

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT OF 1980

Acronym: ANILCA

Citation: 16 U.S.C. §§ 3101-3233 (2002).

Legislative Purpose:

The Alaska National Interest Lands Conservation Act provides for the protection of Alaskan wildlife species, habitat, and subsistence lifestyles for the people of the state and the U.S.

Summary:

The ANILCA established an Alaska Land Use Council to provide for shared decision-making on all lands in the state, including recommending uses for Federal or state lands, negotiating land exchanges, and identifying specific opportunities for cooperation among the State, Federal government, and native groups.

ANILCA invokes the federal authority to protect Native Alaskan "physical, economic, traditional, and cultural existence." ANILCA establishes a Native Alaskan subsistence right on federal lands, and forms the basis for Alaska subsistence laws and regulations. ANILCA creates a preference for subsistence uses by establishing two tiers of regulations. In the first tier, if fish and game populations are sufficient to satisfy all subsistence users, regulations must grant a priority to subsistence uses over all other uses.

The act also set aside numerous public lands. A total of 104.3 million federal acres were reserved for protection by adding 43.6 million acres to the national park system and 53.8 million acres to national wildlife refuges, thereby doubling the present combined acreage in the two systems. In addition, the act overlays full wilderness protection on 56.7 million acres of the total. The Misty Fjords area of southeastern Alaska is set aside as a 2.3 million-acre national monument, the majority of which is designated as wilderness. Furthermore, seismic exploration for oil and gas are allowed on 900,000 acres in the western coastal plain of the North Slope's William O. Douglas Arctic Wildlife Refuge.

ANILCA expands the Arctic National Wildlife Range to almost twenty million acres, designating part of it a wilderness refuge and renaming it the Arctic National Wildlife Refuge. Although ANILCA designates eight million acres of the Range as wilderness, part of the original Range not given wilderness status was the coastal plain of the Refuge. Section 1002 of ANILCA allows: assessment of the fish and wildlife resources of the coastal plain of the Arctic National Wildlife Refuge; an analysis of the impacts of oil and gas exploration, development and production, and authorizes exploratory activity within the coastal plain in a manner that avoids significant adverse effects on the fish and wildlife and other resources. Although ANILCA authorizes studies analyzing the wildlife and resources of the coastal plain, ANILCA prohibits oil production in the Refuge until Congress authorizes it.

CHAPTER 51. ALASKA NATIONAL INTEREST LANDS CONSERVATION

16 U.S.C. §§ 3101-3233 (2002).

§ 3101. Congressional statement of purpose

(a) Establishment of units. In order to preserve for the benefit, use, education, and inspiration of present and future generations certain lands and waters in the State of Alaska that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the units described in the following titles are hereby established.

(b) Preservation and protection of scenic, geological, etc., values. It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas; to preserve in their natural state extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems; to protect the resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities including but not limited to hiking, canoeing, fishing, and sport hunting, within large arctic and subarctic wildlands and on freeflowing rivers; and to maintain opportunities for scientific research and undisturbed ecosystems.

(c) Subsistence way of life for rural residents. It is further the intent and purpose of this Act consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each conservation system unit is established, designated, or expanded by or pursuant to this Act, to provide the opportunity for rural residents engaged in a subsistence way of life to continue to do so.

(d) Need for future legislation obviated. This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that the need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas, has been obviated thereby.

§ 3102. Definitions

As used in this Act (except that in titles IX and XIV the following terms shall have the same meaning as they have in the Alaska Native Claims Settlement Act, and the Alaska Statehood Act)--

- (1) The term "land" means lands, waters, and interests therein.
- (2) The term "Federal land" means lands the title to which is in the United States after the date of enactment of this Act [enacted December 2, 1980].

(3) The term "public lands" means land situated in Alaska which, after the date of enactment of this Act [enacted Dec. 2, 1980], are Federal lands, except--

(A) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(B) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(C) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act [43 USC § 1618(b)].

(4) The term "conservation system unit" means any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Trails System, National Wilderness Preservation System, or a National Forest Monument including existing units, units established, designated, or expanded by or under the provisions of this Act, additions to such units, and any such unit established, designated, or expanded hereafter.

(5) The term "Alaska Native Claims Settlement Act" means "An Act to provide for the settlement of certain land claims of Alaska Natives, and for other purposes", approved December 18, 1971 (85 Stat. 688), as amended.

(6) The term "Native Corporation" means any Regional Corporation, any Village Corporation, any Urban Corporation, and any Native Group.

(7) The term "Regional Corporation" has the same meaning as such term has under section 3(g) of the Alaska Native Claims Settlement Act [43 USC § 1602(g)].

(8) The term "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act [43 USC § 1602(j)].

(9) The term "Urban Corporation" means those Native entities which have incorporated pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act [43 USC § 1613(h)(3)].

(10) The term "Native Group" has the same meaning as such term has under sections 3(d) and 14(h)(2) of the Alaska Native Claims Settlement Act [43 USC § § 1602(d), 1613(h)(2)].

(11) The term "Native land" means land owned by a Native Corporation or any Native Group and includes land which, as of the date of enactment of this Act [enacted Dec. 2, 1980], had been selected under the Alaska Native Claims Settlement Act by a Native Corporation or Native Group and had not been conveyed by the Secretary (except to the extent such selection is determined to be invalid or has been relinquished) and land referred to in section 19(b) of the Alaska Native Claims Settlement Act [43 USC § 1618(b)].

(12) The term "Secretary" means the Secretary of the Interior, except that when such term is used with respect to any unit of the National Forest System, such term means the Secretary of Agriculture.

(13) The terms "wilderness" and "National Wilderness Preservation System" have the same meaning as when used in the Wilderness Act (78 Stat. 890) [16 USC § § 1131 et seq.].

(14) The term "Alaska Statehood Act" means the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (72 Stat. 339), as amended.

(15) The term "State" means the State of Alaska.

(16) The term "Alaska Native" or "Native" has the same meaning as the term "Native" has in section 3(b) of the Alaska Native Claims Settlement Act [43 USC § 1602(b)].

(17) The term "fish and wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or part thereof.

(18) The term "take" or "taking" as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

§ 3103. Maps

(a) Filing and availability for inspection; discrepancies; coastal areas. The boundary maps described in this Act shall be on file and available for public inspection in the office of the Secretary or the Secretary of Agriculture with regard to the National Forest System. In the event of discrepancies between the acreages specified in this Act and those depicted on such maps, the maps shall be controlling, but the boundaries of areas added to the National Park, Wildlife Refuge and National Forest Systems shall, in coastal areas not extend seaward beyond the mean high tide line to include lands owned by the State of Alaska unless the State shall have concurred in such boundary extension and such extension is accomplished under the notice and reporting requirements of this Act.

(b) Changes in land management status; publication in Federal Register; filing; clerical errors; boundary features and adjustments. As soon as practicable after enactment of this Act [enacted Dec. 2, 1980], a map and legal description of each change in land management status effected by this Act, including the National Wilderness Preservation System, shall be published in the Federal Register and filed with the Speaker of the House of Representatives and the President of the Senate, and each such description shall have the same force and effect as if included in this Act: Provided, however, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Secretary. Whenever possible boundaries shall follow hydrographic divides or embrace other topographic or natural features. Following reasonable notice in writing to the Congress of his intention to do so the Secretary and the Secretary of Agriculture may make minor adjustments in the boundaries of the areas added to or established by this Act as units of National Park, Wildlife Refuge, Wild and Scenic Rivers, National Wilderness Preservation, and National Forest Systems and as national conservation areas and national recreation areas. For the purposes of this subsection, a minor boundary adjustment shall not increase or decrease the amount of land within any such area by more than 23,000 acres.

(c) Lands included within unit; acquisition of land by Secretary. Only those lands within the boundaries of any conservation system unit which are public lands (as such term is defined in this Act) shall be deemed to be included as a portion of such unit. No lands which, before, on, or after the date of enactment of this Act [enacted Dec. 2, 1980], are conveyed to the State, to any Native Corporation, or to any private party shall be subject to the regulations applicable solely to public lands within such units. If the State, a Native Corporation, or other owner desires to convey any such lands, the Secretary may acquire such lands in accordance with applicable law (including this Act), and any such lands shall become part of the unit, and be administered accordingly.

§ 3111. Congressional declaration of findings

The Congress finds and declares that--

(1) the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on Native lands is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence;

(2) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses;

(3) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management;

(4) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and its constitutional authority under the property clause and the commerce clause to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents; and

(5) the national interest in the proper regulation, protection, and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by residents of rural Alaska require that an administrative structure be established for the purpose of enabling rural residents who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

§ 3112. Congressional statement of policy

It is hereby declared to be the policy of Congress that--

(1) consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for each unit established, designated, or expanded by or pursuant to titles II through VII of this Act, the purpose of this title [16 USC § § 3111 et seq.] is to provide the opportunity for rural residents engaged in a subsistence way of life to do so;

(2) nonwasteful subsistence uses of fish and wildlife and other renewable resources shall be the priority consumptive uses of all such resources on the public lands of Alaska when it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife population or the continuation of subsistence uses of such population, the taking of such population for nonwasteful subsistence uses shall be given preference on the public lands over other consumptive uses; and

(3) except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in

managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska, shall cooperate with adjacent landowners and land managers, including Native Corporations, appropriate State and Federal agencies, and other nations.

§ 3113. Definitions

As used in this Act, the term "subsistence uses" means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade. For the purposes of this section, the term--

(1) "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "barter" means the exchange of fish or wildlife or their parts, taken for subsistence uses--

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

§ 3114. Preference for subsistence uses

Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes. Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such priority shall be implemented through appropriate limitations based on the application of the following criteria:

(1) customary and direct dependence upon the populations as the mainstay of livelihood;

(2) local residency; and

(3) the availability of alternative resources.

§ 3115. Local and regional participation

(a) Establishment of subsistence resource regions, local advisory committees, and regional advisory councils; membership, duties, and authority of regional advisory councils. Except as otherwise provided in subsection (d) of this section, the Secretary in consultation with the State shall establish--

(1) at least six Alaska subsistence resource regions which, taken together, include all public lands. The number and boundaries of the regions shall be sufficient to assure that regional differences in subsistence uses are adequately accommodated;

(2) such local advisory committees within each region as he finds necessary at such time as he may determine, after notice and hearing, that the existing State fish and game advisory committees do not adequately perform the functions of the local committee system set forth in paragraph (3)(D)(iv) of this subsection; and

(3) a regional advisory council in each subsistence resource region.

Each regional advisory council shall be composed of residents of the region and shall have the following authority;

(A) the review and evaluation of proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife within the region;

(B) the provision of a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife within the region;

(C) the encouragement of local and regional participation pursuant to the provisions of this title [*16 USC § § 3111 et seq.*] in the decisionmaking process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses;

(D) the preparation of an annual report to the Secretary which shall contain--

(i) an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;

(ii) an evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region;

(iii) a recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs; and

(iv) recommendations concerning policies, standards, guidelines, and regulations to implement the strategy. The State fish and game advisory committees or such local advisory committees as the Secretary may establish pursuant to paragraph (2) of this subsection may provide advice to, and assist, the regional advisory councils in carrying out the functions set forth in this paragraph.

(b) Assignment of staff and distribution of data. The Secretary shall assign adequate qualified staff to the regional advisory councils and make timely distribution of all available relevant technical and scientific support data to the regional advisory councils and the State fish and game advisory committees or such local advisory committees as the Secretary may establish pursuant to paragraph (2) of subsection (a).

(c) Consideration of reports and recommendations of regional advisory councils. The Secretary, in performing his monitoring responsibility pursuant to section 806 [*16 USC § 3116*] and in the exercise of his closure and other administrative authority over the public lands, shall consider the report and recommendations of the regional advisory councils concerning the taking of fish and wildlife on the public lands within their respective regions for subsistence uses. The Secretary may choose not to follow any recommendation which he determines is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation is not adopted by the Secretary, he shall set forth the factual basis and the reasons for his decision.

(d) Superseded by enactment and implementation of State laws governing State responsibility; consideration of recommendations by State rulemaking authority. The Secretary shall not implement subsections (a), (b), and (c) of this section if the State enacts and implements laws of general applicability which are consistent with, and which provide for the definition, preference, and participation specified in, sections 803, 804, and 805 [*16 USC § § 3113, 3114, and 3115*], such laws, unless and until repealed, shall supersede such sections insofar as such sections govern State responsibility pursuant to this title [*16 USC § § 3111 et seq.*] for the taking of fish and wildlife on the public lands for subsistence uses. Laws

establishing a system of local advisory committees and regional advisory councils consistent with section 805 [16 USC § 3115] shall provide that the State rulemaking authority shall consider the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses. The regional councils may present recommendations, and the evidence upon which such recommendations are based, to the State rulemaking authority during the course of the administrative proceedings of such authority. The State rulemaking authority may choose not to follow any recommendation which it determines is not supported by substantial evidence presented during the course of its administrative proceedings, violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of rural subsistence needs. If a recommendation is not adopted by the State rulemaking authority, such authority shall set forth the factual basis and the reasons for its decision.

(e) Reimbursement to State; limitation; report to Congress.

(1) The Secretary shall reimburse the State, from funds appropriated to the Department of the Interior for such purposes, for reasonable costs relating to the establishment and operation of the regional advisory councils established by the State in accordance with subsection (d) and the operation of the State fish and game advisory committees so long as such committees are not superseded by the Secretary pursuant to paragraph (2) of subsection (a). Such reimbursement may not exceed 50 per centum of such costs in any fiscal year. Such costs shall be verified in a statement which the Secretary determines to be adequate and accurate. Sums paid under this subsection shall be in addition to any grants, payments, or other sums to which the State is entitled from appropriations to the Department of the Interior.

(2) Total payments to the State under this subsection shall not exceed the sum of \$ 5,000,000 in any one fiscal year. The Secretary shall advise the Congress at least once in every five years as to whether or not the maximum payments specified in this subsection are adequate to ensure the effectiveness of the program established by the State to provide the preference for subsistence uses of fish and wildlife set forth in section 804 [16 USC § 3114].

§ 3116. Federal monitoring; reports to State and Congressional committees

The Secretary shall monitor the provisions by the State of the subsistence preference set forth in section 804 [16 USC § 3114] and shall advise the State and [the] the Committees on Natural Resources and on Merchant Marine and Fisheries of the House of Representatives and the Committees on Energy and Natural Resources and Environment and Public Works of the Senate annually and at such other times as he deems necessary of his views on the effectiveness of the implementation of this title [16 USC § § 3111 et seq.] including the State's provision of such preference, any exercise of his closure or other administrative authority to protect subsistence resources or uses, the views of the State, and any recommendations he may have.

