BY THE COMPTROLLER GENERAL

Report To The Congress

OF THE UNITED STATES

Impact Of Regulations--After Federal Leasing--On Outer Continental Shelf Oil And Gas Development

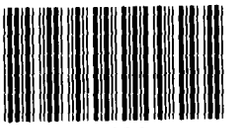
The Outer Continental Shelf potentially can provide the Nation with significant future oil and gas resources. But, the full potential will not be realized unless:

--Various Federal agencies involved issue permits and complete other authorization actions within a standard, reasonable time which GAO believes should be a maximum of 90 days.

--Coastal States are encouraged to develop processes for local reviews and issuing permits which are more timely and uniform with Federal processes.

--Credibility of the environmental review process is more clearly established to minimize challenges and delays.

--More Federal leadership and agency expertise are focused on Outer Continental Shelf activities in the years ahead.



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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

This report analyzes the impact various regulatory requirements stemming from the Outer Continental Shelf Lands Act Amendments of 1978 and other legislation are having--after leases are awarded--on industry efforts to explore and develop OCS oil and gas resources. It was prepared in response to a request from Congressman Edwin B. Forsythe, Ranking Minority Member of the Subcommittee on Fisheries, Wildlife Conservation and the Environment of the House Merchant Marine and Fisheries Committee and, formerly, Ranking Minority Member of the House Select Committee on the Outer Continental Shelf (dissolved June 30, 1980), but should be of general interest to the Congress in view of questions concerning the role OCS lands can play in meeting this Nation's future energy needs.

The requestor of this review asked that we not take the additional time needed to obtain agency comments on the matters discussed in this report.

Copies of this report are being sent to the Director, Office of Management and Budget; the Secretaries of the Interior, Energy, and Commerce; the Administrator of the Environmental Protection Agency; the Chief of the Corps of Engineers; and other interested parties.

Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

IMPACT OF REGULATIONS--AFTER FEDERAL LEASING--ON OUTER CONTINENTAL SHELF OIL AND GAS DEVELOPMENT

D I G E S T

The U. S. Outer Continental Shelf conceivably can provide up to 60 percent of the Nation's future oil and gas, and timely discovery could reduce dependence on imports. However, after industry acquires OCS lands, several Federal and State permits or approvals are needed before any drilling activity may begin. The response time by these Federal and State permit and approval processing agencies can impact timely OCS exploration and development.

Various laws which have been enacted to protect, preserve, or develop coastal water resources for other uses have brought many Federal and State agencies into managing Outer Continental Shelf activities. With the Outer Continental Shelf Lands Act Amendments of 1978, Congress sought to interject a balance between development of oil and gas resources and preservation of other coastal water resources.

GAO was requested to evaluate the effects of requirements stemming from the amendments and other legislation on industry efforts to explore and develop oil and gas resources after leases are awarded.

TOO SOON TO GAUGE FULL IMPACT OF AMENDMENTS

The real impact of the amendments is still largely unknown because new rules and regulations have not been fully tested in any of the Shelf areas. Also, the Gulf of Mexico, Pacific, Alaska and Atlantic areas differ in many respects. (See p. 7.)

Since the amendments were passed, most activity by far has occurred in the Gulf, but virtually

EMD-81-48

no State or local government in that region has participated in the State review process emphasized in the amendments. Elsewhere, relatively little activity has occurred. It is in areas outside the Gulf where the most serious concerns have been expressed about oil and gas development and thus where further delays are likely.

TIME FRAMES FOR FEDERAL APPROVAL OF INDUSTRY'S PLANS

Before any activity can take place on leases on the Outer Continental Shelf, the Geological Survey must approve industry's plans for exploration and development. Regulations instituted by the Survey before the amendments were enacted--but in anticipation of them--significantly increased the time required for this approval in the Gulf of Mexico region. More recently, revised regulations implemented to meet the mandated time frames specified in the amendments, have improved the Survey's responsiveness. But processing times will probably never return to pre-1978 lengths.

> Before 1978 both exploration and development plans were processed in 30 days or less in the Gulf of Mexico region, but Interior's 1978 regulations extended the average time for exploration plans to 119 days and 206 days for development plans. Under recently revised regulations, approval times have declined to 40 days and 64 days, respectively. State reviews were not included in the process, and they may increase time frames in the future.

Survey's responsiveness in approving plans for exploration in the Pacific and Atlantic regions has also improved, but it is too early to gauge what will happen with more controversial development plans. A recent Pacific development plan--not covered by new regulations--took over 2 years to process. It is also too soon to judge the Alaskan experience where stipulations in leases have delayed both approval of plans and exploratory activities. (See p. 11.)

FEDERAL DELAYS IN ISSUING PERMITS

Four Federal agencies--the Geological Survey, Corps of Engineers, Environmental Protection Agency, and the Coast Guard--primarily are involved in issuing permits before exploration or development activities can proceed. A delay by any one can hold up the entire process.

The Survey's procedures were most affected by the amendments. GAO found that the Survey actually improved its responsiveness--at least over the previous year--since implementing new regulations.

The most serious delays have been caused by agencies where time frames to issue permits are not legislatively mandated. For example, the Corps' processing time for permits for fixed structures and dredging operations is about 150 days when objections arise and in Alaska it exceeds 100 days for controversial topics such as constructing artificial islands for oil and gas exploration.

The Environmental Protection Agency's drilling discharge permits are the most time-consuming and have had perhaps the greatest effect on Shelf operations. Permit requests filed more than a year ago for Pacific area exploratory drilling are still pending and the Agency's failure to be prepared to issue permits for operations in North Atlantic areas will postpone exploratory drilling on leases issued in 1979 at least until early 1981. (See p. 16 and 32.)

Although the legislative and regulatory requirements are extensive and time-consuming, agencies generally have not actively monitored, enforced, or evaluated their effectiveness. Most agency officials blame the lack of staff and relatively low priority given such efforts. (See p. 34.)

INCREASED ROLE OF STATE AND LOCAL GOVERNMENTS DOES NOT HAVE TO DELAY OPERATIONS

Various laws in addition to the amendments, give coastal States a greater voice in Outer Continental Shelf activities and their involvement can delay issuance of necessary permits. States can take as long as 6 months to review industry operating plans and even then rule against them. So far, however, they have not exercised their authority in a way to inappropriately disrupt Outer Continental Shelf activity, although that potential does exist.

Rather than disrupt Shelf activity, California and Alaska recently have taken steps to expedite responses to industry requests and to bring together and coordinate activities requiring multi-agency reviews. With more future Outer Continental Shelf activity destined for other frontier areas, these lessons should be helpful to other States.

ENVIRONMENTAL LAWS POSE THE GREATEST OBSTACLES TO TIMELY DEVELOPMENT

Various environmental statutes--including the National Environmental Policy Act and the Endangered Species Act--essentially have left Federal decisions on the Outer Continental Shelf open to court challenges that have delayed exploration, development, and production. Challenges have occurred in all four Shelf areas, delaying operations from 3 months to almost 2 years.

Recent court decisions may lessen future challenges; however, unless the credibility of the environmental review process is clearly established, minimizing post-lease challenges and delays, petroleum companies will never be assured that they may engage in recovery activities on purchased leases. (See p. 37.)

At the national level, while the Intergovernmental Planning Program has made some head-way, more Federal leadership is needed to bring together public and private interests and set the tone for resolving remaining environmental concerns as well as streamlining Federal processes.

INDUSTRY HAS A CREDIBLE RECORD IN THE PURSUIT OF OIL AND GAS RESOURCES

Despite the regulatory process, GAO found a credible record by industry in pursuing offshore oil and gas. Over 79 percent of the leases issued in the Gulf between 1970 and 1974 have been drilled, and production has resulted from 29 percent of the leases issued and 37 percent of the leases drilled. However, a declining trend in leases drilled during the first lease year occurred between 1977 and 1979, which might reflect the requirements imposed by the amendments, as well as other factors such as the availability of drilling rigs. (See p. 41.)

RECOMMENDATIONS

Because intergovernmental and interagency leadership is a prerequisite for further progress in exploration and development of the Outer Continental Shelf areas in the years ahead, GAO recommends the following new initiatives:

--The Congress should enact legislation to establish a standard, reasonable time within which all Federal agencies, particularly the Department of the Interior, the Environmental Protection Agency and the Corps of Engineers, are required to complete approvals and issue permits. A maximum 90-day turnaround time should be the general rule, including the time for State consistency reviews.

--A Steering Committee, comprised of the Secretaries of the Interior and Commerce, the Administrator of EPA, and the Chief of

the Corps of Engineers should be formed and led by the Secretary of the Interior to bring together public and private sector interests and focus attention on unresolved concerns, with particular emphasis on (1) assuring an appropriate balance between oil and gas development and protection of the environment, and (2) finding ways to streamline the process.

--The Secretary of the Interior should also establish within the Department a permit assistance office--patterned after the California example--and charge it with such tasks as helping applicants understand the permitting process; working with other permitting agencies; helping to mediate disputes; coordinating joint evaluation programs; consolidating public hearings; monitoring decision time limits; and feeding back information to the newly created Steering Committee.

--The Secretary of Commerce--working through the Coastal Zone Management Program and the Steering Committee--should encourage and assist other coastal States in developing legislation and administrative procedures similar to California for making local permitting and review processes more uniform, timely, and coordinated. The Secretary of the Interior should complement that undertaking by requiring the Department to encourage States in developing cooperative programs and to seek greater participation in joint review processes.

Some buildup of Federal expertise or a better allocation of existing resources will be needed to direct activities in the years ahead if this Nation is to significantly expand Outer Continental Shelf exploration and development activities in frontier areas. Such actions are needed to:

--Improve the quality and timing of environmental reviews by the Department of the Interior and others, so that significant concerns are dealt with at the front-end (prior to leasing)--thus establishing the credibility of the process and minimizing post-leasing challenges.

--Speed up the issuing of permits by the Environmental Protection Agency and the Corps of Engineers. (In view of limited EPA resources devoted to regulating drilling discharges, the EPA Administrator should reassess the priority that his agency assigns this function and, if necessary, consider drawing on the Geological Survey's expertise to more expeditiously carry out this responsibility.)

--Monitor, enforce, and evaluate the effectiveness and real need for the various regulatory requirements imposed on industry activities that are administered by the Department of the Interior, the Environmental Protection Agency, and the Corps of Engineers.

--Expand Geological Survey's capabilities to monitor industry performance in diligently exploring and developing leases issued.

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The requestor of this review--Congressman Edwin B. Forsythe--asked that GAO not take the additional time needed to obtain agency comments.

Contents

ABBREVIATIONS

BLM	Bureau of Land Management
COE	Corps of Engineers
CWA	Clean Water Act
CZMA	Coastal Zone Management Act
DOC	Department of Commerce
DOE	Department of Energy
DOI	Department of the Interior
DOT	Department of Transportation
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FWS	Fish and Wildlife Service
GAO	General Accounting Office
GOMR	Gulf of Mexico Region
HCRS	Heritage Conservation and Recreation Service
IPP	Intergovernmental Planning Program
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NPDES	National Pollution Discharge Elimination System
NPS	National Park Service

OCS	Outer Continental Shelf
OCSLAA	Outer Continental Shelf Lands Act Amendments
POD	Plan of Development
POE	Plan of Exploration
RTWGE	Regional Technical Working Group Committee
USCG	U.S. Coast Guard
USGS	U.S. Geological Survey
VVTSS	Voluntary Vessel Traffic Separation Scheme
POD	Plan of Development
POE	Plan of Exploration
RTWGC	Regional Technical Working Group Committee
USGS	U.S. Geological Survey

CHAPTER 1

INTRODUCTION

Petroleum experts believe the Outer Continental Shelf (OCS) will provide 30 to 60 percent of the Nation's future oil and gas production. The petroleum industry has leased about 20 million acres offshore, but 800 million acres in water depths up to 2,500 meters (about 8,200 feet) remain unleased. Unfortunately, the unleased acreage believed to have the most oil and gas potential coincides with rich fishing areas, sits amidst shipping lanes or military reserves, encompasses extremely sensitive environmental areas, or lies in areas where climate or other conditions require petroleum recovery technology not presently available.

