

1990 年美國油污染法

(美國法典第 33 篇第 2701-2761 條)

1/24/1994 修正

Oil Pollution Act of 1990

(33 USCA Sec. 2701-2761)

1/24/1994

US OPA 1990

SUBCHAPTER I - OIL POLLUTION LIABILITY AND COMPENSATION

第一章 油污染責任與賠償

Sec. 2701 Definitions

第 2701 條 定義

For the purposes of this Act, the term -

為本法而訂定下列名詞：

- (1) "act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character the effects of which could not have been prevented or avoided by the exercise of due care or foresight;
- (2) "barrel" means 42 United States gallons at 60 degrees fahrenheit;
- (3) "claim" means a request, made in writing for a sum certain, for compensation for damages or removal costs resulting from an incident;
- (4) "claimant" means any person or government who presents a claim for compensation under this subchapter;
- (5) "damages" means damages specified in section 2702(b) of this title, and includes the cost of assessing these damages;
- (6) "deepwater port" is a facility licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524);
- (7) "discharge" means any emission (other than natural seepage), intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping;
- (8) "exclusive economic zone" means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983, including the ocean waters of the areas referred to as "eastern special areas" in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990;
- (9) "facility" means any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. This term includes any motor vehicle, rolling stock, or pipeline used for one

- (1) 「天災」係指不可預測之重大天然災害或其他不可預測、不可避免及不可預防之自然現象，事前雖已有適當之注意，其影響亦無法防止或避免者；
- (2) 「桶」係指於華氏 62 度溫度下，42 美國加侖；
- (3) 「求償」係指以書面要求一定金額以賠償於污染事故之損害及清除費用；
- (4) 「求償權人」係指依本法提出求償請求之任何個人或政府；
- (5) 「損害」係指依本法第 2702(b) 項所指之損害，並包括損害評估費用在內；
- (6) 「深水港」係指依 1974 年深水港法取得執照之設施；
- (7) 「排洩」係指任何有意或無意之排泄(自然滲出除外)，並包括但不限於溢出、漏出、泵出、流出、噴出、卸空或傾倒；
- (8) 「專屬經濟區」係指依 1983 年 3 月 10 日總統第 5030 號公告所設立之特區，包括美蘇兩國於 1990 年 6 月 1 日所簽訂海域境界協定中第 3(1)條中之「東特區」；
- (9) 「設施」係指用為下列一或多種用途之任何建築物、建築體、設備、或器材(船舶除外)：油類之探測、鑽取、生產、儲存、操作、轉運或輸送。此一名詞並包括用

or more of these purposes;

- (10) "foreign offshore unit" means a facility which is located, in whole or in part, in the territorial sea or on the continental shelf of a foreign country and which is or was used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from the seabed beneath the foreign country's territorial sea or from the foreign country's continental shelf;
- (11) "Fund" means the Oil Spill Liability Trust Fund, established by section 9509 of title 26;
- (12) "gross ton" has the meaning given that term by the Secretary under part J of title 46;
- (13) "guarantor" means any person, other than the responsible party, who provides evidence of financial responsibility for a responsible party under this Act;
- (14) "incident" means any occurrence or series of occurrences having the same origin, involving one or more vessels, facilities, or any combination thereof, resulting in the discharge or substantial threat of discharge of oil;
- (15) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, but not including any Alaska Native regional or village corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and has governmental authority over lands belonging to or controlled by the tribe;
- (16) "lessee" means a person holding a leasehold interest in an oil or gas lease on lands beneath navigable waters (as that term is defined in section 1301(a) of title 43) or on submerged lands of the Outer Continental Shelf, granted or maintained under applicable State law or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);
- (17) "liable" or "liability" shall be construed to be the standard of liability which obtains under section 1321 of this title;
- (18) "mobile offshore drilling unit" means a vessel (other than a self-elevating lift vessel) capable of use as an offshore facility;
- (19) "National Contingency Plan" means the National Contingency Plan prepared and published under section 1321(d) of this title or revised under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9605);
- (20) "natural resources" includes land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the exclusive economic zone), any State or local government or Indian tribe, or any foreign government;
- (21) "navigable waters" means the waters of the United States, including the territorial sea;
- (22) "offshore facility" means any facility of any kind located in, on, or under any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel;
- 於上述各項目的之任何動力車輛、滾動機具或油管在內；
- (10) 「外國離岸設施」係指全部或部分位於外國領海或大陸礁層上之設施，現正使用或將使用於下列一或多種用途：產自外國領海或外國大陸礁層海床下石油之探測、鑽取、生產、儲存、操作、轉運、加工或輸送；
- (11) 「基金」係指依第 26 篇第 9505 條規定所設立之洩油責任信託基金；
- (12) 「總噸」係依美國法典第 46 篇第 J 部分運輸部所為之定義；
- (13) 「保證人」係指非事故責任人，依本法為事故責任提供財務擔保證明之任何人；
- (14) 「事故」係指源自同一發生地點，牽涉一(處)或多艘(處)船舶、設施或以上兩者，所造成之洩油或洩油實質威脅；
- (15) 「印地安部落」係指任何印地安人部落、族群、民族或其他有組織之團體或地區，然不包括因其為印地安人，並對其部落所有或所控制之土地有管理權，而經美國提供特別計畫與服務之阿拉斯加人地區或村莊社團；
- (16) 「承租人」係指於可航行水域之下(依第 43 篇水下土地法第 1301(a)條之定義或外大陸礁層土地上取得適於美國法典或大陸礁層土地法(第 43 篇第 1331 條)授權之石油及天然氣承租權個人；
- (17) 「責任」或「有責任」之標準依本篇第 1321 條之解釋；
- (18) 「機動離岸鑽油設施」係指可用為外海設施之船舶(自行昇降輸送船舶除外)；
- (19) 「國家緊急計畫」係指依本法修訂之本篇第 1321(d)條所頒佈，或依環境應變賠償責任法第 105 條(第 42 篇第 9605 條)所修正之「國家緊急計畫」；
- (20) 「天然資源」包括土地、魚類、野生動物、生物、空氣、水、地下水、飲用水，及其他屬於美國(包括專屬經濟區)、各州或地方政府、印地安部落、或任何外國政府，由其管理、受託管轄、附屬或管制之資源；
- (21) 「可航行水域」係指美國水域，包括領海；
- (22) 「離岸設施」係指位於美國可航行水域之內、上或下之任何設施，或在其他任何水域之內、上或下，受美國管轄之任何設施，然不包括船舶或公共船舶；

- (23) "oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, but does not include petroleum, including crude oil or any fraction thereof, which is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601) and which is subject to the provisions of that Act (42 U.S.C. 9601 et seq.);
- (24) "onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;
- (25) the term "Outer Continental Shelf facility" means an offshore facility which is located, in whole or in part, on the Outer Continental Shelf and is or was used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from the Outer Continental Shelf;
- (26) "owner or operator" means (A) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;
- (27) "person" means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body;
- (28) "permittee" means a person holding an authorization, license, or permit for geological exploration issued under section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) or applicable State law;
- (29) "public vessel" means a vessel owned or bareboat chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when the vessel is engaged in commerce;
- (30) "remove" or "removal" means containment and removal of oil or a hazardous substance from water and shorelines or the taking of other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;
- (31) "removal costs" means the costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident;
- (32) "responsible party" means the following:
- (A) Vessels. - In the case of a vessel, any person owning, operating, or demise chartering the vessel.
- (B) Onshore facilities. - In the case of an onshore facility (other than a pipeline), any person owning or operating the facility, except a Federal agency, State, municipality, commission, or political subdivision of a State, or any interstate body, that as the owner transfers possession and right to use the property to another person by lease, assignment, or permit.
- (23) 「油」係指任何種類或形態之油，包括但不僅限於石油、燃料油、污油、廢棄油、油與挖泥廢料之混合物然非挖泥船挖出之油物，不包括依環境應變賠償責任法第 101(14)條(第 42 篇 9601 條)第(A)至(F)款所列或指明為有害物質之石油，包括原油或其任何裂解物；
- (24) 「岸上設施」係指任何位於美國國境內水下陸地以外之陸地內、上或下之設施(包括但不僅限於機動車輛及滾動機具)；
- (25) 「外大陸礁層設施」係指全部或部分位於大陸礁層之外海設施，現正使用或將會使用於下列一或多種用途；自外大陸礁層生產之油之探測、鑽取、生產、儲存、操作、轉運、加工或輸送；
- (26) 「所有人或使用人」係指(A)如為船舶，則為船舶之所有、使用或承租之任何人及；(B)如為陸上設施或外海設施，則為該設施之所有或使用之任何人；及(C)如為任何已廢棄之外海設施，則為該設施廢棄前之所有人及使用人；
- (27) 「人」係指任何個人、公司、合夥人、社團、州、市、機關、或州以下之行政區、或任何利益團體；
- (28) 「被許可人」係指外大陸礁層土地法(第 43 篇第 1340 條)或其他適用之美國法典持有地質探測之授權書、執照或許可證之人；
- (29) 「公共船舶」係指美國國家、州或州下之行政區或外國所有或以光船租用之船舶，然從事商業行為之船舶除外；
- (30) 「清除」係指自水域及海岸清除油或有害物質或為減少或減輕對公共衛生或福祉危害之其他必要措施，包括但不僅限於魚類、貝殼類、野生動物、公共或私人財產、海岸及海灘；
- (31) 「清除費用」係指已發生洩油後之清除費用或於洩油實質威脅存在，於事故中所採取之防止、減少或減輕油污染措施之費用；
- (32) 「義務人」係指：
- (A)船舶：於船舶情形下，為擁有、使用或以光船租用之任何人。
- (B)岸上設施：於岸上設施之情形下(油管除外)，為其所有或使用之任何個人，惟聯邦機構、州、市、機關、或州行政區，或任何利益團體，其所有人已將所有權及使用

- 權以租用、指定或被許可方式移轉與他人者除外。
- (C) offshore facilities. - In the case of an offshore facility (other than a pipeline or a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.)), the lessee or permittee of the area in which the facility is located or the holder of a right of use and easement granted under applicable State law or the Outer Continental Shelf Lands Act (43 U.S.C. 1301-1356) for the area in which the facility is located (if the holder is a different person than the lessee or permittee), except a Federal agency, State, municipality, commission, or political subdivision of a State, or any interstate body, that as owner transfers possession and right to use the property to another person by lease, assignment, or permit.
- (C) 外海設施：在外海設施之情形下(油管，或依 1974 年深水港法取得執照之深水港除外)，為設施所在地之承租人或被許可人，或為依適用之美國法典或外大陸礁層土地法授權取得使用權之人(若使用權人並非承租人或被許可人)，惟聯邦機構、州、市、機關、或州以下之行政區、或任何利益團體，其所有人已將所有權及使用權以租借、指定或被許可方式移轉與其他個人者除外。
- (D) Deepwater ports. - In the case of a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C.1501-1524), the licensee.
- (D) 深水港：於深水港情形下，為依 1974 年深水港法(第 33 篇第 1501-1524 條)取得執照者。
- (E) Pipelines. - In the case of a pipeline, any person owning or operating the pipeline.
- (E) 油管：於油管情形下，為擁有或使用該油管之人。
- (F) Abandonment. - In the case of an abandoned vessel, onshore facility, deepwater port, pipeline, or offshore facility, the persons who would have been responsible parties immediately prior to the abandonment of the vessel or facility.
- (F) 廢棄：係已經廢棄之船舶、陸上設施、深水港、油管、或外海設施、為船舶或設施於廢棄前應對其負責之人。
- (33) "Secretary" means the Secretary of the department in which the Coast Guard is operating;
- (33) 「運輸部長」係指主管海岸防衛隊之部長；
- (34) "tank vessel" means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that -
- (34) 「油輪」係指建造用於載運或適於載運或當時載有油類或散裝危險貨物之船舶，並為：
- (A) is a vessel of the United States;
- (A) 美國籍船舶；
- (B) operates on the navigable waters; or
- (B) 使用於可航行水域；或
- (C) transfers oil or hazardous material in a place subject to the jurisdiction of the United States;
- (C) 於美國管轄地區運輸油料或危險品；
- (35) "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of 3 miles;
- (35) 「領海」係指自與外海直接鄰接之海岸平均低潮線向外量起，寬度不超過三哩之水域；
- (36) "United States" and "State" mean the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession of the United States; and
- (36) 「美國」及「州」係指美國之各州、哥倫比亞特殊、波多黎各、關島、美屬薩摩亞、美屬維京群島、北馬瑞安納斯及美國之任何其他領域或領區；及
- (37) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, other than a public vessel.
- (37) 「船舶」係指任何種類之水上航具或其他使用於或有能力使用於，作為水上運輸工具之人造機具，公船除外。

Sec. 2702 Elements of liability

- (a) In general- Notwithstanding any other provision or rule of law, and subject to the provisions of this Act, each responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines or the exclusive economic zone is liable for the removal costs and damages specified in subsection (b) of this section that result from such incident.

第 2702 條 責任基礎

- (a) 通則：不論其他法令規定為何，且於適用本法規定之情況下，任一船舶或設施之義務人，油料洩入或於可航行水域或緊鄰海岸線或專屬經濟區或該洩油造成實質威脅者，應負責本條(b)項所規定因該事件所致生之移除費

- (b) Covered removal costs and damages
- (1) Removal costs- The removal costs referred to in subsection (a) of this section are -
- (A) all removal costs incurred by the United States, a State, or an Indian tribe under subsection (c), (d), (e), or (l) of section 1321 of this title, under the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.), or under State law; and
- (B) any removal costs incurred by any person for acts taken by the person which are consistent with the National Contingency Plan.
- (2) Damages- The damages referred to in subsection (a) of this section are the following:
- (A) Natural resources-Damages for injury to, destruction of, loss of, or loss of use of, natural resources, including the reasonable costs of assessing the damage, which shall be recoverable by a United States trustee, a State trustee, an Indian tribe trustee, or a foreign trustee.
- (B) Real or personal property-Damages for injury to, or economic losses resulting from destruction of, real or personal property, which shall be recoverable by a claimant who owns or leases that property.
- (C) Subsistence use- Damages for loss of subsistence use of natural resources, which shall be recoverable by any claimant who so uses natural resources which have been injured, destroyed, or lost, without regard to the ownership or management of the resources.
- (D) Revenues-Damages equal to the net loss of taxes, royalties, rents, fees, or net profit shares due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by the Government of the United States, a State, or a political subdivision thereof.
- (E) Profits and earning capacity-Damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant.
- (F) Public services-Damages for net costs of providing increased or additional public services during or after removal activities, including protection from fire, safety, or health hazards, caused by a discharge of oil, which shall be recoverable by a State, or a political subdivision of a State.
- (c) Excluded discharges-This subchapter does not apply to any discharge -
- (1) permitted by a permit issued under Federal, State, or local law;
- (2) from a public vessel; or
- (3) from an onshore facility which is subject to the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).
- (d) Liability of third parties
- 用及損害。
- (b) 應包括之移除費用及損害
- (1) 移除費用：本條(a)項所述移除費用為：
- (A) 依第 1321 條(c)、(d)、(e)或 (l)條、公海干涉法或各州州法之美國政府、各州或印地安保留區所發生之所有移除費用；及
- (B) 配合國家緊急應變計畫所採行作為之人所發生之任何移除費用。
- (2) 損害：本條(a)項所述移除費用為：
- (A) 自然資源：自然資源之傷害、破壞，滅失或無法適用之損害，包括估計該損害之合理費用，而為美國受託人、州受託人、印地安保留區受託人或外國受託人可得求償者。
- (B) 不動產或個人財產：因不動產或個人財產之傷害或破壞所致之經濟損失之損害，而為該財產之所有或承租之求償權人可得求償者。
- (C) 生計使用：自然資源之生計使用之損失，而為使用該受到傷害、毀滅或損失自然資源之任何求償權人可得求償者，無論其是否為該資源之所有權或管理為執。
- (D) 收入：等同於因不動產、個人財產或自然資源之損傷、毀壞或滅失，得由美國政府、某州或某州之政府官署為求償之稅收、權利金、租金、手續費或利潤分配之淨損失之損害。
- (E) 利潤及收入損失：等同於因不動產、個人財產或自然資源之損傷、毀壞或滅失，而得由任何求償權人為求償之利潤損失或收入損失。
- (F) 公共服務：於清除活動期間或之後，因提供增加或額外公共服務，包括洩油所致之失火、安全或健康危險之防止，得由某州或某州之政府官署為求償之淨費用之損害。
- (c) 洩油之除外：本節規定不適用於下列任何洩油：
- (1) 聯邦、州或地方法所簽發之許可而為許可者；
- (2) 從公船；或
- (3) 依跨阿拉斯加油管授權法之岸上設施。
- (d) 第三人之責任

(1) In general

(A) Third party treated as responsible party- Except as provided in subparagraph (B), in any case in which a responsible party establishes that a discharge or threat of a discharge and the resulting removal costs and damages were caused solely by an act or omission of one or more third parties described in section 2703(a)(3) of this title (or solely by such an act or omission in combination with an act of God or an act of war), the third party or parties shall be treated as the responsible party or parties for purposes of determining liability under this subchapter.

(B) Subrogation of responsible party- If the responsible party alleges that the discharge or threat of a discharge was caused solely by an act or omission of a third party, the responsible party -

(i) in accordance with section 2713 of this title, shall pay removal costs and damages to any claimant; and

(ii) shall be entitled by subrogation to all rights of the United States Government and the claimant to recover removal costs or damages from the third party or the Fund paid under this subsection.

(2) Limitation applied

(A) Owner or operator of vessel or facility - If the act or omission of a third party that causes an incident occurs in connection with a vessel or facility owned or operated by the third party, the liability of the third party shall be subject to the limits provided in section 2704 of this title as applied with respect to the vessel or facility.

(B) Other cases - In any other case, the liability of a third party or parties shall not exceed the limitation which would have been applicable to the responsible party of the vessel or facility from which the discharge actually occurred if the responsible party were liable.

Sec. 2703 Defenses to liability

(a) Complete defenses - A responsible party is not liable for removal costs or damages under section 2702 of this title if the responsible party establishes, by a preponderance of the evidence, that the discharge or substantial threat of a discharge of oil and the resulting damages or removal costs were caused solely by -

(1) an act of God;

(2) an act of war;

(3) an act or omission of a third party, other than an employee or agent of the responsible party or a third party whose act or omission occurs in connection with any contractual relationship with the responsible party (except where the sole contractual arrangement arises in connection with carriage by a common carrier by rail), if the responsible party establishes, by a preponderance of the evidence, that the responsible party -

(1) 通則

(A) 第三人為義務人處理：除第(B)款另有規定外，於任何情況下，義務人證明洩油或洩油威脅及所致之清除費用及損害完全為第 2703(a)(3)條之一或更多的第三人之作為或不作為所致時(或完全為其作為或不作為與天災或戰爭複合所致)，為決定本節責任之目的。該第三人應視為義務人。

(B) 義務人之代位權：如義務人主張洩油或洩油威脅為某第三人之作為或不作為所致，義務人得：

(i) 依據第 2713 條規定，應支付清除費用及損害給任何求償權人；及

(ii) 應有權代位取得美國政府及求償權人之所有權利，向該第三人或基金追償依本節規定所支付之清除費用或損害。

(2) 限責之適用

(A) 船舶或設施之所有人或營運人：如造成事故之第三人作為或不作為，其發生有關之船舶或設施為該第三人所擁有或為營運者，該第三人之責任應就有關船舶或設施適用第 2704 條限責規定。

(B) 其他情況：於任何其他情況，第三人責任不應超過一如洩油實際發生於義務人應負責之船舶或設施之假設下，義務人可得主張之限責額。

第 2703 條 責任抗辯

(a) 完全抗辯：於義務人能以具說服力之證據證明洩油或洩油威脅所致之損害或清除費用完全為下列原因之一所致者，義務人不應負責第 2702 條之清除費用或損害：

(1) 天災；

(2) 戰爭行為；

(3) 第三人之作為或不作為，然不包括義務人之受雇人或代理人，或該作為或不作為之第三人係與義務人有任何契約關係所生(然與鐵路公共運送人之運輸有關之唯一契約安排所致生者除外)，如義務人能以具說服力之證據證明義務

- (A) exercised due care with respect to the oil concerned, taking into consideration the characteristics of the oil and in light of all relevant facts and circumstances; and
 - (B) took precautions against foreseeable acts or omissions of any such third party and the foreseeable consequences of those acts or omissions; or
- (4) any combination of paragraphs (1), (2), and (3).
- (b) Defenses as to particular claimants - A responsible party is not liable under section 2702 of this title to a claimant, to the extent that the incident is caused by the gross negligence or willful misconduct of the claimant.
- (c) Limitation on complete defense - Subsection (a) of this section does not apply with respect to a responsible party who fails or refuses -
- (1) to report the incident as required by law if the responsible party knows or has reason to know of the incident;
 - (2) to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities; or
 - (3) without sufficient cause, to comply with an order issued under subsection (c) or (e) of section 1321 of this title or the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.).