§ 3117. Judicial enforcement

(a) Exhaustion of administrative remedies; civil action; parties; preliminary injunctive relief; other relief; costs and attorney's fees. Local residents and other persons and organizations aggrieved by a failure of the State or the Federal Government to provide for the priority for subsistence uses set forth in section 804 [16 USC

§ 3114] (or with respect to the State as set forth in a State law of general applicability if the State has fulfilled the requirements of section 805(d) [16 USC § 3115(d)]) may, upon exhaustion of any State or Federal (as appropriate) administrative remedies which may be available, file a civil action in the United States District Court for the District of Alaska to require such actions to be taken as are necessary to provide for the priority. In a civil action filed against the State, the Secretary may be joined as a party to such action. The court may grant preliminary injunctive relief in any civil action if the granting of such relief is appropriate under the facts upon which the action is based. No order granting preliminary relief shall be issued until after an opportunity for hearing. In a civil action filed against the State, the court shall provide relief, other than preliminary relief, by directing the State to submit regulations which satisfy the requirements of section 804 [16 USC § 3114]; when approved by the court, such regulations shall be incorporated as part of the final judicial order, and such order shall be valid only for such period of time as normally provided by State law for the regulations at issue. Local residents and other persons and organizations who are prevailing parties in an action filed pursuant to this section shall be awarded their costs and attorney's fees.

(b) [Repealed]

(c) Section as sole Federal judicial remedy. This section is the sole Federal judicial remedy created by this title [16 USC § § 3111 et seq.] for local residents and other residents who, and organizations which, are aggrieved by a failure of the State to provide for the priority of subsistence uses set forth in section 804 [16 USC § 3114].

§ 3118. Park and park monument subsistence resource commissions

(a) Appointment of members; development of subsistence hunting program; annual review of program. Within one year from the date of enactment of this Act [enacted Dec. 2, 1980], the Secretary and the Governor shall each appoint three members to a subsistence resources commission for each national park or park monument within which subsistence uses are permitted by this Act. The regional advisory council established pursuant to section 805 [16 USC § 3115] which has jurisdiction within the area in which the park or park monument is located shall appoint three members to the commission each of whom is a member of either the regional advisory council or a local advisory committee within the region and also engages in subsistence uses within the park or park monument. Within eighteen months from the date of enactment of this Act [enacted Dec. 2, 1980], each commission shall devise and recommend to the Secretary and the Governor a program for subsistence hunting within the park or park monument. Such program shall be prepared using technical information and other pertinent data assembled or produced by necessary field studies or investigations conducted jointly or separately by the technical and administrative personnel of the State and the Department of the Interior, information submitted by, and after consultation with the appropriate local advisory committees and regional advisory councils, and any testimony received in a public hearing or hearings held by the commission prior to preparation of the plan at a convenient location or locations in the vicinity of the park or park monument. Each year thereafter, the commission, after consultation with the appropriate local committees and regional councils, considering all relevant data and holding one or more additional hearings in the vicinity of the park or park monument, shall make recommendations to the Secretary and the Governor for any changes in the program or its implementation

which the commission deems necessary.

(b) Implementation of subsistence hunting program. The Secretary shall promptly implement the program and recommendations submitted to him by each commission unless he finds in writing that such program or recommendations violates recognized principles of wildlife conservation, threatens the conservation of healthy populations of wildlife in the park or park monument, is contrary to the purposes for which the park or park monument is established, or would be detrimental to the satisfaction of subsistence needs of local residents. Upon notification by the Governor, the Secretary shall take no action on a submission of a commission for sixty days during which period he shall consider any proposed changes in the program or recommendations submitted by the commission which the Governor provides him.

(c) Subsistence uses prior to implementation of subsistence hunting program. Pending the implementation of a program under subsection (a) [(b)] of this section, the Secretary shall permit subsistence uses by local residents in accordance with the provisions of this title [16 USC § § 3111 et seq.] and other applicable Federal and State law.

§ 3119. Cooperative agreements

The Secretary may enter into cooperative agreements or otherwise cooperate with other Federal agencies, the State, Native Corporations, other appropriate persons and organizations, and, acting through the Secretary of State, other nations to effectuate the purposes and policies of this title [16 USC § § 3111 et seq.].

§ 3120. Subsistence and land use decisions

(a) Factors considered; requirements. In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency--

(1) gives notice to the appropriate State agency and the appropriate local committees and regional councils established pursuant to section 805 [16 USC § 3115];

(2) gives notice of, and holds, a hearing in the vicinity of the area involved; and

(3) determines that (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and (C) reasonable steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

(b) Environmental impact statement. If the Secretary is required to prepare an environmental impact

statement pursuant to section 102(2)(C) of the National Environmental Policy Act [42 USC § 4332(2)(C)], he shall provide the notice and hearing and include the findings required by subsection (a) as part of such environmental impact statement.

(c) State or Native Corporation land selections and conveyances. Nothing herein shall be construed to prohibit or impair the ability of the State or any Native Corporation to make land selections and receive land conveyances pursuant to the Alaska Statehood Act or the Alaska Native Claims Settlement Act.

(d) Management or disposal of lands. After compliance with the procedural requirements of this section and other applicable law, the head of the appropriate Federal agency may manage or dispose of public lands under his primary jurisdiction for any of those uses or purposes authorized by this Act or other law.

§ 3121. Rural residents engaged in subsistence uses

(a) Access to subsistence resources. The Secretary shall ensure that rural residents engaged in subsistence uses shall have reasonable access to subsistence resources on the public lands.

(b) Use of snowmobiles, motorboats, or other means of surface transportation. Notwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation.

§ 3122. Research

The Secretary, in cooperation with the State and other appropriate Federal agencies, shall undertake research on fish and wildlife and subsistence uses on the public lands; seek data from, consult with and make use of, the special knowledge of local residents engaged in subsistence uses; and make the results of such research available to the State, the local and regional councils established by the Secretary or State pursuant to section 805 [16 USC § 3115], and other appropriate persons and organizations.

§ 3123. Periodic reports

Within four years after the date of enactment of this Act [enacted Dec. 2, 1980], and within every three-year period thereafter, the Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives on the implementation of this title [16 USC § § 3111 et seq.]. The report shall include--

(1) an evaluation of the results of the monitoring undertaken by the Secretary as required by section 806 [16 USC § 3116];

(2) the status of fish and wildlife populations on public lands that are subject to subsistence uses;

(3) a description of the nature and extent of subsistence uses and other uses of fish and wildlife on the public lands;

(4) the role of subsistence uses in the economy and culture of rural Alaska;

(5) comments on the Secretary's report by the State, the local advisory councils and regional advisory councils established by the Secretary or the State pursuant to section 805 [16 USC § 3115], and other appropriate persons and organizations;

(6) a description of those actions taken, or which may need to be taken in the future, to permit the opportunity for continuation of activities relating to subsistence uses on the public lands; and

(7) such other recommendations the Secretary deems appropriate.

A notice of the report shall be published in the Federal Register and the report shall be made available to the public.

§ 3124. Regulations

The Secretary shall prescribe such regulations as are necessary and appropriate to carry out his responsibilities under this title [16 USC § § 3111 et seq.].

§ 3125. Limitations and savings clauses

Nothing in this title [16 USC § § 3111 et seq.] shall be construed as--

(1) granting any property right in any fish or wildlife or other resource of the public lands or as permitting the level of subsistence uses of fish and wildlife within a conservation system unit to be inconsistent with the conservation of healthy populations, and within a national park or monument to be inconsistent with the conservation of natural and healthy populations, of fish and wildlife. No privilege which may be granted by the State to any individual with respect to subsistence uses may be assigned to any other individual;

(2) permitting any subsistence use of fish and wildlife on any portion of the public lands (whether or not within any conservation system unit) which was permanently closed to such uses on January 1, 1978, or enlarging or diminishing the Secretary's authority to manipulate habitat on any portion of the public lands;

(3) authorizing a restriction on the taking of fish and wildlife for nonsubsistence uses on the public lands (other than national parks and park monuments) unless necessary for the conservation of healthy populations of fish and wildlife, for the reasons set forth in section 816 [16 USC § 3126], to continue subsistence uses of such populations, or pursuant to other applicable law; or

(4) modifying or repealing the provisions of any Federal law governing the conservation or protection of fish and wildlife, including the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927; 16 U.S.C. 668dd-jj), the National Park Service Organic Act (39 Stat. 535, 16 U.S.C. 1, 2, 3, 4), the Fur Seal Act of 1966 (80 Stat. 1091; 16 U.S.C. 1187), the Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531-1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361-1407), the Act entitled "An Act for the Protection of the Bald Eagle", approved June 8, 1940 (54 Stat. 250; 16 U.S.C. 742a-754), the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703-711), the Federal Aid in Wildlife Restoration Act (50 Stat. 917; 16 U.S.C. 669-669i) [16 USC § § 669 et seq.], the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (90 Stat. 331; 16 U.S.C. 1801-1882), the Federal Aid in Fish Restoration Act (64 Stat. 430; 16 U.S.C. 777-777K) [16 USC § § 777 et seq.], or any amendments to any one or more of such Acts.

(5) [Repealed]

§ 3126. Closure to subsistence uses

(a) National parks and park monuments in Alaska; authorization of subsistence uses and sport fishing. All national parks and park monuments in Alaska shall be closed to the taking of wildlife except for subsistence uses to the extent specifically permitted by this Act. Subsistence uses and sport fishing shall be authorized in such areas by the Secretary and carried out in accordance with the requirements of this title [16 USC § § 3111 et seq.] and other applicable laws of the United States and the State of Alaska.

(b) Closure for public safety, administration, or the continued viability of fish and wildlife population. Except as specifically provided otherwise by this section, nothing in this title [16 USC § § 3111 et seq.] is intended to enlarge or diminish the authority of the Secretary to designate areas where, and establish periods when, no taking of fish and wildlife shall be permitted on the public lands for reasons of public safety, administration, or to assure the continued viability of a particular fish or wildlife population. Notwithstanding any other provision of this Act or other law, the Secretary, after consultation with the State and adequate notice and public hearing, may temporarily close any public lands (including those within any conservation system unit), or any portion thereof, to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. If the Secretary determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, the Secretary may immediately close the public lands, or any portion thereof, to the subsistence uses of such population and shall publish the reasons justifying the closure in the Federal Register. Such emergency closure shall be effective when made, shall not extend for a period exceeding sixty days, and may not subsequently be extended unless the Secretary affirmatively establishes, after notice and public hearing, that such closure should be extended.

§ 3141. Overall study program

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

(b) Purposes. The study shall utilize a systematic interdisciplinary approach to--

(1) assess the potential oil and gas resources of these lands and make recommendations concerning future use and management of those resources including an evaluation of alternative transportation routes needed for oil and gas development;

(2) review the wilderness characteristics, and make recommendations for wilderness designation, of these lands; and

(3) study, and make recommendations for protection of, the wildlife resources of these lands.

(c) Findings. After completion of the study, the Secretary shall make findings on--

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

- (2) the impact of oil and gas development on the wildlife resources on these lands, particularly the Arctic and Porcupine caribou herds and the polar bear;
- (3) the national need for development of the oil and gas resources of all or any portion of these lands;
- (4) the national interest in preservation of the wilderness characteristics of these lands; and
- (5) the national interest in protection of the wildlife resources of these lands.

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

(e) Report to President and Congress; annual report to Congress. The Secretary shall submit the study and his findings to the President and the Congress no later than eight years after the date of enactment of this Act [enacted Dec. 2, 1980]. The Secretary shall submit annual reports to Congress on the progress in carrying out this title [16 USC § § 3141 et seq.].

(f) Selection and conveyance of land by State and Natives unaffected. Nothing in this title [16 USC § § 3141 et seq.] shall be construed as impeding, delaying, or otherwise affecting the selection and conveyance of land to the State pursuant to the Alaska Statehood Act, or any other Federal law referred to in section 102(3)(A) of this Act [16 USC § 3102(3)(A)], and to the Natives pursuant to the Alaska Native Claims Settlement Act and this Act.

§ 3142. Arctic National Wildlife Refuge coastal plain resource assessment

(a) Purpose. The purpose of this section is to provide for a comprehensive and continuing inventory and assessment of the fish and wildlife resources of the coastal plain of the Arctic National Wildlife Refuge; an analysis of the impacts of oil and gas exploration, development, and production, and to authorize exploratory activity within the coastal plain in a manner that avoids significant adverse effects on the fish and wildlife and other resources.

(b) Definitions. As used in this section--

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

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

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

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

- (B) determine the extent, location and carrying capacity of the habitats of the fish and wildlife;
- (C) assess the impacts of human activities and natural processes on the fish and wildlife and their habitats;
- (D) analyze the potential impacts of oil and gas exploration, development, and production on such wildlife and habitats; and
- (E) analyze the potential effects of such activities on the culture and lifestyle (including subsistence) of affected Native and other people.

Within eighteen months after the enactment date of this Act [enacted Dec. 2, 1980], the Secretary shall publish the results of the study as of that date and shall thereafter publish such revisions thereto as are appropriate as new information is obtained.

(d) Guidelines.

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

- (A) a prohibition on the carrying out of exploratory activity during caribou calving and immediate post-calving seasons or during any other period in which human activity may have adverse effects;
- (B) temporary or permanent closing of appropriate areas to such activity;
- (C) specification of the support facilities, equipment and related manpower that is appropriate in connection with exploratory activity; and
- (D) requirements that exploratory activities be coordinated in such a manner as to avoid unnecessary duplication.

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

(e) Exploration plans.

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

- (A) a description and schedule of the exploratory activity proposed to be undertaken;
- (B) a description of the equipment, facilities, and related manpower that would be used in carrying out the activity;
- (C) the area in which the activity would be undertaken; and
- (D) a statement of the anticipated effects that the activity may have on fish and wildlife, their habitats and the environment.

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

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

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

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

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

(g) Civil penalties.

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

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code [28 USC § 2112]. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code [5 USC § 706(2)(E)].