OCS LEGISLATION INCREASES AS PETROLEUM ACTIVITY EXPANDS

Offshore activities began in 1947, when the petroleum industry completed its first well in the Gulf of Mexico. In 1953, the Submerged Lands Act and the OCS Lands Act defined State and Federal offshore areas and established their jurisdictions over the emerging OCS oil and gas activities. The former act gave States title to lands beneath navigable waters out to 3.5 statute miles from the coastline. 1/ The latter act gave the Federal Government jurisdiction seaward from State boundaries and made the Department of the Interior (DOI) responsible for Federal OCS management. DOI's responsibilities include oversight of the exploration, development, removal and transportation of OCS mineral resources while preventing waste, conserving the resources, and protecting correlative rights.

Between 1953 and 1963, OCS leasing was concentrated in the Gulf of Mexico where the political, social, and environmental conditions were favorable. Federal leasing in the Pacific area began in 1963, and in 1966 Federal tracts in the Santa Barbara Channel off Southern California were first

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1/The Supreme Court later ruled that Texas and Florida for the Gulf of Mexico Coast were entitled to jurisdiction up to 10.5 statute miles due to boundaries claimed during admission and/or readmission to the Union.

made available to the petroleum industry. The California State government insisted on participating in Federal OCS management and other OCS users, including local environmental protection groups, also demanded that their interests be addressed in Federal planning. In addition, a major oil spill in the Santa Barbara Channel in 1969 focused national attention on the need for improved environmental safeguards and pollution control.

Between 1969 and 1977, Congress enacted various legislation affecting development of the resources of our coastal waters including:

--The National Environmental Policy Act of 1969,

--The Marine Sanctuaries Act of 1972,

--The Coastal Zone Management Act of 1972,

--The Endangered Species Act of 1973, and

--The Clean Water Act as amended in 1977.

This legislation, among other things, (1) emphasized the prevention and elimination of damage to the environment; (2) called for the preservation and/or protection of the natural habitat and its inhabitants; and (3) encouraged the participation of the public, other OCS users, and the coastal States in managing coastal zones. These laws brought many Federal and State agencies into managing OCS activities and required regulations and administrative procedures--complete with forms and reports--to clarify statutory intent and achieve statutory goals. Combined with the realization that the Nation must do more to reduce reliance on imported oil, the laws and regulations surfaced a need to balance expeditious OCS oil and gas development with the interests of other OCS users.

OCS LANDS ACT AMENDMENTS OF 1978

A major revision of the OCS Lands Act, passed on September 18, 1978, updated the Federal outlook toward the OCS. The original act's 17 sections emphasized such implicit goals as

--the orderly and timely development of mineral resources,

--the protection of the environment, and

--the receipt of fair market value for the resources on leased OCS lands.

In contrast, the amended act reflected additional concerns about offshore activities and took 38 additional sections to set "...a policy for the management of oil and natural gas in the OCS..." In addition to the goals implicit in the original act, the amendments encompassed other objectives such as

--preserving and maintaining free competition;

--encouraging development of new and improved technologies to eliminate or minimize human and environmental damage,

--assuring that States receive adequate data in order to plan for anticipated impacts due to development,

--assuring States an opportunity to participate in policy and planning decisions,

--minimizing or eliminating conflicts between oil and gas development and production and users of other OCS resources such as fish and shellfish,

--establishing an oil spill liability fund,

--ensuring that OCS oil and gas resources are assessed at the earliest possible time, and

--establishing a fund to compensate fishermen for damage to equipment caused by petroleum activities.

As a result of this and related environmental legislation, at least eight Federal agencies must issue approvals or permits before petroleum exploration, development, or production activities can begin. States may also require approvals for various associated activities that affect their waters or shores. Many other agencies--Federal, State, and local--as well as private individuals and groups, are involved as consultants and advisors to the agencies

with approval responsibility. Appendix I describes the roles of various governmental agencies.

OBJECTIVE, SCOPE, AND METHODOLOGY

On February 26, 1980, Congressman Edwin B. Forsythe, Ranking Minority Member of the Subcommittee on Fisheries, Wildlife Conservation and the Environment of the House Merchant Marine and Fisheries Committee, and, formerly, Ranking Minority Member of the House Select Committee on the Outer Continental Shelf 1/, requested the General Accounting Office to "... investigate leasing on all public lands...to determine what hindrances exist to the rapid production of the oil and gas estimated to be located in those areas." (See app. III.)

In subsequent meetings with Congressman Forsythe's staff, we agreed to fulfill the OCS portion of his request through two separate reviews, one directed at determining the impacts various regulatory requirements stemming from the OCS Lands Act Amendments of 1978 (OCSLAA) and other statutes are having--after Federal leasing--on industry efforts to explore and develop OCS oil and gas resources. The second review, the subject of the second report, is focused on OCS leasing goals and practices.

With Congressman Forsythe's approval, both reports are being addressed to the full Congress because of the broad scope of the request and in view of the widespread interest in the role OCS lands may play in meeting the Nation's future energy needs.

This report addresses the following issues:

--The status of Federal agencies' actions in implementing regulations to carry out the mandates of the OCSLAA and the effect this is having, or is likely to have, on OCS exploration and development activity,

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1/The House Select Committee on the OCS was dissolved on June 30, 1980.

--The coordination among Federal agencies in implementing new requirements and procedures of the OCSLAA, including a comparison of time frames required for agencies to issue various permits and other authorizations under the OCSLAA and other statutes for exploration and development activities in the various OCS areas,

--The impact of the States' new role and authority for reviewing OCS exploration and development plans and certifying consistency with approved coastal zone management plans,

--The impact of various environmental statutes on OCS oil and gas exploration and development efforts, and

--The performance of the oil and gas industry in conducting exploration and development on leases acquired.

Our work involved reviewing Federal, State, and local government and industry activities in the Gulf of Mexico, Pacific, Atlantic, and Alaskan areas. This work was performed to provide a perspective of regional differences in applying the processes necessary to explore and develop the OCS.

From records maintained in field offices, we developed independent data to determine the permit and approval time frames for the U.S. Geological Survey, the U.S. Coast Guard, the Environmental Protection Agency and the Corps of Engineers for those OCS areas that have experienced exploration and/or development. These Federal agencies are charged with the responsibility to issue permits before any exploration and development activity can actually begin on the OCS. Because delays in issuing any one permit can delay the entire process, it was necessary for us to review the procedures followed and time frames experienced by the key agencies involved in the process. We also compared the OCS permit and approval time frames before and after enactment of the OCSLAA and promulgation of necessary regulations, to evaluate the impact of the new legislation. (See ch. 2.)

We interviewed and obtained documentation from State and local government officials in Alaska, California, Maryland,

New York and New Jersey and numerous representatives of the petroleum industry. This work was done to evaluate State efforts in dealing with both the industry and other government agencies that permit or approve OCS activities. Since the States of California and Alaska have permit programs to both aid and cooperate with Federal agencies and industry in the permit and approval processes, we assessed the impact these programs have had on OCS exploration and development in those areas. (See ch. 3.)

In addition, since the OCSLAA calls for a balancing of OCS oil and gas development with (1) the protection of the environment, and (2) the interests of other users, we reviewed what impact various Federal environmental statutes have had on oil and gas exploration and development in the various OCS areas. We also assessed the potential impact such statutes may have on future OCS oil and gas operations. The OCSLAA is only one of several statutes that significantly impacts OCS oil and gas activity and the only statute that calls for the development of OCS energy resources. (See ch. 4.)

Finally, we reviewed industry experience in exploring and developing OCS leases acquired because expeditious exploration and development also depends on prompt industry action. The Department of Energy (DOE) has done a study on industry's activity on leased OCS lands and we reviewed this study to determine its reliability. Our assessment techniques consisted of sampling and comparing computer-maintained data, used by DOE in its study, with original documents. This exercise created a need for us to perform our own analysis of industry's activity due to DOE's use of unreliable data. We used the results of our analysis to show how active industry has been on OCS leased lands. (See ch. 5.)

In performing the tasks above, we examined pertinent records, regulations, statutes, written procedures and interviewed Federal, State, and local government officials in the headquarters and field offices involved in managing OCS operations in all OCS areas. We also talked with numerous representatives of petroleum companies involved in OCS development and affected by Federal, State, and local government actions. Appendix II includes a list of agencies, groups, and companies contacted.

CHAPTER 2

EFFECTS OF THE OCS AMENDMENTS ON OPERATING PLAN APPROVALS AND PERMITTING PROCESSES

It is yet to be seen how the Outer Continental Shelf Lands Act Ammendments (OCSLAA) of 1978 will ultimately impact offshore oil and gas operations. No OCS area has undergone the full test of its provisions in the more than 2 years since passage of the legislation due primarily to: (1) Federal agency delay in implementing the OCSLAA requirements; (2) varying degrees of oil and gas development among the different OCS areas; and (3) limited participation by State and local governments. Notwithstanding these factors, current experience portrays an overall positive legislative impact on the process with the most serious delays related to functions of agencies not directly tied to the OCSLAA and where time frames to complete their actions are not legislatively mandated.

TIME FRAMES FOR FEDERAL APPROVALS OF INDUSTRY'S EXPLORATION AND DEVELOPMENT PLANS

Before any activity can take place in the OCS, the USGS must approve industry's plans for exploration or development. The OCSLAA established time limitations for exploration and development plan processing and mandated a State review role in the process. Regulations instituted by USGS in January 1978 before the OCS amendments were enacted--but in anticipation of them--significantly increased the time frame required to approve exploration and development plans.

More recently, under regulations issued in December 1979 to implement the mandated time frames specified in the amendments, USGS has greatly improved its responsiveness. But processing times will probably never return to the 30-day (or less) time frames experienced by USGS' active Gulf of Mexico Region (GOMR) 1/ prior to 1978. At the time, plan processing was very informal and confined to USGS. The

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1/In FY 1979, the Gulf Region accounted for 90 percent of all exploration plans and over 99.27 percent of all development plans processed by USGS.

January 1978 regulations helped formalize the process by requiring more detailed plans and providing for State reviews. They instituted expected changes 9 months before the legislation's enactment. However, more than a year elapsed following the OCSLAA's approval before revised regulations were issued in December 1979 to implement the legislation's specific provisions.

We reviewed the processing time for 95 of the 416 plans GOMR received under the January 1978 regulations. In the sample were 23 plans of exploration (POE's) and 18 plans of development (POD's) subject to all of the requirements of the regulations and also 32 POE's and 22 POD's received after suspension of the requirement for State reviews. Analysis of plans processed under the full requirements disclosed processing time increases nearing 300 percent for POE's and exceeding 250 percent for POD's, as shown in table 1.

Table 1

Processing Time Increases
Resulting from January 1978 Regulations

Plan type	Pre-Jan '78 time (days)	Average Sample time (days)	Days increase	Percent increase
POE	a/ 30	119	89	296
POD	a/ 30	106	76	254

a/Based on a GOMR official's statement that a maximum of four weeks (or one month) was required to process plans just prior to the January 1978 regulations.

The POE/POD processing time frames remained above pre-1978 levels even after the requirement for State reviews was suspended. POE processing time remained more than twice the pre-1978 level, while POD processing time actually increased another 15 percent, as illustrated in table 2.

Table 2

Processing Times After Suspension of Requirements for State Review

Plan type	Pre-Jan '78 time (days)	Average sample time (days)	Days increase	Percent increase
POE	30	61	31	103
POD	30	111	81	270

How OCSLAA Affected Plan Processing Time Frames in the Gulf

The December 1979 regulations implementing OCSLAA requirements primarily affected GOMR's operations by instituting specific imposed time frames for plan processing, as outlined in table 3.

Table 3

Time frames for Processing Plans of Exploration and Development

Processing Step	Time frame	
	POE (note a)	POD (note b)
1. Determine plan complete and send notice to company	10 work days	20 work days
2. Send plan to States for comment	2 work days after plan complete	10 work days after plan complete
3. Allowance for State comments	20 calendar days after plan determined complete c/	60 calendar days after plan received by state c/
4. Take action on plan	30 calendar days after plan complete	60 calendar days after end of comment period

a/Regulations require action by USGS on a plan within about 42 days based on processing steps 1, 2 and 4. USGS must also consider all timely received State comments on a plan, but OCSLAA regulations establish no State comment period. USGS instructions, however, request States' response within 20 days after a plan is determined complete (processing step 3).

b/USGS can hold a POD requiring its approval for approximately 150 days based on processing steps 1, 2, 3, and 4. When USGS determines that approving a plan would be a major Federal action requiring an environmental impact statement (EIS), USGS must act on the plan within 60 days after the final EIS's release.

c/Under the Coastal Zone Management Act, State coastal zone management agencies may take up to 6 months to comment on a plan. USGS can complete plan processing during this review period but may not issue an operating permit until the State review is completed. (See p. 36.)

