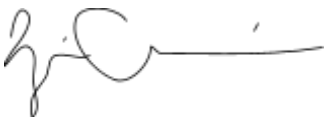
	the Los Angeles MPA Collaborative to share more regarding conservation initiatives, MPA fishing guides, and some of the threats facing our oceans. The event was a great success and we hope to replicate it in 2026.

Conclusion and Next Steps

Heal the Bay remains dedicated to supporting CDFW and its partners in achieving the goals of the Marine Life Protection Act. The work detailed above represents a significant portion of our commitment to the DMR's adaptive management recommendations.

We welcome the opportunity to discuss these contributions further and look forward to continued collaboration as we collectively work toward a resilient and effective MPA Network.

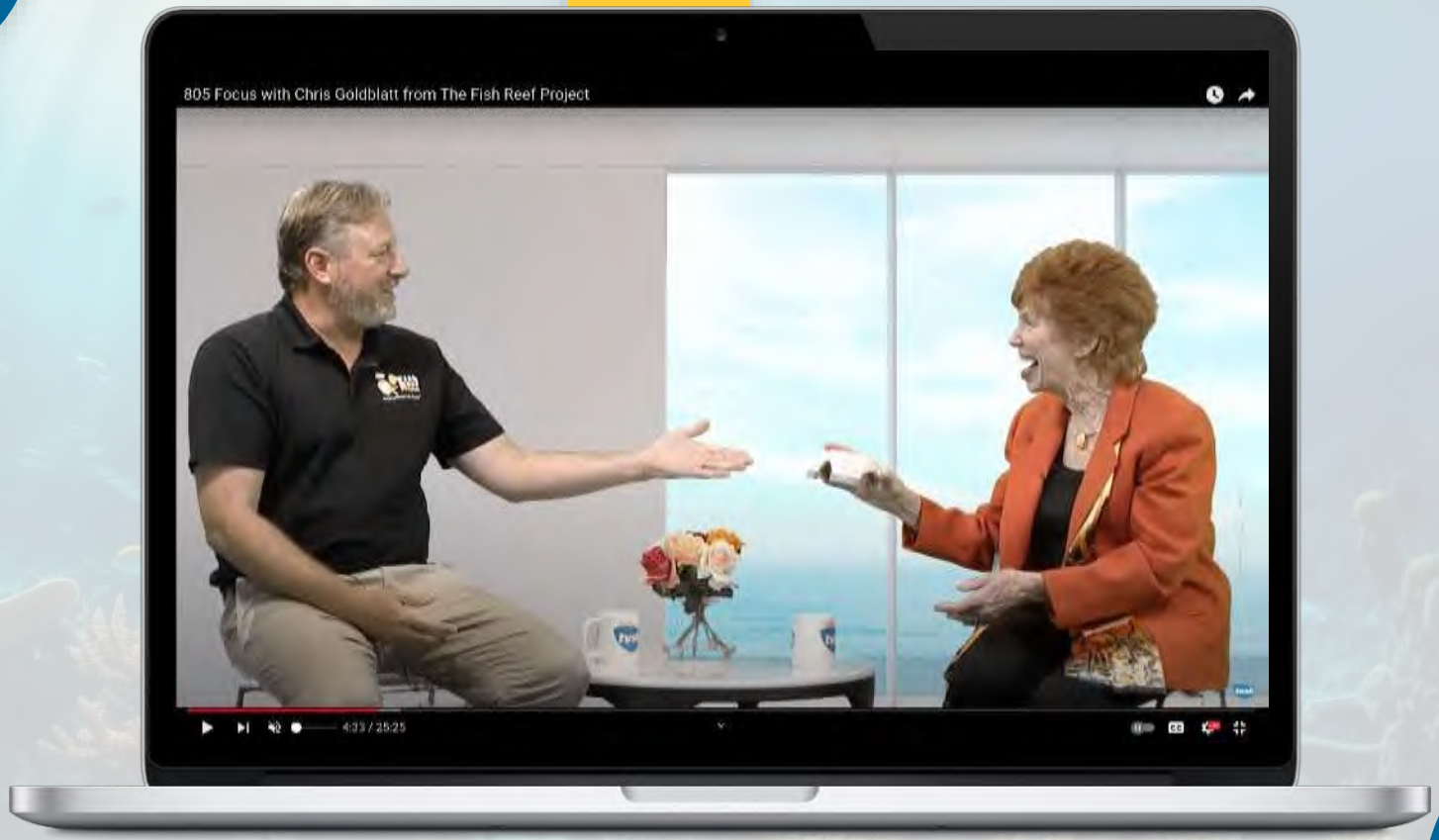
Sincerely,



Zoe Collins
Marine Protected Area Program Coordinator
Heal the Bay
www.healthebay.org