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

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

(h) Report to Congress. Not earlier than five years after the enactment date of this Act [enacted Dec. 2, 1980] and not later than five years and nine months after such date, the Secretary shall prepare and submit to Congress a report containing--

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

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

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

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

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

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

(i) Effect of other laws. Until otherwise provided for in law enacted after the enactment date of this Act [enacted Dec. 2, 1980], all public lands within the coastal plain are withdrawn from all forms of entry or appropriation under the mining laws, and from operation of the mineral leasing laws, of the United States.

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

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

§ 3144. Wilderness portion of study

(a) Suitability of lands for preservation as wilderness; report to President. As part of the study, the Secretary shall review the suitability or nonsuitability for preservation as wilderness of the Federal lands described in section 1001 [16 USC § 3141] and report his findings to the President.

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

(c) Preservation of wilderness character and potential. Subject to valid existing rights and the provisions of section 1002 of this Act [16 USC § 3142], the wilderness study area designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System. Already established uses may be permitted to continue, subject to such restrictions as the Secretary deems desirable, in the manner and degree in which the same were being conducted on the date of enactment of this Act [enacted Dec. 2, 1980].

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

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

(b) Oil spills.

(1) The Congress finds that--

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

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

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

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

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

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

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

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

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

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

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

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

§ 3146. Transportation alternatives portion of study

In studying oil and gas alternative transportation systems, the Secretary shall consult with the Secretary of Transportation and shall consider--

- (1) the extent to which environmentally and economically feasible alternative routes could be established;
- (2) the prospective oil and gas production potential of this area of Alaska for each alternative transportation route; and
- (3) the environmental and economic costs and other values associated with such alternative routes.

§ 3147. Arctic research study

(a) Mission, facilities, and administration of Naval Arctic Research Laboratory. The Secretary, the Secretary of Defense, and the Secretary of Energy shall initiate and carry out a study of the mission, facilities and administration of the Naval Arctic Research Laboratory (NARL), at Point Barrow, Alaska. The study shall review the historical responsibilities carried out at NARL and their contribution to applied and basic Arctic research. The study shall specifically address and the Secretary shall make recommendations on the need for redirecting the United States Arctic research policy and the role of the NARL facilities in developing and implementing that policy.

(b) Assessment of future uses of NARL. The Secretaries shall assess the future use of NARL in--

- (1) developing relevant scientific information on the Arctic environment and utilizing applied research to (A) deal with the unique problems the Arctic presents in providing public services; (B) minimize the impact of resource development on the environment and the culture of the Native people; and (C) promote international cooperation among the Nations which share responsibility for the Arctic environment;

(2) assessing the impact of oil and gas exploration, development, and transportation on the Arctic environment, including impact on fish, marine and land mammals, and migratory waterfowl;

(3) developing advanced design technologies, operational practices and transportation systems to improve the environmental safety and efficiency of oil and gas exploration and production in the Arctic, including offshore activities;

(4) enlarging the body of knowledge on Arctic ice conditions and developing practical and efficient means of dealing with potential oil spills and other hazards associated with resource development in Alaska's Arctic; and

(5) developing a comprehensive Arctic policy for the Federal Government that will accommodate the need for development and use of Arctic resources with appropriate recognition and consideration given to the unique nature of the Arctic environment and the needs of its Native residents.

(c) Recommendations. After completion of the study, the Secretaries shall make recommendations on--

(1) changes in the mission and management of NARL necessary to accomplish the research and policy goals addressed in the study;

(2) the appropriate Federal agency or agencies that should have primary responsibility for management of NARL;

(3) changes in the organizational structure of NARL that would allow greater involvement by State and private organizations in the use, management and/or funding of NARL; and

(4) the appropriate level of Federal funding for scientific and technological research on the Arctic environment and its uses.

(d) Consultations; opportunity for public review and comment. In the course of the study, the Secretaries shall consult with representatives of the Department of Navy, the National Oceanic and Atmospheric Administration, the National Science Foundation, the Smithsonian Institution, the State of Alaska, local governments, representatives of public and private institutions conducting Arctic research, and Native Village and Regional Corporations in the areas now affected by the activities of NARL. The Secretaries shall provide an opportunity for public review and comment on the draft report and proposed recommendations prior to final approval, and shall include any recommendations of the local community in the final study.

(e) Submission of study to Congress. The Secretaries shall submit the study and their recommendations to the Congress no later than one year after the date of enactment of this Act [enacted Dec. 2, 1980].

(f) Continuation of level of funding for NARL. Pending submission of the study to the Congress, the President is directed to continue the operation of NARL at the level of funding provided for in fiscal year 1979.

3148. Oil and gas leasing program for non-North Slope Federal lands

(a) Establishment; restrictions. The Secretary shall establish, pursuant to the Mineral Leasing Act of 1920, as amended, an oil and gas leasing program on the Federal lands of Alaska not subject to the study required by section 1001 of this Act [*16 USC § 3141*], other than lands included in the National

Petroleum Reserve--Alaska. Such program shall not be undertaken by the Secretary on those lands where applicable law prohibits such leasing or on those units of the National Wildlife Refuge System where the Secretary determines, after having considered the national interest in producing oil and gas from such lands, that the exploration for and development of oil or gas would be incompatible with the purpose for which such unit was established.

(b) Study of oil and gas potential and impact of development and production; permits; consultations; State studies; reports to Congress.

(1) (A) In such areas as the Secretary deems favorable for the discovery of oil or gas, he shall conduct a study, or studies, or collect and analyze information obtained by permittees authorized to conduct studies under this section, of the oil and gas potential of such lands and those environmental characteristics and wildlife resources which would be affected by the exploration for and development of such oil and gas.

(B) The Secretary is authorized to issue permits for study, including geological, geophysical, and other assessment activities, if such activities can be conducted in a manner which is consistent with the purposes for which each affected area is managed under applicable law.

(2) The Secretary shall consult with the Secretary of Energy regarding the national interest involved in exploring for and developing oil and gas from such lands and shall seek the views of the Governor of the State of Alaska, Alaskan local governments, Native Regional and Village Corporations, the Alaska Land Use Council, representatives of the oil and gas industry, conservation groups, and other interested groups and individuals in determining which land should be studied and/or leased for the exploration and development of oil and gas.

(3) The Secretary shall encourage the State to undertake similar studies on lands associated, either through geological or other land values or because of possible transportation needs, with Federal lands. The Secretary shall integrate these studies, to the maximum extent practicable, with studies on Federal lands so that needs for cooperation between the Federal Government and the State of Alaska in managing energy and other natural resources, including fish and wildlife, can be established early in the program.

(4) The Secretary shall report to the Congress by October 1, 1981, and yearly thereafter, on his efforts pursuant to this Act regarding the leasing of, and exploration and development activities on, such lands.

(c) [Deleted]

(d) Issuance of leases. Pursuant to the Mineral Leasing Act of 1920, as amended, the Secretary is authorized to issue leases, on the Federal lands described in this section, under such terms and conditions as he may, by regulation, prescribe.

(e) [Deleted]

(f) Exploration plan. Prior to any exploration activities on a lease issued pursuant to this section, the Secretary shall require the lessee to describe exploration activities in an exploration plan. He shall approve such plan if such activities can be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(g) Development and production plan. Subsequent to a discovery of oil or gas in paying quantities, and prior to developing and producing such oil and gas, the Secretary shall require the lessee to describe development and production activities in a development and production plan. He shall approve such plan if such activities may be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(h) Revised development and production plan. The Secretary shall monitor the performance of the lessee and, if he determines that due to significant changes in circumstances regarding that operation, including environmental or economic changes, new requirements are needed, he may require a revised development and production plan.

(i) Suspension and cancellation of lease. If the Secretary determines that immediate and irreparable damage will result from continuation in force of a lease, that the threat will not disappear and that the advantages of cancellation outweigh the advantages of continuation in force of a lease, he shall suspend operations for up to five years. If such a threat persists beyond such five-year suspension period, he shall cancel a lease and provide compensation to the lease under such terms as the Secretary establishes, by regulation, to be appropriate.

§ 3149. Oil and gas lease applications

(a) Lands within National Wildlife Refuge System but not part of National Wilderness Preservation System. Notwithstanding any other provision of law or regulation, whenever the Secretary receives an application for an oil and gas lease pursuant to the Mineral Leasing Act of 1920 for lands in Alaska within a unit of the National Wildlife Refuge System which are not also part of the National Wilderness Preservation System he shall, in addition to any other requirements of applicable law, follow the procedures set forth in this section.

(b) Statement of reasons for decision to issue or not to issue lease. Any decision to issue or not to issue a lease shall be accompanied by a statement setting forth the reasons for the decision, including the reasons why oil and gas leasing would be compatible or incompatible with the purposes of the refuge.

(c) Environmental impact statement. If the Secretary determines that the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 [42 USC § 4332(2)(C)] do not apply to his decision, the Secretary shall render his decision within six months after receipt of a lease application. If such requirements are applicable to the Secretary's decision, he shall render his decision within three months after publication of the final environmental impact statement.

§ 3150. Alaska mineral resource assessment program

(a) Mineral assessments. The Secretary shall, to the full extent of his authority, assess the oil, gas, and other mineral potential on all public lands in the State of Alaska in order to expand the data base with respect to the mineral potential of such lands. The mineral assessment program may include, but shall not be limited to, techniques such as side-looking radar imagery and, on public lands other than such lands within the

national park system, core and test drilling for geologic information, notwithstanding any restriction on such drilling under the Wilderness Act [16 USC § § 1131 et seq.]. For purposes of this Act, core and test drilling means the extraction by drilling of subsurface geologic samples in order to assess the metalliferous or other mineral values of geologic terrain, but shall not be construed as including exploratory drilling of oil and gas test wells. To the maximum extent practicable, the Secretary shall consult and exchange information with the State of Alaska regarding the responsibilities of the Secretary under this section and similar programs undertaken by the State. In order to carry out mineral assessments authorized under this or any other law, including but not limited to the National Uranium Resource Evaluation program, the Secretary shall allow for access by air for assessment activities permitted in this subsection to all public lands involved in such study. He shall consult with the Secretary of Energy and heads of other Federal agencies carrying out such programs, to determine such reasonable requirements as may be necessary to protect the resources of such area, including fish and wildlife. Such requirements may provide that access will not occur during nesting, calving, spawning or such other times as fish and wildlife in the specific area may be especially vulnerable to such activities. The Secretary is authorized to enter into contracts with public or private entities to carry out all or any portion of the mineral assessment program. This section shall not apply to the lands described in section 1001 of this Act [16 USC § 3141].

(b) Regulations. Activities carried out in conservation system units under subsection (a) shall be subject to regulations promulgated by the Secretary. Such regulations shall ensure that such activities are carried out in an environmentally sound manner--

(1) which does not result in lasting environmental impacts which appreciably alter the natural character of the units or biological or ecological systems in the units; and

(2) which is compatible with the purposes for which such units are established.

§ 3151. Annual report by President to Congress on minerals in Alaska

On or before October 1, 1982, and annually thereafter, the President shall transmit to the Congress all pertinent public information relating to minerals in Alaska gathered by the United States Geological Surveys, [United States] Bureau of Mines, and any other Federal agency.

§ 3161. Congressional declaration of findings

Congress finds that--

(a) Alaska's transportation and utility network is largely undeveloped and the future needs for transportation and utility systems in Alaska would best be identified and provided for through an orderly, continuous decisionmaking process involving the State and Federal Governments and the public;

(b) the existing authorities to approve or disapprove applications for transportation and utility systems through public lands in Alaska are diverse, dissimilar, and, in some cases, absent; and

(c) to minimize the adverse impacts of siting transportation and utility systems within units established or expanded by this Act and to insure the effectiveness of the decisionmaking process, a single comprehensive statutory authority for the approval or disapproval of applications for such systems must be provided in this Act.

§ 3162. Definitions

For purposes of this title [16 USC §§ 3161 et seq.]--

(1) The term "applicable law" means any law of general applicability (other than this title [16 USC §§ 3161 et seq.]) under which any Federal department or agency has jurisdiction to grant any authorization (including but not limited to, any right-of-way, permit, license, lease, or certificate) without which a transportation or utility system cannot, in whole or in part, be established or operated.

(2) The term "applicant" means any public or private person, including, but not limited to, any Federal department or agency.

(3) The term "Federal agency" means any Federal department or agency that has any function or duty under applicable law.

(4) (A) The term "transportation or utility system" means any type of system described in subparagraph (B) if any portion of the route of the system will be within any conservation system unit, national recreation area, or national conservation area in the State (and the system is not one that the department or agency having jurisdiction over the unit or area is establishing incident to its management of the unit or area).

(B) The types of systems to which subparagraph (A) applies are as follows:

(i) Canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water.

(ii) Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom.

(iii) Pipelines, slurry and emulsion systems and conveyor belts for the transportation of solid materials.

(iv) Systems for the transmission and distribution of electric energy.

(v) Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication.

(vi) Improved rights-of-way for snow machines, air cushion vehicles, and other all-terrain vehicles.

(vii) Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks, and other systems of general transportation.

Any system described in this subparagraph includes such related structures and facilities (both temporary and permanent) along the route of the system as may be minimally necessary for the construction, operation, and maintenance of the system. Such related structures and facilities shall be described in the application required by section 1104 [16 USC § 3164], and shall be approved or disapproved in accordance with the procedures set forth in this title [16 USC §§ 3161 et seq.].

§ 3163. Effect on other laws

Except as specifically provided for in this title [16 USC §§ 3161 et seq.], applicable law shall apply with respect to the authorization and administration of transportation or utility systems.

§ 3164. Procedural requirements

(a) In general. Notwithstanding any provision of applicable law, no action by any Federal agency under applicable law with respect to the approval or disapproval of the authorization, in whole or in part, of any transportation or utility system shall have any force or effect unless the provisions of this section are

complied with.

(b) Consolidated applications.

(1) Within one hundred and eighty days after the date of enactment of this Act [enacted Dec. 2, 1980], the Secretary, the Secretary of Agriculture, and the Secretary of Transportation, in consultation with the heads of other appropriate Federal agencies, shall jointly prescribe and publish a consolidated application form to be used for applying for the approval of each type of transportation or utility system. Each such application form shall be designed to elicit such information as may be necessary to meet the requirements of this title [16 USC § § 3161 et seq.] and the applicable law with respect to the type of system concerned.

(2) For purposes of this section, the heads of all appropriate Federal agencies, including the Secretary of Transportation, shall share decisionmaking responsibility in the case of any transportation or utility system described in section 1102(4)(B)(ii), (iii), or (vii) [16 USC § 3162(4)(B)(ii), (iii), (vii)]; but with respect to any such system for which he does not have programmatic responsibility, the Secretary of Transportation shall provide to the other Federal agencies concerned such planning and other assistance as may be appropriate.