The mandated time frames helped GOMR reduce the processing time that had been experienced while operating under the January 1978 interim procedures. However, GOMR could not match its pre-1978 30-day turnaround. GOMR received 145 initial plans between December 13, 1979, the new regulations' effective date and May 30, 1980. We reviewed a sample of 75 plans, including 48 POE's and 27 POD's, and found average processing times of 40 and 64 calendar days for the respective types of plans. Table 4 compares these averages and those GOMR experienced under the January 1978 regulations:

Table 4

Comparison of Processing Time
Under January 1978 and
December 1979 Regulations

Plan type	Average days under Jan'78 regulations	Average days under Dec '79 regulations	Decrease in days	Percent decrease
POE	61	40	21	34
POD	111	64	47	42

Practically none of the plans that we reviewed, however, met the criteria for State review. Therefore, the improvement shown does not reflect the complete plan approval process. Since our analysis showed that 40 calendar days were required to process POE's, excluding State reviews, GOMR could be hard pressed to meet the 42-day maximum time frame established by OSCLAA regulations when State reviews are required.

Also, State participation in POD processing could increase GOMR's 64-day average if the regulatory maximums for processing actions are used, particularly: (1) the 60 days allowed States for comment; and (2) the 60 days allowed USGS to complete plan processing after receiving State comments.

Plan Processing Experience
Outside the Gulf

The USGS Pacific office also improved plan processing times following the OCSLAA's enactment, despite California's active involvement. The office processed seven POE's in

FY 1978 without California's review. Processing averaged 71 calendar days with a 33 to 114-day range. Also, in FY 1978, the Pacific OCS office approved the first POE subject to State review. The approval process took 180 days, including 65 days for State review--36 percent of the total plan processing time.

Following the OCSLAA, both the USGS Pacific office and the State of California experienced marked declines in plan processing time. During FY 1979, the Pacific OCS office approved four POE's, all of which underwent State review. USGS processing time declined 51 percent to an average 35 days, and California's average review time dropped 40 percent from 65 days to 39 days, as shown in table 5.

Table 5

Pacific OCS POE Processing Time Comparison

	Average time (days)		Average decrease (days)	Percentage decrease
	FY 1978	FY 1979		
USGS	a/ 71	35	36	51
State of California	b/ 65	39	26	40

a/Average for POE's processed prior to OCSLAA.

b/Review time for one plan processed under OCSLAA's provisions during FY 1978.

The OCSLAA's impact on Pacific OCS production activities is not yet apparent. In FY 1979, the Pacific area, the only other producing OCS area, ran a distant second to the Gulf of Mexico, accounting for 3 percent of all production wells. However, the Pacific OCS office has not approved POD's subject to OCSLAA requirements. The only Pacific area POD approved since OCSLAA met the legislation's grandfather provision exempting pre-OCSLAA discoveries from its requirements. USGS approved the plan in January 1980--more than 2 years after its submittal.

The impact of OCSLAA requirements in the Alaska OCS area is not yet known. Since 1976, when Alaska OCS exploration began, USGS' Alaska office has approved only POE's--14 in an average of 100 days. None of the plans were subject to OCSLAA's provisions and thus no impact is discernable. However, DOI lease stipulations are impacting exploration in the Alaska OCS, as discussed below.

Exploration is also the only oil and gas activity underway in the Atlantic OCS. OCS leasing began in the Atlantic in 1976. Through 1979, USGS approved 44 exploration plans in the average calendar day times shown in table 6.

Table 6

Processing Times for Atlantic OCS Activities

	Days			
	1976	1977	1978	1979
Mid-Atlantic	390	201	147	90
South-Atlantic	--	--	150	42

The table shows a declining trend in the time required for POE approval; however, the average time required in 1979 remained above the regulatory 30-days allowed between plan submittal and approval. USGS officials attribute the lengthy processing times for other 1979 plans partially to the cautious approach taken in processing plans for areas where affected parties are unsure of the impact. Also, the officials note that the USGS Atlantic OCS office lacked OCSLAA implementing regulations when processing most plans in 1979 and did not know what impact the new regulations might have. The only 1979 plan subject to OCSLAA implementing regulations took 29 days for approval.

Delays in Alaska Caused by Restrictions in Leases

Restrictions accompanying Alaska OCS leases delay exploration plan approval and limit exploratory operations. Leases awarded in Alaska's Lower Cook Inlet require that petroleum companies conduct biological resource surveys prior to exploratory drilling. One survey, involving Marathon Oil Company,

took 5 months to complete, during which time USGS could not act on the company's exploration plan.

Even though DOI resource agencies believed available information on the Lower Cook Inlet precluded the need for biological surveys, the Secretary of the Interior designated certain lease tracts "biologically significant," requiring surveys. A pending lawsuit by local residents may have prompted the Secretary's decision.

Another Alaska OCS lease stipulation limits exploratory drilling in the Beaufort Sea to the period November through March for 2 years following a lease's issuance. Standard Oil of Ohio officials say this operating limitation costs the company millions of dollars for logistical support and doubles the time to drill a well in the Beaufort Sea. Both Federal and State agencies recommended the drilling restriction to protect biological resources from oil spills that might occur in waters not completely frozen. USGS and BLM objected for several reasons, including the unlikely risk of an exploratory well oil spill and their opinion that restricted drilling will only delay exploration, waste resources, and increase costs. The Interior Secretary decided to include the drilling restriction in Beaufort Sea leases for maximum protection of endangered species while studies are underway.

FEDERAL PERMITTING DELAYS

In addition to approving industry's operating plans, USGS shares primary responsibility with the Corps of Engineers, Environmental Protection Agency, and the Coast Guard for issuing exploration and development activity permits. A delay by any one agency can hold up OCS operations.

USGS's operations were most affected by the OCS amendments. Even so, our analysis indicated that USGS actually improved its responsiveness to oil industry requests after implementing OCSLAA regulations.

The most serious delays involving permits relate to functions of agencies not directly affected by the OCSLAA and where time frames for completing agency actions are not legislatively mandated. For example, in the Gulf of Mexico, the Corps' processing time for permits for the installation of fixed structures and dredging operations is about 150 days when objections arise and, in Alaska, it exceeds 100 days for controversial topics such as permits to construct artificial islands for oil exploration.

The Environmental Protection Agency's drilling discharge permits are the most time consuming and have had perhaps the greatest effect on OCS operations. Permit requests filed more than a year ago for Pacific area exploratory drilling are still pending--thereby holding up OCS exploratory drilling--and the Agency's failure to be prepared to issue permits for operations in North Atlantic areas will postpone exploratory drilling on leases issued in 1979 at least until early 1981.

USGS Permitting Time Frames Improved Since OCSLAA Regulations

The GOMR Region, with its high volume OCS activity, performed better in issuing permits following the OCSLAA's implementation even though permitting procedures were relatively unchanged by the new regulations. During the period January 1978 through December 1979, GOMR experienced an average processing time of 41 calendar days for exploratory drilling permits and 114 calendar days for platform authorizations. In the succeeding months, ending May 30, 1980--under the regulations implementing OCSLAA--GOMR's average time for issuing drilling permits declined by 29 percent to 29 calendar days. Similarly, the platform approval time frame dropped to 36 calendar days--a 68 percent reduction.

GAO's analysis of 67 requests for exploratory drilling and 39 requests for platform construction showed that these reductions and more expeditious plan turnaround helped reduce the total time required to issue exploratory drilling permits and authorize platform construction, as illustrated in table 7.

Table 7

GOMR Processing Times Under OCSLAA Regulations

	Jan. '78 to Dec. '79	Dec. '79 to May '80	Day decrease	Percentage decrease
Average calendar day time from POE submittal to permit issuance	157	130	27	17
Average calendar day time from POD submittal to platform approval	83	74	9	11

Other Permits Are Needed For Planned OCS Operations

In addition to a USGS drilling permit or production facility approval, a company needs one or more Corps of Engineers, EPA, or Coast Guard authorizations before it can legally engage in offshore operations. The Corps issues permits that regulate: (1) installation of fixed structures (e.g., platforms, artificial islands) on the OCS; (2) discharges of dredged material into U.S. waters; and (3) transportation of dredged material for purposes of ocean dumping. EPA administers the National Pollutant Discharge Elimination System (NPDES) and issues NPDES permits that allow drilling mud and other noneffluent discharges offshore. The Coast Guard issues navigational aid permits, and inspects and certifies all mobile drilling units and vessels.

The Corps, EPA, and Coast Guard permits may be applied for at any time but the agencies have no legislative mandate to grant or deny permits or approvals within any specified period. EPA does, however, require that NPDES permit applicants apply at least 180 days prior to a scheduled activity, and even sooner, to avoid permitting delay. Both EPA and the Corps can issue permits within 90 days when little public concern surrounds a proposed activity; however, strong public interest, including State coastal zone management agency reviews, can add months to the agencies' permitting process.

Corps permitting time could be a year or more when major objections surround a proposed activity or an Environmental Impact Statement is required. Corps processing time in the Gulf of Mexico area extends to about 150 days when objections arise, and its permit processing in Alaska also exceeds 100 days for controversial topics such as oil exploration. In the Pacific OCS area, Corps permitting time in FY 1978 had an 89-699-day range and averaged 363 days. These statistics improved the following fiscal year when processing time ranged from 7 to 205 days and averaged 152.

EPA's 90-day permit processing design includes: (1) 30 days for public comment on EPA's permit issuance proposals, (2) 30 days for EPA's decision considering comments received, and (3) 30 days for a permit to become effective following a favorable EPA determination. The process is extended by at least 30 days for public notice when EPA determines that the comments received justify a hearing. Also, during the 30-day interim between a favorable EPA decision and a permit's effective date, interested parties can contest the permit and request a public hearing which requires another 30-day public notice period. Thus, EPA's 90-day processing period increases in 30-day increments, depending on the public's interest in a proposed activity.

NPDES permits have significantly delayed OCS oil and gas operations. For example, NPDES permit requests filed more than a year ago for operations on Pacific OCS Sale 48 leases are still pending. In addition to the Pacific area case, EPA's failure to be prepared to issue NPDES permits for North Atlantic lease operations will delay exploratory drilling on leases issued in 1979 at least until sometime in early 1981. And, for Alaska's Beaufort Sea OCS leases issued in in 1979, permits are not expected to be ready until late 1981. For more detailed discussion on EPA's NPDES permit processes and its impact on OCS operations, see chapter 4, pp. 32 to 35.

U.S. Coast Guard inspection certificates and aids to navigation permits take less time to issue than Corps of Engineers and EPA permits. According to Coast Guard officials, vessel inspections take only about 2 to 3 days and inspectors issue temporary certificates at successful completion. The Coast Guard issues the actual certificates later. The time taken to issue certificates may be as long as 30 days depending on workload factors. According to officials, the Coast Guard normally processes aids to navigation permit applications in 3 days, but takes as long as a week if the

application is not complete. Some permits issued for Pacific OCS activities in FYs 1978 and 1979 took longer. Most took 31 days or less, but one required 211 days. In that case, the applicant used a new type of lighting which required candlepower verification by headquarters Coast Guard engineers.

REQUIREMENTS IN TIME CONSUMING APPROVALS ARE LARGELY UNENFORCED

Despite the extensive and time consuming legislative and regulatory requirements devised for OCS permitting and approval processes, the primary agencies involved generally do not have active programs to monitor, enforce, or evaluate the effectiveness of the requirements they impose. Most agency officials blame the lack of adequate staff and some see the low priority assigned permitting operations as the reason for nonenforcement.

USGS has a strong inspection program to ensure adherence to safety and pollution-prevention regulations but does not track company performance in accordance with an approved POE or POD. For example, the Gulf of Mexico Region has oversight responsibility for a majority of OCS exploration and production, but no mechanism for comparing companies' performance with approved operating plans. Although the region is developing computer capability for tracking company performance in accordance with approved plans, the capability is actually being developed as an oversight tool for DOI's prompt and efficient operations policy. Its use to enforce POE/POD compliance is not planned. USGS regions do have one check on plan compliance--district offices will not issue permits for activity proposals that depart significantly from an approved plan.