Sec. 2704 Limits on liability

- (a) General rule - Except as otherwise provided in this section, the total of the liability of a responsible party under section 2702 of this title and any removal costs incurred by, or on behalf of, the responsible party, with respect to each incident shall not exceed -
- (1) for a tank vessel, the greater of -
 - (A) \$1,200 per gross ton; or
 - (B)
 - (i) in the case of a vessel greater than 3,000 gross tons, \$10,000,000; or
 - (ii) in the case of a vessel of 3,000 gross tons or less, \$2,000,000;
 - (2) for any other vessel, \$600 per gross ton or \$500,000, whichever is greater;
 - (3) for an offshore facility except a deepwater port, the total of all removal costs plus \$75,000,000; and
 - (4) for any onshore facility and a deepwater port, \$350,000,000.
- (b) Division of liability for mobile offshore drilling units
- (1) Treated first as tank vessel - For purposes of determining the responsible party and applying this Act and except as provided in paragraph (2), a mobile offshore drilling unit which is being used as an offshore facility is deemed to be a tank vessel with respect to the discharge, or the substantial threat of a discharge, of oil on or above the surface of the water.
 - (2) Treated as facility for excess liability - To the extent that removal

人已為下列事項：

- (A) 就有關相關油料方面已謹慎小心，包括考量油料之性質及所有相關事實及狀況已；及
 - (B) 對於任何該第三人之可預見之作為或不作為及該作為或不作為之可預見後果，已採取預防措施；或
- (4) 前述(1)、(2)及(3)款之任何結合情況。
- (b) 特定求償權人之抗辯：就事故為求償權人之重大過失或故意不當行為所致者，就其範圍，義務人無須依第 2702 條對該求償權人負責。
- (c) 完全抗辯之限制：本條(a)項不適用義務人疏忽或拒絕為下列事項之情況：
- (1) 於義務人已知或有理由得知該事故時，依法令要求為事故之通報；
 - (2) 與負責官員就有關清除作業提供所要求之所有合理合作及協助；或
 - (3) 無充分理由，遵守公海干涉法第 1321 條(c)或(e)款所頒佈之法令。

第 2704 條 責任限制

- (a) 通則：在本條中另有規定外，義務人依第 2702 條之全部責任與所發生之清除費用，於任一事故不應超過：
- (1) 油輪，以較多者為準：
 - (A) 每一總噸美元 1,200 元；或
 - (B)
 - (i) 如船舶大於 3,000 總噸，美元 1,000 萬元；或
 - (ii) 如船舶小於 3,000 總噸，美元 200 萬元；
 - (2) 其他船舶無論其大小，每總噸美元 600 元或美元 50 萬元，採較高者；
 - (3) 除深水港以外之離岸設施：總移除費用另加上美元 7,500 萬；及
 - (4) 任何陸上設施及深水港，美元 3 億 5000 萬元。
- (b) 機動離岸鑽油設施之責任區分：
- (1) 先認定其為油輪：為決定義務人之及本法適用之目的，除第 2 款另有規定外，機動離岸鑽油設施用作離岸設施時，有關於水面因洩油所致之實質威脅，應視為油輪。
 - (2) 超過責任時視為設施處理：就

costs and damages from any incident described in paragraph (1) exceed the amount for which a responsible party is liable (as that amount may be limited under subsection (a)(1) of this section), the mobile offshore drilling unit is deemed to be an offshore facility. For purposes of applying subsection (a)(3) of this section, the amount specified in that subsection shall be reduced by the amount for which the responsible party is liable under paragraph (1).

(c) Exceptions

(1) Acts of responsible party - Subsection (a) of this section does not apply if the incident was proximately caused by -
(A) gross negligence or willful misconduct of, or

(B) the violation of an applicable Federal safety, construction, or operating regulation by, the responsible party, an agent or employee of the responsible party, or a person acting pursuant to a contractual relationship with the responsible party (except where the sole contractual arrangement arises in connection with carriage by a common carrier by rail).

(2) Failure or refusal of responsible party - Subsection (a) of this section does not apply if the responsible party fails or refuses -

(A) to report the incident as required by law and the responsible party knows or has reason to know of the incident;

(B) to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities; or

(C) without sufficient cause, to comply with an order issued under subsection (c) or (e) of section 1321 of this title or the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.).

(3) OCS facility or vessel -Notwithstanding the limitations established under subsection (a) of this section and the defenses of section 2703 of this title, all removal costs incurred by the United States Government or any State or local official or agency in connection with a discharge or substantial threat of a discharge of oil from any Outer Continental Shelf facility or a vessel carrying oil as cargo from such a facility shall be borne by the owner or operator of such facility or vessel.

(d) Adjusting limits of liability

(1) Onshore facilities -Subject to paragraph (2), the President may establish by regulation, with respect to any class or category of onshore facility, a limit of liability under this section of less than \$350,000,000, but not less than \$8,000,000, taking into account size, storage capacity, oil throughput, proximity to sensitive areas, type of oil handled, history of discharges, and other factors relevant to risks posed by the class or category of facility.

(2) Deepwater ports and associated vessels

(A) Study - The Secretary shall conduct a study of the relative operational and environmental risks posed by the transportation of oil by vessel to deepwater ports (as defined in section 1502 of this title) versus the transportation of oil by vessel to other ports. The study shall include a review and analysis of offshore lightering practices used in connection with that transportation, an analysis of the volume of oil transported by vessel using those practices, and an analysis of the frequency and

(1)款所述清除及損害費用超過事故應負責任金額(亦即本條(a)(1)得主張之限額),該機動離岸鑽油設施應視為離岸設施。為適本條(a)(3)款之目的,可將(1)款所定金額予以扣除。

(c)例外:

(1)義務人之作為:第(a)項規定為下列原因之一所生者不適用之:

(A)重大過失或有意不當作為,或

(B)義務人、其代理人或受雇人或契約關係人違反聯邦安全、建築或操作規定(然與鐵路公共運送人之運送有關之唯一契約安排所致生者除外)。

(2)義務人不遵行或拒絕負責:若義務人有不遵行或拒絕下述情事,第(a)項將不適用之:

(A)義務人對事故知情或有理由知情而未依法提出報告;

(B)未依清除機構主管官員之合理請求,提供合作與協助;或

(C)無充分理由而未遵守依本法或公海干涉法修訂之聯邦水污染管制法第 1321(c)或(e)項所頒佈之命令。

(3)外大陸礁層設施或船舶:無論(a)項及第 2703 條有關責任限制及免責條款規定為何,所有美國政府、各州或地方政府有關來自任何外大陸礁層設施或載運該設施油料之船舶洩油或因洩油而遭致之實質威脅所產生之清除費用,應由設施或船舶之所有人或使用人負擔。

(d)責任限制之調整:

(1)陸上設施:依前述(2)項,總統可依陸上設施之類別,並依規模、庫存量、油料產量、距離敏感地區之遠近、油料類型、洩油記錄及其他有關此類設施之風險因素,訂定低於 350 百萬元但不得低於美元 80 百萬元之責任範圍規範。

(2)深水港及各類型船舶:

(A)研究:運輸部對有關使用船舶運輸油料至深水港(依 1974 年深水港法第 1502 條之定義)或運送至其他港口在相關作業及環境風險,進行比較研究。此項研究應包括以外海駁運方式連接運輸之檢討分析及使用此方式駁運油料數量之分析,及所發

volume of oil discharges which occur in connection with the use of those practices.

- (B) Report- Not later than 1 year after August 18, 1990, the Secretary shall submit to the Congress a report on the results of the study conducted under subparagraph (A).
- (C) Rulemaking proceeding - If the Secretary determines, based on the results of the study conducted under this subparagraph (A), that the use of deepwater ports in connection with the transportation of oil by vessel results in a lower operational or environmental risk than the use of other ports, the Secretary shall initiate, not later than the 180th day following the date of submission of the report to the Congress under subparagraph (B), a rulemaking proceeding to lower the limits of liability under this section for deepwater ports as the Secretary determines appropriate. The Secretary may establish a limit of liability of less than \$350,000,000, but not less than \$50,000,000, in accordance with paragraph (1).
- (3) Periodic reports - The President shall, within 6 months after August 18, 1990, and from time to time thereafter, report to the Congress on the desirability of adjusting the limits of liability specified in subsection (a) of this section.
- (4) Adjustment to reflect Consumer Price Index - The President shall, by regulations issued not less often than every 3 years, adjust the limits of liability specified in subsection (a) of this section to reflect significant increases in the Consumer Price Index.

Sec. 2705 Interest; Partial Payment of Claims

- (a) General rule - The responsible party or the responsible party's guarantor is liable to a claimant for interest on the amount paid in satisfaction of a claim under this Act for the period described in subsection (b) of this section.
- (b) Period
- (1) In general - Except as provided in paragraph (2), the period for which interest shall be paid is the period beginning on the 30th day following the date on which the claim is presented to the responsible party or guarantor and ending on the date on which the claim is paid.
- (2) Exclusion of period due to offer by guarantor - If the guarantor offers to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim, the period described in paragraph (1) does not include the period beginning on the date the offer is made and ending on the date the offer is accepted. If the offer is made within 60 days after the date on which the claim is presented under section 2713(a) of this title, the period described in paragraph (1) does not include any period before the offer is accepted.
- (3) Exclusion of periods in interests of justice - If in any period a claimant is not paid due to reasons beyond the control of the responsible party or because it would not serve the interests of justice, no interest shall accrue under this section during that period.
- (4) Calculation of interest - The interest paid under this section shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of 180 days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the

生之洩油頻率及數量。

- (B)報告：於 1990 年 8 月 18 日後一年內運輸部應向國會提出(A)目之結論報告。
- (C)規則制定程序：依(A)目報告之結論如運輸部認為以船舶使用深水港運輸油料，其作業及對環境污染之風險較使用其他港口為低，則運輸部應在向國會提出(B)目報告後 180 天內著手制定降低深水港責任限制之適當規定。依(1)項，運輸部可訂定一低於美元 350 百萬元但不低於美元 50 百萬元之責任範圍。

- (3)定期報告：總統應於 1990 年 8 月 18 日後 6 個月內及以後任何時間隨時就(a)項之責任限制調整意見向國會提出報告。
- (4)反映消費者物價指數之調整：總統至少每 3 年應以命令調整(a)項之責任限制一次，以反應物價指數之重大增加。

第 2705 條 利息；部分求償支付

- (a)通則- 義務人或其保證人應付給求償權人依本法求償金額之利息，其期限依(b)項所定。
- (b)期限 -
- (1)一般情形- 除(2)項規定外，向義務人或其保證人提出賠償金額 30 天後至付清賠償金為止之期間，均應付給利息。
- (2)保證人支付賠償金免計息期間：若保證人已撥付求償權人與最終賠償數相等或較高之金額，則(1)項之計息期間不包括保證人支付給求償權人收到之期間。若依第 2713(a)項提出賠償金後 60 天以內支付者，則(1)項所定之計息期間不包括收到前之任何期間。
- (3)免計息期間之公平性：如義務人因不可抗力之原因而未支付求償權人，或因付息有違公平，則此期間不應計息。
- (4)利息之計算：本條之利息應依商業最高利率及 180 天定期利率平均值計算，或依聯邦準備金公告之規定，減除支付給求償權人計息期間之每日所得。

Federal Reserve Bulletin.

- (5) Interest not subject to liability limits
- (A) In general - Interest (including prejudgment interest) under this paragraph is in addition to damages and removal costs for which claims may be asserted under section 2702 of this title and shall be paid without regard to any limitation of liability under section 2704 of this title.
- (B) Payment by guarantor - The payment of interest under this subsection by a guarantor is subject to section 2716(g) of this title.

- (5)不計入責任範圍內之利息：
- (A)一般情況：本項所稱之利息（包括預定利息）係請求權人依第 2702 條所提出之損害及清除費增加之請求，而與第 2704 條之責任限制無關。
- (B)保證人之支付：本項由保證人支付利息時應依第 2716(g)條規定辦理。

Sec. 2706 Natural resources

- (a) Liability - In the case of natural resource damages under section 2702(b)(2)(A) of this title, liability shall be -
- (1) to the United States Government for natural resources belonging to, managed by, controlled by, or appertaining to the United States;
- (2) to any State for natural resources belonging to, managed by, controlled by, or appertaining to such State or political subdivision thereof;
- (3) to any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such Indian tribe; and
- (4) in any case in which section 2707 of this title applies, to the government of a foreign country for natural resources belonging to, managed by, controlled by, or appertaining to such country.
- (b) Designation of trustees
- (1) In general - The President, or the authorized representative of any State, Indian tribe, or foreign government, shall act on behalf of the public, Indian tribe, or foreign country as trustee of natural resources to present a claim for and to recover damages to the natural resources.
- (2) Federal trustees - The President shall designate the Federal officials who shall act on behalf of the public as trustees for natural resources under this Act.
- (3) State trustees - The Governor of each State shall designate State and local officials who may act on behalf of the public as trustee for natural resources under this Act and shall notify the President of the designation.
- (4) Indian tribe trustees - The governing body of any Indian tribe shall designate tribal officials who may act on behalf of the tribe or its members as trustee for natural resources under this Act and shall notify the President of the designation.
- (5) Foreign trustees - The head of any foreign government may designate the trustee who shall act on behalf of that government as trustee for natural resources under this Act.
- (c) Functions of trustees
- (1) Federal trustees - The Federal officials designated under subsection (b)(2) of this section -
- (A) shall assess natural resource damages under section 2702(b)(2)(A) of this title for the natural resources under their trusteeship;
- (B) may, upon request of and reimbursement from a State or Indian tribe and at the Federal officials' discretion, assess damages for the natural resources under the State's or tribe's trusteeship; and

第 2706 條 天然資源

- (a)責任：第 2802(b)(2)(A)所指之天然資源損害，其責任歸屬：
- (1)屬於美國或由其管理、管制之天然資源，由美國政府負責；
- (2)屬於某州或行政區或由其管理、管制之天然資源，由該州或該行政區負責；
- (3)屬於印地安部落或由其管理、管制之天然資源，由該印地安部落負責；及
- (4)適用第 2707 條，屬於外國或由其管理、管制之天然資源，由該外國政府負責。
- (b)受託人之指定：
- (1)通則：總統，或各州、印地安部落、或外國政府之授權代表應代表其人民、印地安部落、或外國，為天然資源損害求償及受償之受託人。
- (2)聯邦受託人：總統可依本法指定聯邦官員代表人民為天然資源之受託人。
- (3)州受託人：州長可依本法指定州或地方官員代表人民為天然資源之受託人，並將此項任命呈報總統。
- (4)印地安部落受託人：任何印地安部落之治理機構均可依本法指定該族官員代表該部落及其成員為天然資源之受託人，並將此項任命呈報總統。
- (5)外國受託人：外國首長可依本法指定受託人以代表其政府為天然資源受託人。
- (c)受託人之職責：
- (1)聯邦受託人：依第(b)(2)款指定之聯邦官員：
- (A)以受託人身份依第 2702(b)(2)(A)款評估天然資源之損害；
- (B)應州或印地安部落之請求及支付費用，經聯邦官員之選定，以州或印地安部落受託人身份評估天然資源之損

- (C) shall develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship.
- (2) State trustees - The State and local officials designated under subsection (b)(3) of this section -
- (A) shall assess natural resource damages under section 2702(b)(2)(A) of this title for the purposes of this Act for the natural resources under their trusteeship; and
- (B) shall develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship.
- (3) Indian tribe trustees - The tribal officials designated under subsection (b)(4) of this section -
- (A) shall assess natural resource damages under section 2702(b)(2)(A) of this title for the purposes of this Act for the natural resources under their trusteeship; and
- (B) shall develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship.
- (4) Foreign trustees - The trustees designated under subsection (b)(5) of this section -
- (A) shall assess natural resource damages under section 2702(b)(2)(A) of this title for the purposes of this Act for the natural resources under their trusteeship; and
- (B) shall develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship.
- (5) Notice and opportunity to be heard - Plans shall be developed and implemented under this section only after adequate public notice, opportunity for a hearing, and consideration of all public comment.
- (d) Measure of damages
- (1) In general - The measure of natural resource damages under section 2702(b)(2)(A) of this title is -
- (A) the cost of restoring, rehabilitating, replacing, or acquiring the equivalent of, the damaged natural resources;
- (B) the diminution in value of those natural resources pending restoration; plus
- (C) the reasonable cost of assessing those damages.
- (2) Determine costs with respect to plans - Costs shall be determined under paragraph (1) with respect to plans adopted under subsection (c) of this section.
- (3) No double recovery - There shall be no double recovery under this Act for natural resource damages, including with respect to the costs of damage assessment or restoration, rehabilitation, replacement, or acquisition for the same incident and natural resource.
- (e) Damage assessment regulations
- (1) Regulations - The President, acting through the Under Secretary of Commerce for Oceans and Atmosphere and in consultation with the Administrator of the Environmental Protection Agency, the Director of the United States Fish and Wildlife Service, and the heads of other affected agencies, not later than 2 years after August 18, 1990, shall promulgate regulations for the assessment of natural resource damages under section 2702(b)(2)(A) of this title resulting from a discharge of oil for the purpose of this Act.
- 害；及
- (C)以受託人身份研訂並實施天然資源復原、重建、替換或徵用之計劃。
- (2)州受託人：依(b)(3)款指定之州或地方官員：
- (A)以受託人身份依第2702(b)(2)(A)目評估天然資源損害；及
- (B)以受託人身份研訂並實施天然資源復原、重建、替換或徵用之計劃。
- (3)印地安部落受託人：依(b)(4)款指定之部落官員：
- (A)受託人身份依第2702(b)(2)(A)目評估天然資源之損害；及
- (B)以受託人身份研訂並實施天然資源復原、重建、替換或徵用之計劃。
- (4)外國受託人：依(b)(5)款指定之受託人：
- (A)以受託人身份依第2702(b)(2)(A)目評估天然資源之損害；及
- (B)以受託人身份研訂並實施天然資源復原、重建、替換或徵用之計劃。
- (5)公告及公聽：上項計畫應先予公告，並於舉辦公聽會及評估公共輿論後，再行訂定實施。
- (b)損害之估計：
- (1)通則：依第2702(b)(2)(A)目天然資源損害之估計為：
- (A)復原、重建、更換或徵用相等於受損害之天然資源之費用；
- (B)待復原之天然資源價值之減少；加以
- (C)合理之損害評估費用。
- (2)計畫中應列之費用：有關(1)項之計劃之費用，應依(c)款規定編列。
- (3)不可重覆追償：同一事件經天然資源損害評估後，包括所有復原、重建、替換或徵用之損害費用均不可重覆追償。
- (e)損害評估規則：
- (1)規定：經由主管海洋與大氣之商業部副部長及美國環境保護署署長、美國魚類及野生動物管理處及其他有關機構商討後，總統應於1990年8月18日2年內，依本法第2702(b)(2)(A)頒佈洩油對天然資源傷害、破壞與損失之損害評估規則。