(c) Filing. Each applicant for the approval of any transportation or utility system shall file on the same day an application with each appropriate Federal agency. The applicant shall utilize the consolidated form prescribed under subsection (b) for the type of transportation or utility system concerned.

(d) Agency notice.

(1) Within sixty days after the receipt of an application filed pursuant to subsection (c), the head of each Federal agency with whom the application was filed shall inform the applicant in writing that, on its face--

(A) the application appears to contain the information required by this title [16 USC § § 3161 et seq.] and applicable law insofar as that agency is concerned; or

(B) the application does not contain such information.

(2) Any notice provided under paragraph (1)(B) shall specify what additional information the applicant must provide. If the applicant provides additional information, the head of the Federal agency must inform the applicant in writing, within thirty days after receipt of such information, whether the information is sufficient.

(e) Environmental impact statement. The draft of any environmental impact statement required under the National Environmental Policy Act of 1969 [42 USC § § 4321 et seq.] in connection with any application filed under this section shall be completed, within nine months from the date of filing, by the head of the Federal agency assigned lead responsibility for the statement. Any such statement shall be jointly prepared by all Federal agencies with which the application was filed under subsection (c). The final environmental impact statement shall be completed within one year from the date of such filing. Such nine-month and one-year periods may be extended for good cause by the Federal agency head assigned lead responsibility for the preparation of such statement if he determines that additional time is necessary for such preparation, notifies the applicant in writing of such determination, and publishes notice of such determination, together with the reasons therefor, in the Federal Register. The provisions of section 304 of the Federal Land Policy and Management Act of 1976 [43 USC § 1734] shall apply to each environmental impact statement under

this subsection in the same manner as such provisions apply to applications relating to the public lands referred to in such section 304 [43 USC § 1734]. The Federal agency assigned lead responsibility shall, in conjunction with such other Federal agencies before which the application is pending, hold public hearings in the District of Columbia and an appropriate location in the State on each draft joint environmental impact statement and the views expressed therein shall be considered by all Federal agencies concerned before publication of the final joint environmental impact statement.

(f) Other views. During both the nine-month period, and the succeeding three-month period plus any extension thereof provided for in subsection (e), the heads of the Federal agencies concerned shall solicit and consider the views of other Federal departments and agencies, the Alaska Land Use Council, the State, affected units of local government in the State, and affected corporations formed pursuant to the Alaska Native Claims Settlement Act, and, after public notice, shall receive and consider statements and recommendations regarding the application submitted by interested individuals and organizations.

(g) Agency decision.

(1) Within four months after the final environmental impact statement is published in accordance with subsection (e) with respect to any transportation or utility system, each Federal agency shall make a decision to approve or disapprove, in accordance with applicable law, each authorization that applies with respect to the system and that is within the jurisdiction of that agency.

(2) The head of each Federal agency, in making a decision referred to in paragraph (1), shall consider, and make detailed findings supported by substantial evidence, with respect to--

(A) the need for, and economic feasibility of, the transportation or utility system;

(B) alternative routes and modes of access, including a determination with respect to whether there is any economically feasible and prudent alternative to the routing of the system through or within a conservation system unit, national recreation area, or national conservation area and, if not, whether there are alternative routes or modes which would result in fewer or less severe adverse impacts upon the conservation system unit;

(C) the feasibility and impacts of including different transportation or utility systems in the same area;

(D) short- and long-term social, economic, and environmental impacts of national, State, or local significance, including impacts on fish and wildlife and their habitat, and on rural, traditional lifestyles;

(E) the impacts, if any, on the national security interests of the United States, that may result from approval or denial of the application for a transportation or utility system;

(F) any impacts that would affect the purposes for which the Federal unit or area concerned was established;

(G) measures which should be instituted to avoid or minimize negative impacts; and

(H) the short- and long-term public values which may be adversely affected by approval of the transportation or utility system versus the short- and long-term public benefits which may accrue from such approval.

§ 3165. Standards for granting certain authorizations

In any case in which there is no applicable law with respect to a transportation or utility system, the head of the Federal agency concerned shall, within four months after the date of filing of any final Environmental

Impact Statement, make recommendations, for purposes of section 1106(b) [16 USC § 3166(b)], to grant such authorizations as may be necessary to establish such system, in whole or in part, within the conservation system unit concerned if he determines that--

- (1) such system would be compatible with the purposes for which the unit was established; and
- (2) there is no economically feasible and prudent alternative route for the system.

§ 3166. Agency, Presidential, and Congressional actions

(a) Agency action in cases other than those involving 16 USC § 3165 or wilderness areas.

(1) In the case of any application for the approval of any transportation or utility system to which section 1105 [16 USC § 3165] does not apply or that does not occupy, use, or traverse any area within the National Wilderness Preservation System, if, in compliance with section 1104 [16 USC § 3164]--

(A) each Federal agency concerned decides to approve each authorization within its jurisdiction with respect to that system, then the system shall be deemed to be approved and each such agency shall promptly issue, in accordance with applicable law, such rights-of-way, permits, licenses, leases, certificates, or other authorizations as are necessary with respect to the establishment of the system; or

(B) one or more Federal agencies decide to disapprove any authorization within its jurisdiction with respect, to that system, then the system shall be deemed to be disapproved and the applicant for the system may appeal the disapproval to the President.

(2) If an applicant appeals under paragraph (1)(B), the President, within four months after receiving the appeal, shall decide whether to approve or deny the application. The President shall approve the application if he finds, after consideration of the factors set forth in section 1104(g)(2) [16 USC § 3164(g)(2)], that such approval would be in the public interest and that (1) such system would be compatible with the purposes for which the unit was established; and (2) there is no economically feasible and prudent alternative route for the system. In making a decision, the President shall consider any environmental impact statement prepared pursuant to section 1104(e) [16 USC § 3164(e)], comments of the public and Federal agencies received during the preparation of such statement, and the findings and recommendations, if any, of each Federal agency that rendered a decision with respect to the application. The President's decision to approve or deny the application shall be published in the Federal Register, together with a statement of the reasons for his determination.

(3) If the President approves an application under paragraph (2), each Federal agency concerned shall promptly issue, in accordance with applicable law, such rights-of-way, permits, licenses, leases, certificates, or other authorizations as are necessary with respect to the establishment of the system.

(4) If the President denies an application under paragraph (2), the applicant shall be deemed to have exhausted his administrative remedies and may file suit in any appropriate Federal court to challenge such decision.

(b) Agency action in cases involving 16 USC § 3165 or wilderness areas.

(1) In the case of any application for the approval of a transportation or utility system to which section 1105 [16 USC § 3165] applies or that proposes to occupy, use, or traverse any area within the National Wilderness Preservation System, each Federal agency concerned shall promptly submit to the President notification whether the agency tentatively approved or disapproved each authorization within its jurisdiction that applies with respect to the system. Such notification shall be accompanied by a statement of the

reasons and findings supporting the agency position.

(2) Within four months after receiving all notification referred to in paragraph (1) and after considering such notifications, any environmental impact statement prepared pursuant to section 1104(e) [16 USC § 3164(e)], and the comments of the public and Federal agencies received during the preparation of such statement, the President shall decide whether or not the application for the system concerned should be approved. If the President denies an application the applicant shall be deemed to have exhausted his administrative remedies, and may file suit in any appropriate Federal court to challenge such decision. If the President approves the application, he shall submit to Congress his recommendation for approval of the transportation or utility system covered, whereupon the Congress shall consider the application as provided in subsection (c). The President shall include with his recommendation to Congress--

(A) the application which is the subject of his recommendation;

(B) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(C) the joint environmental impact statement; [and]

(D) a statement of the conditions and stipulations which would govern the use of the system if approved by the Congress.

(c) Congressional approval.

(1) No application for any transportation or utility system with respect to which the President makes a recommendation for approval under subsection (b) shall be approved unless the Senate and House of Representatives approve a resolution described in paragraph (4) within the first period of one hundred and twenty calendar days of continuous session of the Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation.

(2) For purposes of this subsection--

(A) continuity of session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(3) This subsection is enacted by the Congress--

(A) as an exercise of the rulemaking power of each House of the Congress respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by paragraph (6) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

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

(4) For the purposes of this subsection, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the application for----- under title XI of the Alaska National Interest Lands Conservation Act [16 USC § § 3161 et seq.] submitted by the President to the Congress on---, 19-."; the first blank space therein to be filled in with the appropriate transportation or utility system and the second blank therein to be filled with the date on which the President submits the application to the House of Representatives and the Senate.

(5) Except as otherwise provided in this subsection, the provisions of section 8(d) of the Alaska Natural Gas Transportation Act [15 USC § 719f(d)] shall apply to the consideration of the resolution.

(6) After an application for a transportation or utility system has been approved under subsection 1106(a) [subsec. (a) of this section], the appropriate Federal agencies shall issue appropriate authorizations in accordance with applicable law. In any case in which an application for a transportation or utility system has been approved pursuant to section 1106(b) [subsec. (b) of this section], the appropriate Federal agencies shall issue appropriate authorizations in accordance with title V of the Federal Lands Policy Management Act [43 USC § § 1761 et seq.] or other applicable law. After issuance pursuant to this subsection, the appropriate land managing agency shall administer the right-of-way in accordance with relevant management authorities of the land managing agency and title V of the Federal Lands Policy Management Act [43 USC § § 1761 et seq.].

§ 3167. Rights-of-way terms and conditions

(a) Terms and conditions. The Secretary, or the Secretary of Agriculture where national forest wilderness is involved, shall include in any right-of-way issued pursuant to an application under this title [16 USC § § 3161 et seq.], terms and conditions which shall include, but not be limited to--

(1) requirements to insure that, to the maximum extent feasible, the right-of-way is used in a manner compatible with the purposes for which the affected conservation system unit, national recreation area, or national conservation area was established or is managed;

(2) requirements for restoration, revegetation, and curtailment of erosion of the surface of the land;

(3) requirements to insure that activities in connection with the right-of-way will not violate applicable air and water quality standards and related facility siting standards established pursuant to law;

(4) requirements, including the minimum necessary width, designed to control or prevent--

(A) damage to the environment (including damage to fish and wildlife habitat),

(B) damage to public or private property, and

(C) hazards to public health and safety;

(5) requirements to protect the interests of individuals living in the general area of the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; and

(6) requirements to employ measures to avoid or minimize adverse environmental, social or economic impacts.

(b) Wild and Scenic Rivers System. Any transportation or utility system approved pursuant to this title [16 USC § § 3161 et seq.] which occupies, uses, or traverses any area within the boundaries of a unit of the National Wild and Scenic Rivers System shall be subject to such conditions as may be necessary to assure that the stream flow of, and transportation on, such river are not interfered with or impeded, and that the transportation or utility system is located and constructed in an environmentally sound manner.

(c) Pipeline rights-of-way. In the case of a pipeline described in section 28(a) of the Mineral Leasing Act of 1920 [30 USC § 185(a)], a right-of-way issued pursuant to this title [16 USC § § 3161 et seq.] shall be issued in the same manner as a right-of-way is granted under section 28 [30 USC § 185], and the provisions of subsections (c) through (j), (l) through (q), and (u) through (y) of such section 28 [30 USC § 185(c)-(j), (l)-(q), (u)-(y)] shall apply to rights-of-way issued pursuant to this title [16 USC § § 3161 et seq.].

§ 3168. Injunctive relief

No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this title [16 USC § § 3161 et seq.] except in conjunction with a final judgment entered in a case involving an action pursuant to this title. [16 USC § § 3161 et seq.].

§ 3169. Valid existing right of access

Nothing in this title [16 USC § § 3161 et seq.] shall be construed to adversely affect any valid existing right of access.

§ 3170. Special access and access to inholdings

(a) Use of snowmachines, motorboats, airplanes, nonmotorized surface transportation, etc. for traditional activities and for travel. Notwithstanding any other provision of this Act or other law, the Secretary shall permit, on conservation system units, national recreation areas, and national conservation areas, and those public lands designated as wilderness study, the use of snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers), motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities (where such activities are permitted by this Act or other law) and for travel to and from villages and homesites. Such use shall be subject to reasonable regulations by the Secretary to protect the natural and other values of the conservation system units, national recreation areas, and national conservation areas, and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit or area. Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this Act or other law.

(b) Right of access to State or private owner or occupier. Notwithstanding any other provisions of this Act or other law, in any case in which State owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other valid occupancy is within or is effectively surrounded by one or more conservation system units, national recreation areas, national conservation areas, or those public lands designated as wilderness study, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such lands.

§ 3171. Temporary access

(a) In general. Notwithstanding any other provision of this Act or other law the Secretary shall authorize and permit temporary access by the State or a private landowner to or across any conservation system unit, national recreation area, national conservation area, the National Petroleum Reserve--Alaska or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, in order to permit the State or private landowner access to its land for purposes of survey,

geophysical, exploratory, or other temporary uses thereof whenever he determines such access will not result in permanent harm to the resources of such unit, area, Reserve or lands.

(b) Stipulations and conditions. In providing temporary access pursuant to subsection (a), the Secretary may include such stipulations and conditions he deems necessary to insure that the private use of public lands is accomplished in a manner that is not inconsistent with the purposes for which the public lands are reserved and which insures that no permanent harm will result to the resources of the unit, area, Reserve or lands.

§ 3172. North Slope Haul Road

(a) In general. So long as that section of the North Slope Haul Road referred to in subsection (c) is closed to public use, but not including regulated local traffic north of the Yukon River, regulated industrial traffic and regulated high occupancy buses, such regulation to occur under State law, except that the Secretary, after consultation with the Secretary of Transportation, and the Governor of Alaska shall agree on the number of vehicles and seasonality of use, such section shall be free from any and all restrictions contained in title 23, United States Code [23 USC § § 101 et seq.], as amended or supplemented, or in any regulations thereunder. Prior to executing an agreement pursuant to this subsection, the Secretary and the Governor of Alaska shall consult with the head of any unit of local government which encompasses lands located adjacent to the route of the North Slope Haul Road. The State of Alaska shall have the authority to limit access, impose restrictions and impose tolls, notwithstanding any provision of Federal law.

(b) Release. The removal of restrictions shall not be conditioned upon repayment by the State of Alaska to the Treasurer of the United States of any Federal-aid highway funds paid on account of the section of highway described in subsection (c), and the obligation of the State of Alaska to repay these amounts is hereby released so long as the road remains closed as set forth in subsection (a).