Coast Guard officials say that they conduct routine inspections for compliance options despite a shortfall in personnel. Certificates of inspection that the Coast Guard issues OCS operating vessels are good for 2 years. During the 2-year period, the Coast Guard routinely conducts vessel inspections biannually but may do so at any time that a complaint is received. Also, as required by OCSLAA, the Coast Guard's Marine Inspection Branch performs annual inspections of all safety equipment of platforms and other fixed structures. The Gulf area branch inspected about 2,000 Gulf of Mexico platforms in 1979 and early 1980. During such inspections, the Marine Inspection Branch reviews navigational aids for complaince with aids to navigation permits issued

by another Coast Guard branch that is inadequately staffed for compliance checks.

Neither EPA nor the Corps of Engineers has an active enforcement program. EPA does not have a mechanism in place for determining NPDES permit compliance. The NPDES permit program has been described as an "honor system with horrendous penalties for non-compliance." About 90 percent of NPDES permit enforcement is based on company reporting. Companies with NPDES permits must submit quarterly reports to EPA and are expected to cite any incidents of non-compliance. The only compliance checking EPA does consists of random facility inspections done by its Surveillence and Analysis Division. The agency is currently negotiating with USGS for assistance in monitoring NPDES permit compliance.

Officials in both the Alaska and Gulf of Mexico areas attributed the lack of a viable enforcement mechanism to the lack of staff and the low priority assigned NPDES program compliance. An EPA official in Alaska said that EPA ignores most NPDES permit violations. NPDES program enforcement in the Gulf of Mexico is discretionary and, according to one official, there are currently thousands of facilities operating in the Gulf without NPDES permits. The officials said that the historical belief has been that EPA does not have the resources to do all the permitting required in the Gulf, and virtually nothing has been done.

The Corps of Engineers rarely conducts inspections to determine compliance with its permits. A Gulf of Mexico area official stated that it is highly improbable that the Corps would catch anyone operating without a permit. An official in Alaska said that Corps' inspections are a rarity and no staff is currently assigned to OCS enforcement. In Alaska, the Corps relies on an informal agreement with the Coast Guard for information on any OCS compliance problems. Corps officials said that the Alaska permit workload just about precludes insections and effectively results in the lack of a Corps enforcement capability.

It would seem that with all the emphasis and effort put into the legislation, and with all the time consuming requirements inherent in the new regulatory process, that greater priority and emphasis ought to be given to assuring that the various requirements are being complied with and that they are actually needed and working effectively.

CHAPTER 3

INCREASED ROLE OF STATE AND LOCAL GOVERNMENTS DOES NOT HAVE TO DELAY OCS OPERATIONS

Various laws in addition to the OCS amendments give coastal States a greater voice in OCS activities, and their involvement can delay the issuance of necessary permits to begin exploration and development activity. In addition, they can take as long as 6 months to review industry operating plans--the approval of which is needed to trigger other actions--and then even rule against them. So far, however, they have not exercised their authority in a way to disrupt OCS activity, although that potential does exist.

Rather than disrupting OCS activity, we found that the States of California and Alaska have taken some important steps to expedite State responses to oil industry requests and to bring together and coordinate OCS activities requiring multi-agency reviews. The Federal Government could well apply some of these lessons on a nationwide basis.

STATE INVOLVEMENT WITH OCS ACTIVITIES

As discussed in chapter 2, our analysis of how the OCS amendments have affected plan processing times is incomplete because Gulf area activities generally have excluded one critical element--the opportunity OCSLAA gives States to judge planned operations' compatibility with their coastal zone management programs. Until recent action by Louisiana, Alabama was the only one of five Gulf area States with a program and it has submitted comments on only one POE. The lack of more established State programs is probably related to the long history of oil and gas operations in the Gulf. According to an EPA official, much is known about the Gulf environment, and people in the Gulf have lived with oil and gas operations for years with no adverse effects. Consequently, the "environmental ethic" is not as strong there as it is in other sections of the country.

As might be expected, oil and gas operations receive more attention in the Pacific OCS area--particularly offshore California where the only petroleum industry incident causing severe environmental damage occurred in 1969. Perhaps as a consequence of this incident, California actively pursues

the coastal zone management role provided States through the OCSLAA and the Coastal Zone Management Act.

Coastal States may require, in accordance with the Submerged Lands Act, permits for access and right-of-way through State coastal waters. Environmental legislation such as the Clean Air Act gives States major responsibilities in the regulation of land facilities on coastlines. During the development and production phase, OCS activities are heavily dependent on shoreline facilities for such things as storage and processing which require permitting by State and local agencies.

States with a coastal area management policy must concur that industry's OCS plans are consistent, in terms of the Coastal Zone Management Act (CZMA), with the State's program for development (see chapter 4). Certainly, these extra review and approval layers add time to the oil and gas development process. Delays may occur because

--State and local agencies, through the Environmental Impact Review/Environmental Assessment process, may be uncooperative, thus delaying the completion of environmental reviews;

--stipulations and mitigating measures requested by State and local agencies may force industry to consider investment alternatives;

--State requirements more stringent than Federal requirements may involve additional time and cost to satisfy;

--the State may deny consistency concurrence on permits issued by USGS, EPA, the Corps of Engineers, etc.; and

--the State is allowed up to 6 months to decide on consistency certification while USGS is required to approve OCS operations within 30 or 60 days.

STATE INVOLVEMENT INCREASES AS ACTIVITIES MOVE TOWARD PRODUCTION

The number of State and local regulatory agencies involved in either issuing a permit, approval, or certification or in reviewing and commenting on OCS activities increases as those activities move from the exploration to the development and production stages. This is shown in table 8 below for California.

Table 8

California State Agencies
Involved in the OCS Process

	Exploration phase	Development and production phases
State Agencies	Office of Planning and Research	Office of Planning and Research
	Coastal Commission	Coastal Commission
		State Lands Commission
		Air Resources Board
		Department of Fish and Game
		Department of Parks and Recreation
		State Water Resources Control Board
		Department of Conservation
		Department of Transportation
Local Agencies	County Air Pollution Districts	County Air Pollution Districts
		Regional Water Qualify Control Boards
		City Planning Departments
		Public Works Departments
		City and County Fire Departments
		Police Departments

POSITIVE STATE ACTION REDUCES POTENTIAL FOR DELAYS

It may appear that far too many landlords are involved in activities that relate to the OCS and that expeditious and fair treatment of requests for approval of those activities would not be possible. Again, using California as an example, classic cases of confrontation can be cited. For example, in the case of Exxon's Hondo project, agreements could not be reached after almost 2 years of efforts to obtain State and local approvals. Such instances, however, obscure the petroleum industry's actual success rate in more recent times in obtaining State and local approvals. For example, in the area of consistency certification, California has an excellent record of responsiveness. This is shown in table 9.

Table 9

Industry's Record in Obtaining California Consistency Concurrence

Type of Activity	Number of Requests	State Actions		
		Concurrence	Objection	Pending
Exploration Plan	20	14	1	5
Development Plan	2	2	-	-
NPDES Permits	1	1	-	-
Corps of Engineers Permits	1	1	-	-

Even in terms of the time required for State action, California's record, despite the strong environmental ethic that exists there, has been essentially within required time frames, as shown in table 10.

Table 10

Processing Time for California Consistency Reviews

Fiscal year	Number of reviews	Average time to complete	Range
79	8	55 days	23-121 days
1/ 80	11	65 days	13-176 days

1/On applications received before April 18, 1980.

California has taken major steps to expedite other types of State actions. The most significant of these was the passage of the Permit Streamlining Act (Assembly Bill 884) by the California legislature in September 1977. One fundamental feature of the act is its requirement that State agencies list the information they require in acceptable applications and specify the criteria for determining when applications contain all the needed information. This information is reflected in the California Permit Handbook.

Another important feature in the legislation is the requirement for coordination among all State regulatory agencies involved in the preparation and review of environmental documents. California's Office of Permit Assistance, spawned by the Permit Streamlining Act, has been able to bridge the gap between industry and permitting agencies in activities such as joint preparation of environmental documents by Federal, State, and local agencies. This concept has been successful in connection with three of the most recent development and production projects in the Pacific OCS--Chevron's platform Grace (which is completed), Texaco's Pitas Point project, and Union's Hueneme project (both of which are near completion).

For example, Union first approached the California office in September 1978 to request assistance on the best way to proceed in obtaining approval of its Hueneme development project. This initial contact resulted in an organizational meeting of key agencies where a memorandum of understanding was drawn stating that a joint EIR/EA would be prepared.

A steering committee made up of seven key Federal, State, and local agencies was established to direct the process and assure that concerns at each regulatory level would be satisfactorily addressed in the final environmental document. This set the tone and provided clear and open channels to complete the many actions which followed.

ALASKA'S EFFORTS TO IMPROVE ITS PARTICIPATION IN OCS ACTIVITIES

The Governor of Alaska established a Clearing House within the State Division of Policy Development and Planning to coordinate those activities requiring multi-agency review. A Permit Information and Referral Center was also established as the central point where information on obtaining permits can be found. The center publishes a permit directory which lists both State and Federal permit requirements. In addition to these steps, Alaska has committed itself to the objective of determining within 30 days of receipt whether a proposed action requires a consistency review and to complete any necessary reviews within 90 days.

OTHER COASTAL STATES SHOULD BE ENCOURAGED TO DEVELOP PLANS TO EXPEDITE REVIEW PROCESSES

The actions taken by California and Alaska are examples of how duplication and inconsistency in permitting processes can be avoided and how costly and frustrating delays can be reduced. Both of these States, which have a strong environmental ethic, have begun to balance protection of local concerns with the need to expeditiously address energy development.

Future OCS activity will involve States in other areas, such as the East Coast and the Northern Pacific Coast, that have similar needs and equal, if not stronger, concerns. To preclude the kinds of delays and confrontation the States of California and Alaska are learning to live without, the Secretary of Commerce, working through the Coastal Zone Management Program, should encourage and assist other States in developing similar legislation and administrative procedures to make local permitting and review processes more uniform, timely, and coordinated. In addition, the Secretary of the Interior should complement that undertaking by requiring that the Department's agencies and bureaus encourage States in the development of cooperative programs, and seek

greater participation in joint review processes. This relates also the need for more Federal initiatives discussed in chapter 4.

CHAPTER 4

VARIOUS ENVIRONMENTAL LAWS POSE THE GREATEST OBSTACLES TO TIMELY OCS DEVELOPMENT

Various environmental statutes--including the National Environmental Policy Act (NEPA) and the Endangered Species Act--have left Federal decisions on the OCS open to court challenges that have delayed OCS exploration, development, and production. For example, NEPA-related challenges have occurred in all four OCS areas in recent years and delayed OCS operations from 3 months to almost 2 years.

Recent court decisions may reduce the number of challenges Federal agencies have faced in leasing offshore areas for oil and gas development. However, unless the credibility of the environmental review process is clearly established so that post-lease sale challenges and delays are avoided, petroleum companies will never be assured of an implied warranty that they may engage in offshore petroleum recovery activities on purchased leases.

To reduce the types of conflicts and confrontations--with their resultant delays--that have characterized the past and seem likely to dominate the future, more Federal leadership is necessary to bring together private and public sector interests and resolve remaining environmental and other problems for the common good of the Nation. The Intergovernmental planning Program, now residing in the Bureau of Land Management--at least conceptually--is the type of mechanism to serve this purpose. But it lacks the visibility, recognition, and clout needed to be fully effective in taking on such an important interagency as well as intergovernmental role.

ENVIRONMENTAL LEGISLATION CREATES POTENTIAL OBSTACLES TO TIMELY OCS DEVELOPMENT

An increased environmental consciousness surfaced in the late 1960s. In 1969, the only offshore petroleum industry incident to cause severe adverse environmental impact occurred in California's Santa Barbara Channel. The same year the Congress established a major environmental protection mandate--the National Environmental Policy Act (NEPA). Other major mandates occurring in succeeding years included

--the Marine Sanctuaries Act of 1972,

--the Coastal Zone Management Act of 1972,

--the Endangered Species Act of 1973, and

--the Clean Water Act as amended in 1977.