Fish Reef Project
HELPING OCEAN LIFE THRIVE


11:31
5G
77
Santa Barbara
Independent
PLUS
Return
of the KELP
FOREST
How a Fisherman's Near-Tragedy at Sea
Inspired a Global Project to Build
Underwater Habitat from the Floor Up
NEW COVER STORY !
Send message


805 Focus with Chris Goldblatt from The Fish Reef Project
4:03 / 25:25

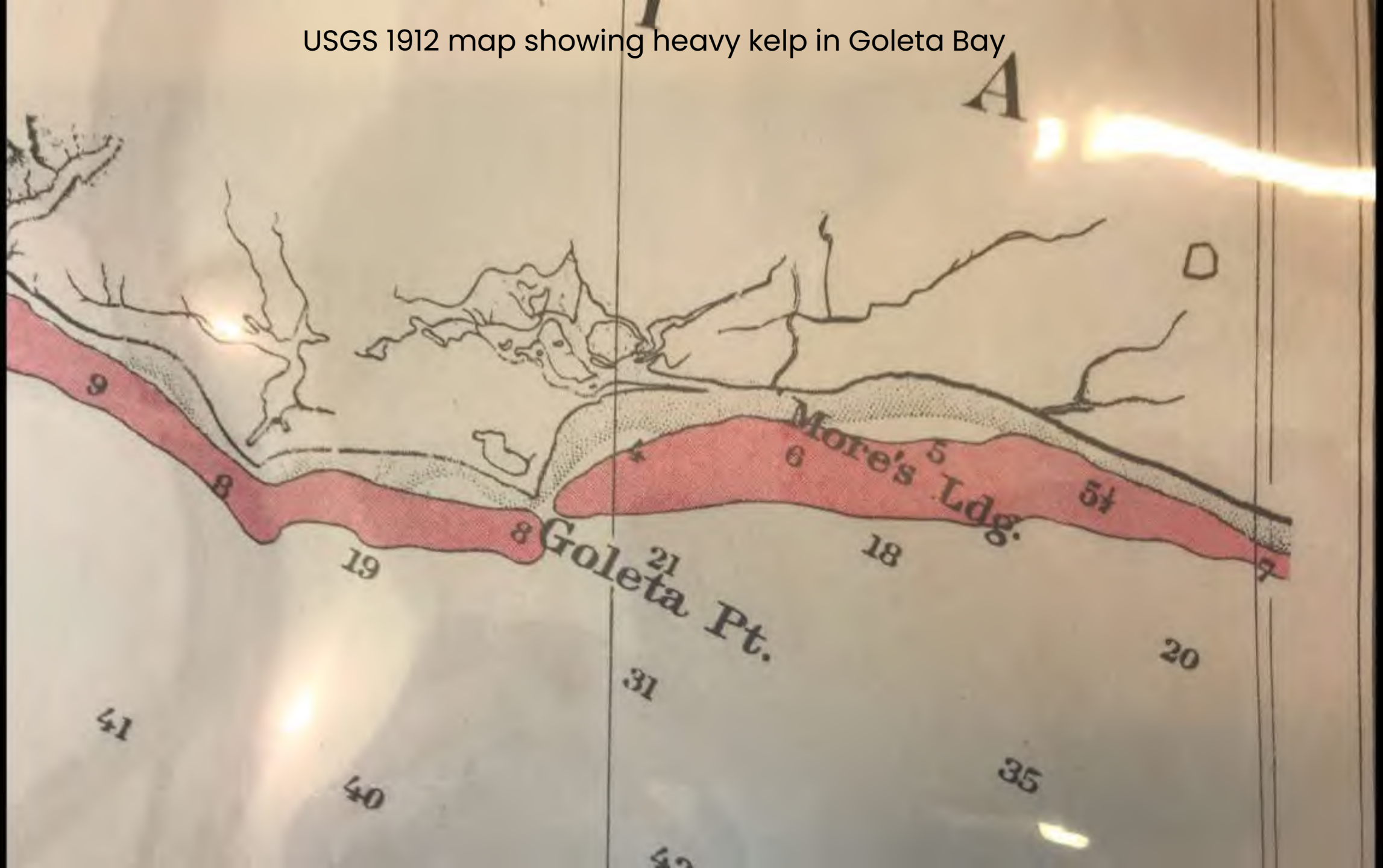
GOLETA KELP REEF PROJECT

1972

220 Acre Kelp Forest / Extended Coastline / Thriving Sealife

2017

Depleted Kelp Forest / Eroded Coastline / Scarce Sealife