(c) Application of section. The provisions of this section shall apply to that section of the North Slope Haul Road, which extends from the southern terminus of the Yukon River Bridge to the northern terminus of the Road at Prudhoe Bay.

§ 3173. Stikine River region; Presidential study and report to Congress

Congress finds that there is a need to study the effect of this Act upon the ability of the Government of Canada to obtain access in the Stikine River region of southeast Alaska. Accordingly, within five years from the date of enactment of this Act [enacted Dec. 2, 1980], the President shall consult with the Government of Canada and shall submit a report to the Congress containing his findings and recommendations concerning the need, if any, to provide for such access. Such report shall include, among other things, an analysis of the need for access and the social, environmental and economic impacts which may result from various forms of access including, but not limited to, a road along the Stikine and Iskut Rivers, or other alternative routes, should such access be permitted.

§ 3181. Alaska Land Use Council

(a) Establishment. There is hereby established the Alaska Land Use Council (hereinafter in this title [16 USC § § 3181 et seq.] referred to as the "Council").

(b) Cochairmen. The Council shall have Cochairmen. The Federal Cochairman shall be appointed by the President of the United States with the advice and consent of the Senate. The State Cochairman shall be the Governor of Alaska.

(c) Members. In addition to the Cochairmen, the Council shall consist of the following members:

(1) the head of the Alaska offices of each of the following Federal agencies: National Park Service, United States Fish and Wildlife Service, United States Forest Service, Bureau of Land Management, Heritage Conservation and Recreation Service, National Oceanic and Atmospheric Administration, and Department of Transportation;

(2) the Commissioners of the Alaska Departments of Natural Resources, Fish and Game, Environmental Conservation, and Transportation; and

(3) two representatives selected by the Alaska Native Regional Corporations (in consultation with their respective Village Corporations) which represent the twelve geographic regions described in section 7(a) of the Alaska Native Claims Settlement Act [43 USC § 1606(a)].

Any vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(d) State decision not to participate. If the State elects not to participate on the Council or elects to end its participation prior to termination of the Council, the Council shall be composed of the Federal Cochairman, the agencies referred to in subsection (c)(1) and the representatives of the Alaska Native Regional Corporations referred to in subsection (c)(3). The Council, so composed, shall carry out the administrative functions required by this title [16 USC § § 3181 et seq.] and shall make recommendations to Federal officials with respect to the matters referred to in subsections (i) and (j). In addition, the Council may make recommendations from time to time to State officials and private landowners concerning such matters.

(e) Compensation and expenses.

(1) The Federal Cochairman shall be compensated at a rate to be determined by the President but not in excess of that provided for level IV of the Executive Schedule contained in title V[5], United States Code [5 USC § 5315].

(2) The other members of the Council who are Federal employees shall receive no additional compensation for service on the Council.

(3) While away from their homes or regular places of business in the performance of services for the Council, members of the Council who are Federal employees, or members of the Council referred to in subsection (c)(3), shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(4) The State Cochairman and other State members of the Council have been compensated in

accordance with applicable State law.

(f) Administrative authority.

(1) The Cochairmen, acting jointly, shall have the authority to create and abolish employments and positions, including temporary and intermittent employments; to fix and provide for the qualification, appointment, removal, compensation, pension, and retirement rights of Council employees; and to procure needed office space, supplies, and equipment.

(2) The office of the Council shall be located in the State of Alaska.

(3) Except as provided in subsection (d), within any one fiscal year, the Federal Government shall pay only 50 per centum of the costs and other expenses other than salaries, benefits, et cetera of members, incurred by the Council in carrying out its duties under this Act.

(4) The Council is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement. Each department and agency of the Federal Government is authorized and directed to cooperate fully in making its services, equipment, personnel, and facilities available to the Council. Personnel detailed to the Council in accordance with the provisions of this subsection shall be under the direction of the Cochairman during any period such staff is so detailed.

(5) The Council is authorized to accept donations, gifts, and other contributions and to utilize such donations, gifts, and contributions in carrying out its functions under this Act.

(6) The Council shall keep and maintain complete accounts and records of its activities and transactions, and such accounts and records shall be available for public inspection.

(g) Meetings; authorities; reports. The Council shall meet at the call of the Cochairmen, but not less than four times each year. In addition, the Council may, for the purpose of carrying out the provisions of this section, hold such hearings, take such testimony, receive such evidence and print or otherwise reproduce and distribute reports concerning so much of its proceedings as the Council deems advisable. No later than February 1 of each calendar year following the calendar year in which the Council is established, the Cochairmen shall submit to the President, the Congress, the Governor of Alaska, and the Alaska Legislature, in writing, a report on the activities of the Council during the previous year, together with their recommendations, if any, for legislative or other action in furtherance of the purposes of this section.

(h) Rules. The Council shall adopt such internal rules of procedure as it deems necessary. All Council meetings shall be open to the public, and at least fifteen days prior to the date when any meeting of the Council is to take place the Cochairman shall publish public notice of such meeting in the Federal Register and in newspapers of general circulation in various areas throughout Alaska.

(i) Functions of the Council.

(1) The Council shall conduct studies and advise the Secretary, the Secretary of Agriculture, other Federal agencies, the State, local governments, and Native Corporations with respect to ongoing, planned, and proposed land and resources uses in Alaska, including transportation planning, land use designation, fish and wildlife management, tourism, agricultural development, coastal zone management, preservation of cultural and historical resources, and such other matters as may be submitted for advice by the members.

(2) It shall be the function of the Council--

(A) to make recommendations to appropriate officials of the United States and the State of Alaska with

respect to--

(i) proposed regulations promulgated by the United States to carry out its responsibilities under this Act;

(ii) management plans and studies required by this Act including, but not limited to, plans and studies for conservation system units, wild and scenic rivers, and wilderness areas;

(iii) proposed regulations promulgated by the State of Alaska to carry out its responsibilities under this Act and other State and Federal laws;

(B) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to ways to improve coordination and consultation between said governments in wildlife management, transportation planning, wilderness review, and other governmental activities which appear to require regional or statewide coordination;

(C) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to ways to insure that economic development is orderly and planned and is compatible with State and national economic, social, and environmental objectives;

(D) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to those changes in laws, policies, and programs relating to publicly owned lands and resources which the Council deems necessary;

(E) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to the inventory, planning, classification, management, and use of Federal and State lands, respectively, and to provide such assistance to Native Corporations upon their request;

(F) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to needed modifications in existing withdrawals of Federal and State lands; and

(G) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to the programs and budgets of Federal and State agencies responsible for the administration of Federal and State lands; and

(H) to make recommendations to appropriate officials of the governments of the United States, the State of Alaska, and Native Corporations for land exchanges between or among them.

(j) Cooperative planning.

(1) The Council shall recommend cooperative planning zones, consisting of areas of the State in which the management of lands or resources by one member materially affects the management of lands or resources of another member or members including, but not limited to, such areas as the Northwest Arctic, the North Slope, and Bristol Bay. Federal members of the Council are authorized and encouraged to enter into cooperative agreements with Federal agencies, with State and local agencies, and with Native Corporations providing for mutual consultation, review, and coordination of resource management plans and programs within such zones.

(2) With respect to lands, waters, and interests therein which are subject to a cooperative agreement in accordance with this subsection, the Secretary, in addition to any requirement of applicable law, may provide technical and other assistance to the landowner with respect to fire control, trespass control, law enforcement, resource use, and planning. Such assistance may be provided without reimbursement if the Secretary determines that to do so would further the purposes of the cooperative agreement and would be in the public interest.

(3) Cooperative agreements established pursuant to this section shall include a plan for public participation consistent with the guidelines established by the Council pursuant to subsection (m).

(k) Nonacceptance of Council recommendations. If any Federal or State agency does not accept a recommendation made by the Council pursuant to subsection (i) or (j), such agency, within thirty days of receipt of the recommendation, shall inform the Council, in writing, of its reason for such action.

(l) Termination. Unless extended by the Congress, the Council shall terminate ten years after the date of enactment of this Act [enacted Dec. 2, 1980]. No later than one year prior to its termination date, the Cochairmen shall submit in writing to the Congress a report on the accomplishments of the Council together with their recommendations as to whether the Council should be extended or any other recommendations for legislation or other action which they determine should be taken following termination of the Council to continue carrying out the purposes for which the Council was established.

(m) Public participation. The Council shall establish and implement a public participation program to assist the Council to carry out its responsibilities and functions under this section. Such program shall include, but is not limited to--

(1) A committee of land-use advisors appointed by the Cochairmen made up of representatives of commercial and industrial land users in Alaska, recreational land users, wilderness users, environmental groups, Native Corporations, and other public and private organizations. To the maximum extent practicable, the membership of the committee shall provide a balanced mixture of national, State, and local perspective and expertise on land and resource use issues; and

(2) A system for (A) the identification of persons and communities, in rural and urban Alaska, who or which may be directly or significantly affected by studies conducted, or advice and recommendations given by the Council pursuant to this section, and (B) guidelines for, and implementation of, a system for effective public participation by such persons or communities in the development of such studies, advice and recommendations by the Council.

§ 3182. Federal Coordination Committee

There is hereby established a Federal Coordination Committee composed of the Secretaries (or their designees) of Agriculture, Energy, the Interior, and Transportation; the Administrators of the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration; and the Federal and State Cochairmen of the Council. Such Committee shall meet at least once every four months in order to coordinate those programs and functions of their respective agencies which could affect the administration of lands and resources in Alaska. The Federal Cochairman shall be the Chairman of the Committee. He shall be responsible for formulating an agenda for each meeting, after consultation with the other agency heads referred to herein, for providing any necessary staff support, and for preparing a brief summary of the disposition of matters discussed at each meeting. Such summary shall be published in the Federal Register.

§ 3183. Bristol Bay Cooperative Region

(a) Definitions. For purposes of this section--

(1) The term "Governor" means the Governor of the State of Alaska.

(2) The term "region" means the land (other than any land within the National Park System) within the Bristol Bay Cooperative Region as generally depicted on the map entitled "Bristol Bay-Alaska Peninsula", dated October 1979.

(b) Purpose. The purpose of this section is to provide for the preparation and implementation of a comprehensive and systematic cooperative management plan (hereinafter in this section referred to as the "plan"), agreed to by the United States and the State--

(1) to conserve the fish and wildlife and other significant natural and cultural resources within the region;

(2) to provide for the rational and orderly development of economic resources within the region in an environmentally sound manner;

(3) to provide for such exchanges of land among the Federal Government, the State, and other public or private owners as will facilitate the carrying out of paragraphs (1) and (2);

(4) to identify any further lands within the region which are appropriate for selections by the State under section 6 of the Alaska Statehood Act [note preceding *48 USC § 21*] and this Act; and

(5) to identify any further lands within the region which may be appropriate for congressional designation as national conservation system units.

(c) Federal-State cooperation in preparation of plans.

(1) If within three months after the date of enactment of this Act [enacted Dec. 2, 1980], the Governor notifies the Secretary that the State wishes to participate in the preparation of the plan, and that the Governor will, to the extent of his authority, manage State lands within the region to conserve fish and wildlife during such preparation, the Secretary and the Governor shall undertake to prepare the plan which shall contain such provisions as are necessary and appropriate to achieve the purposes set forth in subsection (b), including but not limited to--

(A) the identification of the significant resources of the region;

(B) the identification of present and potential uses of land within the region;

(C) the identification of areas within the region according to their significant resources and the present or potential uses within each such area;

(D) the identification of land (other than any land within the National Park System) which should be exchanged in order to facilitate the conserving of fish and wildlife and the management and development of other resources within the region; and

(E) the specification of the uses which may be permitted in each area identified under paragraph (C) and the manner in which these uses shall be regulated by the Secretary or the State, as appropriate, if such plan is approved.

(2) The plan shall also--

(A) specify those elements of the plan, and its implementation, which the Secretary or the Governor:

(i) may modify without prior approval of both parties to the plan; and

(ii) may not modify without such prior approval; and

(B) include a description of the procedures which will be used to make modifications to which paragraph (A)(i) applies.

(d) Action by Secretary if State does not participate in plan. If--

(1) the Secretary does not receive notification under subsection (c) that the State will participate in the preparation of the plan; or

(2) after the State agrees to so participate, the Governor submits to the Secretary written notification that the State is terminating its participation;

the Secretary shall prepare a plan containing the provisions referred to in subsection (c)(1) (and containing a specification of those elements in the plan which the Secretary may modify without prior approval of Congress), and submit copies of such plan to the Congress, as provided in subsection (e)(2), within three years after the date of the enactment of this Act [enacted Dec. 2, 1980].

(e) Taking effect of plan.

(1) If within three years after the date of the enactment of this Act [enacted Dec. 2, 1980], a plan has been prepared under subsection (c) which is agreed to by the Secretary and the Governor, the plan shall take effect with respect to the United States and the State.

(2) If the plan prepared pursuant to this section is agreed to by the Secretary and the Governor includes any recommendations regarding (i) the exchange of State lands, (ii) the management of Federal lands within any conservation system unit, or (iii) any other actions which require the approval of either the Congress or the Alaska State Legislature, then the Secretary and the Governor shall submit to the Congress and the State Legislature as appropriate, their proposals for legislation necessary to carry out the recommendations contained in the plan.

(f) Transitional provisions. On the date of the enactment of this Act [enacted Dec. 2, 1980], and for a period of three years thereafter, all Federal land within the region (except that land conveyed by title IX of this Act to the State of Alaska and Federal lands located within the boundaries of conservation system units) shall be withdrawn from all forms of appropriation under the public land laws, including selections by the State, and from location and entry under the mining laws and from leasing under the Mineral Leasing Act, and shall be managed by the Bureau of Land Management under its existing statutory authority and consistent with provisions of this section.

§ 3191. Management plans

(a) Development; transmittal to Congressional committees. Within five years from the date of enactment of this Act [enacted Dec. 2, 1980], the Secretary shall develop and transmit to the appropriate Committees of the Congress a conservation and management plan for each of the units of the National Park System established or to which additions are made by this Act.

(b) National Park service plan requirements. Each plan for a unit established, redesignated, or expanded by title II shall identify management practices which will carry out the policies of this Act and will accomplish the purposes for which the concerned National Park System unit was established or expanded and shall include at least the following:

(1) Maps indicating areas of particular importance as to wilderness, natural, historical, wildlife, cultural, archeological, paleontological, geological, recreational, and similar resources and also indicating the areas

into which such unit will be divided for administrative purposes.