National Environmental Policy Act

The National Environmental Policy Act (NEPA) applies whenever a Federal action will significantly affect the quality of the human environment. NEPA's impact on a major Federal action is procedural in character, requiring that a responsible official provide detailed statements in a proposal, such as the intent to hold an OCS lease sale, addressing the following topics

--the proposed action's environmental impact,

--any adverse environmental effects which cannot be avoided if the proposal is implemented,

--alternatives to the proposed action,

--the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

--any irreversible and irretrievable resource commitments involved if the action is implemented.

For OCS oil and gas operations, DOI must comply with NEPA criteria when preparing an Environmental Impact Statement (EIS) for each OCS area prior to the sale. In recent years, court challenges--contending that an EIS was not prepared in accordance with NEPA criteria--have occurred in all OCS areas. These have delayed OCS exploration, development, and production activity by such time periods as: a 1-year delay in the eastern Gulf of Mexico; a 1-year delay in the mid-Atlantic; a 23-month delay in the north-Atlantic; a 3-month delay in southern California; and a 6-month delay in Alaska's Beaufort Sea.

The latest challenge charged that the EIS for the Beaufort Sea lease sale off Alaska did not comply with NEPA criteria. The District Court agreed, holding that DOI had

failed to comply with certain NEPA and Endangered Species Act requirements. However, the Court of Appeals reversed the finding, partially on the determination that a Federal agency has discretion in meeting NEPA requirements.

Compliance with NEPA, according to the Court of Appeals' decision, is a matter of the administrative agency acquiring and digesting useful information relating to the environment and describing the impact that might occur from the proposed Federal action. NEPA, the Court continued, provides for a fully informed and well-considered decision that takes into account the environmental consequences, but does not prevent a decision from including risk or certainty of serious environmental damage. NEPA does, however, prevent arbitrary and capricious decisions.

Most court decisions have ruled that DOI adequately addressed NEPA criteria in preparing an EIS. Judicial hearings, however, have caused 3- to 23-month delays. The recent Appeals Court decision, which allows Federal departments and agencies discretion in meeting NEPA requirements, may set a precedent that will minimize future delays.

Endangered Species Act

Where NEPA requires consideration of potential environmental hazards, the Endangered Species Act (ESA) mandates the preservation of endangered life. In essence, the ESA prohibits any action that could be "irreversible or irretrievable" and likely to jeopardize an endangered species or its critical habitat.

The adequacy of DOI's consideration of endangered species in planning both Pacific and Alaskan OCS lease sales was recently challenged. As with NEPA, the most important court case involved Alaska's Beaufort Sea lease sale. The Court of Appeals held that DOI's leasing program is a continuum of planned events and that actually holding a lease sale does not, in itself, generate any irreversible or irretrievable action that would jeopardize the endangered species (in this case the bowhead whales).

The OCSLAA, NEPA, and ESA all insist on foresight when planning any proposed action. Since holding an OCS lease sale is only one planned event, further consideration of these statutory goals must be addressed before exploration, development, and production will be allowed. Therefore, if

in any of these evaluations it is found that a lessee's OCS oil and gas exploration plan will jeopardize an endangered species or its critical habitat, the proposal would not be allowed to proceed.

Conflict between attempts to recover domestic offshore oil and gas and to protect marine life will doubtlessly continue. Identifying conflicts early, however, will allow time which might achieve both oil and gas recovery and the protection and preservation of marine life in a mutually agreeable manner.

Marine Sanctuaries Program

Title III of the Marine Protection, Research, and Sanctuaries Act provides for preserving or restoring OCS areas for conservation, recreational, ecological, or esthetic values. The Department of Commerce (DOC) can designate marine sanctuaries and could alter oil or gas operations that are taking place. The size, location, and number of proposed sanctuaries could also impact OCS oil and gas activity. However, these potentialities have not yet occurred.

Currently, the marine sanctuary designation protects: (1) the coral reefs in Key Largo, Florida; (2) part of the OCS area off North Carolina where the sunken Civil War ship Monitor lies; and (3) upon congressional approval expected in March 1981, areas surrounding five islands in California's Northern and Santa Barbara Channels. The protected territory in these sanctuaries ranges from 1 mile in diameter for the sunken Monitor to over 1,200 square nautical miles 1/ for the islands off the coast of California. As of December 1980, DOC had another six areas in the Gulf, Atlantic and Pacific OCS under consideration as active candidates for marine sanctuary designation.

Companies with oil and gas operations underway in proposed sanctuary areas may not be required to alter or cease operations after an area is designated a sanctuary. The sanctuary program, according to a DOC official, provides for multiple uses of an area as long as the uses are compatible with the purposes of the sanctuary.

1/A nautical mile is equal to about 1.5 standard miles.

The Flower Gardens in the Gulf of Mexico, one of the six areas being considered for marine sanctuary designation, illustrates the potential impact of a marine sanctuary on oil and gas operations. While the designation of this Gulf area as a sanctuary will allow oil and gas operations, two main proposed features could potentially delay or prohibit those operations. First, permits issued prior to the area designation and effective date of regulations remain valid for one year. For those permits that expire after the 1-year period and for all permits, licenses and other authorizations issued after the designation and effective date of regulations, certification is required by the Assistant Administrator. This could result in up to a 120-day delay for the administrative process and might prohibit oil and gas operations in the event of an unfavorable decision. However, a DOC official stated that these regulations are only proposals subject to change and where BLM regulations are adequate to provide the necessary safety in oil and gas operations they will be used in lieu of new regulations.

The second feature possibly impacting the Flower Gardens area is the size of the proposed sanctuary. This Gulf proposal covers 257 square nautical miles. A sanctuary this size, might prohibit recovery of hydrocarbon resources should discoveries be made just outside the sanctuary and the reservoir extend into the sanctuary. This occurrence has not happened yet, but should it occur DOC officials fully intend to permit oil and gas operations in the sanctuary provided the activity is consistent with any ongoing operations. However, if no ongoing oil and gas operations existed within the sanctuary, we believe enough uncertainty would exist to possibly delay the decision process even though DOC believes oil and gas operations would be allowed.

In a report addressing the Marine Sanctuaries Program 1/ GAO found that the sanctuaries act provides coverage that other Federal authority can not provide. For example, a recent court ruling held that the OCSLAA does not authorize environmental protection measures unless the regulated activity is related to mineral leasing. Therefore, OCSLAA can not protect coral and coral resources from being damaged or disturbed by marine salvage activities, anchoring by recreational vessels, or other activities not related to offshore energy development.

1/"Marine Sanctuaries Program Offers Environmental Protection and Benefits Other Laws Do Not," (CED-81-37 due for issuance in late February 1981).

DOC expects some 70 areas of the OCS to be nominated for marine sanctuary designation. However, DOC expects that only 25 or 30 of these areas will actually be designated. The following questions are addressed in considering OCS areas for sanctuaries.

--Are the areas rich in potential oil and gas resources?

--How large is the area needed for marine protection?

--What, if any, balance can be achieved to both protect marine resources and satisfy the need for energy resource recovery?

However, it becomes quite complex to answer these questions when there is some knowledge of the environment but little knowledge (estimates) on the areas oil and gas potential before drilling. In addition, the environmental impact from drilling and whether there will be any discovery of recoverable resources, for many areas, are also unknown.

Clean Water Act

EPA is responsible for issuing National Pollutant Discharge Elimination System (NPDES) permits under the authority of section 402 of the Clean Water Act (CWA). Administrative inconsistencies by EPA in issuing NPDES permits cause delays in achieving orderly and timely OCS exploration, development, and production.

Most of the drilling currently done on the OCS is done without an NPDES permit. EPA has sent most applicants letters of nonobjection which basically state that EPA has received the company's application, at this time has no objections to the discharges related to drilling, and will send the permit after it has reviewed and processed the application. EPA usually forwards the letters to operators within 30 days after receipt of a request for a permit.

The NPDES permits issued by EPA in the Southern California OCS areas are issued for drilling vessels or structures and allow continuous operations within specified OCS lease tracts. A new NPDES permit is required, however, to drill an OCS tract not covered by the NPDES permit, even if it is an adjacent one. This practice differs from EPA's present

practice in the Gulf of not issuing such permits at all as well as its proposal for area-wide permits.

The potential for delays inherent in the NPDES process is shown in the following example.

> Mobil Oil was drilling on tracts that it had acquired in December 1975--OCS lease Sale 35. After acquiring additional OCS tracts in a June 1979 lease sale--OCS lease Sale 48, Mobil submitted an application to EPA on August 14, 1979, to extend its drilling authority to include adjacent OCS Sale 48 tracts. On October 18, 1979, EPA issued notice that an NPDES permit would be given to Mobil in 30-days. Before the permits were issued, however, several interested parties asked for a public hearing. The hearing was held on January 17, 1980. No one testifying against issuance of the permit offered any evidence that environmental harm would result from exploratory drilling in the Sale 48 area and the hearing officer stated that a permit would be issued.
>
> After another EPA administrative delay, the NPDES permit was issued on February 14, 1980, but was not to be effective for another 30-days to provide another comment period. In mid-March a group called Scenic Shoreline Preservation requested an evidentiary hearing challenging the permit. EPA's procedural regulations require a party objecting to an NPDES permit to present evidence which indicates why a permit should not be issued. If this burden is not met, the interested party is not entitled to an evidentiary hearing. EPA's regional personnel agreed with the request, even though no new evidence indicating environmental harm was presented to lend support to this decision.
>
> According to Mobile, from the date it first applied to EPA for a NPDES permit modification until EPA decided to hold an evidentiary hearing, took about 7 months and cost Mobile about $2 million. An evidentiary hearing has still not been scheduled. Mobil has started exploratory drilling in the Sale 48 area and

is barging the drilling muds and cuttings to an onshore dumping site, which is more costly and, Mobil also believes, more environmentally hazardous.

This example illustrates how EPA's administrative procedures for NPDES permitting can preclude timely permit issuance. Such a process not only can delay oil and gas exploration and development but, according to information furnished by industry, also can cost millions of dollars.

Alaska

Exploratory drilling in Alaska has occurred only in the Gulf of Alaska and Cook Inlet. Where permits were issued, it required an average of 225 days. Areas in the environmentally-sensitive Beaufort Sea have been recently leased, but EPA does not expect to issue any permits or send letters of nonobjection to operators wanting to drill there before July 1981. The primary reason for the delay is to allow EPA an opportunity to study the effects of drilling discharges on the environment--which is information, we believe, EPA should have had prior to the lease sale.

Atlantic

EPA has issued NPDES permits for both the mid- and south-Atlantic OCS areas. These permits are issued to the operator of the lease (not the rig or vessel, as is done in California). For the mid-Atlantic, an operator with an NPDES permit may drill on any lease the operator has acquired. Additional lease acquisitions, however, would require additional permits.

An NPDES permit is also issued to the operator for the south-Atlantic OCS area. These permits allow the operator to drill on any lease acquired in a lease sale provided the leases are connected to each other. However, where an operator has leases not connected, separate NPDES permits would be required. And, a separate permit will be required for lease acquisitions in subsequent sales. These examples show that EPA issues NPDES permits differently even for the Atlantic OCS areas. In addition, EPA took about 8 months to issue permits for some Atlantic OCS areas, partly due to litigation, death of a key staff member, and no prior experience in issuing permits for the area.

NPDES permits are not expected to be issued for OCS areas leased in the December 1979 North-Atlantic Sale 42

before early 1981. Again, this delay is to allow EPA an opportunity to study the effects of drilling discharges, muds and cuttings, on the environment and fish populations--again knowledge EPA should have obtained before the leases were issued.

EPA Needs Assistance to Enforce NPDES Compliance

EPA does not have a mechanism set up for determining NPDES permit compliance. The EPA NPDES enforcement process is based on an "honor system," according to an EPA official, with stringent penalties for noncompliance with permit stipulations. The official stated that 90 percent of EPA's NPDES enforcement activity is done by requiring operators to submit reports on discharged materials. The reports must include incidents of noncompliance. This kind of enforcement policy is used because some EPA regions are not staffed sufficiently to perform any other kind of enforcement activity. According to the EPA official, the priority given to staffing an EPA region depends, to a large extent, on its environmental ethic. For example, the Gulf of Mexico is given a low priority, the official continued, because of the little opposition expressed toward oil and gas development. Only two staff persons are involved with the NPDES permit program and only one is involved fulltime.