USGS 1912 map showing heavy kelp in Goleta Bay

Sediment dumping in Goleta bay has further depleted kelp recovery

SEA CAVE®

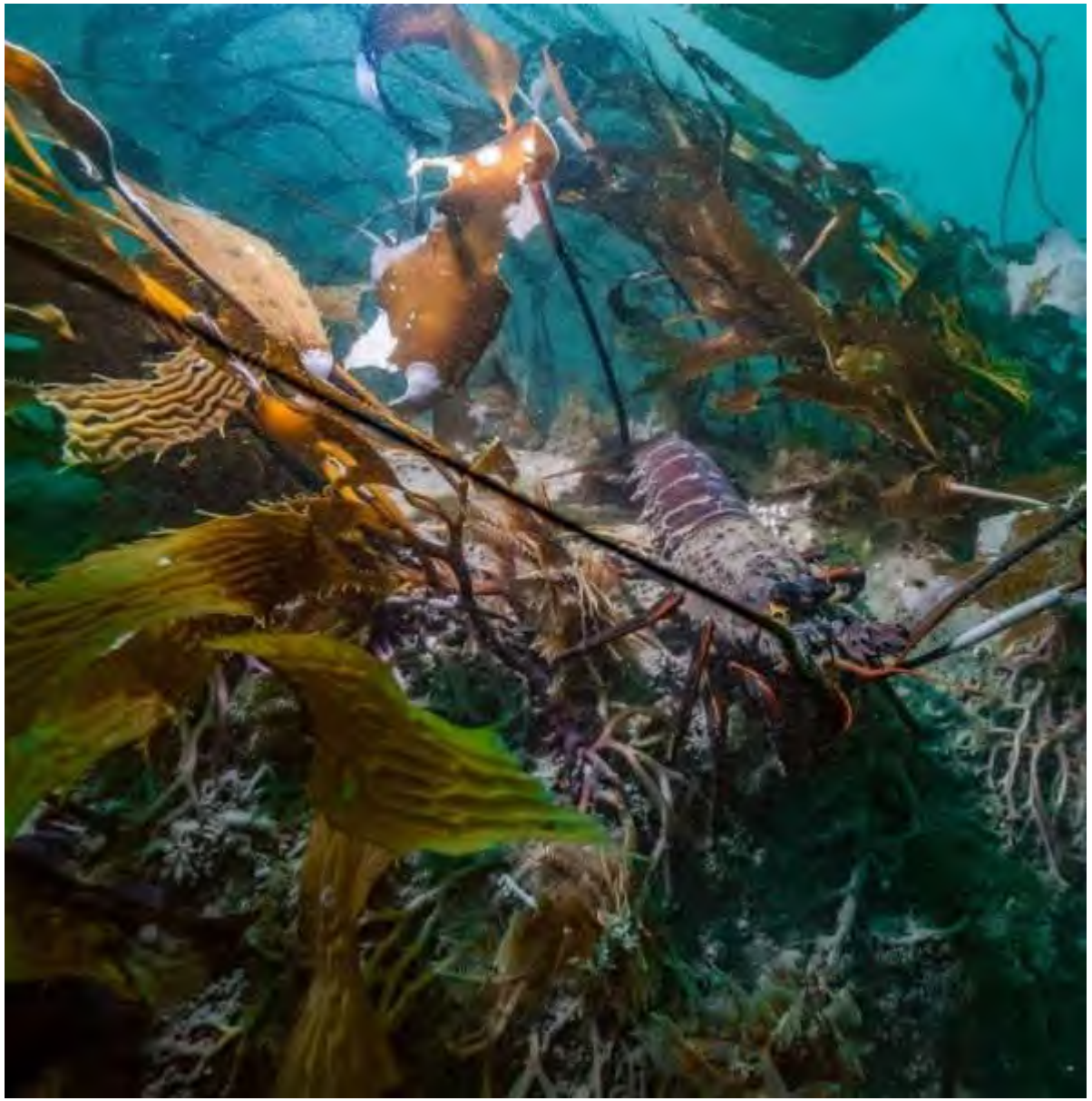
US Patent No:809738

- ✓ Home Grown Santa Barbara cutting edge blue technology
- ✓ Scalable-rapid to build. Works for all applications- work like high relief due to echo effect
- ✓ Flat surface for kelp
- ✓ Stable
- ✓ Lots of surface area and hiding places

In Keeping Santa Barbara Blue Tech History


ARGOS
ENSENADA BC

FULL KELP IN JUST SEVEN MONTHS!