- (2) Rebuttable presumption - Any determination or assessment of damages to natural resources for the purposes of this Act made under subsection (d) of this section by a Federal, State, or Indian trustee in accordance with the regulations promulgated under paragraph (1) shall have the force and effect of a rebuttable presumption on behalf of the trustee in any administrative or judicial proceeding under this Act.
- (f) Use of recovered sums - Sums recovered under this Act by a Federal, State, Indian, or foreign trustee for natural resource damages under section 2702(b)(2)(A) of this title shall be retained by the trustee in a revolving trust account, without further appropriation, for use only to reimburse or pay costs incurred by the trustee under subsection (c) of this section with respect to the damaged natural resources. Any amounts in excess of those required for these reimbursements and costs shall be deposited in the Fund.
- (g) Compliance - Review of actions by any Federal official where there is alleged to be a failure of that official to perform a duty under this section that is not discretionary with that official may be had by any person in the district court in which the person resides or in which the alleged damage to natural resources occurred. The court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party. Nothing in this subsection shall restrict any right which any person may have to seek relief under any other provision of law.
- (2) 可反駁之推定：聯邦、州或印地安受託人依(d)項，對依(1)項所作成對天然資源損害評估之任何決定，均代表受託人於任何行政或司法程序中具有反駁推定之效力。
- (f) 獲償金額之使用：聯邦、州、印地安或外國受託人依本法第2702(b)(2)(A)所取得之天然資源損害獲償金額應由受託人以信託週轉金方式保留，僅限用於(c)項所規定之天然資源損害費用。任何所餘金額應存入基金。
- (g) 強制力：任何官員未對本條規定善盡職責，可由該官員戶籍所在地或天然資源發生損害所在地之任何人向地方法院提起告訴。法院可裁定訴訟費用(包括合理之律師費及專業證人費用)由敗訴者負擔。本項規定不限制任何人可循其他法律條款以求救濟。

Sec. 2707 Recovery by foreign claimants

- (a) Required showing by foreign claimants
- (1) In general - In addition to satisfying the other requirements of this Act, to recover removal costs or damages resulting from an incident a foreign claimant shall demonstrate that -
- (A) the claimant has not been otherwise compensated for the removal costs or damages; and
- (B) recovery is authorized by a treaty or executive agreement between the United States and the claimant's country, or the Secretary of State, in consultation with the Attorney General and other appropriate officials, has certified that the claimant's country provides a comparable remedy for United States claimants.
- (2) Exceptions - Paragraph (1)(B) shall not apply with respect to recovery by a resident of Canada in the case of an incident described in subsection (b)(4) of this section.
- (b) Discharges in foreign countries - A foreign claimant may make a claim for removal costs and damages resulting from a discharge, or substantial threat of a discharge, of oil in or on the territorial sea, internal waters, or adjacent shoreline of a foreign country, only if the discharge is from -
- (1) an Outer Continental Shelf facility or a deepwater port;
- (2) a vessel in the navigable waters;
- (3) a vessel carrying oil as cargo between 2 places in the United States; or
- (4) a tanker that received the oil at the terminal of the pipeline constructed under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.), for transportation to a place in the United States, and the discharge or threat occurs prior to delivery of the oil to that place.

第 2707 條 外國求償權人之求償

- (a) 對外國求償權人之請求
- (1) 通則：為符合本法之其他要求事項，以取得事故之清除及損害費用，外國求償權人應提出下列證明：
- (A) 求償權人並未自其他方面獲得清除費用或損害賠償；及
- (B) 此項權益係由美國與求償權人所屬國或其國務院所簽訂之條約或協定中授權，並在與檢察總長及其他適當之官員商討下，證明求償權人所屬國亦將對美國求償權人提供相對之補償。
- (2) 例外：於(1)(B)款情況下發生事故，則(b)(4)款對加拿大居民之求償不適用。
- (b) 於外國之洩油：外國求償權人可對於其領海內、內水或與外國相毗連之海岸線，因洩油或洩油造成之實質威脅提出清除費用及損害求償，然僅限於此洩油係源自：
- (1) 外大陸礁層設施或深水港；
- (2) 於可航行水域內之船舶；
- (3) 於美國兩地之間載運油料之船舶；或
- (4) 依跨阿拉斯加油管授權法建造碼頭以油管裝載油料輸往美國之油輪，而在輸送途中發生洩油或威脅時。

- (c) "Foreign claimant" defined - In this section, the term "foreign claimant" means -
- (1) a person residing in a foreign country;
 - (2) the government of a foreign country; and
 - (3) an agency or political subdivision of a foreign country.

Sec. 2708 Recovery by responsible party

- (a) In general - The responsible party for a vessel or facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, may assert a claim for removal costs and damages under section 2713 of this title only if the responsible party demonstrates that -
- (1) the responsible party is entitled to a defense to liability under section 2703 of this title; or
 - (2) the responsible party is entitled to a limitation of liability under section 2704 of this title.
- (b) Extent of recovery - A responsible party who is entitled to a limitation of liability may assert a claim under section 2713 of this title only to the extent that the sum of the removal costs and damages incurred by the responsible party plus the amounts paid by the responsible party, or by the guarantor on behalf of the responsible party, for claims asserted under section 2713 of this title exceeds the amount to which the total of the liability under section 2702 of this title and removal costs and damages incurred by, or on behalf of, the responsible party is limited under section 2704 of this title.

Sec. 2709 Contribution

A person may bring a civil action for contribution against any other person who is liable or potentially liable under this Act or another law. The action shall be brought in accordance with section 2717 of this title.

Sec. 2710 Indemnification agreements

- (a) Agreements not prohibited - Nothing in this Act prohibits any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this Act.
- (b) Liability not transferred- No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer liability imposed under this Act from a responsible party or from any person who may be liable for an incident under this Act to any other person.
- (c) Relationship to other causes of action - Nothing in this Act, including the provisions of subsection (b) of this section, bars a cause of action that a responsible party subject to liability under this Act, or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

Sec. 2711 Consultation on removal actions

The President shall consult with the affected trustees designated under section 2706 of this title on the appropriate removal action to be taken in connection with any discharge of oil. For the purposes of the National Contingency Plan, removal with respect to any discharge shall

- (c)“外國求償權人”之認定：於本條，”外國求償權人”係指：
- (1)居住於外國之個人；
 - (2)外國政府；及
 - (3)外國政府之機構或行政單位。

第 2708 條 義務人之求償

- (a)通則：船舶或設施之義務人因洩油或洩油造成實質威脅時，如能提出下列舉證，可依第 2713 條規定對清除及損害費用求償：
- (1)義務人依本法第 2703 條之規定得為免責者；或
 - (2)義務人依本法第 2704 條有權主張責任限制之規定。
- (b)求償範圍：有權主張責任限制之義務人，可依本法第 2713 條規定，僅對已發生之清除及損害費用，另加義務人或由保證人代表義務人已支付之依第 2713 條責任限制，超過依第 2702 條之總責任額及限於第 2704 條義務人或代表義務人所生之清除費用及損害之金額。

第 2709 條 分擔

任何人對依本法負有責任或潛在責任之他人可依本法第 2717 條提出有關分擔之民事訴訟。

第 2710 條 賠償協定

- (a)協議不受禁止：本法不禁止就確保、使之無害或補償依本法之任何責任訂定認定協議。
- (b)責任不得移轉：賠償、使之無害或類似之協議或讓與書，對義務人於事故中依本法應負之責任轉移與其他任何個人均屬無效。
- (c)與其他訴訟之關係：本法，包括(b)項在內，不禁止依本法負事故責任之人，或保證人，以代位或其他基礎，對任何人提出訴訟。

第 2711 條 清除行動之諮商

總統應就有關洩油清除之適當行動，與依本法第 2706 條指定之有關受託人諮商。為符合國家緊急計劃總統經與有關之州長諮商後對有關洩

be considered completed when so determined by the President in consultation with the Governor or Governors of the affected States. However, this determination shall not preclude additional removal actions under applicable State law.

Sec. 2712 Uses of Fund

(a) Uses generally - The Fund shall be available to the President for -

- (1) the payment of removal costs, including the costs of monitoring removal actions, determined by the President to be consistent with the National Contingency Plan -
 - (A) by Federal authorities; or
 - (B) by a Governor or designated State official under subsection (d) of this section;
- (2) the payment of costs incurred by Federal, State, or Indian tribe trustees in carrying out their functions under section 2706 of this title for assessing natural resource damages and for developing and implementing plans for the restoration, rehabilitation, replacement, or acquisition of the equivalent of damaged resources determined by the President to be consistent with the National Contingency Plan;
- (3) the payment of removal costs determined by the President to be consistent with the National Contingency Plan as a result of, and damages resulting from, a discharge, or a substantial threat of a discharge, of oil from a foreign offshore unit;
- (4) the payment of claims in accordance with section 2713 of this title for uncompensated removal costs determined by the President to be consistent with the National Contingency Plan or uncompensated damages;
- (5) the payment of Federal administrative, operational, and personnel costs and expenses reasonably necessary for and incidental to the implementation, administration, and enforcement of this Act (including, but not limited to, sections 1004(d)(2), 1006(e), 4107, 4110, 4111, 4112, 4117, 5006, 8103, and title VII) and subsections (b), (c), (d), (j), and (l) of section 1321 of this title with respect to prevention, removal, and enforcement related to oil discharges, provided that -
 - (A) not more than \$25,000,000 in each fiscal year shall be available to the Secretary for operating expenses incurred by the Coast Guard;
 - (B) not more than \$30,000,000 each year through the end of fiscal year 1992 shall be available to establish the National Response System under section 1321(j) of this title, including the purchase and repositioning of oil spill removal equipment; and
 - (C) not more than \$27,250,000 in each fiscal year shall be available to carry out subchapter IV of this chapter.

(b) Defense to liability for Fund - The Fund shall not be available to pay any claim for removal costs or damages to a particular claimant, to the extent that the incident, removal costs, or damages are caused by the gross negligence or willful misconduct of that claimant.

(c) Obligation of Fund by Federal officials - The President may

油是否已完全清除加以決定。但依此項決定並不排除依美國法典之額外清除行動。

第 2712 條 基金之運用

(a) 一般運用：基金係提供總統作為下列用途：

- (1) 由總統依國家緊急計劃所決定之清除費用，包括監督清除行動之費用；
 - (A) 由聯邦機構支付者；或
 - (B) 由州長或依(d)項指定之州政府官員支付者；
- (2) 聯邦、州或印地安部落之受託人依本法第 2706 條評估天然資源損害之費用及研究並實施相等於受損資源復原、重建、替換與徵用計劃之費用；
- (3) 總統為符合國家緊急計劃所決定對外國外海設施洩油損害或洩油實質威脅所支付之清除費用；
- (4) 總統依本法第 2713 條規定為符合國家緊急計劃或未獲補償之損害所決定之未獲補償之清除費用；
- (5) 為執行、管理及貫徹本法(包括，但不限於第 1004(d)(2), 1006(e), 4107, 4110, 4111, 4112, 4117, 5006, 8103 及第 VII 節)及第 1321 條第(b), (c), (d), (j), 及(l)款於行政、作業及人事上合理必需及臨時性費用，然：
 - (A) 由運輸部於每一會計年度撥付海岸防衛隊不超過美元 25 百萬元作為作業費用；
 - (B) 本法修訂之聯邦水污染管制法第 1321(j)條建立國家應變系統之要求，每年撥付不超過美元 30 百萬元之經費，包括洩油清除裝備之採購與預置，迄至 1992 年會計年度為止。
 - (C) 每會計年度撥付美元 2,725 萬元之經費，以執行本法第 4 章之計劃。

(b) 對基金責任之抗辯：事故之發生、清除費用或損害均係由求償權人之重大過失或有意不當作為所致之情況下，基金不得用以支付該求償權人所請求之清除及損害費用。

(c) 聯邦官員對基金之責任：總統可

- promulgate regulations designating one or more Federal officials who may obligate money in accordance with subsection (a) of this section.
- (d) Access to Fund by State officials
- (1) Immediate removal- In accordance with regulations promulgated under this section, the President, upon the request of the Governor of a State or pursuant to an agreement with a State under paragraph (2), may obligate the Fund for payment in an amount not to exceed \$250,000 for removal costs consistent with the National Contingency Plan required for the immediate removal of a discharge, or the mitigation or prevention of a substantial threat of a discharge, of oil.
- (2) Agreements
- (A) In general- The President shall enter into an agreement with the Governor of any interested State to establish procedures under which the Governor or a designated State official may receive payments from the Fund for removal costs pursuant to paragraph (1).
- (B) Terms - Agreements under this paragraph -
- (i) may include such terms and conditions as may be agreed upon by the President and the Governor of a State;
- (ii) shall provide for political subdivisions of the State to receive payments for reasonable removal costs; and
- (iii) may authorize advance payments from the Fund to facilitate removal efforts.
- (e) Regulations - The President shall -
- (1) not later than 6 months after August 18, 1990, publish proposed regulations detailing the manner in which the authority to obligate the Fund and to enter into agreements under this subsection shall be exercised; and
- (2) not later than 3 months after the close of the comment period for such proposed regulations, promulgate final regulations for that purpose.
- (f) Rights of subrogation - Payment of any claim or obligation by the Fund under this Act shall be subject to the United States Government acquiring by subrogation all rights of the claimant or State to recover from the responsible party.
- (g) Audits - The Comptroller General shall audit all payments, obligations, reimbursements, and other uses of the Fund, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. The Comptroller General shall submit to the Congress an interim report one year after August 18, 1990. The Comptroller General shall thereafter audit the Fund as is appropriate. Each Federal agency shall cooperate with the Comptroller General in carrying out this subsection.
- (h) Period of limitations for claims
- (1) Removal costs- No claim may be presented under this subchapter for recovery of removal costs for an incident unless the claim is presented within 6 years after the date of completion of all removal actions for that incident.
- (2) Damages - No claim may be presented under this section for recovery of damages unless the claim is presented within 3 years after the date on which the injury and its connection with the discharge in question were reasonably discoverable with the exercise of due care, or in the case of natural resource damages under section 2702(b)(2)(A) of this title, if later, the date of completion of the natural resources damage assessment under section 2706(e) of this title.
- 頒佈規定指定一或數位聯邦官員依(a)項負責有關財務事項。
- (d) 州官員對基金之動用：
- (1) 立即清除：依本法所制定之規則，總統可應州長之請求或依(2)項與州訂定之協議，對符合國家緊急計劃要求立即清除之洩油或為減輕或防止洩油之實際威脅，可動用不超過 25 萬元作為清除費用。
- (2) 協議：
- (A) 通則：總統可與任何相關州長協議，訂定作業程序，俾使州長或其指定之官員可自基金獲得依(1)項規定之清除費用。
- (B) 條款：上列協議：
- (i) 可包括總統與州長雙方同意之條款及條件；
- (ii) 包括州以下行政區可取得合理清除費用之規定；及
- (iii) 訂定自基金墊款預付辦法，以利清除工作。
- (e) 規則：總統應：
- (1) 於 1990 年 8 月 18 日後 6 個月內，制定有關動用基金及依本項規定訂定協議之實施細則法案，及
- (2) 於前項法案審查完成後 3 個月內，頒佈正式規定。
- (f) 代位權：對任何依本法之求償或基金應負責之案件之付款，美國政府可依代位權向義務人取得求償權人或州之求償之權。
- (g) 審計：審計長應審查所有基金之支付、應付、償還及其他用途，以確保基金正當運用，並對求償作迅速而適當之處理。於 1990 年 8 月 18 日起一年以內審計長應向國會提出中間報告。審計長應審查基金是否使用得當。各聯邦機構均應就本項之執行與審計長合作。
- (h) 求償之時效期間：
- (1) 清除費用：除事故清除工作完成後 6 年內提出外，不得再行提出清除費之請求。
- (2) 損害：除與可疑洩油傷害或與其有關經詳細觀察應可予發現之日起 3 年內，或第 2702(b)(2)(A) 目之天然資源損害情形下依第 2706(e) 項所規定之最後日期起 3 年內提出，否則不得提出對損害求償之請求。

- (3) Minors and incompetents- The time limitations contained in this subsection shall not begin to run –
- (A) against a minor until the earlier of the date when such minor reaches 18 years of age or the date on which a legal representative is duly appointed for the minor, or
- (B) against an incompetent person until the earlier of the date on which such incompetent's incompetency ends or the date on which a legal representative is duly appointed for the incompetent.
- (i) Limitation on payment for same costs - In any case in which the President has paid an amount from the Fund for any removal costs or damages specified under subsection (a) of this section, no other claim may be paid from the Fund for the same removal costs or damages.
- (j) Obligation in accordance with plan
- (1) In general - Except as provided in paragraph (2), amounts may be obligated from the Fund for the restoration, rehabilitation, replacement, or acquisition of natural resources only in accordance with a plan adopted under section 2706(c) of this title.
- (2) Exception - Paragraph (1) shall not apply in a situation requiring action to avoid irreversible loss of natural resources or to prevent or reduce any continuing danger to natural resources or similar need for emergency action.
- (k) Preference for private persons in area affected by discharge
- (1) In general - In the expenditure of Federal funds for removal of oil, including for distribution of supplies, construction, and other reasonable and appropriate activities, under a contract or agreement with a private person, preference shall be given, to the extent feasible and practicable, to private persons residing or doing business primarily in the area affected by the discharge of oil.
- (2) Limitation - This subsection shall not be considered to restrict the use of Department of Defense resources.
- (3) 未成年及無行為能力者：本項有關時效期間之，於下列情況不予起算：
- (A) 對未成年者：為年齡屆滿 18 歲以前，或指定法定代理人以前，以較早者為準；或
- (B) 對無行為能力者為其行為能力恢復以前，或指定法定代理人以前，以較早者為準。
- (i) 支付同一費用之限制：於任何情形下，總統已依(a)項規定由基金中支付之清除及損害費用，不得再行自基金中支付同一清除及損害費用。
- (j) 計劃之義務：
- (1) 通則：除下列(2)項規定外，可依第 2706(c)項自基金中獲得天然資源復原、重置或徵用之金額。
- (2) 例外：前(1)項不適用於為避免不可抗力之天然資源損失情況下必須採取行動之情況，或為防止或減少天然資源遭受持續危險緊急行動情況。
- (k) 洩油影響地區私人之優先權：
- (1) 通則：聯邦基金對清除油污染之花費，包括供應品之分配、建築及其他合理及適當之措施，如為私人合約或協議方式，應在實際可行之範圍內，以在受洩油影響地區居住或以該地區為主要從事經商之私人為優先。
- (2) 限制：本款並不限制對國防部資源之使用。

Sec. 2713 Claims procedure

- (a) Presentation - Except as provided in subsection (b) of this section, all claims for removal costs or damages shall be presented first to the responsible party or guarantor of the source designated under section 2714(a) of this title.
- (b) Presentation to Fund
- (1) In general - Claims for removal costs or damages may be presented first to the Fund -
- (A) if the President has advertised or otherwise notified claimants in accordance with section 2714(c) of this title;
- (B) by a responsible party who may assert a claim under section 2708 of this title;
- (C) by the Governor of a State for removal costs incurred by that State; or
- (D) by a United States claimant in a case where a foreign offshore unit has discharged oil causing damage for which the Fund is liable under section 2712(a) of this title.
- (2) Limitation on presenting claim - No claim of a person against the
- (a) 提出：除 (b) 項規定外，所有清除及損害費用之求償均應先向第 2714(a) 條所述之義務人或其保證人提出。
- (b) 基金申請：
- (1) 通則：清除及損害費用之求償可先向基金申請：
- (A) 如總統已依第 2714(c) 項公告或通知求償權人；
- (B) 由義務人依第 2708 條提出申請；
- (C) 由事故發生所在地之州長對該州之清除費用提出申請；或
- (D) 因外國海外設施洩油而造成損害，依第 2712(a) 項應由基金負責者，由美國求償權人提出申請。
- (2) 提出求償之限制：於法院對求

第 2713 條 求償程序

Fund may be approved or certified during the pendency of an action by the person in court to recover costs which are the subject of the claim.