Prior to the Clean Water Act, USGS regulated all offshore discharges of drilling muds and cuttings. Even now USGS has regulations that require lessees to dispose of all waste materials in a manner that will not pollute the water or harm or damage fish and other acquatic life. In addition, USGS visits the sites of all OCS exploratory drilling operations on a regular basis and visits other sites of operations at least once each year to inspect the manner in which operators are performing various functions.

EPA is aware that USGS holds on-site inspections and would report to EPA any discharge violations noted during those inspections. In fact, EPA is currently drafting a memorandum of understanding between itself, BLM and USGS relating to the NPDES permits.

In view of limited EPA resources devoted to regulating OCS drilling discharges, the EPA Administrator should reassess the priority that is assigned this function and buildup or better allocate existing agency resources. As an alternative,

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EPA should consider drawing on the USGS expertise to more expeditiously issue NPDES permits and monitor industry's compliance.

Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) allows affected coastal zone States the opportunity to participate in and plan for the impacts on their territory from, among other things, oil and gas production in Federal OCS areas. Conceptually, CZMA provisions are a useful tool to effectively manage the coastal zones of the United States. However, CZMA could also be used as an effective mechanism to delay or possibly prohibit oil and gas operations in Federal territory.

DOC has primary responsibility for administering the provisions of CZMA through its Office of Coastal Zone Management. Each participating coastal zone State is required to submit a coastal zone management program to DOC. Currently, 14 of the 22 contiguous 48 States with coastal areas and Alaska have DOC approved CZM programs. Louisiana, which has substantial OCS operations off its coast has, only recently, obtained approval of its program. Texas, which also has substantial OCS activity off its coast, does not have an approved program.

The objectives of CZMA are to preserve, protect, develop, and enhance or restore, where possible, the coastal resources. Each Federal agency or department conducting or supporting activities directly affecting a State's coastal zone must ensure that its proposal is, to the maximum extent practicable, consistent with the approved State management program. In addition, an OCS oil and gas operator planning to conduct an activity affecting land or water uses in the coastal zone of such a State must obtain the State's certification that the proposed activity is consistent with its program.

States receiving industry proposals to conduct OCS oil and gas activity are required to concur with or object to proposals within 6 months after receipt. If the affected State(s) does not respond within 3 months after receiving a proposal, it is conclusively presumed that the State concurs with the proposal.

E R R A T A

To the recipients of the Comptroller General's report to the Congress entitled "Impact of Regulations--After Federal Leasing--On Outer Continental Shelf Oil and Gas Development" (EMD-81-48):

A new page 36 has been inserted.

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As pointed out previously, an inconsistency in the time frames exists between USGS and States under CZMA relating to this permit process. USGS has 30 days to give a response

on a company's exploration plan. However, States can take up to 6 months. This time difference is important because the CZMA requires oil and gas operators to obtain State(s) consistency certification before any license or permit is issued by a Federal department or agency. Without the State consistency certification, an OCS operator cannot obtain drilling permits and licenses necessary to begin actual operations even though the permitting agency may have reached a favorable decision. Should a State not certify consistency of an applicant's proposal, the applicant would have to either revise the proposal or seek to obtain an overriding decision by the Secretary of Commerce.

CZMA calls for coastal zone planning that will meet national interests. However, it becomes quite difficult to differentiate between national and State interests, especially in the absence of a clear definition in the act. For this reason alone, States with approved programs have a lot of control over activity in the Federal OCS. Should a State not be receptive to Federal OCS development, it could effectively delay or prevent OCS activity indefinitely by requesting modification or denying certification at or near the end of its 6-month time frame. This tactic could result in effectively prohibiting any OCS oil and gas operations from taking place, since the State review would allow another 6-month period.

LEADERSHIP AT NATIONAL LEVEL NEEDED TO DEAL WITH REMAINING PROBLEMS

Leadership--intergovernmental and interagency in nature--is needed at the national level to recognize and deal with the types of environmental concerns that have delayed OCS leasing and permitting in the past and are destined to frustrate it in the future. An institutional framework--such as an interagency steering committee with high visibility and clout in the public as well as private sectors--would be required. The committee could include the Secretaries of Interior and Commerce, the Administrator of EPA, the Chief of the Corps of Engineers, and the U.S. Coast Guard, and be charged with such functions as:

--Assembling and giving the earliest possible consideration to environmental protection requirements that may preclude oil and gas activity in any unexplored OCS area proposed for lease sale.

--Coordinating and cooperating in resolving environmental protection requirements that need not delay or prevent OCS activity.

--Sharing commonly needed environmental data and expertise required to reach statutory decisions.

--Assuring an appropriate balance between development of oil and gas resources and protection of the environment.

In addition, this same Steering Committee could oversee and help to streamline the OCS authorization processes--as discussed in chapter 3. Its functions would include:

--Making information and assistance readily available to applicants.

--Coordinating agency processes so that no one agency delays an OCS activity.

--Resolving conflicts and concerns that may unduly delay or prevent OCS oil and gas operations.

--Encouraging, where appropriate, cooperation among authorizing agencies in enforcing their requirements.

--Seeking and encouraging affected coastal States' participation in the group.

The Intergovernmental Planning Program (IPP)--in concept--has the type of mandate and organizational composition for serving this function, but lacks the visibility and clout to take on such an important role.

Role and Contribution of the Interagency Planning Program

In 1979, BLM recognized that future OCS development would significantly impact geographical areas where the population was unfamiliar with such activities. BLM thus established the Intergovernmental Planning Program (IPP) to bring together governmental and private interests in these areas and to provide an institutional structure for the technical studies

and analysis required for timely decision-making. It was hoped that this would create a mutual concern and sense of responsibility among Federal and State agencies, the petroleum industry, and other special or private groups when considering the leasing process, environmental studies, and planning for the transportation of any eventual oil or natural gas production.

The IPP established, within the six leasing regions (Table 11), a Regional Technical Working Group Committee (RTWGC) and, in the event of a marketable discovery, a State Technical Working Group Subcommittee. The RTWGC is a part of the OCS Advisory Board which provides information and advice to DOI. When formed, the State Technical Working Group Subcommittees were to become involved in site-specific planning activities, the establishment of transportation corridors, and the location of associated onshore facilities.

Table 11

IPP Leasing Regions and States within each Region

1. North Atlantic	2. Mid-Atlantic	3. South Atlantic
Maine	New York	North Carolina
New Hampshire	New Jersey	South Carolina
Connecticut	Delaware	Georgia
Massachusetts	Pennsylvania	Florida
Rhode Island	Maryland	
New York	Virginia	
New Jersey		

4. Gulf of Mexico	5. Pacific	6. Alaska
Florida	Oregon	Alaska
Alabama	Washington	
Mississippi	California	
Louisiana		
Texas		

Intended as an advisory body to BLM management, the main visibility of the RTWGC is within the OCS Advisory Board, where its input is combined with that of a Scientific Committee

and a Policy Committee. While its responsibilities extend beyond the programs BLM manages, IPP has little visibility outside that agency since it reports to the OCS Advisory Board which later submits recommendations to the Secretary.

Some regional groups have found it difficult or impractical to work within the programs phased approach. Some program coordinators believe the RTWGC's are too large and that members lack the background to be effective in an advisory role. On the other hand, there have been 22 RTWGC meetings since the IPP was instituted. Following initial organizational efforts, the RTWGC's moved on to address such issues as (1) tract recommendations in the North Atlantic; (2) a transportation management plan for the Mid-Atlantic; (3) issues for an environmental study of the Cook Inlet; and (4) traffic separation schemes for the Santa Barbara Channel.

The RTWGC's have sent 17 resolutions or recommendations to BLM to express views on buffer zones around sensitive areas, considerations about the state of deepwater technology, vessel traffic separation, and study of the effect of the Ixtoc oil spill. The 29 RTWGC participants we contacted generally felt that the IPP has been effective in providing a forum for discussion, thereby education, and they also saw IPP as a means of making BLM aware of local concerns about the nature of OCS development.

CHAPTER 5

INDUSTRY HAS A CREDIBLE RECORD IN THE PURSUIT OF OIL AND GAS RESOURCES

The OCSLAA calls for policies and procedures to expedite the exploration and development of OCS oil and gas resources. Inherent in this mandate are permitting and approval processes; however, the processes do not find, develop, or produce oil or natural gas. This is done by the companies operating under the authorities granted by those processes. As has been shown in previous chapters, the administrative processes do require time. Yet how quickly companies carry out their responsibilities once the permits and approvals are obtained becomes the final measure of how quickly oil and gas resources are developed.

Despite the regulatory maze, we found that the petroleum industry has a credible record of performance in pursuing oil and gas resources on OCS leases. We found that over 79 percent of the leases issued in the Gulf between 1970 and 1974 have been drilled and production has resulted from 29 percent of the leases issued and 37 percent of the leases drilled. This is pretty much consistent with an earlier study performed by the Department of Energy (DOE) on this same question. However, our analysis also indicated that a declining trend in leases drilled during the first lease year occurred between 1977 and 1979, which might reflect the requirements imposed by the OCS amendments, as well as other factors such as the availability of drilling rigs.

We found that DOE's study used a data base that was so unreliable it should never be used to make management judgments on an issue as important as diligence. Fortunately, in this instance, DOE's conclusion turned out to be basically correct despite the bad data.

There is a need for DOI to systematically monitor industry's performance. We understand the USGS is now designing a computer data system that can be used to serve this purpose. Such a system should be developed and implemented as a standard part of Federal oversight--and the unreliable data base which was used by DOE in its study of industry diligence should be disbanded.

DOE Finds Industry Diligent In Its OCS Activities

In December 1979 DOE published, "An Analysis of Exploration, Development, and Production Activity on Federal Outer Continental Shelf Leases," which was an effort to describe the petroleum industry's performance on the OCS. Using USGS data, DOE statistically evaluated the time companies took to accomplish the various steps (e.g., the drilling of the first exploratory well) leading to first production.

Based on the evaluation results, DOE concluded that industry was "diligent" in its activities and had, in fact, shown improved timeliness in both exploration (first well) and development (first production). Among the numerous determinations made were: (1) industry had drilled on 74 percent of all tracts leased between 1954 and 1973; and (2) production was realized from 37 percent of the tracts leased through 1969. The average time from lease date to first well for leases issued between 1954 and 1958 was 40.1 months, but dropped to 8.6 months for leases issued between 1969 through 1973. The time frame from lease date to first production also declined from 80.2 months to 20.3 months.

Data Base Used by DOE Adequate For Its Study But Overall Is Not Reliable

USGS started the data base used in the DOE analysis in 1972 as a by-product of an internal study requiring OCS lease information. The Applied Research and Analysis Section of the USGS Conservation Division in Lakewood, Colorado, transcribed existing data from records on file at the Gulf of Mexico Regional Office (GOMR) in Metairie, Louisiana, to magnetic tape. Since July 1979, functional responsibility for updating the data on the magnetic tape has been contracted to the General Services Administration in Ft. Worth, Texas.

GOMR received the original data relating to most leases in the system and wants responsibility for its maintenance; but no effort to accomplish this is underway. As a result, the data base remains an orphan, managed by a section of USGS that is outside the mainstream of data collection. Although GOMR may find basic data errors, GSA is not provided information to correct the data base. Further, gaps in the data are known to exist. For example, there is no well information for leases off Alaska or the west coast. In addition, data for wells in Baltimore Canyon is included only when they have been plugged and abandoned.

To evaluate the data base's reliability, we randomly selected information on 350 of 2,809 leases maintained on magnetic tape. This sample included 307 leases in the Gulf of Mexico, 32 in the Pacific OCS, 6 off Alaska, and 5 in the mid-Atlantic. We selected the following information items as being important to the reliability of the data base: lease sale date; lease date; first well date, number of wells on the lease; and lease termination date. For the first 100 randomly selected Gulf of Mexico leases, we compared original records to data on the tape. For the remaining Gulf of Mexico leases in the sample, we compared the selected data items to those on a separate historical well data base maintained by the GOMR office. Where differences occurred, the original records were examined to determine which data base was correct. All sample leases outside the Gulf of Mexico were verified by comparison with the original records. In our evaluation, we considered a lease record in error if: (1) the sale or lease date was incorrect; (2) the date of the first well was incorrect; (3) an existing well was not shown in the record; or (4) if a nonexistent well was recorded.