(2) A description of the programs and methods that will be employed to manage fish and wildlife resources and habitats, cultural, geological, recreational, and wilderness resources, and how each conservation system unit will contribute to overall resources management goals of that region. Such programs should include research, protection, restoration, development, and interpretation as appropriate.

(3) A description of any areas of potential or proposed development, indicating types of visitor services and facilities to be provided, the estimated costs of such services and facilities, and whether or not such services and facilities could and should be provided outside the boundaries of such unit.

(4) A plan for access to, and circulation within, such unit, indicating the type and location of transportation routes and facilities, if any.

(5) A description of the programs and methods which the Secretary plans to use for the purposes of (A) encouraging the recognition and protection of the culture and history of the individuals residing, on the date of the enactment of this Act [enacted Dec. 2, 1980], in such unit and areas in the vicinity of such unit, and (B) providing and encouraging employment of such individuals.

(6) A plan for acquiring land with respect to such unit, including proposed modifications in the boundaries of such unit.

(7) A description (A) of privately owned areas, if any, which are within such unit, (B) of activities carried out in, or proposed for, such areas, (C) of the present and potential effects of such activities on such unit, (D) of the purposes for which such areas are used, and (E) of methods (such as cooperative agreements and issuance or enforcement of regulations) of controlling the use of such activities to carry out the policies of this Act and the purposes for which such unit is established or expanded.

(8) A plan indicating the relationship between the management of such unit and activities being carried out in, or proposed for, surrounding areas and also indicating cooperative agreements which could and should be entered into for the purpose of improving such management.

(c) Consideration of factors. In developing, preparing, and revising a plan under this section the Secretary shall take into consideration at least the following factors:

(1) The specific purposes for which the concerned conservation system unit was established or expanded.

(2) Protection and preservation of the ecological, environmental, wildlife, cultural, historical, archeological, geological, recreational, wilderness, and scenic character of the concerned unit and of areas in the vicinity of such unit.

(3) Providing opportunities for Alaska Natives residing in the concerned unit and areas adjacent to such unit to continue performing in such unit activities which they have traditionally or historically performed in such unit.

(4) Activities being carried out in areas adjacent to, or surrounded by, the concerned unit.

(d) Hearing and participation. In developing, preparing, and revising a plan under this section the Secretary shall hold at least one public hearing in the vicinity of the concerned conservation unit, hold at least one public hearing in a metropolitan area of Alaska, and, to the extent practicable, permit the following persons to participate in the development, preparation, and revision of such plan:

(1) The Alaska Land Use Council and officials of Federal agencies whose activities will be significantly affected by implementation of such plan.

(2) Officials of the State and of political subdivisions of the State whose activities will be significantly

affected by implementation of such plan.

- (3) Officials of Native Corporations which will be significantly affected by implementation of such plan.
- (4) Concerned local, State, and National organizations and interested individuals.

§ 3192. Land acquisition authority

(a) General authority. Except as provided in subsections (b) and (c) of this section, the Secretary is authorized, consistent with other applicable law in order to carry out the purposes of this Act, to acquire by purchase, donation, exchange, or otherwise any lands within the boundaries of any conservation system unit other than National Forest Wilderness.

(b) Restrictions. Lands located within the boundaries of a conservation system unit which are owned by--

(A) the State or a political subdivision of the State;

(B) a Native Corporation or Native Group which has Natives as a majority of its stockholders;

(C) the actual occupant of a tract, title to the surface estate of which was on, before, or after the date of enactment of this Act [enacted Dec. 2, 1980] conveyed to such occupant pursuant to subsections 14(c)(1) and 14(h)(5) of the Alaska Native Claims Settlement Act [43 USC § 1613(c)(1), (h)(5)], unless the Secretary determines that the tract is no longer occupied for the purpose described in subsections 14(c)(1) or 14(h)(5) [43 USC § 1613(c)(1), (h)(5)] for which the tract was conveyed and that activities on the tract are or will be detrimental to the purposes of the unit in which the tract is located; or

(D) a spouse or lineal descendant of the actual occupant of a tract described in subparagraph (C), unless the Secretary determines that activities on the tract are or will be detrimental to the purposes of the unit in which the tract is located--

may not be acquired by the Secretary without the consent of the owner.

(c) Exchanges. Lands located within the boundaries of a conservation system unit (other than National Forest Wilderness) which are owned by persons or entities other than those described in subsection (b) of this section shall not be acquired by the Secretary without the consent of the owner unless prior to final judgment on the value of the acquired land, the owner, after being offered appropriate land of similar characteristics and like value (if such land is available from public lands located outside the boundaries of any conservation system unit), chooses not to accept the exchange. In identifying public lands for exchange pursuant to this subsection, the Secretary shall consult with the Alaska Land Use Council.

(d) Improved property. No improved property shall be acquired under subsection (a) without the consent of the owner unless the Secretary first determines that such acquisition is necessary to the fulfillment of the purposes of this Act or to the fulfillment of the purposes for which the concerned conservation system unit was established or expanded.

(e) Retained rights. The owner of an improved property on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or recreational purposes, as the case may be, for a definite term of not more than twenty-five years, or in lieu thereof, for a term ending at the death of the owner or the

death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the owner's interest in the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that such right is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(f) "Improved property" defined. For the purposes of this section, the term "improved property" means--

(1) a detached single family dwelling, the construction of which was begun before January 1, 1980 (hereinafter referred to as the "dwelling"), together with the land on which the dwelling is situated to the extent that such land--

(A) is in the same ownership as the dwelling or is Federal land on which entry was legal and proper, and

(B) is designated by the Secretary to be necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or

(2) property developed for noncommercial recreational uses, together with any structures accessory thereto which were so used on or before January 1, 1980, to the extent that entry onto such property was legal and proper.

In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1980, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed before such date.

(g) Consideration of hardship. The Secretary shall give prompt and careful consideration to any offer made by the owner of any property within a conservation system unit to sell such property, if such owner notifies the Secretary that the continued ownership is causing, or would result in, undue hardship.

(h) Exchange authority.

(1) Notwithstanding any other provision of law, in acquiring lands for the purposes of this Act, the Secretary is authorized to exchange lands (including lands within conservation system units and within the National Forest System) or interests therein (including Native selection rights) with the corporations organized by the Native Groups, Village Corporations, Regional Corporations, and the Urban Corporations, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act [48 USC prec § 21 note]), or any Federal agency. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

(2) Nothing in this Act or any other provision of law shall be construed as authorizing the Secretary to convey, by exchange or otherwise, lands or interest in lands within the coastal plain of the Arctic National

Wildlife Refuge (other than land validly selected prior to July 28, 1987), without prior approval by Act of Congress.

(i) Donation or exchange.

(1) The Secretary is authorized to acquire by donation or exchange, lands (A) which are contiguous to any conservation system unit established or expanded by this Act, and (B) which are owned or validly selected by the State of Alaska.

(2) Any such lands so acquired shall become a part of such conservation system unit.

§ 3192a. Acquisition of non-Federal land in Alaska; restrictions on use of funds

Notwithstanding any other provision of law, none of the funds provided in this Act or any other Act hereafter enacted may be used by the Secretary of the Interior, except with respect to land exchange costs and costs associated with the preparation of land acquisitions, in the acquisition of State, private, or other non-federal lands (or any interest therein) in the State of Alaska, unless, in the acquisition of any State, private, or other non-federal lands (or interest therein) in the State of Alaska, the Secretary seeks to exchange unreserved public lands before purchasing all or any portion of such lands (or interest therein) in the State of Alaska.

§ 3193. Use of cabins and other sites of occupancy on conservation system units

(a) Improved property on National Park System lands.

(1) On public lands within the boundaries of any unit of the National Park System created or enlarged by this Act, cabins or other structures existing prior to December 18, 1973, may be occupied and used by the claimant to these structures pursuant to a renewable, nontransferable permit. Such use and occupancy shall be for terms of five years each: Provided, That the claimant of the structure by application:

(A) Reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory interest or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the cabin or structure and a map showing its geographic location;

(C) Agrees to vacate the cabin and to remove all personal property from the cabin or structure upon expiration of the permit; and

(D) Acknowledges in the permit that the applicant has no interest in the real property on which the cabin or structure is located.

(2) On public lands within the boundaries of any unit of the National Park System created or enlarged by this Act, cabins or other structures, the occupancy or use of which commenced between December 18, 1973, and December 1, 1978, may be used and occupied by the claimant of such structure pursuant to a nontransferable, nonrenewable permit. Such use and occupancy shall be for a maximum term of one year: Provided, however, That the claimant, by application:

(A) Reasonably demonstrates by affidavit, bill of sale, or other documentation proof of possessory interest or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the cabin or structure and a map showing its geographic location;

(C) Agrees to vacate the cabin or structure and to remove all personal property from it upon expiration of the permit; and

(D) Acknowledges in the permit that the applicant has no legal interest in the real property on which the cabin or structure is located.

The Secretary may, on a case by case basis, subject to reasonable regulations, extend such permit term beyond one year for such reasons as the Secretary deems equitable and just.

(3) Cabins or other structures not under permit as specified herein shall be used only for official government business: Provided, however, That during emergencies involving the safety of human life or where designated for public use by the Secretary, these cabins may be used by the general public.

(4) The Secretary may issue a permit under such conditions as he may prescribe for the temporary use, occupancy, construction and maintenance of new cabins or other structures if he determines that the use is necessary to reasonably accommodate subsistence uses or is otherwise authorized by law.

(b) Improved property on other units or areas established or expanded by this Act. The following conditions shall apply regarding the construction, use and occupancy of cabins and related structures on Federal lands within conservation system units or areas not provided for in subsection (a) of this section:

(1) The construction of new cabins is prohibited except as may be authorized pursuant to a nontransferable, five-year special use permit issued by the Secretary. Such special use permit shall only be issued upon a determination that the proposed use, construction, and maintenance of a cabin is compatible with the purposes for which the unit or area was established and that the use of the cabin is either directly related to the administration of the unit or area or is necessary to provide for a continuation of an ongoing activity or use otherwise allowed within the unit or area where the permit applicant has no reasonable alternative site for constructing a cabin. No special use permit shall be issued to authorize the construction of a cabin for private recreational use.

(2) Traditional and customary uses of existing cabins and related structures on Federal lands within a unit or area may be allowed to continue in accordance with a nontransferable, renewable five-year special use permit issued by the Secretary. Such special use permit shall be issued only upon a determination that the traditional and customary uses are compatible with the purposes for which the unit or area was established. No special use permits shall be issued to authorize the use of an existing cabin constructed for private recreational use.

(3) No special use permit shall be issued under subsections (b)(1) or (2) unless the permit applicant:

(A) In the case of existing cabins or structures, reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory interests or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the existing or proposed cabin or structure and a map showing its geographic location;

(C) Agrees to vacate the cabin or structure and remove, within a reasonable time period established by the Secretary, all personal property from it upon nonrenewal or revocation of the permit; and

(D) Acknowledges in the permit application that the applicant has no interest in the real property on which the cabin or structure is located or will be constructed.

(4) The United States shall retain ownership of all new cabins and related structures on Federal lands within a unit or area specified in this subsection, and no proprietary rights or privileges shall be conveyed through the issuance of the special use permit authorized by paragraphs (1) or (2) of this subsection. Cabins or other structures not under permit shall be used only for official Government business: Provided, however,

That during emergencies involving the safety of human life or where designated for public use by the unit or area manager, such cabins may be used by the general public.

(c) Permits to be renewed for life of claimant and immediate family.

(1) Whenever issuance of a nontransferable renewable five-year special use permit is authorized by subsections (a) or (b) of this section, said permit shall be renewed every five years until the death of the last immediate family member of the claimant residing in the cabin or structure, or unless the Secretary has revoked the special use permit in accordance with the criteria established in this section.

(2) Notwithstanding any other provision of this section, the Secretary, after notice and hearing, may revoke a permit provided for in this section if he determines, on the basis of substantial evidence in the administrative record as a whole, that the use under the permit is causing or may cause significant detriment to the principal purposes for which the unit was established.

(d) Existing cabin leases or permits. Nothing in this Act shall preclude the renewal or continuation of valid leases or permits in effect on the date of enactment of this Act [enacted Dec. 2, 1980] for cabins, homesites, or similar structures on Federal lands. Unless the Secretary, or in the case of national forest lands, the Secretary of Agriculture, issues specific findings following notice and an opportunity for the leaseholder or permittee to respond, that renewal or continuation of such valid permit or lease constitutes a direct threat to or a significant impairment to the purposes for which a conservation system unit was established (in the case of a structure located within a conservation system unit) or the public domain or national forest (in case of a structure located outside conservation system units), he shall renew such valid leases or permits upon their expiration in accordance with the provisions of the original lease or permit, subject to such reasonable regulations as he may prescribe. Subject to the provisions of the original lease or permit, nothing in this Act or subsection shall necessarily preclude the appropriate Secretary from transferring such a lease or permit to another person at the election or death of the original permittee or leasee.

§ 3194. Archeological and paleontological sites

Notwithstanding any acreage or boundary limitations contained in this Act with respect to the Cape Krusenstern National Monument, the Bering Land Bridge National Preserve, the Yukon-Charley Rivers National Preserve, and the Kobuk Valley National Park, the Secretary may designate Federal lands or he may acquire by purchase with the consent of the owner, donation, or exchange any significant archeological or paleontological site in Alaska located outside of the boundaries of such areas and containing resources which are closely associated with any such area. If any such site is so designated or acquired, it shall be included in and managed as part of such area. Not more than seven thousand five hundred acres of land may be designated or acquired under this section for inclusion in any single area. Before designation or acquisition of any property in excess of one hundred acres under the provisions of this section, the Secretary shall--

(1) submit notice of such proposed designation or acquisition to the appropriate committees of the Congress; and

(2) publish notice of such proposed designation or acquisition in the Federal Register.

§ 3195. Cooperative information and education centers

The Secretary is authorized in consultation with other Federal agencies, to investigate and plan for an information and education center for visitors to Alaska on not to exceed one thousand acres of Federal land at a site adjacent to the Alaska Highway, and to investigate and plan for similar centers in Anchorage and Fairbanks, Alaska. For the purposes of this investigation, the Secretary shall seek participation in the program planning and/or operation of such centers from appropriate agencies of the State of Alaska, and he is authorized to accept contributions of funds, personnel, and planning and program assistance from such State agencies, other Federal agencies, and Native representatives. The Secretary of Agriculture is authorized to investigate and plan for, in a similar manner, an information and education center for visitors to Alaska in either Juneau, Ketchikan, or Sitka, Alaska. No information center shall be developed pursuant to investigations and plans conducted under authority of this section unless and until such development is specifically authorized by Congress.