- (c) Election - If a claim is presented in accordance with subsection (a) of this section and -
- (1) each person to whom the claim is presented denies all liability for the claim, or
 - (2) the claim is not settled by any person by payment within 90 days after the date upon which (A) the claim was presented, or (B) advertising was begun pursuant to section 2714(b) of this title, whichever is later, the claimant may elect to commence an action in court against the responsible party or guarantor or to present the claim to the Fund.
- (d) Uncompensated damages - If a claim is presented in accordance with this section and full and adequate compensation is unavailable, a claim for the uncompensated damages and removal costs may be presented to the Fund.
- (e) Procedure for claims against Fund - The President shall promulgate, and may from time to time amend, regulations for the presentation, filing, processing, settlement, and adjudication of claims under this Act against the Fund.

償對象尚未確定前，不得批准或保證對基金求償之申請。

- (c)選擇：如已依(a)項提出求償，然：
- (1)被求償之人否認其對求償負有任何責任；或
 - (2)任何被求償之人於(A)提出求償；或(B)於第 2714(b)項公告之 90 天後尚未付款解決，日期以較後者為準，此時求償權人可選擇對義務人或保證人向法院提出申請基金之訴訟。
- (d)未獲償之損害：如依本條提出之求償未能獲得全部或適當之補償，可就未獲補償之清除及損害費用申請基金賠償。
- (e)申請基金賠償之程序：總統應依本法頒佈對基金之申請、建檔、處理、結案、求償之判決等規定，並隨時修訂。

Sec. 2714 Designation of source and advertisement

- (a) Designation of source and notification - When the President receives information of an incident, the President shall, where possible and appropriate, designate the source or sources of the discharge or threat. If a designated source is a vessel or a facility, the President shall immediately notify the responsible party and the guarantor, if known, of that designation.
- (b) Advertisement by responsible party or guarantor - If a responsible party or guarantor fails to inform the President, within 5 days after receiving notification of a designation under subsection (a) of this section, of the party's or the guarantor's denial of the designation, such party or guarantor shall advertise the designation and the procedures by which claims may be presented, in accordance with regulations promulgated by the President. Advertisement under the preceding sentence shall begin no later than 15 days after the date of the designation made under subsection (a) of this section. If advertisement is not otherwise made in accordance with this subsection, the President shall promptly and at the expense of the responsible party or the guarantor involved, advertise the designation and the procedures by which claims may be presented to the responsible party or guarantor. Advertisement under this subsection shall continue for a period of no less than 30 days.
- (c) Advertisement by President- If -
- (1) the responsible party and the guarantor both deny a designation within 5 days after receiving notification of a designation under subsection (a) of this section,
 - (2) the source of the discharge or threat was a public vessel, or
 - (3) the President is unable to designate the source or sources of the discharge or threat under subsection (a) of this section,
- the President shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the Fund.

第 2714 條 污染源之認定與公告

- (a)污染源之認定及通知：於總統獲知事故發生後，於可能並屬適當時，應認定洩油或威脅之來源。如認定污染源係為某船舶或某設施，總統應立即通知負事故責任之人或其保證人。
- (b)由義務人或其保證人公告：義務人或其保證人於接獲(a)項之通知後，如在 5 天內未向總統提出否認該認定，則應於依(a)項之認定 15 天內由該義務人或其保證人依總統頒佈之規定公告此項認定及可以提出求償之程序。如未依本項公告，則總統應將此項認定及向義務人或其保證人求償之程序予以公告；其費用由義務人或其保證人負擔。依本項之公告應持續至少不得少於 30 天。
- (c)由總統公告：如：
- (1)義務人及其保證人於接獲通知後 5 天內雙方均拒絕承認(a)項之認定；
 - (2)洩油污染或威脅源自公船；或
 - (3)總統未能依(a)項認定洩油或威脅之來源；
- 總統應公告或將申請基金之程序通知可能向基金提出申請之求償權人。

Sec. 2715 Subrogation

- (a) In general - Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for removal costs or damages shall be subrogated to all rights, claims, and causes of action that the claimant has under any other law.
- (b) Actions on behalf of Fund - At the request of the Secretary, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the Fund to any claimant pursuant to this Act, and all costs incurred by the Fund by reason of the claim, including interest (including prejudgment interest), administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any responsible party or (subject to section 2716 of this title) guarantor, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the cost or damages for which the compensation was paid. Such an action shall be commenced against the responsible foreign government or other responsible party to recover any removal costs or damages paid from the Fund as the result of the discharge, or substantial threat of discharge, of oil from a foreign offshore unit.

Sec. 2716 Financial responsibility

- (a) Requirement - The responsible party for -
- (1) any vessel over 300 gross tons (except a non-self-propelled vessel that does not carry oil as cargo or fuel) using any place subject to the jurisdiction of the United States; or
 - (2) any vessel using the waters of the exclusive economic zone to transship or lighter oil destined for a place subject to the jurisdiction of the United States;
- shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to meet the maximum amount of liability to which, in the case of a tank vessel, the responsible party could be subject under section 2704(a)(1) or (d) of this title, or to which, in the case of any other vessel, the responsible party could be subjected under section 2704 (a)(2) or (d) of this title, in a case where the responsible party would be entitled to limit liability under that section. If the responsible party owns or operates more than one vessel, evidence of financial responsibility need be established only to meet the amount of the maximum liability applicable to the vessel having the greatest maximum liability.
- (b) Sanctions
- (1) Withholding clearance - The Secretary of the Treasury shall withhold or revoke the clearance required by section 91 of title 46, Appendix, of any vessel subject to this section that does not have the evidence of financial responsibility required for the vessel under this section.
 - (2) Denying entry to or detaining vessels - The Secretary may -
 - (A) deny entry to any vessel to any place in the United States, or to the navigable waters, or
 - (B) detain at the place, any vessel that, upon request, does not produce the evidence of financial responsibility required for the vessel under this section.
 - (3) Seizure of vessel - Any vessel subject to the requirements of this section which is found in the navigable waters without the necessary evidence of financial responsibility for the vessel shall

第 2715 條 代位

- (a) 通則：依本法規定賠償清除或損害費用予求償權人之任何人，包括基金在內，對求償權人依其他法律所有一切權益、求償與訴訟，享有代位權。
- (b) 代表基金之訴訟：檢察總長應運輸部之請求代表基金訴訟，向任何求償權人求償依本法由基金撥付之賠償金，及其間所生之費用，包括利息(包括預定利息)、行政及法院費用及律師費。已由基金支付之損害費用訴訟可對任何義務人或(依第 2716 條)保證人，或對求償權人，或基金負有責任之任何人提出。此項訴訟亦可對負有責任之外國政府或其他義務人提出，以使可收回由基金撥付之外國海外海設施洩油或洩油實質威脅之清除或損害費用。

第 2716 條 財務責任

- (a) 要件：義務人為：
- (1) 美國任何地區使用之超過 300 總噸之船舶(非動力船舶且不載油貨或燃油之船舶除外)；或
 - (2) 於專屬經濟區水域使用之任何轉運或駁運油類，以美國管轄地為終點之船舶；
- 應依運輸部所頒佈之規定，置備並保持足以應付最大責任金額之財務擔保證明；為油輪者，義務人依本法第 2704(a)(1)或(d)項規定，如係任何其他船舶，義務人應依本法第 2704 (a)(2)或(d)項，如義務人依該條規定具有限制責任之資格或如義務人擁有或使用一艘以上船舶，則僅需備一般船舶最大責任金額之財務擔保證明。
- (b) 處分：
- (1) 不予結關：任何本條內所指船舶未備有本條所要求之財務擔保證明，財政部應依經修訂之美國法典第 46 篇第 91 條暫停或撤銷結關。
 - (2) 拒絕其進入或扣船：如經要求仍無法出示財務擔保證明時，運輸部可：
 - (A) 拒絕任何船舶進入美國任何地區或可航水域；或
 - (B) 就地扣船。
 - (3) 船舶之扣押：任何屬於本條所列之船舶未備所需之財務擔保證明而在可航行水域被查出

be subject to seizure by and forfeiture to the United States.

(c) Offshore facilities

(1) In general - Except as provided in paragraph (2), each responsible party with respect to an offshore facility shall establish and maintain evidence of financial responsibility of \$150,000,000 to meet the amount of liability to which the responsible party could be subjected under section 2704(a) of this title in a case in which the responsible party would be entitled to limit liability under that section. In a case in which a person is the responsible party for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the facility having the greatest maximum liability.

(2) Deepwater ports - Each responsible party with respect to a deepwater port shall establish and maintain evidence of financial responsibility sufficient to meet the maximum amount of liability to which the responsible party could be subjected under section 2704(a) of this title in a case where the responsible party would be entitled to limit liability under that section. If the Secretary exercises the authority under section 2704(d)(2) of this title to lower the limit of liability for deepwater ports, the responsible party shall establish and maintain evidence of financial responsibility sufficient to meet the maximum amount of liability so established. In a case in which a person is the responsible party for more than one deepwater port, evidence of financial responsibility need be established only to meet the maximum liability applicable to the deepwater port having the greatest maximum liability.

(e) Methods of financial responsibility - Financial responsibility under this section may be established by any one, or by any combination, of the following methods which the Secretary (in the case of a vessel) or the President (in the case of a facility) determines to be acceptable: evidence of insurance, surety bond, guarantee, letter of credit, qualification as a self-insurer, or other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In promulgating requirements under this section, the Secretary or the President, as appropriate, may specify policy or other contractual terms, conditions, or defenses which are necessary, or which are unacceptable, in establishing evidence of financial responsibility to effectuate the purposes of this Act.

(f) Claims against guarantor - Any claim for which liability may be established under section 2702 of this title may be asserted directly against any guarantor providing evidence of financial responsibility for a responsible party liable under that section for removal costs and damages to which the claim pertains. In defending against such a claim, the guarantor may invoke

- (1) all rights and defenses which would be available to the responsible party under this Act,
- (2) any defense authorized under subsection (e) of this section, and
- (3) the defense that the incident was caused by the willful misconduct of the responsible party. The guarantor may not invoke any other defense that might be available in proceedings brought by the responsible party against the guarantor.

(g) Limitation on guarantor's liability- Nothing in this Act shall impose liability with respect to an incident on any guarantor for damages or removal costs which exceed, in the aggregate, the amount of

時，美國可將該船舶扣押及沒收。

(c) 外海設施：

(1) 通則：除(2)項規定外，發生事故之外海設施，如該義務人具有所規定之限制責任資格時，應置備並保持依第 2704(a)項規定美元 150 百萬元之財務擔保證明，以應義務人依第 2704(a)項賠償責任之所需。如義務人有一處以上之設施應予負責時，則應置備之財務擔保證明僅為對其最大責任設施之證明。

(2) 深水港：對深水港之義務人，如義務人具有所規定之限制責任資格，應置備並保持足以應付最大責任金額之財務擔保證明，以應依本法第 2704(a)項賠償責任之所需。如運輸部就其權責依第 2704(d)(2)項降低深水港之限制責任，則義務人應置備及保持應付設定責任所需最大責任金額之財務擔保證明。如義務人有一處以上之深水港應予負責時，則其應置備之財務擔保證明為對其最大責任深水港之證明。

(e) 財務擔保方式：本條之財務擔保，可由任何人、任何組合，以下列方式，且為運輸部(如為船舶)或總統(如為設施)所能接受者，包括：保險證明、保證債券、擔保、信用狀、合格自保或其他財務擔保證明文件。任何呈交之債券應係由美國批准之債券公司所發行者。依本項訂頒作業規定時，總統或運輸部可制定為執行本法之財務擔保證明所必要或不可接受之政策，或其他契約條款、條件或必要之免除條款。

(f) 對保證人之求償：依本法第 2702 條認定責任之求償，可直接向為義務人提供有關本節清除費用及損害財務擔保證明之保證人提出。對該項求償之抗辯，保證人可主張：

- (1) 本法賦予義務人之所有權利及抗辯權；
- (2) 任何依(e)項授權之抗辯；及
- (3) 對事件之發生係因義務人之有意不當行為之抗辯。於訴訟程序中，保證人不得提出義務人得向保證人主張之其他抗辯事由。

(g) 保證人責任之限制：如總計之損害及清除費用超過保證人為義務人提供本法規定之財務責任，本法

financial responsibility required under this Act which that guarantor has provided for a responsible party.

- (h) Continuation of regulations- Any regulation relating to financial responsibility, which has been issued pursuant to any provision of law repealed or superseded by this Act, and which is in effect on the date immediately preceding the effective date of this Act, is deemed and shall be construed to be a regulation issued pursuant to this section. Such a regulation shall remain in full force and effect unless and until superseded by a new regulation issued under this section.
- (i) Unified certificate- The Secretary may issue a single unified certificate of financial responsibility for purposes of this Act and any other law.

並不對保證人課以賠償責任。

- (h) 規定之連續性：任何已廢止或已由本法所取代，有關財務責任之規定，且在本法生效前已實施者，應視為係依本法而訂頒之規定。於依本條之新規定未頒佈前，該規定仍應保持充分有效。
- (i) 統一之證明：運輸部可為本法及其他法律制定財務擔保之統一證明格式。

Sec. 2716a Financial responsibility civil penalties

- (a) Administrative - Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of section 2716 of this title or the regulations issued under that section, or with a denial or detention order issued under subsection (c)(2) of that section, shall be liable to the United States for a civil penalty, not to exceed \$25,000 per day of violation. The amount of the civil penalty shall be assessed by the President by written notice. In determining the amount of the penalty, the President shall take into account the nature, circumstances, extent, and gravity of the violation, the degree of culpability, any history of prior violation, ability to pay, and such other matters as justice may require. The President may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which had been imposed under this paragraph. If any person fails to pay an assessed civil penalty after it has become final, the President may refer the matter to the Attorney General for collection.
- (b) Judicial - In addition to, or in lieu of, assessing a penalty under subsection (a) of this section, the President may request the Attorney General to secure such relief as necessary to compel compliance with this section 2716 of this title, including a judicial order terminating operations. The district courts of the United States shall have jurisdiction to grant any relief as the public interest and the equities of the case may require.

第 2716 條之一 財務責任之民事罰款

- (a) 行政責任：於通知或有機會召開聽證會後，發現任何人有疏於遵守第 2716 條或依該條所頒佈之規則或依該條(c)(2)項所頒佈之拒絕進入或扣船時，應負責支付美國政府每次違犯每天不超過 25,000 美元之民事罰款。該民事罰款之金額由總統以書面通知方式裁定之。於決定罰款金額時，總統應考量違犯之本質、情況、範圍及違犯之嚴重程度、可歸責程度、違犯紀錄、付款能力，以及任何判斷所需之其他事項。總統得具或不具條件地協商、修改或免除依本條規定應予以課徵或業已課徵之任何民事罰款。如任何人於最後裁定後仍疏於支付估定之民事罰款，總統可將案件移交由檢察總長為收取。
- (b) 司法：除依(a)項評定民事罰款外，為強制執行第 2716 條所需，總統得要求檢察總長採行相關替代措施，包括終止作業之司法命令。美國地方法院就公共利益與案件所需衡平而給予任何替代措施具有管轄權。

Sec. 2717 Litigation, jurisdiction, and venue

- (a) Review of regulations - Review of any regulation promulgated under this Act may be had upon application by any interested person only in the Circuit Court of Appeals of the United States for the District of Columbia. Any such application shall be made within 90 days from the date of promulgation of such regulations. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages or recovery of response costs.
- (b) Jurisdiction - Except as provided in subsections (a) and (c) of this

第 2717 條 訴訟、管轄權及審判地

- (a) 法規之復審：依本法所制定之任何規定，任何人均可向美國哥倫比亞特區上訴巡迴法庭申請復審。此項申請應於規定頒佈後 90 天以內提出。任何依本規定可以復審之事項，應不含執行本法或賠償費用之民事或刑事程序之司法復審。
- (b) 管轄權：除(a)及(c)項另有規定

section, the United States district courts shall have exclusive original jurisdiction over all controversies arising under this Act, without regard to the citizenship of the parties or the amount in controversy. Venue shall lie in any district in which the discharge or injury or damages occurred, or in which the defendant resides, may be found, has its principal office, or has appointed an agent for service of process. For the purposes of this section, the Fund shall reside in the District of Columbia.

- (c) State court jurisdiction - A State trial court of competent jurisdiction over claims for removal costs or damages, as defined under this Act, may consider claims under this Act or State law and any final judgment of such court (when no longer subject to ordinary forms of review) shall be recognized, valid, and enforceable for all purposes of this Act.
- (d) Assessment and collection of tax - The provisions of subsections (a), (b), and (c) of this section shall not apply to any controversy or other matter resulting from the assessment or collection of any tax, or to the review of any regulation promulgated under title 26.
- (e) Savings provision - Nothing in this subchapter shall apply to any cause of action or right of recovery arising from any incident which occurred prior to August 18, 1990. Such claims shall be adjudicated pursuant to the law applicable on the date of the incident.
- (f) Period of limitations -
- (1) Damages - Except as provided in paragraphs (3) and (4), an action for damages under this Act shall be barred unless the action is brought within 3 years after -
- (A) the date on which the loss and the connection of the loss with the discharge in question are reasonably discoverable with the exercise of due care, or
- (B) in the case of natural resource damages under section 2702(b)(2)(A) of this title, the date of completion of the natural resources damage assessment under section 2706(c) of this title.
- (2) Removal costs - An action for recovery of removal costs referred to in section 2702(b)(1) of this title must be commenced within 3 years after completion of the removal action. In any such action described in this subsection, the court shall enter a declaratory judgment on liability for removal costs or damages that will be binding on any subsequent action or actions to recover further removal costs or damages. Except as otherwise provided in this paragraph, an action may be commenced under this subchapter for recovery of removal costs at any time after such costs have been incurred.
- (3) Contribution - No action for contribution for any removal costs or damages may be commenced more than 3 years after -
- (A) the date of judgment in any action under this Act for recovery of such costs or damages, or
- (B) the date of entry of a judicially approved settlement with respect to such costs or damages.
- (4) Subrogation - No action based on rights subrogated pursuant to this Act by reason of payment of a claim may be commenced under this Act more than 3 years after the date of payment of such claim.
- (5) Commencement - The time limitations contained herein shall not begin to run -

外，美國地方法院對所有本法所引發之爭議，無論其國籍或爭議金額，均具有專屬司法管轄權。裁判地點應為洩油或傷害或損害發生地，或被告居住地，其主要事務所所在地，或其指定訴訟代理人之地點。為本條之目的，基金地點應為哥倫比亞特區。

- (c) 州法院管轄權：具適當管轄權之州巡迴法院對依本法規定有關清除費用及損害之審理，得依本法或該州法律為審理，法院所為之最後裁決（於其不得以普通形式復審時）為達成本法之整體目標應予以承認，視為有效，並予執行。
- (d) 稅金計算及徵收：(a)、(b)及(c)項規定不應適用於由稅金計算及徵收所引起之爭議，或任何依第26篇(1986年國內稅法)所頒佈法規之復審。
- (e) 保留條款：本法不適用於1990年8月18日以前已發生之事故之訴訟或求償。此項求償應依事故發生日適用之法條予以裁決。
- (f) 起訴時效：
- (1) 損害：除(3)及(4)項外，於下列情形之日起3年內可依本法對損害提出訴訟。
- (A) 於經謹慎求證後，對因可疑之洩油所肇致之損失或與損失有關之事項被發現之日，或
- (B) 在第2702(b)(2)(A)條所述天然資源損害情形下，依第2706(c)條完成對天然資源損害評估之日。
- (2) 清除費用：任何依本法第2702(b)(1)條對清除費用之訴訟，必須於清除工作完成後2年內提出。法院應對清除費用或損害責任之裁決，應拘束對清除費用或損害之後續上訴。除本項規定外，清除費用求償之訴訟可依本法於已發生清除費用後之任何時間提出。
- (3) 分擔：下列情形超過3年後不得對清除費用及損害之分擔提出訴訟。
- (A) 依本法對清除費用或損害求償之裁決日，或。
- (B) 對上述費用或損害審理結案之日。
- (4) 代位：自求償給付之日起超過3年者不得依本法以代位為由提出上訴。
- (5) 起算：本條所指起訴期間在下列時間前不應起算：

- (A) against a minor until the earlier of the date when such minor reaches 18 years of age or the date on which a legal representative is duly appointed for such minor, or
- (B) against an incompetent person until the earlier of the date on which such incompetent's incompetency ends or the date on which a legal representative is duly appointed for such incompetent.