Eighty-seven leases, or 24.9 percent of those in the sample, contained errors. In total, the leases had 193 errors. Included among the leases with record errors were 71 which had been drilled. This represents an error rate of 32.9 percent, since 216 of the sample leases were shown as drilled. Only 15 of the sample leases had an incorrect lease date, resulting in an error rate of about 4.3 percent. One lease had an incorrect termination date.

The error rates identified would normally cause a data base to be considered unreliable. However, because of the way DOE used the data base in its study, the errors actually caused DOE to underestimate the diligence of industry performance. All of the errors resulted from the actual first well date being omitted or incorrectly shown in the data base. When information on the first well was missing, DOE used what was actually the second well date. If no second well date existed, the DOE analysis considered the lease unexplored. In addition, incorrect dates were always later than the actual dates--thus the underestimate.

GAO's Analysis of Company Performance In The Gulf of Mexico

We used a data base USGS maintains for industry activity in the Gulf of Mexico to obtain another view of diligence.

Because of two major differences--(1) the data base we used only included Gulf of Mexico activities while the data DOE used covered all areas, and (2) the data base we used included data through mid-1980--no direct comparison can be made of the results of DOE's analysis.

The reliability assessment procedures we used also tested the accuracy of the GOMR's well history data base. There were 2,901 leases recorded on this file, with data current through July 1980. The assessment tested 307 of these leases. Wells were shown to have been drilled on 209 leases. Ten leases (3 percent of those in the assessment) had errors when compared to original documents. Most of the errors related to the sale or lease date, not to the first well date or the first production date.

Since this data base could be considered reliable, we used the data to evaluate company performance in the Gulf of Mexico. While the evaluations were made in a different manner than those made by DOE, they also show that--overall--petroleum companies have been prompt in undertaking OCS operations.

Fifteen large companies were shown as the operators 1/ of 50 or more leases. In total, the companies operated 2,066 leases or 71 percent of all the leases in the Gulf of Mexico. The remaining 835 leases were shown as operated by 97 other mostly smaller companies. The table below provides an overview of what the companies did with the leases.

1/The operator is the company that is responsible for obtaining required permits and approvals and for performing such activities as drilling to explore and develop a lease. In most instances, the operator will be the company, or one of the companies, awarded the lease when it was sold. It is, however, possible for a company to become the operator through various types of agreements with the lease holder.

Table 12

Activity on the 2,901 Gulf of Mexico Leases--

Through July 1980

	Number of Leases		Percent of Total	
	Large Operators	Other Operators	Large Operators	Other Companies
Leases Drilled and Produced	543	139	26	17
Leases Drilled, Not Produced and Not Terminated	a/ 342	c/ 214	17	25
Leases Drilled, Not Produced and Terminated	273	149	13	18
Leases Not Drilled and Not Terminated	b/ 688	d/ 232	33	28
Leases Not Drilled and Terminated	220	101	11	12
Total	2,066	835	100	100

a/270 of these leases are still in the primary lease period.
b/203 of these leases are still in the primary lease period.
c/110 of these leases are still in the primary lease period.
d/ 66 of these leases are still in the primary lease period.

The well history file shows that between January 1, 1970, and December 31, 1974, 878 leases were issued in the Gulf of Mexico. The fifteen large operators received 613 leases and forty-two other operators received the remaining 265 leases. Over 79 percent of the leases have been drilled, with the larger operators drilling a smaller percentage of their leases than did the other operators. Production has resulted on 258 of the leases (29 percent of leases issued and 37 percent of leases drilled). When compared to other operators, the fifteen large operators brought a slightly higher percentage of their leases to production (32 percent vs. 24 percent), and a significantly higher percentage of the wells they drilled were eventually produced (41 percent vs. 28 percent). Additional statistics concerning these leases are shown in the following tables.

Table 13

Activity on Leases Awarded in the Gulf of Mexico Between January 1, 1970 and December 31, 1974

	Wells Drilled	Lease Year First Well Drilled (Number of Leases)				
		First	Second	Third	Fourth	Fifth
Fifteen large operators	470	320	73	27	17	33
Other operators	227	147	44	10	6	20

Table 14

Lease Year of First Production on Leases Awarded in the Gulf of Mexico Between January 1, 1970 and December 31, 1974

	Leases produced	Lease year of first production (number of leases)									
		1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th
Large operators	194	16	7	37	29	44	30	16	10	5	--
Other operators	64	--	7	17	6	15	7	8	1	3	--

A declining trend in the number of leases drilled during the first lease year occurred between 1977 and 1979, as shown below.

Table 15

Leases Drilled During First Lease Year, 1977-1979

Year	Leases issued	Leases drilled in first lease year	Percentage
1977	162	73	45
1978	89	36	40
1979	217	67	31

While this might reflect the requirements imposed by the OCSLAA, other factors, including the availability of drilling rigs, likely had as much or more impact.

CHAPTER 6

CONCLUSIONS AND RECOMMENDATIONS

Timely discovery, development, and production of OCS oil and gas resources could increase the Nation's domestic supply and help reduce dependence on imports. On the other hand, the OCS is vital to other national interests such as commercial fishing, transportation, and recreation--and it also has esthetic, historical, and biological value. The importance of these latter interests is recognized by various statutes that protect the OCS and its surrounding environment from potential adversities that might result from oil and gas operations. Prior to 1978, the OCS Lands Act of 1953 only encouraged oil and gas production. The OCS amendments, passed in 1978, recognized the need to expedite OCS oil and gas production and to balance it with protection for the human, marine, and coastal environments.

It is yet to be seen how the OCS amendments will ultimately impact offshore oil and gas operations. No OCS area has undergone the full test of its provisions in the more than 2 years since passage of the legislation due primarily to: (1) varying degrees of oil and gas development among the different OCS areas; (2) limited participation by State and local governments; and (3) regional differences in environmental concern.

Interior regulations, instituted in anticipation of the amendments, significantly increased the time frames required by USGS to approve exploration and development plans in the Gulf area. But more recently, under revised regulations to meet the mandated time frames specified in the amendments, USGS has greatly improved its responsiveness. Processing times, however, will probably never return to the very short time frames experienced prior to 1978 and could increase even in the Gulf, if coastal States get into the review process. Outside the Gulf, exploration plans generally have been approved without much delay, but it is too early to gauge what will happen with more controversial development plans.

Inconsistency in statutory processing times could make USGS permitting take longer as more States develop federally approved CZM plans. Permit issuance depends not only on USGS plan approval but also on CZM States' certification of industry's plans--a process that, by law, may take longer than USGS plan approval. For example, even though USGS

approves an exploration plan within the 42 days OCSLAA regulations allow, a USGS permit may not be granted for at least another 138 days if a State takes the 180 days CZMA allows for certification.

The most serious delays to date have involved EPA and Corps of Engineers permitting--processes not directly affected by OCSLAA and without statutory time frames. For example, drilling discharge permits filed with EPA more than a year ago for Pacific area exploratory drilling are still pending--holding up a great deal of planned exploratory activity there. Similar delays also have been experienced with required Corps of Engineers' approvals. Standard time frames for the various review and approval process--legislatively or administratively mandated--are needed to more efficiently carry out OCS operations.

Despite the extensive and time-consuming effort put into developing legislation and regulatory requirements surrounding the OCS permitting and approval process, however, the agencies responsible for implementing the requirements generally have not actively monitored, enforced, or evaluated the effectiveness of the requirements imposed.

On the positive side, actions taken by California and Alaska are examples of how duplication and inconsistency in permitting processes can be avoided and how costly and frustrating delays can be reduced. Both of these States, which have a strong environmental ethic, have begun to balance protection of local concerns with the need to expeditiously address energy development. Future OCS activity, however, will involve States in other areas, such as the east coast and the Northern Pacific Coast, that have similar needs and equal, if not stronger, concerns. The lessons learned in California and Alaska will be needed there--and elsewhere.

While recent court decisions show promise for reducing certain types of NEPA-related challenges, various environmental legislation continues to leave decisions on the OCS open to public challenge with ultimate settlement in the courts. To preclude the types of conflicts and confrontations--with their resultant delays--that have characterized the past and seem likely to dominate the future, greater credibility must be injected into the environmental review process and more Federal leadership is necessary to bring together private and public sector interests and resolve remaining problems for the common good of the Nation. The

Intergovernmental Planning Program, now residing in the Bureau of Land Management--at least conceptually--is the type of mechanism to serve this purpose. But it lacks the visibility, recognition, and clout needed to be fully effective in taking on such an important interagency as well as intergovernmental role.

Finally, despite the regulatory process, the petroleum industry has a credible record of performance in pursuing oil and gas resources on OCS leases, in that over 79 percent of the leases issued in the Gulf between 1970 and 1974 have been drilled and production has resulted from 29 percent of the leases issued and 37 percent of the leases drilled. However, a declining trend in leases drilled during the first lease year occurred between 1977 and 1979. This might reflect the requirements imposed by the OCS amendments, as well as other factors such as the availability of drilling rigs. The Department of the Interior needs to develop and implement a systematic way to monitor industry performance on the OCS as a standard part of its Federal oversight role.

RECOMMENDATIONS

Because intergovernmental and interagency leadership is a prerequisite for further progress in exploration and development of the OCS areas in the years ahead, we recommend the following new initiatives:

--The Congress should enact legislation to establish a standard, reasonable time within which all Federal agencies, particularly the Department of the Interior, the Environmental Protection Agency and the Corps of Engineers, are required to complete approvals and issue permits. A maximum 90-day turnaround time should be the general rule, including the time for State consistency reviews.

--A Steering Committee, comprised of the Secretaries of the Interior and Commerce, the Administrator of EPA, and the Chief of the Corps of Engineers should be formed and led by the Secretary of the Interior to bring together public and private sector interests and focus attention on the remaining unresolved concerns, with particular emphasis on

(1) assuring an appropriate balance between oil and gas development and protection of the environment, and (2) finding ways to streamline the process.

--The Secretary of the Interior should also establish within the Department a permit assistance office--patterned after the California example--and charge it with such tasks as helping applicants understand the permitting process; working with other permitting agencies; helping to mediate disputes; coordinating joint evaluation programs; consolidating public hearings; monitoring decision time limits; and feeding back information to the newly created Steering Committee.

--The Secretary of Commerce--working through the Coastal Zone Management Program and the Steering Committee-should encourage and assist other coastal States in developing legislation and administrative procedures similar to California for making local permitting and review processes more uniform, timely and coordinated. The Secretary of the Interior should complement that undertaking by requiring the Department to encourage States in developing cooperative programs and to seek greater participation in joint review processes.

Some buildup of Federal expertise or a better allocation of existing resources will be needed to direct activities in the years ahead if this Nation is to significantly expand exploration and development activities in frontier areas. Such actions are needed to:

--Improve the quality and timing of environmental reviews by the Department of the Interior and others, so that significant concerns are dealt with at the front-end (prior to leasing)--thus establishing the credibility of the process and minimizing post-leasing challenges.

--Speed up the issuing of permits by the Environmental Protection Agency and the Corps of Engineers. (In view of limited EPA resources devoted to regulating drilling discharges, the EPA Administrator should reassess the priority that his agency assigns this function and, if necessary, consider drawing on the Geological Survey's expertise to more expeditiously carry out this responsibility.)

--Monitor, enforce, and evaluate the effectiveness and real need for the various regulatory requirements imposed on industry activities that are administered by the Department of the Interior, the Environmental Protection Agency, and the Corps of Engineers.

--Expand Geological Survey's capabilities to monitor industry performance in diligently exploring and developing leases issued.

AGENCY ROLES IN REGULATING

OUTER CONTINENTAL SHELF ACTIVITIES

FEDERAL AGENCIES

U.S. Geological Survey (USGS)--USGS has the primary responsibility for supervising exploration, development, and production activities on OCS leases. This post-lease supervision includes issuing and enforcing safety regulations, reviewing and approving (or disapproving) exploration and development plans, issuing drilling permits, granting rights of use and easements for OCS pipelines, and collecting royalties.

Bureau of Land Managment (BLM)--BLM is primarily responsible for leasing offshore lands and collecting lease bonuses and rents. During the post-lease period BLM, pursuant to Secretarial Order 2974, will review and comment on all exploration and development plans regarding compliance with lease stipulations, cultural resources, etc. BLM grants rights-of-way for oil and gas transmission lines from the OCS to shore. BLM also manages the Intergovernmental Planning Program.