ABUNDANT FISH

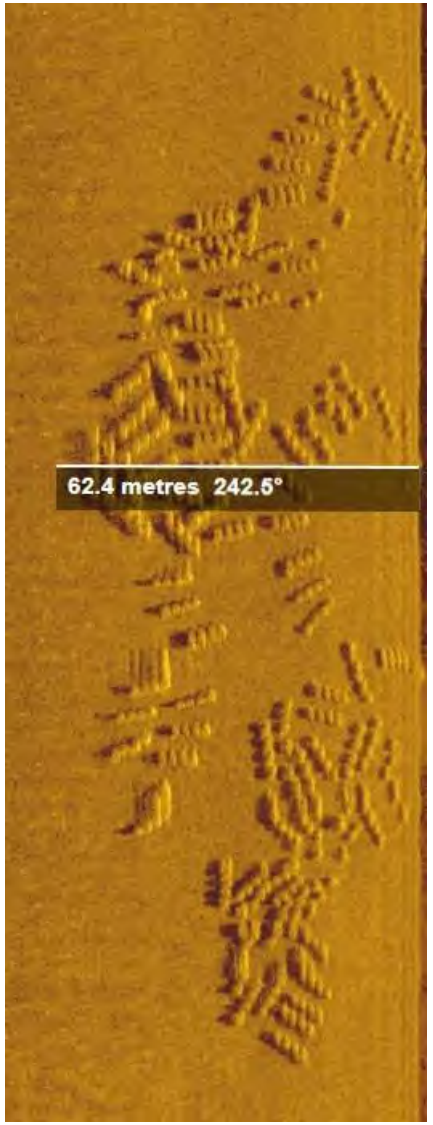
GIANT SEA BASS

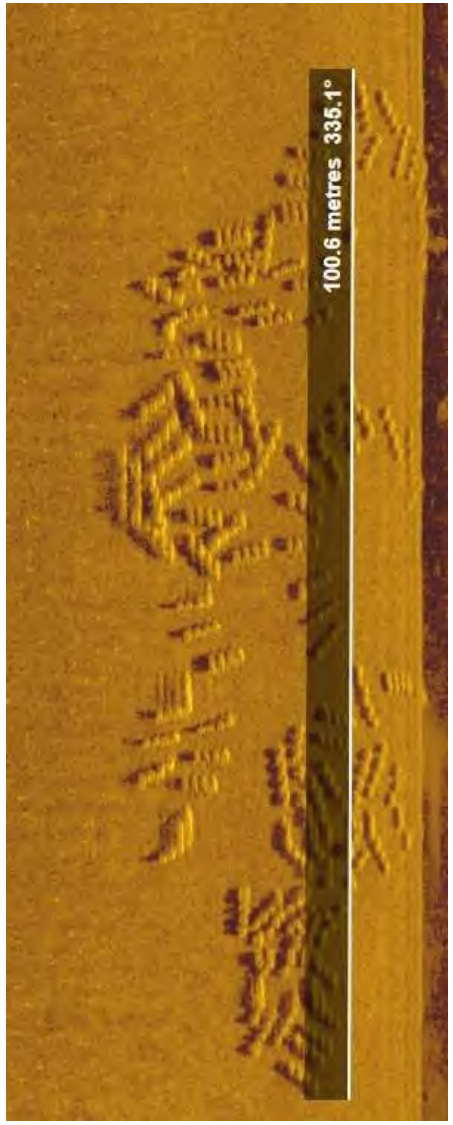
YELLOWTAIL

7 YEARS OF MONITORING

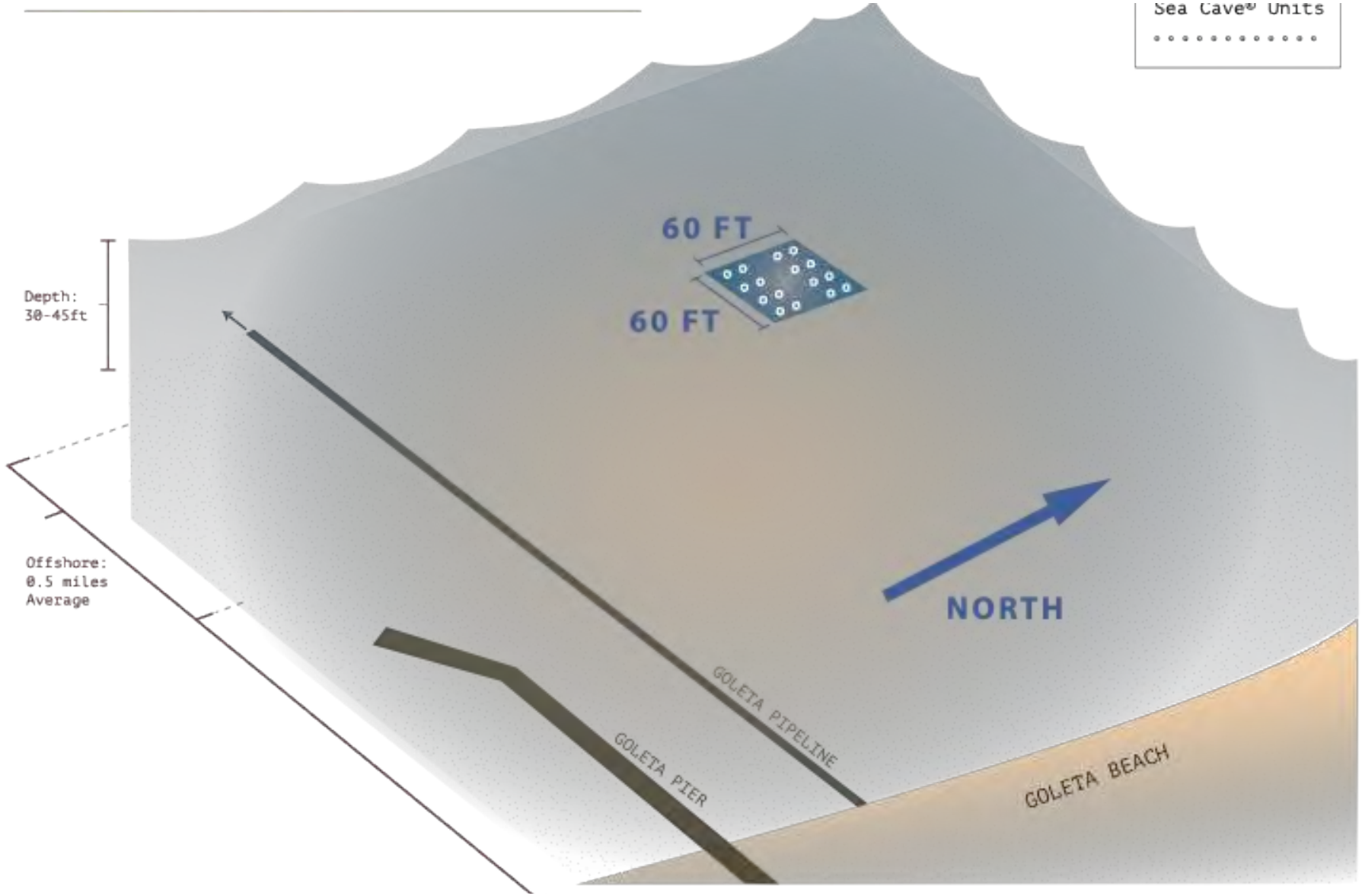
- Measure all marine biomass: coral fish, lobster, inverts etc.
- Fish speciation and breeding success
- Sedimentation near reefs
- Multi beam sonar
- Flour and fauna
- Megafauna use of reefs and tracking
- Bioaccumulation
- Socioeconomic data tracking related to reefs
- Mangrove program

ABALONE


62.4 metres 242.5°


100.6 metres 335.1°

16 Sea Caves Deployed March 2023 Goleta


Sea Cave® Units
60 FT
60 FT
Depth:
30-45ft
Offshore:
0.5 miles
Average
NORTH
GOLETA PIPELINE
GOLETA PIER
GOLETA BEACH

Goleta Kelp on Sea Caves after 7 months


Fish Reef Project
Helping Ocean Life Thrive


Fish
Reef
Project


Fish Reef Project
THANK YOU