- (A) 少年未滿十八歲，或為指定法定代理人之日前，或
- (B) 對無行為能力者，在其行為能力恢復以前，或為指定法定代理人之日前。

Sec. 2718 Relationship to other law

- (a) Preservation of State authorities; Solid Waste Disposal Act - Nothing in this Act or the Act of March 3, 1851 shall –
 - (1) affect, or be construed or interpreted as preempting, the authority of any State or political subdivision thereof from imposing any additional liability or requirements with respect to –
 - (A) the discharge of oil or other pollution by oil within such State; or
 - (B) any removal activities in connection with such a discharge; or
 - (2) affect, or be construed or interpreted to affect or modify in any way the obligations or liabilities of any person under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or State law, including common law.
- (b) Preservation of State funds - Nothing in this Act or in section 9509 of title 26 shall in any way affect, or be construed to affect, the authority of any State –
 - (1) to establish, or to continue in effect, a fund any purpose of which is to pay for costs or damages arising out of, or directly resulting from, oil pollution or the substantial threat of oil pollution; or
 - (2) to require any person to contribute to such a fund.
- (c) Additional requirements and liabilities; penalties - Nothing in this Act, the Act of March 3, 1851 (46 U.S.C. 183 et seq.), or section 9509 of title 26, shall in any way affect, or be construed to affect, the authority of the United States or any State or political subdivision thereof –
 - (1) to impose additional liability or additional requirements; or
 - (2) to impose, or to determine the amount of, any fine or penalty (whether criminal or civil in nature) for any violation of law; relating to the discharge, or substantial threat of a discharge, of oil.
- (d) Federal employee liability - For purposes of section 2679(b)(2)(B) of title 28, nothing in this Act shall be construed to authorize or create a cause of action against a Federal officer or employee in the officer's or employee's personal or individual capacity for any act or omission while acting within the scope of the officer's or employee's office or employment.

第 2718 條 與其他法律之關係

- (a) 州權力之維護：廢棄物處理法- 本法或 1851 年 3 月 3 日法案不應：
 - (1) 影響或被解釋或被視為對州或其行政區對下列各項課以額外責任或要求之權力：
 - (A) 於州境內之洩油或其他油污染；或
 - (B) 任何洩油有關之清除工作；或
 - (2) 影響或被解釋或被視為影響或改變任何人依廢棄物處理法或州法律；包括普通法之義務與責任。
- (b) 州基金之維護：本法或第 26 篇 (1986 年國內稅法) 第 9505 條不應以任何方式影響或被視為影響任何一州之權力，如：
 - (1) 為給付油污染或油污染實質威脅之費用或損害而設立，或維持一項基金，或
 - (2) 要求任何人捐獻此項基金。
- (c) 額外要求及責任；罰則- 本法或 1851 年 3 月 3 日法或 1986 年國內稅法第 9509 條不能以任何方式影響或視為影響美國或州或其行政區對有關洩油或洩油實質威脅案件如下之權力。
 - (1) 課以額外之責任與要求；或
 - (2) 對違法課以或決定罰鍰金額 (無論民事或刑事)；
- (d) 聯邦雇員之責任：為美國法典第 28 篇第 2679(b)(2)(B) 條之目的，不應被視為裁定或構成對聯邦官員或僱員以聯邦官員或僱員個人工作範圍內之任何行為或疏失之起訴理由。

Sec. 2719 State financial responsibility

A State may enforce, on the navigable waters of the State, the requirements for evidence of financial responsibility under section 2716 of this title.

第 2719 條 州財務責任

州可實施於州可航行水域內持有依本法第 2716 條之財務擔保證明之要求。

SUBCHAPTER II - PRINCE WILLIAM SOUND PROVISIONS

第二節 威廉王子海峽條款

Sec. 2731 Oil Spill Recovery Institute

第 2731 條 洩油處理協會

- (a) Establishment of Institute - The Secretary of Commerce shall provide for the establishment of a Prince William Sound Oil Spill Recovery Institute (hereinafter in this section referred to as the "Institute") to be administered by the Secretary of Commerce through the Prince William Sound Science and Technology Institute and located in Cordova, Alaska.
- (b) Functions - The Institute shall conduct research and carry out educational and demonstration projects designed to -
- (1) identify and develop the best available techniques, equipment, and materials for dealing with oil spills in the arctic and subarctic marine environment; and
 - (2) complement Federal and State damage assessment efforts and determine, document, assess, and understand the long-range effects of the EXXON VALDEZ oil spill on the natural resources of Prince William Sound and its adjacent waters (as generally depicted on the map entitled "EXXON VALDEZ oil spill dated March 1990"), and the environment, the economy, and the lifestyle and well-being of the people who are dependent on them, except that the Institute shall not conduct studies or make recommendations on any matter which is not directly related to the EXXON VALDEZ oil spill or the effects thereof.
- (c) Advisory board
- (1) In general - The policies of the Institute shall be determined by an advisory board, composed of 18 members appointed as follows:
 - (A) One representative appointed by each of the Commissioners of Fish and Game, Environmental Conservation, Natural Resources, and Commerce and Economic Development of the State of Alaska, all of whom shall be State employees.
 - (B) One representative appointed by each of -
 - (i) the Secretaries of Commerce, the Interior, Agriculture, Transportation, and the Navy; and
 - (ii) the Administrator of the Environmental Protection Agency; all of whom shall be Federal employees.
 - (C) 4 representatives appointed by the Secretary of Commerce from among residents of communities in Alaska that were affected by the EXXON VALDEZ oil spill who are knowledgeable about fisheries, other local industries, the marine environment, wildlife, public health, safety, or education. At least 2 of the representatives shall be appointed from among residents of communities located in Prince William Sound. The Secretary shall appoint residents to serve terms of 2 years each, from a list of 8 qualified individuals to be submitted by the Governor of the State of Alaska based on recommendations made by the governing body of each affected community. Each affected community may submit the names of 2 qualified individuals for the Governor's consideration. No more than 5 of the 8 qualified persons recommended by the Governor shall be members of the same political party.
- (a) 協會之設立：商業部應於阿拉斯加之 Cordova 設立威廉王子海峽洩油處理協會(本條後稱為"協會")由商業部交由威廉王子海峽科學技術協會管理。
- (b) 功能：協會應以從事對有關計劃研究及實施教育與示範為目的：
- (1) 鑑定並發展最佳技術、裝備、及工具以處理北極圈及副北極圈海洋環境內之洩油；及
 - (2) 協助聯邦及州從事對損害之評估，並確定、記錄、評定、及瞭解 VALDEZ 號洩油案對威廉王子海峽及其鄰近水域天然資源(地圖上一般之記載為" VALDEZ 號於 1989 年 2 月洩油")，及對環境、經濟、生活方式及賴以為生民眾福利之長期影響，如不直接有關於 VALDEZ 號洩油案或其影響之事項，協會均不作研究或建議。
- (c) 諮議會
- (1) 協會之政策方向由諮議會訂定，諮議會由下列所指派之 18 名成員所組成：
 - (A) 由漁旅局、環境保護、自然資源及阿拉斯加州商務經濟發展局之長官各指派一名代表，其均應為州雇員。
 - (B) 下列任一各指派一名代表：
 - (i) 商務部長、內政部長、農業部長、運輸部長及海軍部長；及
 - (ii) 環境保護署署長；其均應為聯邦雇員。
 - (C) 商務部長從阿拉斯加當地受 Valdex 洩油影響，且具漁業、其他當地產業、海洋環境、野生動物、公共健康、安全或教育知識之居民中，指派四名代表。其中應有至少二名代表應由威廉王子海峽所在社區居民中予以指派。部長應從阿拉斯加州政府依受影響社區之政府部門之建議所提交之八名具資格的個人名單中，予以指派，任期二年。每一受影響社區得提交二名個人姓名給州政府考慮。州政府所建議之人選，屬同一團體部門之會員

- 者，不應超過八名建議人選中之五名。
- (D) 3 Alaska Natives who represent Native entities affected by the EXXON VALDEZ oil spill, at least one of whom represents an entity located in Prince William Sound, to serve terms of 2 years each from a list of 6 qualified individuals submitted by the Alaska Federation of Natives.
- (E) One nonvoting representative of the Institute of Marine Science.
- (F) One nonvoting representative appointed by the Prince William Sound Science and Technology Institute.
- (2) Chairman - The representative of the Secretary of Commerce shall serve as Chairman of the Advisory Board.
- (3) Policies - Policies determined by the Advisory Board under this subsection shall include policies for the conduct and support, through contracts and grants awarded on a nationally competitive basis, of research, projects, and studies to be supported by the Institute in accordance with the purposes of this section.
- (d) Scientific and technical committee
- (1) In general - The Advisory Board shall establish a scientific and technical committee, composed of specialists in matters relating to oil spill containment and cleanup technology, arctic and subarctic marine ecology, and the living resources and socioeconomics of Prince William Sound and its adjacent waters, from the University of Alaska, the Institute of Marine Science, the Prince William Sound Science and Technology Institute, and elsewhere in the academic community.
- (2) Functions - The Scientific and Technical Committee shall provide such advice to the Advisory Board as the Advisory Board shall request, including recommendations regarding the conduct and support of research, projects, and studies in accordance with the purposes of this section. The Advisory Board shall not request, and the Committee shall not provide, any advice which is not directly related to the EXXON VALDEZ oil spill or the effects thereof.
- (e) Director - The Institute shall be administered by a Director appointed by the Secretary of Commerce. The Prince William Sound Science and Technology Institute, the Advisory Board, and the Scientific and Technical Committee may each submit independent recommendations for the Secretary's consideration for appointment as Director. The Director may hire such staff and incur such expenses on behalf of the Institute as are authorized by the Advisory Board.
- (f) Evaluation - The Secretary of Commerce may conduct an ongoing evaluation of the activities of the Institute to ensure that funds received by the Institute are used in a manner consistent with this section.
- (g) Audit - The Comptroller General of the United States, and any of his or her duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of the Institute and its administering agency that are pertinent to the funds received and expended by the Institute and its administering agency.
- (h) Status of employees - Employees of the Institute shall not, by reason of such employment, be considered to be employees of the Federal
- (D) 三名阿拉斯加原住民代表受 Valdez 洩油影響之原住民團體，至少一名應代表威廉王子海峽所在之團體，由阿拉斯加原住民局所提交之六名具資格的個人名單中，予以指派，任期二年。
- (E) 海洋科學協會一名不具投票權之代表。
- (F) 威廉王子海峽科學及技術協會所指派之一名不具投票權之代表。
- (2) 主席：商務部長之代表應任諮議會之主席。
- (3) 政策：諮議會依本條所決定之政策應包括以國內競價基礎之契約或捐助方式，進行並支持本協會依本條之目的所支持之調查、計畫及研究。
- (d) 科學及技術委員會
- (1) 通則：諮議會應設立科學及技術委員會，從阿拉斯加大學、海洋科學協會、威廉王子海峽科學及技術協會及其他學術機構中，選出處理有關洩油污染及清除技術、極地及副極地、海洋生態、生計資源及威廉王子海峽及其鄰近水域之社會經濟事務之專家所組成。
- (2) 功能：於諮議會請求時，科學及技術委員會應提供建議給諮議會，包括為本條之目的之有關學術調查、規劃及研究之作為及支持。諮議會不應要求，且委員會不應提供與 VALDEZ 洩油或其後果無直接關連之任何建議。
- (e) 董事：本協會應由商務部長所指派之董事所管理。威廉王子海峽科學及技術協會、諮議會及科學及技術委員會得各自提交建議人選給商務部長考量指派。依諮議會授權，董事可代表本協會雇用職員及支付雇員費用。
- (f) 評估：商務部長得就本協會活動進行評估，以確保本協會所收到的基金之使用，與本節規定方式一致。
- (g) 審計：美國審計長及其所授權之代表，為審計及檢查之目的，有權審閱本協會及其行政官署之任何帳簿、文件、文書及紀錄，以審查所收到的基金及本協會及其行政官署之花費是否適切。
- (h) 受雇人之地位：本協會之受雇人不應基於該僱傭關係，而為任何

Government for any purpose.

- (i) Termination - The Institute shall terminate 10 years after August 18, 1990.
- (j) Use of funds - All funds authorized for the Institute shall be provided through the National Oceanic and Atmospheric Administration. No funds made available to carry out this section may be used to initiate litigation. No funds made available to carry out this section may be used for the acquisition of real property (including buildings) or construction of any building. No more than 20 percent of funds made available to carry out this section may be used to lease necessary facilities and to administer the Institute. None of the funds authorized by this section shall be used for any purpose other than the functions specified in subsection (b) of this section.
- (k) Research - The Institute shall publish and make available to any person upon request the results of all research, educational, and demonstration projects conducted by the Institute. The Administrator shall provide a copy of all research, educational, and demonstration projects conducted by the Institute to the National Oceanic and Atmospheric Administration.
- (l) "Prince William Sound and its adjacent waters" defined in this section, the term "Prince William Sound and its adjacent waters" means such sound and waters as generally depicted on the map entitled "EXXON VALDEZ oil spill dated March 1990".
- 目的被認定為聯邦政府之受雇人。
- (i) 終止：本協會應於 1990 年 8 月 18 日起十年後終止。
- (j) 基金之使用：授權給本協會之所有基金應經由國家海洋及大氣局提供。為實施本條可適用之基金，不得使用於起訴。為實施本條可適用之基金不得用於不動產之徵收(包括建築物)或建築任何建築物。為實施本條可適用之基金於使用於租用必要設施及本協會行政所需不得超過 20%。本條所授權之基金不得使用於本條(b)項所列舉功能以外之目的。
- (k) 研究：本協會應出版並於任何人請求時，提供所有本協會所進行之研究、教育及實地驗證計畫之成果。行政長官應將所有本協會所進行之研究、教育及實地驗證計畫之成果提供一份副本給國家海洋及大氣局。
- (l) 本條定義之“威廉王子海峽及其鄰近水域”：威廉王子海峽及其鄰近水域之詞係指地圖上一般之記載為“VALDEZ 號於 1990 年 3 月洩油之海峽及水域”。

Sec. 2732 Terminal and tanker oversight and monitoring

- (a) Short title and findings
- (1) Short title - This section may be cited as the "Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990".
- (2) Findings - The Congress finds that -
- (A) the March 24, 1989, grounding and rupture of the fully loaded oil tanker, the EXXON VALDEZ, spilled 11 million gallons of crude oil in Prince William Sound, an environmentally sensitive area;
- (B) many people believe that complacency on the part of the industry and government personnel responsible for monitoring the operation of the Valdez terminal and vessel traffic in Prince William Sound was one of the contributing factors to the EXXON VALDEZ oil spill;
- (C) one way to combat this complacency is to involve local citizens in the process of preparing, adopting, and revising oil spill contingency plans;
- (D) a mechanism should be established which fosters the long-term partnership of industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals;
- (E) such a mechanism presently exists at the Sullom Voe terminal in the Shetland Islands and this terminal should serve as a model for others;
- (F) because of the effective partnership that has developed at Sullom Voe, Sullom Voe is considered the safest terminal in

第 2732 條 接收站及油輪之監督與監測

- (a) 名稱及認定：
- (1) 名稱：本條可稱為“1990 年油碼頭及油輪環境監督與監測法”。
- (2) 認定；國會認定：
- (A) 滿載油輪 Valdez 號於 1989 年 3 月 24 日於威廉王子海峽環境敏感區域擱淺破裂，洩出原油 110 萬加侖；
- (B) 多人相信負責監督 Valdez 號碼頭操作及威廉王子海峽之船舶交通業者與政府人員之自滿，為促成 Valdez 號洩油因素之一；
- (C) 克服自滿唯一之道在使當地公民參與共同擬訂、採納及修訂洩油緊急計劃。
- (D) 應設立機構以促成業者、政府及當地社區間之長期合作，監督原油碼頭之操作對環境要求之遵守；
- (E) 目前設立在 Shetland 島 Sullom Voe 碼頭之此類機構可為典範；
- (F) 因於 Sullom Voe 碼頭顯示之有效合作，Sullom Voe

Europe;

- (G) the present system of regulation and oversight of crude oil terminals in the United States has degenerated into a process of continual mistrust and confrontation;
- (H) only when local citizens are involved in the process will the trust develop that is necessary to change the present system from confrontation to consensus;
- (I) a pilot program patterned after Sullom Voe should be established in Alaska to further refine the concepts and relationships involved; and
- (J) similar programs should eventually be established in other major crude oil terminals in the United States because the recent oil spills in Texas, Delaware, and Rhode Island indicate that the safe transportation of crude oil is a national problem.
- (b) Demonstration programs
- (1) Establishment - There are established 2 Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Demonstration Programs (hereinafter referred to as "Programs") to be carried out in the State of Alaska.
- (2) Advisory function - The function of these Programs shall be advisory only.
- (3) Purpose - The Prince William Sound Program shall be responsible for environmental monitoring of the terminal facilities in Prince William Sound and the crude oil tankers operating in Prince William Sound. The Cook Inlet Program shall be responsible for environmental monitoring of the terminal facilities and crude oil tankers operating in Cook Inlet located South of the latitude at Point Possession and North of the latitude at Amatuli Island, including offshore facilities in Cook Inlet.
- (4) Suits barred - No program, association, council, committee or other organization created by this section may sue any person or entity, public or private, concerning any matter arising under this section except for the performance of contracts.
- (c) Oil Terminal Facilities and Oil Tanker Operations Association
- (1) Establishment - There is established an Oil Terminal Facilities and Oil Tanker Operations Association (hereinafter in this section referred to as the "Association") for each of the Programs established under subsection (b) of this section.
- (2) Membership - Each Association shall be comprised of 4 individuals as follows:
- (A) One individual shall be designated by the owners and operators of the terminal facilities and shall represent those owners and operators.
- (B) One individual shall be designated by the owners and operators of the crude oil tankers calling at the terminal facilities and shall represent those owners and operators.
- (C) One individual shall be an employee of the State of Alaska, shall be designated by the Governor of the State of Alaska, and shall represent the State government.
- (D) One individual shall be an employee of the Federal Government, shall be designated by the President, and shall represent the Federal Government.
- (3) Responsibilities - Each Association shall be responsible for
- 碼頭被公認為歐洲最安全之碼頭；
- (G)美國環境內現行規定制度及對原油碼頭之監督，已漸不受信任與遭致反對；
- (H)惟有於當地居民參與之情況下建立互信始可改變目前之對立為共識；
- (I)於阿拉斯加應建立 Sullom Voe 碼頭模式之領導計劃以進一步改善所牽涉之觀念與關係；及
- (J)因最近於德州德拉瓦及羅德島之洩油事故，表示原油之安全運輸已成為國家問題，故應在美國境內之主要原油碼頭訂定類似之計劃。
- (b) 示範計劃：
- (1) 設立：於阿拉斯加州設立兩項油碼頭及油輪環境監督及監測示範計劃(以下稱“計劃”)。
- (2) 諮詢功能：此計劃之功能僅供諮詢之用。
- (3) 目的：威廉王子海峽計劃應負責對威廉王子海峽碼頭設施環境之監測及原油油輪之運作。Cook 海口計劃應負責對 Cook 海口 Possession 點緯度以南及 Amatuli 島緯度以北油碼頭設施環境監測及原油油輪之運作，包括在 Cook 海口之外海設施在內。
- (4) 訴訟免除：依本條所生之計劃、協會、議會、委員會或其他組織，除合約履行事項外，均不得因本條有關之事項控告任何公私人員或團體。
- (c) 油碼頭設施及油輪運作協會：
- (1) 設立：於(b)項之每項計劃中，設立一油碼頭設施及油輪運作協會(本條後稱為“協會”)。
- (2) 成員：每一協會應包含4人，如下：
- (A) 由油輪前往停靠之碼頭設施所有人及使用人指定一人，代表該所有人及使用人。
- (B) 由前來此地原油之油輪所有人及使用人指定一人代表該所有人及使用人。
- (C) 由阿拉斯加州州長指定阿拉斯加州職員一人，代表州政府。
- (D) 由總統指定聯邦政府職員一人，代表聯邦政府。
- (3) 職責：每一協會應負責審查影

reviewing policies relating to the operation and maintenance of the oil terminal facilities and crude oil tankers which affect or may affect the environment in the vicinity of their respective terminals. Each Association shall provide a forum among the owners and operators of the terminal facilities, the owners and operators of crude oil tankers calling at those facilities, the United States, and the State of Alaska to discuss and to make recommendations concerning all permits, plans, and site-specific regulations governing the activities and actions of the terminal facilities which affect or may affect the environment in the vicinity of the terminal facilities and of crude oil tankers calling at those facilities.