U.S. Fish and Wildlife Service (FWS)--As a commenting agency, FWS provides consultation to USGS pursuant to Secretarial Order 2974. FWS provides biological assistance to USGS in the Environmental Assessment.

National Oceanic and Atmospheric Administration (NOAA)--Both the Office of Coastal Zone Management (OCZM) and the National Marine Fisheries Service (NMFS) operate within NOAA and have OCS-related responsibilities. The OCZM assesses the environmental impacts of OCS projects and recommends mitigating conditions for protection of marine and coastal resources. NMFS administers sections of the Endangered Species Act and the Marine Mammals Act and assesses the environmental impacts of OCS projects on commercial fisheries and other marine resources. Both agencies comment to USGS on plans of exploration and development, making recommendations for inclusion in the Environmental Assessment.

Environmental Protection Agency (EPA)--EPA issues National Pollutant Discharge Elimination System (NPDES) permits to drilling vessels operating in the OCS. The permits allow

discharges of drilling muds and cuttings and other non-toxic effluents offshore. EPA no longer regulates air quality from OCS operations. This responsibility has been assumed by USGS as a result of the OCSLAA and a recent court ruling.

U.S. Coast Guard (USCG)--The USCG has several responsibilities for safety and the prevention of oil spill pollution on the OCS. The USCG issues Aids to Navigation permits to mobile drilling vessels and fixed platforms to ensure proper lighting aboard the structure. The USCG establishes and enforces safety regulations for drillships, platforms, and other fixed structures to ensure proper marking. The USCG enforces Federal oil pollution laws in both Federal and State waters offshore, and shares responsibility with the USGS for oil spill prevention and cleanup. The USCG may establish a Voluntary Vessel Traffic Separation Scheme (VVTSS) such as those established in the Santa Barbara Channel, with traffic lanes separating vessels going in opposite directions. The USGS reviews exploration and development plans and comments to USCG on the proposed activity as it relates to navigational safety and adequacy of oil spill contingency plans.

Army Corps of Engineers--The Corps is responsible for issuing permits covering national security and navigational safety, and permits for the construction of pipelines on the ocean floor. The Corps regulates fixed offshore structures including exploratory drilling vessels, platforms, artificial islands, and pipelines. In congested areas, the Corps has authority to establish safety fairways within which the installation of permanent structures is prohibited.

Heritage Conservation and Recreation Service (HCRS)--The HCRS is an agency that provides consultation to the USGS, pursuant to Secretarial Order 2974, on specific areas of the environmental report accompanying plans of exploration and development. The HCRS will comment only on those sections pertaining to historical and archaeologic sites (cultural resources) on federally leased lands.

National Park Service (NPS)--The NPS is another agency providing consultation to USGS pursuant to Secretarial Order 2974. The NPS will comment on the ER only if activity is anticipated in areas offshore from coastal parks. The Channel Islands off the Pacific Coast have been designated a national park and NPS will normally comment on proposed OCS activity occurring in this area.

Department of the Navy--The Department of Navy will be consulted by USGS when proposed OCS operations are to occur within or near a missile testing site offshore. Review and comment is not provided on each plan submitted, but the Navy will respond when activity is to occur within such designated areas.

STATE OF CALIFORNIA AGENCIES

Office of Planning and Research (OPR)--OPR is responsible for distributing plans of exploration and development to interested State agencies and coordinating State response to USGS. Within OPR, the Office of Permit Assistance was established to help permit applicants understand the review processes and provide direction on approaches to securing necessary permits. The Office of Permit Assistance serves as a neutral source of information, assisting project sponsors in identification of required permits, arranging preliminary meetings, overseeing decision time limits, mediating disputes, coordinating joint environmental documents, and consolidating public hearings.

California Coastal Commission--The Coastal Commission is responsible for reviewing plans of exploration and development and determining whether the proposed activity is consistent with the California Coastal Management Program. The Commission provides advice to oil company applicants and recommends the least environmentally damaging solutions to problems in developing OCS resources. The Commission is the State's primary review body and must issue consistency concurrence before USGS, and in certain cases the EPA and Corps of Engineers, can grant a permit for OCS activity.

State Lands Commission--The State Lands Commission is required to manage State-owned lands (including tidelands and submerged lands) and their resources in the best interest of the people of California. The Commission is responsible for granting land use leases for industrial projects such as oil terminals and pipelines. State lands involvement in OCS operations does not occur until development and production when such facilities will be needed.

Air Resources Board (ARB)--The ARB is responsible for establishing minimum air quality standards to guide local air pollution control districts (APCD). The ARB does not issue permits but will review permit decisions by local APCD's when new source review rules apply. The ARB is only involved in OCS activity having onshore impact, i.e., development and

production activity. Its role is normally limited to reviewing and commenting on the air quality impacts of proposed OCS development projects.

Department of Fish and Game--Fish and Game is essentially the State's counterpart to the Federal U.S. Fish and Wildlife Service. It provides consultation to the State on OCS projects affecting the coastal zone. Its involvement is normally limited to development and production operations.

Department of Parks and Recreations--Parks and Recreations is responsible for designating archaeologic and historic sites in the States' waters and onshore areas. It provides consultation to the State regarding OCS activities affecting the coastal zone. It also issues permits for right-of-way across State park property.

State Water Resources Control Board (WRCB)--The WRCB is the parent agency to the Regional Water Quality Control Board which issues NPDES permits for discharges in State waters. The State Board reviews the permit decisions of the Regional Boards to assure compliance with State and Federal quality regulations.

Department of Conservation--The Divison of Oil and Gas within the Department issues permits for oil and gas drilling in State waters. For activity occurring in the OCS, the Division of Oil and Gas will provide consultation to the State by encouraging wise development of oil and gas resources and recommending good conservation and engineering practices.

Department of Transportation (DOT)--The DOT regulates work proposed on or near a State highway and issues an encroachment permit when needed. Proposals to construct onshore facilities related to OCS development may require such a permit depending on project design and location.

LOCAL GOVERNMENT

Regional Water Quality Control Board (RWQCB)--The RWQCB issues NPDES permits authorizing discharges in State waters. Normally, the RWQCB will only comment on the water quality impacts of a proposed development project in the OCS. Comments will usually be addressed to the State Board or EPA during preparation of the environmental impact record.

County Air Pollution Control District (APCD)--The governing APCD is responsible for regulating air quality in accordance with local standards within the county. The county's authority to regulate air emission on OCS projects is explicitly limited to those activities affecting the air quality of the coastal zone. OCS development plans proposing onshore treatment facilities require an air permit from the APCD for authority to construct and operate. The APCD also establishes and enforces new source review rules to assure that county air pollution levels do not exceed prescribed non-attainment standards.

APPENDIX II

LIST OF AGENCY CONTACTS

Federal Agencies:

Bureau of Land Management
Department of Commerce
Department of Energy
Department of the Interior
Environmental Protection Agency
Heritage, Conservation and Recreation Service
National Marine Fisheries Service
National Park Service
Occupational Safety and Health Administration
U.S. Army Corps of Engineers
U.S. Coast Guard
U.S. Fish and Wildlife Service
U.S. Geological Survey

State and Local Agencies:

Alaskan Commission on Community and Regional Affairs
Alaska Department of Environmental Conservation
Alaska Department of Fish and Game
Alaska Department of Natural Resources
Alaska Department of Policy Development and Planning
Alaska Department of Transporation
Alaska Historic Preservation Office
Alaska Oil and Gas Conservation Commission
Alaska State Clearing House

California Air Resources Board
California Coastal Commission
California Office of Planning and Research
California Solid Waste Management Board
California Water Quality Control Board

City of Oxnard Planning Department

Santa Barbara County Department of Environmental Resources
Santa Barbara County Health Care Services

Intergovernmental Planning Program Regional Technical Working Group Members (Non-Federal)

APPENDIX II

North Atlantic Region

Director, Coastal Zone Management Program-New Hampshire
Representative, Executive Office of Environmental Affairs-Massachusetts
OCS Specialist, Office of Policy and Management-Connecticut
Assistant OCS Study Manager, Department of Energy Conservation-New York
Director, Center for Coastal Environmental Studies-New Jersey
Representative, American Petroleum Institute-Texas
Representative, Interstate Natural Gas Association of America-Massachusetts
Environmental Consultant-Massachusetts
Representative, Chatham Seafood Cooperative-Massachusetts

Mid-Atlantic Region

Representative, Center for Coastal and Environmental Studies-New Jersey
Coordinator, OCS Activities-Virginia
Representative, American Petroleum Institute-Louisiana
Executive Director, American Littoral Society-New Jersey
Representative, Mid-Atlantic Fisheries Council-Delaware
Representative, Center For Human Resources-New Jersey

South Atlantic Region

Representative, Institute for Oceanography-Florida
Representative, Governor's Office-South Carolina
Representative, Interstate Natural Gas Association-Alabama
Representative, Georgia Conservancy-Georgia

Pacific Region

Private Representative-California
Representative, Western Oil and Gas Association-California
Representative, Commercial Fishermans Association of Santa Barbara-California

APPENDIX II

Gulf of Mexico Region

Representative, Louisiana Geological Survey-Louisiana
Associate Director, Bureau of Economic Geology-Texas
Representative, American Petroleum Institute-Texas
Private Representative-Mississippi

Alaska Region

Representative, Department of Natural Resources-Alaska
Representative, Alaska Oil and Gas Association-Alaska
Mayor, City of Kodiak-Alaska

APPENDIX III

EDWIN B. FORSYTHE
303 CANNON HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
202-225-4765

MEMBER:
COMMITTEE ON
MERCHANT MARINE AND FISHERIES
COMMITTEE ON
SCIENCE AND TECHNOLOGY

Congress of the United States
House of Representatives
Washington, D.C. 20515

February 26, 1980

The Honorable Elmer B. Staats
The Comptroller General of the United States
441 G Street, N.W. Room 7000
Washington, D. C. 20548

Dear Mr. Staats:

I am the Ranking Minority Member of the House Select Committee on the Outer Continental Shelf, the Ranking Minority Member of the subcommittee on Fisheries and Wildlife of the House Merchant Marine and Fisheries Committee, and a member of the House Science and Technology Committee.

Because of these Committee assignments, I have become aware of the fact that the policies of the Department of the Interior have all but locked up 90 percent of this nation's remaining estimated hydrocarbon fluid resources that are located on public lands.

For this reason, I would like the General Accounting Office to investigate leasing on all public lands (onshore Alaska and the lower 48, and the OCS) to determine what hindrances exist to the rapid production of the oil and gas estimated to be located in those areas.

By hindrances I mean anything (public law, regulations or administrative procedures) that either delays the production of hydrocarbons, or adds to the cost of producing those hydrocarbons. These hindrances could be the OCSLAA (which require 150 procedures to be followed before the production of hydrocarbons may begin), the 1920 Mineral Leasing Act, as examples.

In addition, I would be interested in your recommendations for leasing public lands in the absence of the OCSLAA or the Minerals Leasing Act. In other words, given our current energy crisis, and without these two statutes, what would be

APPENDIX III

the most efficient procedures to follow in leasing public lands, accelerating production, and still comply with pertinent Federal statutes.

I understand that there are many subjective interpretatio to be made in this area, and if you have any questions, please contact C. Grady Drago. Minority Counsel, Select Committee on the OCS at 225-1245.

I would appreciate your immediate attention to this matter, and look forward to hearing from you in the near future.

Sincerely,

EDWIN B. FORSYTHE
Member of Congress

EBF:CGD:hh

APPENDIX IV

EDWIN B. FORSYTHE
201 Cannon House Office Building
Washington, D.C. 20515
202-225-4706

MEMBER:
Committee on
Merchant Marine and Fisheries
Committee on
Science and Technology

Congress of the United States
House of Representatives
Washington, D.C. 20515

January 22, 1981

Honorable Elmer Staats
Comptroller General
General Accounting Office
441 G Street, N.W.
Washington, D. C. 20548

Dear Comptroller General:

In order to expedite the two studies on the Outer Continental Shelf which I requested in February, 1980, I would like the reports forwarded directly to me at the earliest possible date, without comments from the departments or agencies.

Thank you for your attention to this matter.

Sincerely,

Edwin B. Forsythe
Member of Congress

EBF:klp

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