§ 3196. Administrative sites and visitor facilities

(a) Establishment. In conformity with the conservation and management plans prepared for each unit and the purposes of assuring the preservation, protection, and proper management of any conservation system unit, the Secretary may establish sites and visitor facilities--

- (1) within the unit, if compatible with the purposes for which the unit is established, expanded, or designated by this Act, and the other provisions of this Act, or
- (2) outside the boundaries of, and in the vicinity of, the unit.

To the extent practicable and desirable, the Secretary shall attempt to locate such sites and facilities on Native lands in the vicinity of the unit.

(b) Authorities of Secretary. For the purpose of establishing administrative sites and visitor facilities under subsection (a)--

(1) the Secretary and the head of the Federal agency having primary authority over the administration of any Federal land which the Secretary determines is suitable for use in carrying out such purpose may enter into agreements permitting the Secretary to use such land for such purposes;

(2) notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, may lease or acquire by purchase, donation, exchange, or any other method (except condemnation) real property (other than Federal land), office space, housing, and other necessary facilities which the Secretary determines to be suitable for carrying out such purposes; and

(3) the Secretary may construct, operate, and maintain such permanent and temporary buildings and facilities as he deems appropriate on land which is within, or in the vicinity of, any conservation system unit and with respect to which the Secretary has acquired authority under this subsection to use the property for the purpose of establishing an administrative site or visitor facility under subsection (a), except that the Secretary may not begin construction of buildings and facilities on land not owned by the United States until the owner of such land has entered into an agreement with the Secretary, the terms of which assure the continued use of such buildings and facilities in furtherance of the purposes of this Act.

§ 3197. Revenue-producing visitor services

(a) Continuation of existing visitor services. Notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, shall permit any persons who, on or before January 1, 1979, were engaged in adequately providing any type of visitor service within any area established as or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes for which such unit is established or expanded.

(b) Preference. Notwithstanding provisions of law other than those contained in subsection (a), in selecting persons to provide (and in contracting for the provision of) any type of visitor service for any conservation system unit, except sport fishing and hunting guiding activities, the Secretary--

(1) shall give preference to the Native Corporations which the Secretary determines are most directly affected by the establishment or expansion of such unit by or under the provisions of this Act;

(2) shall give preference to persons whom he determines, by rule, are local residents; and

(3) shall, consistent with the provisions of this section, offer to Cook Inlet Region, Incorporated, in cooperation with Village Corporations within the Cook Inlet Region when appropriate, the right of first refusal to provide new revenue producing visitor services within the Kenai National Moose Range or that portion of the Lake Clark National Park and Preserve within the boundaries of the Cook Inlet Region that right to remain open for a period of ninety days as agreed to in paragraph VIII of the document referred to in section 12 of the Act of January 2, 1976 (Public Law 94-204) [43 USC § 1611 note].

(c) "Visitor service" defined. As used in this section, the term "visitor service" means any service made available for a fee or charge to persons who visit a conservation system unit, including such services as providing food, accommodations, transportation, tours, and guides excepting the guiding of sport hunting and fishing. Nothing in this Act shall limit or affect the authority of the Federal Government or the State of Alaska to license and regulate transportation services.

§ 3198. Local hire

(a) Program. After consultation with the Office of Personnel Management, the Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near public lands, has special knowledge or expertise concerning the natural or cultural resources of public lands and the management thereof (as determined by the Secretary) shall be considered for selection for any position within public lands without regard to--

(1) any provision of the civil service laws or regulations thereunder which require minimum periods of formal training or experience,

(2) any such provision which provides an employment preference to any other class of applicant in such selection, and

(3) any numerical limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

(b) Preference eligibles within local hire. Notwithstanding the provisions of subsection (a), any individual

who is eligible to be selected for a position under the provisions of subsection (a) and is a preference eligible as defined in section 2108(3) of title 5, United States Code, shall be given an employment preference, consistent with the preference in the competitive service as defined in section 2102 of such title for which such person is eligible under subchapter I of chapter 33 of such title [5 USC § § 3301 et seq.], in selection to such position.

(c) Reports. The Secretary shall from time to time prepare and submit to the Congress reports indicating the actions taken in carrying out the provisions of subsection (a) of this section together with any recommendations for legislation in furtherance of the purposes of this section.

§ 3199. Navigation aids and other facilities

(a) Existing facilities. Within conservation system units established or expanded by this Act, reasonable access to, and operation and maintenance of, existing air and water navigation aids, communications sites and related facilities and existing facilities for weather, climate, and fisheries research and monitoring shall be permitted in accordance with the laws and regulations applicable to units of such systems, as appropriate. Reasonable access to and operation and maintenance of facilities for national defense purposes and related air and water navigation aids within or adjacent to such areas shall continue in accordance with the laws and regulations governing such facilities notwithstanding any other provision of this Act. Nothing in the Wilderness Act [16 USC § § 1131 et seq.] shall be deemed to prohibit such access, operation and maintenance within wilderness areas designated by this Act.

(b) New facilities. The establishment, operation, and maintenance within any conservation system unit of new air and water navigation aids and related facilities, facilities for national defense purposes, and related air and water navigation aids, and facilities for weather, climate, and fisheries research and monitoring shall be permitted but only (1) after consultation with the Secretary or the Secretary of Agriculture, as appropriate, by the head of the Federal department or agency undertaking such establishment, operation, or maintenance, and (2) in accordance with such terms and conditions as may be mutually agreed in order to minimize the adverse effects of such activities within such unit.

§ 3200. Denali Scenic Highway study

(a) Withdrawal. Subject to valid existing rights, all public lands within an area, the centerline of which is the centerline of the Parks Highway from the entrance to Denali National Park to the Talkeetna junction which is one hundred and thirty-six miles south of Cantwell, the Denali Highway between Cantwell and Paxson, the Richardson Highway and Edgerton Highway between Paxson and Chitina, and the existing road between Chitina and McCarthy (as those highways and road are depicted on the official maps of the department of transportation of the State of Alaska) and the boundaries of which are parallel to the centerline and one mile distant therefrom on either side, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States. Nothing in this section shall be construed to preclude minor road realignment, minor road improvement, or the extraction of gravel for such purposes from lands withdrawn or affected by the study mandated herein.

(b) Study. During the three-year period beginning on the date of enactment of this Act [enacted Dec. 2, 1980], the Secretary shall study the desirability of establishing a Denali Scenic Highway to consist of all or part of the lands described in subsection (a) of this section. In conducting the studies, the Secretary, through a study team which includes representatives of the Secretary of Transportation, the National Park Service, the Bureau of Land Management, the State, and of each Regional Corporation within whose area of operation the lands described in subsection (a) are located, shall consider the scenic and recreational values of the lands withdrawn under this section, the importance of providing protection to those values, the desirability of providing a symbolic and actual physical connection between the national parks in south central Alaska, and the desirability of enhancing the experience of persons traveling between those parks by motor vehicles. Members of the study team who are not Federal employees shall receive from the Secretary per diem (in lieu of expenses) and travel allowances at the rates provided for employees of the Bureau of Indian Affairs in Alaska in grade GS-15.

(c) Cooperation notice: hearings. In conducting the studies required by this section, the Secretary shall cooperate with the State and shall consult with each Village Corporation within whose area of operation lands described in this section are located and to the maximum extent practicable with the owner of any lands adjoining the lands described in subsection (a) concerning the desirability of establishing a Denali Scenic Highway. The Secretary, through the National Park Service, shall also give such public notice of the study as he deems appropriate, including at least publication in a newspaper or newspapers having general circulation in the area or areas of the lands described in subsection (a), and shall hold a public hearing or hearings at one or more locations convenient to the areas affected.

(d) Report. Within three years after the date of enactment of this Act [enacted Dec. 2, 1980], the Secretary shall report to the President the results of the studies carried out pursuant to this section together with his recommendation as to whether the scenic highway studied should be established and, if his recommendation is to establish the scenic highway, the lands described in subsection (a) which should be included therein. Such report shall include the views and recommendations of all members of the study team. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations and those of the Governor of Alaska with respect to creation of the scenic highways [highway], together with maps thereof, a definition of boundaries thereof, an estimate of costs, recommendations on administration, and proposed legislation to create such a scenic highway, if creation of one is recommended.

(e) Period of withdrawal. The lands withdrawn under subsection (a) of this section shall remain withdrawn until such time as the Congress acts on the President's recommendation, but not to exceed two years after the recommendation is transmitted to the Congress.

§ 3201. Administration of national preserves

A National Preserve in Alaska shall be administered and managed as a unit of the National Park System in the same manner as a national park except as otherwise provided in this Act and except that the taking of fish and wildlife for sport purposes and subsistence uses, and trapping shall be allowed in a national preserve under applicable State and Federal law and regulation. Consistent with the provisions of section

816 [16 USC § 3126], within national preserves the Secretary may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting, fishing, or trapping shall be put into effect only after consultation with the appropriate State agency having responsibility over hunting, fishing, and trapping activities.

§ 3202. Taking of fish and wildlife

(a) Responsibility and authority of State of Alaska. Nothing in this Act is intended to enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife on the public lands except as may be provided in title VIII of this Act [16 USC § § 3111 et seq.], or to amend the Alaska constitution.

(b) Responsibility and authority of Secretary. Except as specifically provided otherwise by this Act, nothing in this Act is intended to enlarge or diminish the responsibility and authority of the Secretary over the management of the public lands.

(c) Areas controlled; areas closed, exceptions. The taking of fish and wildlife in all conservation system units, and in national conservation areas, national recreation areas, and national forests, shall be carried out in accordance with the provisions of this Act and other applicable State and Federal law. Those areas designated as national parks or national park system monuments in the State shall be closed to the taking of fish and wildlife, except that--

(1) notwithstanding any other provision of this Act, the Secretary shall administer those units of the National Park System, and those additions to existing units, established by this Act and which permit subsistence uses, to provide an opportunity for the continuance of such uses by local rural residents; and

(2) fishing shall be permitted by the Secretary in accordance with the provisions of this Act and other applicable State and Federal law.

§ 3203. Wilderness management

(a) Application only to Alaska. The provisions of this section are enacted in recognition of the unique conditions in Alaska. Nothing in this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act [16 USC § § 1131 et seq.] or the application or interpretation of such provisions with respect to lands outside of Alaska.

(b) Aquaculture. In accordance with the goal of restoring and maintaining fish production in the State of Alaska to optimum sustained yield levels and in a manner which adequately assures protection, preservation, enhancement, and rehabilitation of the wilderness resource, the Secretary of Agriculture may permit fishery research, management, enhancement, and rehabilitation activities within national forest wilderness and national forest wilderness study areas designated by this Act. Subject to reasonable regulations, permanent improvements and facilities such as fishways, fish weirs, fish ladders, fish hatcheries, spawning channels, stream clearance, egg planting, and other accepted means of maintaining, enhancing,

and rehabilitating fish stocks may be permitted by the Secretary to achieve this objective. Any fish hatchery, fishpass or other aquaculture facility authorized for any such area shall be constructed, managed, and operated in a manner that minimizes adverse impacts on the wilderness character of the area. Developments for any such activities shall involve those facilities essential to these operations and shall be constructed in such rustic manner as to blend into the natural character of the area. Reasonable access solely for the purposes of this subsection, including temporary use of motorized equipment, shall be permitted in furtherance of research, management, rehabilitation and enhancement activities subject to reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(c) Existing cabins. Previously existing public use cabins within wilderness designated by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary deems necessary to preserve the wilderness character of the area.

(d) New cabins. Within wilderness areas designated by this Act, the Secretary or the Secretary of Agriculture as appropriate, is authorized to construct and maintain a limited number of new public use cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety. All such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding wilderness landscape. The Secretary or the Secretary of Agriculture, as appropriate, shall notify the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources of his intention to remove an existing or construct a new public use cabin or shelter.

(e) Timber contracts. The Secretary of Agriculture is hereby directed to modify any existing national forest timber sale contracts applying to lands designated by this Act as wilderness by substituting, to the extent practicable, timber on the other national forest lands approximately equal in volume, species, grade, and accessibility for timber or relevant lands within such units.

(f) Beach log salvage. Within National Forest wilderness and national forest monuments designated [designated] by this Act, the Secretary of Agriculture may permit or otherwise regulate the recovery and salvage of logs from coastlines.

§ 3204. Allowed uses

(a) Establishment and use of new facilities. On all public lands where the taking of fish and wildlife is permitted in accordance with the provisions of this Act or other applicable State and Federal law the Secretary shall permit, subject to reasonable regulation to insure compatibility, the continuance of existing uses, and the future establishment, and use, of temporary campsites, tent platforms, shelters, and other temporary facilities and equipment directly and necessarily related to such activities. Such facilities and equipment shall be constructed, used, and maintained in a manner consistent with the protection of the area in which they are located. All new facilities shall be constructed of materials which blend with, and are compatible with, the immediately surrounding landscape. Upon termination of such activities and uses (but not upon regular or seasonal cessation), such structures or facilities shall, upon written request, be removed from the area by the permittee.

(b) Denial of proposed use or establishment. Notwithstanding the foregoing provisions, the Secretary may determine, after adequate notice, that the establishment and use of such new facilities or equipment would constitute a significant expansion of existing facilities or uses which would be detrimental to the purposes for which the affected conservation system unit was established, including the wilderness character of any wilderness area within such unit, and may thereupon deny such proposed use or establishment.

§ 3205. General wilderness review

(a) Suitability of lands for preservation; report to President. Within five years from the date of enactment of this Act [enacted Dec. 2, 1980], the Secretary shall, in accordance with the provisions of section 3(d) of the Wilderness Act [*16 USC § 1132(d)*] relating to public notice, public hearings, and review by State and other agencies, review, as to their suitability or unsuitability for preservation as wilderness, all lands within units of the National Park System and units of the National Wildlife Refuge System in Alaska not designated as wilderness by this Act and report his findings to the President.

(b) Presidential recommendations to Congress. The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of sections [section] 3(c) and (d) of the Wilderness Act [*16 USC § 1132(c), (d)*]. The President shall advise the Congress of his recommendations with respect to such areas within seven years from the date of enactment of this Act [enacted Dec. 2, 1980].