- (4) Designation of existing organization - The Secretary may designate an existing nonprofit organization as an Association under this subsection if the organization is organized to meet the purposes of this section and consists of at least the individuals listed in paragraph (2).

(d) Regional Citizens' Advisory Councils

- (1) Membership - There is established a Regional Citizens' Advisory Council (hereinafter in this section referred to as the "Council") for each of the programs established by subsection (b) of this section.

- (2) Membership - Each Council shall be composed of voting members and nonvoting members, as follows:

(A) Voting members - Voting members shall be Alaska residents and, except as provided in clause (vii) of this paragraph, shall be appointed by the Governor of the State of Alaska from a list of nominees provided by each of the following interests, with one representative appointed to represent each of the following interests, taking into consideration the need for regional balance on the Council:

- (i) Local commercial fishing industry organizations, the members of which depend on the fisheries resources of the waters in the vicinity of the terminal facilities.
- (ii) Aquaculture associations in the vicinity of the terminal facilities.
- (iii) Alaska Native Corporations and other Alaska Native organizations the members of which reside in the vicinity of the terminal facilities.
- (iv) Environmental organizations the members of which reside in the vicinity of the terminal facilities.
- (v) Recreational organizations the members of which reside in or use the vicinity of the terminal facilities.
- (vi) The Alaska State Chamber of Commerce, to represent the locally based tourist industry.

(vii)

- (I) For the Prince William Sound Terminal Facilities Council, one representative selected by each of the following municipalities: Cordova, Whittier, Seward, Valdez, Kodiak, the Kodiak Island Borough, and the Kenai Peninsula Borough.

- (II) For the Cook Inlet Terminal Facilities Council, one representative selected by each of the following municipalities: Homer, Seldovia, Anchorage, Kenai, Kodiak, the Kodiak Island Borough, and the Kenai

響或可能影響週遭環境之油碼頭設施及原油油輪運作及維護之政策。每一協會應提供場地以供碼頭設施所有人及使用人、前來此地原油油輪之所有人及使用人、美國代表、阿拉斯加州代表集會之用，以商討並提供有關設施之許可、計劃及現場作業等規則方面之建議，以免對碼頭設施及停靠該設施之原油油輪之週遭環境遭受影響或可能遭受影響。

- (4) 現有組織之指定：運輸部可指定現有非營利組織作為本項規定之協會，若此一組織符合本條之目的並至少包含(2)項所列之人員。

(d) 地區公民諮議會：

- (1) 成員：依(b)項規定於每項計劃中設立地區公民諮議會(本條後稱“諮議會”)。

- (2) 成員：每一諮議會應由有投票權會員及無投票權會員組成：

(A) 有投票權會員：有投票權會員應為除(vii)目以外之阿拉斯加居民，由阿拉斯加州州長自下列各團體所提名單中指定之，為考慮諮議會之地區平衡性，下列每一利害關係指定一位代表：

- (i) 當地漁業工商組織，其成員依賴碼頭設施周圍之魚類資源而維生者。
- (ii) 鄰近碼頭設施之農會。
- (m) 阿拉斯加當地人之公司及其他阿拉斯加當地居民組織，其成員居住於碼頭設施之周圍者。
- (iv) 環境組織，其成員居住於碼頭設施之周圍者。
- (v) 休閒組織，其成員居住或使用碼頭設施周圍者。
- (vi) 阿拉斯加州商會，代表當地旅遊業者。

(vii)

- (I) 下列市區各選一位代表參加威廉王子海峽諮議會：Cordova, Whittier, Seward, Valdez, Kodiak, the Kodiak Island Borough, and the Kenai Peninsula Borough。

- (II) 下列市區各選一位代表參加村克海口諮議會：Homer, Seldovia, Anchorage, Kenai,

Peninsula Borough.

- (B) Nonvoting members - One ex-officio, nonvoting representative shall be designated by, and represent, each of the following:
- (i) The Environmental Protection Agency.
 - (ii) The Coast Guard.
 - (iii) The National Oceanic and Atmospheric Administration.
 - (iv) The United States Forest Service.
 - (v) The Bureau of Land Management.
 - (vi) The Alaska Department of Environmental Conservation.
 - (vii) The Alaska Department of Fish and Game.
 - (viii) The Alaska Department of Natural Resources.
 - (ix) The Division of Emergency Services, Alaska Department of Military and Veterans Affairs.
- (3) Terms
- (A) Duration of Councils - The term of the Councils shall continue throughout the life of the operation of the Trans-Alaska Pipeline System and so long as oil is transported to or from Cook Inlet.
- (B) Three years - The voting members of each Council shall be appointed for a term of 3 years except as provided for in subparagraph (C).
- (C) Initial appointments - The terms of the first appointments shall be as follows:
- (i) For the appointments by the Governor of the State of Alaska, one-third shall serve for 3 years, one-third shall serve for 2 years, and one-third shall serve for one year.
 - (ii) For the representatives of municipalities required by subsection (d)(2)(A)(vii) of this section, a drawing of lots among the appointees shall determine that one-third of that group serves for 3 years, one-third serves for 2 years, and the remainder serves for 1 year.
- (4) Self-governing - Each Council shall elect its own chairperson, select its own staff, and make policies with regard to its internal operating procedures. After the initial organizational meeting called by the Secretary under subsection (i) of this section, each Council shall be self-governing.
- (5) Dual membership and conflicts of interest prohibited
- (A) No individual selected as a member of the Council shall serve on the Association.
 - (B) No individual selected as a voting member of the Council shall be engaged in any activity which might conflict with such individual carrying out his functions as a member thereof.
- (6) Duties - Each Council shall -
- (A) provide advice and recommendations to the Association on policies, permits, and site-specific regulations relating to the operation and maintenance of terminal facilities and crude oil tankers which affect or may affect the environment in the vicinity of the terminal facilities;
 - (B) monitor through the committee established under subsection (e) of this section, the environmental impacts of the

Kodiak, the Kodiak Island Borough, and the Kenai Peninsula Borough.

- (B) 無投票權會員：曾任公職人員一人，另由以下單位各指定無投票權代表一人：
- (i) 環境保護機構。
 - (ii) 海岸防衛隊。
 - (iii) 國家海洋及大氣局。
 - (iv) 美國森林協會。
 - (v) 地政局。
 - (vi) 阿拉斯加環境保存局。
 - (vii) 阿拉斯加漁旅局。
 - (viii) 阿拉斯加天然資源局。
 - (ix) 阿拉斯加軍事及退伍軍人事務局緊急服務處。
- (3) 任期：
- (A) 諮議會之會期：諮議會應與跨阿拉斯加油管之運作及 Cook 海口油料之往返輸送同時延續。
- (B) 三年：除(C)目外，各諮議會有投票權之會員任期為三年。
- (C) 最初任命：初次任命之任期如下：
- (i) 由阿拉斯加州州長任命者，1/3 為 3 年，1/3 為 2 年，1/3 為 1 年。
 - (ii) 對(d)(2)(A)(vii)目規定之城市代表，以抽籤決定 1/3 任期 3 年，1/3 任期 2 年，其餘任期 1 年。
- (4) 自治：各諮議會應自行選出主席，選用幕僚及制定內部作業程序。運輸部依(i)項召開成立大會後，各諮議會即行自治。
- (5) 雙重身份會員及利益衝突之禁止：
- (A) 被選為諮議會之會員不得再為協會之會員。
 - (B) 被選為諮議會有投票權之會員不得從事與執行會員功能有利益衝突之任何活動。
- (6) 職責：各諮議會應：
- (A) 對協會提供對週遭環境有影響或可能有影響之碼頭設施及原油油輪運作與維護之政策、許可及現場作業規定上之意見及建議；
 - (B) 依(e)項設立之委員會，監測碼頭設施及原油油輪對

- operation of the terminal facilities and crude oil tankers;
- (C) monitor those aspects of terminal facilities' and crude oil tankers' operations and maintenance which affect or may affect the environment in the vicinity of the terminal facilities;
- (D) review through the committee established under subsection (f) of this section, the adequacy of oil spill prevention and contingency plans for the terminal facilities and the adequacy of oil spill prevention and contingency plans for crude oil tankers, operating in Prince William Sound or in Cook Inlet;
- (E) provide advice and recommendations to the Association on port operations, policies and practices;
- (F) recommend to the Association -
- (i) standards and stipulations for permits and site-specific regulations intended to minimize the impact of the terminal facilities' and crude oil tankers' operations in the vicinity of the terminal facilities;
 - (ii) modifications of terminal facility operations and maintenance intended to minimize the risk and mitigate the impact of terminal facilities, operations in the vicinity of the terminal facilities and to minimize the risk of oil spills;
 - (iii) modifications of crude oil tanker operations and maintenance in Prince William Sound and Cook Inlet intended to minimize the risk and mitigate the impact of oil spills; and
 - (iv) modifications to the oil spill prevention and contingency plans for terminal facilities and for crude oil tankers in Prince William Sound and Cook Inlet intended to enhance the ability to prevent and respond to an oil spill; and
- (G) create additional committees of the Council as necessary to carry out the above functions, including a scientific and technical advisory committee to the Prince William Sound Council.
- (7) No estoppel - No Council shall be held liable under State or Federal law for costs or damages as a result of rendering advice under this section. Nor shall any advice given by a voting member of a Council, or program representative or agent, be grounds for estopping the interests represented by the voting Council members from seeking damages or other appropriate relief.
- (8) Scientific work - In carrying out its research, development and monitoring functions, each Council is authorized to conduct its own scientific research and shall review the scientific work undertaken by or on behalf of the terminal operators or crude oil tanker operators as a result of a legal requirement to undertake that work. Each Council shall also review the relevant scientific work undertaken by or on behalf of any government entity relating to the terminal facilities or crude oil tankers. To the extent possible, to avoid unnecessary duplication, each Council shall coordinate its independent scientific work with the scientific work performed by or on behalf of the terminal operators and with the scientific work performed by or on behalf of the operators of the crude oil tankers.
- 環境之衝擊；
- (C) 對週遭環境有影響或可能有影響之碼頭設施及原油油輪之運作及維護，予以監測；
- (D) 經由(f)項設立之委員會，檢討碼頭設施之防止洩油緊急計劃之適當性及於威廉王子海峽或 Cook 海口運作之原油油輪防止洩油緊急計劃之適切性。
- (E) 對協會提供在港口之運作、政策及實務上之意見及建議；
- (F) 對協會提供下列建議：
- (i) 以減少碼頭設施及原油油輪對週遭衝擊之許可事項及現場作業規定之標準；
 - (ii) 碼頭設施之運作及維護之改善，以減少危險，並緩和對碼頭設施鄰近之衝擊並減少洩油風險；
 - (iii) 威廉王子海峽及 Cook 海口原油油輪運作及維護之改善，以減少風險及減輕洩油之衝擊；及
 - (iv) 對碼頭設施及威廉王子海峽及 Cook 海口原油油輪防治洩油及緊急計劃之修正以增進防止洩油及應變能力。
- (G) 為達成上項功能，於諮議會中另增設委員會，包括威廉王子海峽諮議會中之科技顧問委員會。
- (7) 禁反言：諮議會依本條所提出之意見所生之費用及損害，均不負國家及聯邦法律責任。諮議會有投票權會員或計畫代表或代理之任何意見，不得作為對要求損害或其他救濟之投票權會員之反對理由。
- (8) 科學工作：從事研究、發展及監測工作時，應授權各諮議會進行其本身之科學研究，各諮議會並應檢討由使用人或原油油輪使用人或其代表所從事之科學工作，亦為執行此項工作法律要求之成果。各諮議會並應檢討政府機構或其委託關於碼頭設施或原油油輪所從事之科學工作。為求在可能範圍避免不必要之重複，每一諮議會應協調其本身之科學工作與碼頭使用人或其委託人所從事之科學工作。

- (e) Committee for Terminal and Oil Tanker Operations and Environmental Monitoring
- (1) Monitoring Committee - Each Council shall establish a standing Terminal and Oil Tanker Operations and Environmental Monitoring Committee (hereinafter in this section referred to as the "Monitoring Committee") to devise and manage a comprehensive program of monitoring the environmental impacts of the operations of terminal facilities and of crude oil tankers while operating in Prince William Sound and Cook Inlet. The membership of the Monitoring Committee shall be made up of members of the Council, citizens, and recognized scientific experts selected by the Council.
- (2) Duties - In fulfilling its responsibilities, the Monitoring Committee shall -
- (A) advise the Council on a monitoring strategy that will permit early detection of environmental impacts of terminal facility operations and crude oil tanker operations while in Prince William Sound and Cook Inlet;
- (B) develop monitoring programs and make recommendations to the Council on the implementation of those programs;
- (C) at its discretion, select and contract with universities and other scientific institutions to carry out specific monitoring projects authorized by the Council pursuant to an approved monitoring strategy;
- (D) complete any other tasks assigned by the Council; and
- (E) provide written reports to the Council which interpret and assess the results of all monitoring programs.
- (f) Committee for Oil Spill Prevention, Safety, and Emergency Response
- (1) Technical Oil Spill Committee - Each Council shall establish a standing technical committee (hereinafter referred to as "Oil Spill Committee") to review and assess measures designed to prevent oil spills and the planning and preparedness for responding to, containing, cleaning up, and mitigating impacts of oil spills. The membership of the Oil Spill Committee shall be made up of members of the Council, citizens, and recognized technical experts selected by the Council.
- (2) Duties - In fulfilling its responsibilities, the Oil Spill Committee shall -
- (A) periodically review the respective oil spill prevention and contingency plans for the terminal facilities and for the crude oil tankers while in Prince William Sound or Cook Inlet, in light of new technological developments and changed circumstances;
- (B) monitor periodic drills and testing of the oil spill contingency plans for the terminal facilities and for crude oil tankers while in Prince William Sound and Cook Inlet;
- (C) study wind and water currents and other environmental factors in the vicinity of the terminal facilities which may affect the ability to prevent, respond to, contain, and clean up an oil spill;
- (D) identify highly sensitive areas which may require specific protective measures in the event of a spill in Prince William Sound or Cook Inlet;
- (e) 碼頭與油輪運作及環境監測委員會
- (1) 監測委員會：各諮議會應常設一碼頭與油輪運作及環境監測委員會(本條後稱為"監測委員會")擬訂並管理對在威廉王子海峽及Cook海口操作原油之油輪與碼頭設施造成環境衝擊之全盤性監測計劃。監測委員會由諮議會會員、公民、及由諮議會所選出之科學專家組成。
- (2) 職責：為完成此項責任，監測委員會應：
- (A) 向諮議會提報策略，以便早期測知於威廉王子海峽與Cook海口作業之碼頭設施及原油油輪對環境之衝擊；
- (B) 發展監測計劃並對諮議會提報實施此項計劃之建議；
- (C) 由委員會自行決定；就諮議會核准之監測策略授權與大學或其他科學機構簽約進行監測計劃；
- (D) 完成諮議會交付之其他任務；及
- (E) 對所有監測計劃評估之結果以書面提報諮議會。
- (f) 防止洩油、安全及緊急應變委員會
- (1) 洩油技術委員會：各諮議會應常設一技術委員會(後稱為"洩油委員會")從事檢討及評估防止洩油與其規劃及準備所採取之措施，包含應變、封存、清除及減輕洩油之衝擊。洩油委員會委員由諮議會會員、公民及由諮議會選出之科學專家組成。
- (2) 職責：為完成此項責任，洩油委員會應：
- (A) 就新技術之發展及情況改變之觀點；定期檢討威廉王子海峽及Cook海口碼頭設施與原油油輪之防止洩油及緊急計劃；
- (B) 監測威廉王子海峽及Cook海口碼頭設施及原油油輪防止洩油緊急計劃之定期演練及測試；
- (C) 研究碼頭設施週遭，影響洩油防止、應變、封存、清除之風向及水流及其他環境因素；
- (D) 於威廉王子海峽或Cook海口發生洩油時，認定需要特別方法保護之高敏

- (E) monitor developments in oil spill prevention, containment, response, and cleanup technology;
- (F) periodically review port organization, operations, incidents, and the adequacy and maintenance of vessel traffic service systems designed to assure safe transit of crude oil tankers pertinent to terminal operations;
- (G) periodically review the standards for tankers bound for, loading at, exiting from, or otherwise using the terminal facilities;
- (H) complete any other tasks assigned by the Council; and
- (I) provide written reports to the Council outlining its findings and recommendations.
- (g) Agency cooperation - On and after the expiration of the 180-day period following August 18, 1990, each Federal department, agency, or other instrumentality shall, with respect to all permits, site-specific regulations, and other matters governing the activities and actions of the terminal facilities which affect or may affect the vicinity of the terminal facilities, consult with the appropriate Council prior to taking substantive action with respect to the permit, site-specific regulation, or other matter. This consultation shall be carried out with a view to enabling the appropriate Association and Council to review the permit, site-specific regulation, or other matters and make appropriate recommendations regarding operations, policy or agency actions. Prior consultation shall not be required if an authorized Federal agency representative reasonably believes that an emergency exists requiring action without delay.
- (h) Recommendations of Council - In the event that the Association does not adopt, or significantly modifies before adoption, any recommendation of the Council made pursuant to the authority granted to the Council in subsection (d) of this section, the Association shall provide to the Council, in writing, within 5 days of its decision, notice of its decision and a written statement of reasons for its rejection or significant modification of the recommendation.
- (i) Administrative actions - Appointments, designations, and selections of individuals to serve as members of the Associations and Councils under this section shall be submitted to the Secretary prior to the expiration of the 120-day period following August 18, 1990. On or before the expiration of the 180-day period following August 18, 1990, the Secretary shall call an initial meeting of each Association and Council for organizational purposes.
- (j) Location and compensation
- (1) Location - Each Association and Council established by this section shall be located in the State of Alaska.
- (2) Compensation - No member of an Association or Council shall be compensated for the member's services as a member of the Association or Council, but shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Association or Council not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5. However, each Council may enter into contracts to provide compensation and expenses to members of the committees created under subsections (d), (e), and (f) of this section.
- (k) Funding
- (1) Requirement - Approval of the contingency plans required of owners and operators of the Cook Inlet and Prince William Sound
- 感地區；
- (E)注意防止洩油、封存、應變及清除技術上之發展；
- (F)定期檢討港口之組織、運作、事故、為確保原油油輪運輸安全及碼頭適當運作所設計之船舶交通管制系統是否適當及其維護；
- (G)定期檢討油輪前往、裝載、駛離或其他使用之碼頭設施標準；
- (H)完成其他任何諮議會交派之任務；及
- (I)將認定之事實及建議以書面提報諮議會。
- (g)機構之合作：於1990年8月18日後之180天期間內，各聯邦部會、機構或其他單位，應就有關所有許可事項、現場規定及其他管理碼頭設施之活動及措施事項而對碼頭設施週遭有影響或可能有影響者，於採取有關許可、現場規定或其他事項之實際行動前，與適當之諮議會磋商。此項磋商旨在使適當之協會與諮議會得以檢討許可事項、現場規定或其他事項，並對運作、政策或機構之措施作出適當之建議。如經授權之聯邦機構代表認為事態緊急需要採取行動，則可不作事前之磋商。
- (h)諮議會之建議：如諮議會依(d)項授權所作之建議未為協會所採納，或於採納前為重大修正，協會應在5天以內將此項決定，及拒絕或對該項建議作重大修正之理由，以書面通知諮議會。
- (i)行政措施：本條經任命、指定、選定之協會及諮議會委員名單，應於於1990年8月18日後之120天期間內呈報運輸部，為組織之目的，運輸部長應在於1990年8月18日後之180天期間內召開各協會及諮議會之成立大會。
- (j)會址及津貼
- (1)會址：依本條設立之各協會及諮議會應設址於阿拉斯加州。
- (2)津貼：協會或諮議會委員不應支領津貼，但可領取旅費，包括代替生活費之每日旅費。其費率由協會及諮議會自訂，惟不得超過美國法典第五篇第5702及5703條所訂職員之費率。然各諮議會得以合約方式提供(d)、(e)及(f)項各委員會委員津貼及費用。
- (k)基金：
- (1)要件：對Cook海口及威廉王子海峽碼頭設施所有人及使

terminal facilities and crude oil tankers while operating in Alaskan waters in commerce with those terminal facilities shall be effective only so long as the respective Association and Council for a facility are funded pursuant to paragraph (2).

- (2) Prince William Sound Program - The owners or operators of terminal facilities or crude oil tankers operating in Prince William Sound shall provide, on an annual basis, an aggregate amount of not more than \$2,000,000, as determined by the Secretary. Such amount -

- (A) shall provide for the establishment and operation on the environmental oversight and monitoring program in Prince William Sound;
- (B) shall be adjusted annually by the Anchorage Consumer Price Index; and
- (C) may be adjusted periodically upon the mutual consent of the owners or operators of terminal facilities or crude oil tankers operating in Prince William Sound and the Prince William Sound terminal facilities Council.

- (3) Cook Inlet Program - The owners or operators of terminal facilities, offshore facilities, or crude oil tankers operating in Cook Inlet shall provide, on an annual basis, an aggregate amount of not more than \$1,000,000, as determined by the Secretary. Such amount -

- (A) shall provide for the establishment and operation of the environmental oversight and monitoring program in Cook Inlet;
- (B) shall be adjusted annually by the Anchorage Consumer Price Index; and
- (C) may be adjusted periodically upon the mutual consent of the owners or operators of terminal facilities, offshore facilities, or crude oil tankers operating in Cook Inlet and the Cook Inlet Council.

(l) Reports

- (1) Associations and Councils - Prior to the expiration of the 36-month period following August 18, 1990, each Association and Council established by this section shall report to the President and the Congress concerning its activities under this section, together with its recommendations.
- (2) GAO - Prior to the expiration of the 36-month period following August 18, 1990, the General Accounting Office shall report to the President and the Congress as to the handling of funds, including donated funds, by the entities carrying out the programs under this section, and the effectiveness of the demonstration programs carried out under this section, together with its recommendations.

(m) Definitions - As used in this section, the term -

- (1) "terminal facilities" means -

- (A) in the case of the Prince William Sound Program, the entire oil terminal complex located in Valdez, Alaska, consisting of approximately 1,000 acres including all buildings, docks (except docks owned by the City of Valdez if those docks are not used for loading of crude oil), pipes, piping, roads, ponds, tanks, crude oil tankers only while at the terminal

用人及在阿拉斯加水域運作與此碼頭設施從事商業往來之原油油輪所需緊急計劃之批准，須視各協會及諮議會備有(2)款規定之基金始告生效。

- (2) 威廉王子海峽計畫：碼頭設施之所有人或使用人或於威廉王子海峽作業之原油油輪應提供每年總金額 200 萬元內，由運輸部決定之金額，此項金額：

- (A) 應提供作為建立威廉王子海峽環境監督及監測計劃及作業之用；
- (B) 每年應按安克治之消費物價指數調整；及
- (C) 經由碼頭設施之所有人或使用人或於威廉王子海峽作業之原油油輪或威廉王子海峽碼頭設施諮議會之共同同意，可定期予以調整。

- (3) Cook 海口計畫：碼頭設施之所有人或使用人、外海設施、或於 Cook 海口作業之原油油輪應提供，每年總金額 100 萬元內，由運輸部決定之金額，此項金額：

- (A) 應提供作為建立 Cook 海口環境監督及監測計劃及作業之用；
- (B) 每年應按安克治之消費物價指數調整；及
- (C) 經由碼頭設施、外海設施之所有人或使用人或於 Cook 海口作業之原油油輪之共同同意，可定期予以調整。

(l) 報告：

- (1) 協會及諮議會：於 1990 年 8 月 18 日後 36 個月屆滿前，依本條所組成之任一協會及諮議會應將本條有關之活動及建議向總統及國會提出報告。
- (2) 審計部：於 1990 年 8 月 18 日後 36 個月屆滿前，審計部應將基金之運用，包括由執行本計劃之團體所捐贈之基金，及本條示範計劃實施之績效向總統及國會提出報告。

(m) 定義：本條所使用之名詞：

- (1) "碼頭設施"係指：

- (A) 於威廉王子海峽計劃中，全部位於阿拉斯加 Valdez 之油碼頭，佔地約 1,000 英畝，包括所有建築物、碼頭(Valdez 市所有不供裝載原油之碼頭除外)、管

dock, tanker escorts owned or operated by the operator of the terminal, vehicles, and other facilities associated with, and necessary for, assisting tanker movement of crude oil into and out of the oil terminal complex; and

- (B) in the case of the Cook Inlet Program, the entire oil terminal complex including all buildings, docks, pipes, piping, roads, ponds, tanks, vessels, vehicles, crude oil tankers only while at the terminal dock, tanker escorts owned or operated by the operator of the terminal, emergency spill response vessels owned or operated by the operator of the terminal, and other facilities associated with, and necessary for, assisting tanker movement of crude oil into and out of the oil terminal complex;
- (2) "crude oil tanker" means a tanker (as that term is defined under section 2101 of title 46) –
- (A) in the case of the Prince William Sound Program, calling at the terminal facilities for the purpose of receiving and transporting oil to refineries, operating north of Middleston Island and bound for or exiting from Prince William Sound; and
- (B) in the case of the Cook Inlet Program, calling at the terminal facilities for the purpose of receiving and transporting oil to refineries and operating in Cook Inlet and the Gulf of Alaska north of Amatuli Island, including tankers transiting to Cook Inlet from Prince William Sound;
- (3) "vicinity of the terminal facilities" means that geographical area surrounding the environment of terminal facilities which is directly affected or may be directly affected by the operation of the terminal facilities; and
- (4) "Secretary" means the Secretary of Transportation.
- (n) Savings clause
- (1) Regulatory authority - Nothing in this section shall be construed as modifying, repealing, superseding, or preempting any municipal, State or Federal law or regulation, or in any way affecting litigation arising from oil spills or the rights and responsibilities of the United States or the State of Alaska, or municipalities thereof, to preserve and protect the environment through regulation of land, air, and water uses, of safety, and of related development. The monitoring provided for by this section shall be designed to help assure compliance with applicable laws and regulations and shall only extend to activities –
- (A) that would affect or have the potential to affect the vicinity of the terminal facilities and the area of crude oil tanker operations included in the Programs; and
- (B) are subject to the United States or State of Alaska, or municipality thereof, law, regulation, or other legal requirement.
- (2) Recommendations - This subsection is not intended to prevent the Association or Council from recommending to appropriate

線、管路、道路、湖泊、油槽、於碼頭靠泊之原油油輪、碼頭使用人所有或操作供護航油輪用之船舶、車輛及其他用以協助油輪載運原油進出碼頭必要之設施；及

- (B) 於 Cook 海口計劃中，全部油碼頭包括所有建築物、碼頭、管線、管路、道路、湖泊、油槽、船舶、車輛、及碼頭靠泊之原油油輪、碼頭使用人所有或操作供護航油輪用之船舶、碼頭使用人所有或操作之緊急洩油應變船舶及其他用以協助油輪載運原油進出碼頭必要之設施；
- (2) "原油油輪"係指油輪(依法典第 46 篇第 2101 條)名詞之定義：
- (A) 於威廉王子海峽計劃，指於碼頭上裝載油料運往煉油廠，於 Middleston 島以北作業及進出威廉王子海峽；及
- (B) 於 Cook 海口計劃，指在碼頭上裝載油料運往煉油廠及於 Cook 海口 Amatuli 島以北阿拉斯加灣作業，包括自威廉王子海峽轉往 Cook 海口之油輪；
- (3) "碼頭設施週遭"係指碼頭週圍環境之地理區域，直接或可能直接受碼頭設施運作之影響者；及
- (4) "部長"係指運輸部長。
- (n) 保留條款：
- (1) 限制權力：本條不應被解釋為對任何都市、州或聯邦法律或規定之修正、撤銷、廢止或取代，或以任何方式影響洩油之訴訟，或影響有關美國或阿拉斯加州或都市之權益與責任。經由對土地、空氣及水之使用與安全性及有關發展之規範，以保存及保護環境。本條所提供之監測係為協助確實遵行有關之法律與規定而訂，其範圍僅限於：
- (A) 對碼頭設施週遭及包括於計劃中原油油輪作業區域將有影響或重大影響者；及
- (B) 於有關美國或阿拉斯加或都市之法律規定或其他法律要求者。
- (2) 建議：本項無意防止協會或諮議會向有關官署建議修正現

authorities that existing legal requirements should be modified or that new legal requirements should be adopted.

(o) Alternative voluntary advisory group in lieu of Council - The requirements of subsections (c) through (l) of this section, as such subsections apply respectively to the Prince William Sound Program and the Cook Inlet Program, are deemed to have been satisfied so long as the following conditions are met:

(1) Prince William Sound - With respect to the Prince William Sound Program, the Alyeska Pipeline Service Company or any of its owner companies enters into a contract for the duration of the operation of the Trans-Alaska Pipeline System with the Alyeska Citizens Advisory Committee in existence on August 18, 1990, or a successor organization, to fund that Committee or organization on an annual basis in the amount provided for by subsection (k)(2)(A) of this section and the President annually certifies that the Committee or organization fosters the general goals and purposes of this section and is broadly representative of the communities and interests in the vicinity of the terminal facilities and Prince William Sound.

(2) Cook Inlet - With respect to the Cook Inlet Program, the terminal facilities, offshore facilities, or crude oil tanker owners and operators enter into a contract with a voluntary advisory organization to fund that organization on an annual basis and the President annually certifies that the organization fosters the general goals and purposes of this section and is broadly representative of the communities and interests in the vicinity of the terminal facilities and Cook Inlet.

Sec. 2733 Bligh Reef light

The Secretary of Transportation shall within one year after August 18, 1990, install and ensure operation of an automated navigation light on or adjacent to Bligh Reef in Prince William Sound, Alaska, of sufficient power and height to provide long-range warning of the location of Bligh Reef.

Sec. 2734 Vessel traffic service system

The Secretary of Transportation shall within one year after August 18, 1990 -

- (1) acquire, install, and operate such additional equipment (which may consist of radar, closed circuit television, satellite tracking systems, or other shipboard dependent surveillance), train and locate such personnel, and issue such final regulations as are necessary to increase the range of the existing VTS system in the Port of Valdez, Alaska, sufficiently to track the locations and movements of tank vessels carrying oil from the Trans-Alaska Pipeline when such vessels are transiting Prince William Sound, Alaska, and to sound an audible alarm when such tankers depart from designated navigation routes; and
- (2) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the feasibility and

行合法之規定或應採納之新規定

(o) 取代諮議會之其他諮詢組織：對威廉王子海峽計劃及 Cook 海口計劃適用之(c)至(l)各項要求，如符合下列條件亦可適用：

(1) 威廉王子海峽：關於威廉王子海峽計劃方面，阿拉斯加油管服務公司或其所有人與 1990 年 8 月 18 日存在之阿拉斯加公民諮詢委員會或其後續之組織簽訂合約，在阿拉斯加油管系統使用期間與本條施行期間，按年度提撥依(k)(2)(A)目規定金額之基金與該委員會或組織，並由總統每年保證該委員會或組織達成本條之各項目標與目的，並廣泛代表各團體及碼頭設施及威廉王子海峽週遭之利益。

(2) Cook 海口：關於 Cook 海口計劃、碼頭設施、外海設施、或原油油輪之所有人及使用，與志願之諮詢組織簽訂合約，每年提撥基金與該組織。總統每年保證該組織達成本條之各項目標及目的，並能廣泛代表各團體及碼頭設施及 Cook 海口週遭之利益。

第 2733 條 Bligh 礁燈塔

運輸部長於 1990 年 8 月 18 日後之一一年內，應於阿拉斯加威廉王子海峽 Bligh 礁或其附近設置，並確保其運作，具有充分光度與高度，以提示 Bligh 礁位置之長距離示警航行用自動燈塔。

第 2734 條 船舶交通服務系統

運輸部長應於 1990 年 8 月 18 日後之一一年內：

- (1) 獲得、裝置及運作各項增添之設備(包含雷達、閉路電視、衛星追蹤系統及其他船上獨立監測系統)、訓練及配置人員，並制定必要規則以增強現有阿拉斯加 Valdez 港船之交通管制系統，使其足以追蹤及測量自阿拉斯加油管輸運油料途經阿拉斯加威廉王子海峽油輪之位置，並於油輪偏離其指定航路時，於船上可收到音響等警告；及
- (2) 由防衛隊人員使用依(i)款改善後之阿拉斯加 Valdez 港船舶交通管制系統確實管制威廉王子海峽油

desirability of instituting positive control of tank vessel movements in Prince William Sound by Coast Guard personnel using the Port of Valdez, Alaska, VTS system, as modified pursuant to paragraph (1).

輪動向之可能性及需要性，向參議院商業、科學及運輸委員會及眾議院商船及漁業委員會提出報告。

Sec. 2735 Equipment and personnel requirements under tank vessel

第 2735 條 油輪之裝備及人員要求

(a) In general - In addition to the requirements for response plans for vessels established by section 1321(j) of this title, a response plan for a tanker loading cargo at a facility permitted under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.), and a response plan for such a facility, shall provide for -

(a) 通則：除依本法修訂之聯邦水污染管制法第 1321(j) 項應建立之船舶應變計劃外，有關“油輪操作應變計劃，或依跨阿斯拉油管授權法於威廉王子海峽被許可運作之設施之應變計劃應提供：

(1) prepositioned oil spill containment and removal equipment in communities and other strategic locations within the geographic boundaries of Prince William Sound, including escort vessels with skimming capability; barges to receive recovered oil; heavy duty sea boom, pumping, transferring, and lightering equipment; and other appropriate removal equipment for the protection of the environment, including fish hatcheries;

(1) 於各社區及威廉王子海峽地理界區內之其他重要地點預置洩油容裝器及清除裝備，包括具有集油能力之護送船舶；接送回收油料之駁船；重吊桿船、幫浦、輸送及駁運裝備，及其他保護環境之適當裝備，包括魚卵孵化設備；

(2) the establishment of an oil spill removal organization at appropriate locations in Prince William Sound, consisting of trained personnel in sufficient numbers to immediately remove, to the maximum extent practicable, a worst case discharge or a discharge of 200,000 barrels of oil, whichever is greater;

(2) 於威廉王子海峽之適當地點設置洩油清除組織，包括訓練足夠之人員俾作立即將最惡劣情況之洩油，或 200,000 桶洩油，以較多者為準，清除至最大範圍；

(3) training in oil removal techniques for local residents and individuals engaged in the cultivation or production of fish or fish products in Prince William Sound;

(3) 訓練威廉王子海峽當地居民及從事魚類養殖生產業者油料清除技術；

(4) practice exercises not less than 2 times per year which test the capacity of the equipment and personnel required under this paragraph; and

(4) 每年至少舉行兩次實際操演以測試本項所要求人員及裝備之能力；及

(5) periodic testing and certification of equipment required under this paragraph, as required by the Secretary.

(5) 依運輸部長之要求，定期測試本項要求之裝備之合格度。

(b) Definitions - In this section -

(b) 定義：於本條中：

(1) the term "Prince William Sound" means all State and Federal waters within Prince William Sound, Alaska, including the approach to Hinchbrook Entrance out to and encompassing Seal Rocks; and

(1) “威廉王子海峽”係指於阿拉斯加威廉王子海峽以內所有州及聯邦水域，包括 Hinchbrook 進出口及 Seal 礁周圍；及

(2) the term "worst case discharge" means -

(2) “最惡劣情況之排洩”係指：

(A) in the case of a vessel, a discharge in adverse weather conditions of its entire cargo; and

(A) 船舶於惡劣氣候狀況下排洩全部貨油；及

(B) in the case of a facility, the largest foreseeable discharge in adverse weather conditions.

(B) 外海設施或陸上設施於惡劣氣候狀況下可預見之最大量排洩。

Sec. 2736 Funding

第 2736 條 基金

(a) Section 2731 - Amounts in the Fund shall be available, subject to appropriations, and shall remain available until expended, to carry out section 2731 of this title as follows:

(a) 第 2731 條：基金之款項應予備妥以備支付，以完成第 2731 條之所需：

(1) \$5,000,000 shall be available for the first fiscal year beginning after August 18, 1990.

(1) 於 1990 年 8 月 18 日後第一個會計年度可動支美元 5 百萬元。

(2) \$2,000,000 shall be available for each of the 9 fiscal years following the fiscal year described in paragraph (1).