(c) Administration of units unaffected pending Congressional action. Nothing in this section shall be construed as affecting the administration of any unit of the National Park System or unit of National Wildlife Refuge System in accordance with this Act or other applicable provisions of law unless and until Congress provides otherwise by taking action on any Presidential recommendation made pursuant to subsection (b) of this section.

§ 3206. Statewide cultural assistance program

In furtherance of the national policy set forth in the first section of the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666) [*16 USC § 461*], and in furtherance of the need to protect and interpret for the public benefit cultural and archeological resources and objects of national significance relating to prehistoric and historic human use and occupation of lands and waters in Alaska, the Secretary may, upon the application of a Native Corporation or Native Group, provide advice, assistance, and technical expertise to the applicant in the preservation, display, and interpretation of cultural resources, without regard as to whether title to such resources is in the United States. Such assistance may include making available personnel to assist in the planning, design, and operation of buildings, facilities, and interpretive displays for the public and personnel to train individuals in the identification, recovery, preservation, demonstration, and management of cultural resources.

§ 3207. Effect on existing rights; water resources

Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or--

(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on lands within the State of Alaska;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control; or

(3) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto.

§ 3208. Authorization of appropriations; contract authority

[(a)] There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1980. No authority to enter into contracts or to make payments or to expend previously appropriated funds under this Act shall be effective except to the extent or in such amounts as are provided in advance in appropriation Acts.

§ 3209. Effect on prior withdrawals

(a) Rescission of prior reservations and withdrawals; management by Secretary and Secretary of Agriculture of lands outside boundaries established by this Act. The withdrawals and reservations of the public lands made by Public Land Orders No. 5653 of November 16, 1978, 5654 of November 17, 1978, Public Land Orders numbered 5696 through 5711 inclusive of February 12, 1980, Federal Register Documents No. 34051, of December 5, 1978 and No. 79-17803 of June 8, 1979 and Proclamations No. 4611 through 4627, inclusive, of December 1, 1978, were promulgated to protect these lands from selection, appropriation, or disposition prior to the enactment of this Act [enacted Dec. 2, 1980]. As to all lands not within the boundaries established by this Act of any conservation system unit, national conservation area, national recreation area, or national forest addition, the aforesaid withdrawals and reservations are hereby rescinded on the effective date of this Act, and such lands shall be managed by the Secretary pursuant to the Federal Land Policy and Management Act of 1976, or in the case of lands within a national forest, by the Secretary of Agriculture pursuant to the laws applicable to the national forests, unless otherwise specified by this Act. As to the Federal lands which are within the aforesaid boundaries, the aforesaid withdrawals and reservations are, on the effective date of this Act, hereby rescinded and superseded by the withdrawals and reservations made by this Act. Notwithstanding any provision to the contrary contained in any other law, the Federal lands within the aforesaid boundaries established by this Act shall not be deemed available for selection, appropriation, or disposition except as expressly provided by this Act.

(b) Effective date. This section shall become effective upon the relinquishment by the State of Alaska of selections made on November 14, 1978, pursuant to the Alaska Statehood Act which are located within the boundaries of conservation system units, national conservation areas, national recreation areas, and forest additions, established, designated, or expanded by this Act.

§ 3210. Access by owner to nonfederally owned land

(a) Reasonable use and enjoyment of land within boundaries of National Forest System. Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of Agriculture may prescribe, the Secretary shall provide such access to nonfederally owned land within the boundaries of the National Forest System as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: Provided, That such owner comply with rules and regulations applicable to ingress and egress to or from the National Forest System.

(b) Reasonable use and enjoyment of land surrounded by public lands managed by Secretary. Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of the Interior may prescribe, the Secretary shall provide such access to nonfederally owned land surrounded by public lands managed by the Secretary under the Federal Land Policy and Management Act of 1976 (*43 U.S.C. 1701-82*) as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: Provided, That such owner comply with rules and regulations applicable to access across public lands.

§ 3211. Yukon Flats National Wildlife Refuge agricultural use

Nothing in this Act or other existing law shall be construed as necessarily prohibiting or mandating the development of agricultural potential within the Yukon Flats National Wildlife Refuge pursuant to existing law. The permissibility of such development shall be determined by the Secretary on a case-by-case basis under existing law. Any such development permitted within the Yukon Flats National Wildlife Refuge shall be designed and conducted in such a manner as to minimize to the maximum extent possible any adverse effects of the natural values of the unit.

§ 3212. Terror Lake Hydroelectric Project in Kodiak National Wildlife Refuge

Nothing in this Act or the National Wildlife Refuge System Administration Act of 1966 (*16 U.S.C. 668dd*) shall be construed as necessarily prohibiting or mandating the construction of the Terror Lake Hydroelectric Project within the Kodiak National Wildlife Refuge. The permissibility of such development shall be determined by the Secretary on a case-by-case basis under existing law.

§ 3213. Future executive actions

(a) No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

(b) No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress.

§ 3214. Alaska gas pipeline

Nothing in this Act shall be construed as imposing any additional requirements in connection with the construction and operation of the transportation system designated by the President and approved by the Congress pursuant to the Alaska Natural Gas Transportation Act of 1976 (Public Law 94-586; 90 Stat. 2903), or as imposing any limitations upon the authority of the Secretary concerning such system.

§ 3215. Public land entries in Alaska

(a) Application approval; adjudication; protests; voluntary relinquishment of application.

(1) Subject to valid existing rights, all applications made pursuant to the Acts of June 1, 1938 (52 Stat. 609) [43 USC § § 682a et seq.], May 3, 1927 (44 Stat. 1364), May 14, 1898 (30 Stat. 413) and March 3, 1891 (26 Stat. 1097), which were filed with the Department of the Interior within the time provided by applicable law, and which describe land in Alaska that was available for entry under the aforementioned statutes when such entry occurred, are hereby approved on the one hundred and eightieth day following the effective date of this Act, except where provided otherwise by paragraph (3) or (4) of this subsection, or where the land description of the entry must be adjusted pursuant to subsection (b) of this section, in which cases approval pursuant to the terms of this subsection shall be effective at the time the adjustment becomes final.

(2) Where an application describes land within the boundaries of a unit of the National Park System or a unit of the National Wildlife Refuge System, or a unit of the National Wilderness Preservation System in the Tongass or Chugach National Forests established before the effective date of this Act or by this Act, and the described land was not withdrawn pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act [43 USC § 1610(a)(1)], or where an application describes land which has been patented or deeded to the State of Alaska or which on or before the date of entry was validly selected by, tentatively approved, patented, deeded or confirmed to the State of Alaska pursuant to applicable law and was not withdrawn pursuant to section 11(a)(1)(A) of the Alaska Native Claims Settlement Act [43 USC § 1610(a)(1)(A)] from those lands made available for selection by section 11(a)(2) of the Act [43 USC § 1610(a)(2)] by any Native Village certified as eligible pursuant to section 11(b) of such Act [43 USC § 1610(b)], paragraph (1) of this subsection and subsection (c) of this section shall not apply and the

application shall be adjudicated pursuant to the requirements of the Acts referred to in section 1328(a)(1) hereof [subsec. (a)(1) of this section], the Alaska Native Claims Settlement Act, and other applicable law.

(3) Paragraph (1) of this subsection and subsection (c) shall not apply and the application shall be adjudicated pursuant to the requirements of the Acts referred to in section 1328(a)(1) hereof [subsec. (a)(1) of this section], if on or before the one hundred and eightieth day following the effective date of the Act--

(A) a Native Corporation files a protest with the Secretary of the Interior (the Secretary) stating that the applicant is not entitled to the land described in the application, and said land is withdrawn for selection by the corporation pursuant to the Alaska Native Claims Settlement Act; or

(B) the State of Alaska files a protest with the Secretary stating that the land described in the application is necessary for access to lands owned by the United States, the State of Alaska, or a political subdivision of the State of Alaska, to resources located thereon, or to a public body of water regularly employed for transportation purposes, and the protest states with specificity the facts upon which the conclusions concerning access are based and that no reasonable alternatives for access exist; or

(C) a person or entity files a protest with the Secretary stating that the applicant is not entitled to the land described in the application and that said land is the situs of improvements claimed by the person or entity; or

(D) the State of Alaska files a protest with the Secretary respecting an entry which was made prior to a valid selection tentative approval, patent, deed, or confirmation to the State of Alaska pursuant to applicable law; or

(E) regarding public land entries within units of the National Wildlife Refuge System established or expanded in this Act, any such entry not properly made under applicable law, or not the subject of an application filed within the time required by applicable law, or not properly maintained thereafter under applicable law shall be adjudicated pursuant to the Act under which the entry was made.

(4) Paragraph (1) of this subsection and subsection (c) shall not apply to any application which was knowingly and voluntarily relinquished by the applicant.

(b) Amendment of land description in application. An applicant may amend the land description contained in his or her application if said description designates land other than that which the applicant intended to claim at the time of application and if the description as amended describes the land originally intended to be claimed. If the application is amended, this section shall operate to approve the application or to require its adjudication, as the case may be, with reference to the amended land description only: Provided, That the Secretary shall notify the State of Alaska and all interested parties, as shown by the records of the Department of the Interior of the intended correction of the entry's location, and any such party shall have until the one hundred and eightieth day following the effective date of this Act or sixty days following mailing of the notice, whichever is later, to file with the Department of the Interior a protest as provided in subsection (a)(3) of this section, which protest, if timely, shall be deemed filed within one hundred and eighty days of the effective date of this Act notwithstanding the actual date of filing: Provided, further, That the Secretary may require that all applications designating land in a specific area be amended, if at all, prior to a date certain which date shall be calculated to allow for orderly adoption of a plan or survey for the specified area, and the Secretary shall mail notification of the final date for amendment to each affected applicant, and shall provide such other notice as the Secretary deems appropriate, at least sixty days prior to said date: Provided further, That no application may be amended for location following adoption of a

final plan of survey which includes the location of the entry as described in the application or its location as desired by amendment.

(c) Powersites and power-projects. Where the land described in application (or such an application as adjusted or amended pursuant to subsection (b) or (c) of this section), was on that date withdrawn, reserved, or classified for powersite or power-project purposes, notwithstanding such withdrawal, reservation, or classification the described land shall be deemed vacant, unappropriated, and unreserved within the meaning of the Acts referred to in section 1328(a)(1) hereof [subsec. (a)(1) of this section], and, as such, shall be subject to adjudication or approval pursuant to the terms of this section: Provided, however, That if the described land is included as part of a project licensed under part I of the Federal Power Act of June 10, 1920 (41 Stat. 24), as amended, or is presently utilized for purposes of generating or transmitting electrical power or for any other project authorized by Act of Congress, the foregoing provision shall not apply and the application shall be adjudicated pursuant to the appropriate Act: Provided further, That where the applicant commenced occupancy of the land after its withdrawal or classification for powersite purposes, the entry shall be made subject to the right of reentry provided the United States by section 24 of the Federal Power Act, as amended [16 USC § 818]: Provided further, That any right of reentry reserved in a patent pursuant to this section shall expire twenty years after the effective date of this Act if at that time the land involved is not subject to a license or an application for a license under part I of the Federal Power Act, as amended, or actually utilized or being developed for a purpose authorized by that Act, as amended or other Act of Congress.

(d) Validity of existing rights; rights acquired by actual use and national forest lands unaffected. Prior to issuing a patent for an entry subject to this section, the Secretary shall identify and adjudicate any record entry or application for title to land described in the application, other than the Alaska Native Claims Settlement Act, the Alaska Statehood Act, or the Act of May 17, 1906, as amended, which entry or application claims land also described in the application, and shall determine whether such entry or application represents a valid existing right to which the application is subject. Nothing in this section shall be construed to affect rights, if any, acquired by actual use of the described land prior to its withdrawal or classification, as affecting National Forest lands.

§ 3231. Areas subject to national need recommendation process

The process contained in this title [16 USC § § 3231 et seq.] shall apply to all public lands within Alaska except for lands within units of the National Park System and the Arctic National Wildlife Refuge.

§ 3232. Recommendations of President to Congress

(a) Recommendation. At any time after the date of enactment of this Act [enacted Dec. 2, 1980] the President may transmit a recommendation to the Congress that mineral exploration, development, or extraction not permitted under this Act or other applicable law shall be permitted in a specified area of the lands referred to in section 1501 [16 USC § 3231]. Notice of such transmittal shall be published in the Federal Register. No recommendation of the President under this section may be transmitted to the

Congress before ninety days after publication in the Federal Register of notice of his intention to submit such recommendation.

(b) Findings. A recommendation may be transmitted to the Congress under subsection (a) if the President finds that, based on the information available to him--

- (1) there is an urgent national need for the mineral activity; and
- (2) such national need outweighs the other public values of the public lands involved and the potential adverse environmental impacts which are likely to result from the activity.

(c) Report. Together with his recommendation, the President shall submit to the Congress--

(1) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(2) a statement of the conditions and stipulations which would govern the activity if approved by the Congress; and

(3) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969 [42 USC § § 4321 et seq.], a statement which complies with the requirements of section 102(2)(C) of such Act [42 USC § 4332(2)(C)]. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969 [42 USC § 4332(2)(C)], the President may, if he deems it desirable, include such a statement in his transmittal to the Congress.

(d) Approval. Any recommendation under this section shall take effect only upon enactment of a joint resolution approving such recommendation within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation. Any recommendation of the President submitted to Congress under subsection (a) shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(e) One-hundred-and-twenty-day computation. For purposes of this section--

- (1) continuity of session of Congress is broken only by an adjournment sine die; and
- (2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

§ 3233. Expedited Congressional review

(a) Rulemaking. This subsection is enacted by Congress--

(1) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by subsection (b) of this section and it supersedes other rules only to the extent that it is inconsistent therewith; and

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



(b) Resolution. For purposes of this section, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the recommendation of the President for-----in-----submitted to the Congress on ----- 19-----.", the first blank space therein to be filled in with appropriate activity, the second blank space therein to be filled in with the name or description of the area of land affected by the activity, and the third blank space therein to be filled with the date on which the President submits his recommendation to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 [42 USC § § 4321 et seq.] to the recommendation.

(c) Referral. A resolution once introduced with respect to such Presidential recommendation shall be referred to one or more committees (and all resolutions with respect to the same Presidential recommendation shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(d) Other procedures. Except as otherwise provided in this section the provisions of section 8(d) of the Alaska Natural Gas Transportation Act [15 USC § 719f(d)] shall apply to the consideration of the resolution.