(2) 在(1)款會計年度後 9 個會計年度每年可動支美元 2 百萬元。

(b) Sections 2733 and 2734 - Amounts in the Fund shall be available, without further appropriations and without fiscal year limitation, to carry out sections 2733 and 2734 of this title, in an amount not to exceed \$5,000,000.

(b) 第 2733 及 2734 條：基金之款項應予備妥，於不再作進一步指定用途及不受會計年度限制情況下，完成第 2733 及 2734 條總金額低於美元 5 百萬元之需求。

Sec. 2737 Limitation

Notwithstanding any other law, tank vessels that have spilled more than 1,000,000 gallons of oil into the marine environment after March 22, 1989, are prohibited from operating on the navigable waters of Prince William Sound, Alaska.

第 2737 條 限制

無論其他法律規定為何，1989 年 3 月 22 日以後會於海洋環境內洩油超過一百萬加侖之油輪，均禁止於阿拉斯加威廉王子海峽可航水域內作業。

Sec. 2751 Savings provision

(a) Cross-references - A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision of this Act.

(b) Continuation of regulations - An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision of this Act until repealed, amended, or superseded.

(c) Rule of construction - An inference of legislative construction shall not be drawn by reason of the caption or catch line of a provision enacted by this Act.

(d) Actions and rights - Nothing in this Act shall apply to any rights and duties that matured, penalties that were incurred, and proceedings that were begun before August 18, 1990, except as provided by this section, and shall be adjudicated pursuant to the law applicable on the date prior to August 18, 1990.

(e) Admiralty and maritime law - Except as otherwise provided in this Act, this Act does not affect -

(1) admiralty and maritime law; or

(2) the jurisdiction of the district courts of the United States with respect to civil actions under admiralty and maritime jurisdiction, saving to suitors in all cases all other remedies to which they are otherwise entitled.

第 2751 條 保留條款

(a) 相互參照：為瞭解由本法所取代之法律，包括有關之規則、命令、或其他法律，應參考本法之有關相對條款。

(b) 規定之連續性：經本法取代之法律，其有效之命令、規則或規定，於撤銷、修訂或廢止前，於本法相對條款中繼續有效。

(c) 解釋規則：不得以本法各條款之標題或首句為由，作為法定解釋之推論。

(d) 訴訟與權利：本法對於 1990 年 8 月 18 日本法施行前已定案之任何權利、已發生之處罰及本法實施前已進行之聽證案件均不適用，除本條另有規定，均應依 1990 年 8 月 18 日本法施行前所應適用之法律裁決。

(e) 海事及海商法：除本法另有規定外，包括本法之修正，本法不得影響：

(1) 海事及海商法；或

(2) 美國地方法院對海事及海商民事訴訟管轄權，原告於所有案件中具有其他救濟之資格。

Sec. 2752 Annual appropriations

(a) Required - Except as provided in subsection (b) of this section, amounts in the Fund shall be available only as provided in annual appropriation Acts.

(b) Exceptions - Subsection (a) of this section shall not apply to sections 2706(f), 2712(a)(4), or 2736(b) of this title, and shall not apply to an amount not to exceed \$50,000,000 in any fiscal year which the President may make available from the Fund to carry out section 1321(c) of this title and to initiate the assessment of natural resources damages required under section 2706 of this title. Sums to which this subsection applies shall remain available until expended.

第 2752 條 年度撥款

(a) 要件：除(b)項規定外，基金金額僅可依年度撥辦法之規定動支。

(b) 例外：(a)項不適用於第 2706(f)、2712(a)(4)或 2736(b)項，亦不適用於總統可由基金提撥以完成依本法修訂之聯邦水污染管制法第 1321(c)項及進行第 2706 條對天然資源損害之評估，任何一年度不得超過美元 5 百萬元之限制。適用本款之金額在動支前應予備妥。

Sec. 2753 Outer Banks protection

- (a) Short title - This section may be cited as the "Outer Banks Protection Act".
- (b) Findings - The Congress finds that -
- (1) the Outer Banks of North Carolina is an area of exceptional environmental fragility and beauty;
 - (2) the annual economic benefits of commercial and recreational fishing activities to North Carolina, which could be adversely affected by oil or gas development offshore the State's coast, exceeds \$1,000,000,000;
 - (3) the major industry in coastal North Carolina is tourism, which is subject to potentially significant disruption by offshore oil or gas development;
 - (4) the physical oceanographic characteristics of the area offshore North Carolina between Cape Hatteras and the mouth of the Chesapeake Bay are not well understood, being affected by Gulf Stream western boundary perturbations and accompanying warm filaments, warm and cold core rings which separate from the Gulf Stream, wind stress, outflow from the Chesapeake Bay, Gulf Stream meanders, and intrusions of Virginia coastal waters around and over the Diamond shoals;
 - (5) diverse and abundant fisheries resources occur in the western boundary area of the Gulf Stream offshore North Carolina, but little is understood of the complex ecological relationships between the life histories of those species and their physical, chemical, and biological environment;
 - (6) the environmental impact statements prepared for Outer Continental Shelf lease sales numbered 56 (1981) and 78 (1983) contain insufficient and outdated environmental information from which to make decisions on approval of additional oil and gas leasing, exploration, and development activities;
 - (7) the draft environmental report, dated November 1, 1989, and the preliminary final environmental report dated June 1, 1990, prepared pursuant to a July 14, 1989 memorandum of understanding between the State of North Carolina, the Department of the Interior, and the Mobil Oil Company, have not allayed concerns about the adequacy of the environmental information available to determine whether to proceed with additional offshore leasing, exploration, or development offshore North Carolina; and
 - (8) the National Research Council report entitled "The Adequacy of Environmental Information for Outer Continental Shelf Oil and Gas Decisions: Florida and California", issued in 1989, concluded that -
 - (A) information with respect to those States, which have received greater scrutiny than has North Carolina, is inadequate; and
 - (B) there are serious generic defects in the Minerals Management Service's methods of environmental analysis, reinforcing concerns about the adequacy of the scientific and technical information which are the basis for a decision to lease additional tracts or approve an exploration plan offshore North Carolina, especially with respect to oceanographic, ecological, and socioeconomic information.

第 2753 條 外海灘之保護

- (a) 名稱：本條定名為“外海灘保護法”。
- (b) 認定：國會認定：
- (1) 北卡州之外海灘係為一環境特別脆弱而美麗之區域；
 - (2) 可能受到開發石油及天然氣之不當影響之北卡州商業及休閒漁釣活動之經濟利益，每年達美元十億元；
 - (3) 北卡州海岸主要工業為旅遊業，因外海石油及天然氣之開發已遭致潛在之嚴重破壞；
 - (4) 北卡州 Hatteras 角及 Chesapeake 灣口間區域之海洋自然特性尚未被充分認識，諸如受墨西哥灣流西緣擾亂之影響及隨溫暖灣流形成冷暖環而將灣流隔開、風力、Chesapeake 灣之海流、墨西哥灣流之蜿蜒及維州海岸之海水強行流向 Diamond 灘；
 - (5) 北卡州灣流西部邊緣有豐富之漁業資源，然其對魚類生活史與自然、化學及生物環境相互間之生態關係甚少瞭解。
 - (6) 為外大陸礁層承租契約第 56 號(1981 年)及第 78 號(1983 年)而提出之環境衝擊說明，其中據以批准增加石油及天然氣之承租、探測與開發之環境資訊均欠充分且過時；
 - (7) 依 1989 年 7 月 14 日北卡州、內政部及美孚石油公司間之備忘錄所訂定之 1989 年 11 月 1 日環境報告書及 1990 年 6 月 1 日之環境報告結論對於決定增加之外海承租、探測、或開發北卡州外海所需之環境資料是否適當性之關切並未消除；及
 - (8) 國家研究理事會於 1989 年提出一份名為“決定大陸礁層石油及天然氣所需環境資料：佛州及加州”之報告，其結論為：
 - (A) 與該二州有關之資料，其審查雖較北卡州詳盡，然仍不適當；及
 - (B) 於礦物管理服務之環境分析方法上有嚴重缺失，更加重對據以決定增加承租管道或批准北卡州外海探測計劃所需科學及技術資料之關切，尤以有關海洋、生態、及社會經濟資

- (c) Prohibition of oil and gas leasing, exploration, and development
- (1) Prohibition - The Secretary of the Interior shall not -
- conduct a lease sale;
 - issue any new leases;
 - approve any exploration plan;
 - approve any development and production plan;
 - approve any application for permit to drill; or
 - permit any drilling,
- for oil or gas under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) on any lands of the Outer Continental Shelf offshore North Carolina.
- (2) Boundaries For purposes of paragraph (1), the term "offshore North Carolina" means the area within the lateral seaward boundaries between areas offshore North Carolina and areas offshore -
- Virginia as provided in the joint resolution entitled "Joint resolution granting the consent of Congress to an agreement between the States of North Carolina and Virginia establishing their lateral seaward boundary" approved October 27, 1972 (86 Stat. 1298); and
 - South Carolina as provided in the Act entitled "An Act granting the consent of Congress to the agreement between the States of North Carolina and South Carolina establishing their lateral seaward boundary" approved October 9, 1981 (95 Stat. 988).
- (3) Duration of prohibition
- In general - The prohibition under paragraph (1) shall remain in effect until the later of -
 - October 1, 1991; or
 - 45 days of continuous session of the Congress after submission of a written report to the Congress by the Secretary of the Interior, made after consideration of the findings and recommendations of the Environmental Sciences Review Panel under subsection (e) of this section -
 - certifying that the information available, including information acquired pursuant to subsection (d) of this section, is sufficient to enable the Secretary to carry out his responsibilities under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) with respect to authorizing the activities described in paragraph (1); and
 - including a detailed explanation of any differences between such certification and the findings and recommendations of the Environmental Sciences Review Panel under subsection (e) of this section, and a detailed justification of each such difference.
 - Continuous session of Congress - In computing any 45-day period of continuous session of Congress under subparagraph (A)(ii) -
 - continuity of session is broken only by an adjournment of the Congress sine die; and
 - the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain are excluded.
- (d) Additional environmental information - The Secretary of the Interior
- 訊為然。
- (c) 石油及天然氣承租、探測及開發之禁止：
- 禁止：內政部依外大陸礁層土地法(美國法典第 43 篇第 1331 條)不得對在北卡州外大陸礁外海任何土地上之石油及天然氣：
 - 進行租售；
 - 訂定任何新紐約
 - 批准任何探測計劃；
 - 批准任何開發及生產計劃；
 - 批准任何准許鑽探之申請；
 - 准許任何鑽探。
 - 界限：為(1)項之目的，"北卡州外海"乙詞係指北卡州外海與下列各州外海向海兩側間之區域：
 - 維州係依 1972 年 10 月 27 日批准之"國會同意之北卡州與維州設定向海界限共同決議"中共同決議之規定。
 - 維州係依 1981 年 10 月 9 日批准之"國會同意之北卡州與南卡州設定向海界限法案"中之法律規定。
 - 禁止期限：
 - 通則：(1)項之禁止於下列日期前均屬有效：
 - 1991 年 10 月 1 日；或
 - 內政部依(e)項規定，於考量環境科學小組所作之認定及建議後，向國會提出書面報告，經國會連續 45 天會期後；
 - 證明可用之資料，包括依(d)項所獲得之資料，足以使內政部依照外大陸礁層土地法對有關(1)項之授權事宜執行其職責；及
 - 包括對前項資料與(e)項環境科學審查小組之認定及建議任何不同之點詳細之說明，及每一不同之點之詳細理由。
 - 國會連續會期：第(A)(ii)款對任何 45 天連續會期之計算：
 - 國會連續會期之中斷僅限於無限期休會情形；及
 - 休會超過 3 天至復會之日期間國會不開會之天數均不予算。
- (d) 額外環境資料：內政部應進行生

- shall undertake ecological and socioeconomic studies, additional physical oceanographic studies, including actual field work and the correlation of existing data, and other additional environmental studies, to obtain sufficient information about all significant conditions, processes, and environments which influence, or may be influenced by, oil and gas leasing, exploration, and development activities offshore North Carolina to enable the Secretary to carry out his responsibilities under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) with respect to authorizing the activities described in subsection (c)(1) of this section. During the time that the Environmental Sciences Review Panel established under subsection (e) of this section is in existence, the Secretary of the Interior shall consult with such Panel in carrying out this subsection.
- (e) Environmental Sciences Review Panel
- (1) Establishment and membership - There shall be established an Environmental Sciences Review Panel, to consist of -
- (A) 1 marine scientist selected by the Secretary of the Interior;
- (B) 1 marine scientist selected by the Governor of North Carolina; and
- (C) 1 person each from the disciplines of physical oceanography, ecology, and social science, to be selected jointly by the Secretary of the Interior and the Governor of North Carolina from a list of individuals nominated by the National Academy of Sciences.
- (2) Functions - Not later than 6 months after August 18, 1990, the Environmental Sciences Review Panel shall -
- (A) prepare and submit to the Secretary of the Interior findings and recommendations -
- (i) assessing the adequacy of available physical oceanographic, ecological, and socioeconomic information in enabling the Secretary to carry out his responsibilities under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) with respect to authorizing the activities described in subsection (c)(1) of this section; and
- (ii) if such available information is not adequate for such purposes, indicating what additional information is required to enable the Secretary to carry out such responsibilities; and
- (B) consult with the Secretary of the Interior as provided in subsection (d) of this section.
- (3) Expenses - Each member of the Environmental Sciences Review Panel shall be reimbursed for actual travel expenses and shall receive per diem in lieu of subsistence for each day such member is engaged in the business of the Environmental Sciences Review Panel.
- (4) Termination - The Environmental Sciences Review Panel shall be terminated after the submission of all findings and recommendations required under paragraph (2)(A).
- (f) Authorization of appropriations - There are authorized to be appropriated to the Secretary of the Interior to carry out this section not to exceed \$500,000 for fiscal year 1991, to remain available until expended.

態及社會經濟之研究，增加海洋自然研究，包括實地工作及蒐集有密切關係之資料及其他增進環境之研究，以獲得有關所有情況、程序、及影響環境或可能影響環境、石油及天然氣之承租、探測、及北卡州開發等充分資料，俾使內政部得以依照外大陸礁層土地法對有關(c)(1)款之授權事宜送行其職責。(e)項之環境科學審查小組組成後，內政部應與其磋商以完成此項之要求。

- (e) 環境科學審查小組
- (1) 設立及成員：應設立環境科學審查小組，包含：
- (A) 由內政部選定之海洋科學家 1 人；
- (B) 由北卡州長選定之海洋科學家 1 人；
- (C) 於國家科學院提名名單中由內政部長及北卡州州長共同選出具有海洋自然、生態、及社會科學素養之人員各 1 人。
- (2) 功能：本法施行後 6 個月內，環境科學審查小組應：
- (A) 將擬訂之認定與建議提報內政部：
- (i) 評估可採用之海洋自然、生態及社會經濟資料，使內政部長得以依照外大陸礁層土地法對(c)(1)款之授權事宜執行其職責；及
- (ii) 此項資料無法達成所需目的時，表示需要另行增強資料俾內政部得以執行其職責；及
- (B) 依(d)項與內政部磋商。
- (3) 費用：小組各成員應實支旅行費用，以每天旅費代替生活費，依其在環境科學審查小組從事工作時每天支領。
- (4) 終止：環境科學審查小組應於提出(2)(A)之報告後結束。
- (f) 撥款權：為完成本條茲授權備妥於 1991 年會計年度撥款不超過美元五十萬元給內政部長。

SUBCHAPTER IV - OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM

第四章 油污染研究發展計劃

Sec. 2761 Oil pollution research and development program

- (a) Interagency Coordinating Committee on Oil Pollution Research
- (1) Establishment - There is established an Interagency Coordinating Committee on Oil Pollution Research (hereinafter in this section referred to as the "Interagency Committee").
 - (2) Purposes - The Interagency Committee shall coordinate a comprehensive program of oil pollution research, technology development, and demonstration among the Federal agencies, in cooperation and coordination with industry, universities, research institutions, State governments, and other nations, as appropriate, and shall foster cost-effective research mechanisms, including the joint funding of research.
 - (3) Membership - The Interagency Committee shall include representatives from the Department of Commerce (including the National Oceanic and Atmospheric Administration and the National Institute of Standards and Technology), the Department of Energy, the Department of the Interior (including the Minerals Management Service and the United States Fish and Wildlife Service), the Department of Transportation (including the United States Coast Guard, the Maritime Administration, and the Research and Special Projects Administration), the Department of Defense (including the Army Corps of Engineers and the Navy), the Environmental Protection Agency, the National Aeronautics and Space Administration, and the United States Fire Administration in the Federal Emergency Management Agency, as well as such other Federal agencies as the President may designate. A representative of the Department of Transportation shall serve as Chairman.
- (b) Oil pollution research and technology plan
- (1) Implementation plan - Within 180 days after August 18, 1990, the Interagency Committee shall submit to Congress a plan for the implementation of the oil pollution research, development, and demonstration program established pursuant to subsection (c) of this section. The research plan shall -
 - (A) identify agency roles and responsibilities;
 - (B) assess the current status of knowledge on oil pollution prevention, response, and mitigation technologies and effects of oil pollution on the environment;
 - (C) identify significant oil pollution research gaps including an assessment of major technological deficiencies in responses to past oil discharges;
 - (D) establish research priorities and goals for oil pollution technology development related to prevention, response, mitigation, and environmental effects;
 - (E) estimate the resources needed to conduct the oil pollution research and development program established pursuant to subsection (c) of this section, and timetables for completing research tasks; and
 - (F) identify, in consultation with the States, regional oil pollution research needs and priorities for a coordinated, multidisciplinary program of research at the regional level.
 - (2) Advice and guidance - The Chairman, through the Department of Transportation, shall contract with the National Academy of Sciences to -
 - (A) provide advice and guidance in the preparation and development of the research plan; and
 - (B) assess the adequacy of the plan as submitted, and submit a

第 2761 條 油污染研究發展計劃

- (a) 油污染研究機構間協調委員會
- (1) 設立：設立機構間協調委員會進行油污染研究(本條以下稱“機構間委員會”)。
 - (2) 目的：機構間委員會應與聯邦各機構協調，訂定油污染、技術發展及示範之一般計畫，並與業者、各大學、各研究機構、各州政府、需要時並與其他各國合作協調，並支援具成本效益之研究機構，包括支援聯合研究費用。
 - (3) 成員：機構間委員會應包括商業部(包括國家海洋及大氣局，及國家標準技術學院)、能源部、內政部(包括礦物管理處，及美國魚類及野生動物管理處)、運輸部：包括美國海岸防衛隊、航政局、及研究與特別計畫局)、國防部。包括陸軍工程隊及海軍工程隊、環境保護署、國家太空總署、及設於聯邦緊急處理機構中之美國消防局之代表，及總統指定之聯邦機構。委員會主席為運輸部之代表。
- (b) 油污染研究及技術計劃
- (1) 實施計劃：本法施行後 180 天內，應將依 c 項擬訂之油污染、發展及示範計劃提報國會。此一研究計劃應：
 - (A) 確認機構之作用及職責；
 - (B) 評估對油污染防止、應變與減輕技術之知識，及油污染對環境影響之當前狀況；
 - (C) 鑑定油污染研究之重大缺失，包括對過去洩油應變技術上主要缺失之評估；
 - (D) 建立研究有關防止、應變、減輕及環境影響在油污染技術發展方面之優先順序與目標；
 - (E) 評估依(c)項進行油污染研究發展計劃所需要之協助及完成研究任務之時間表；
 - (F) 並與各州磋商以鑑定，經充分協調地區層面，具有多重學術之研究計劃之需要性與優先順序。
 - (2) 建議與指導：委員會主席應經由運輸部與國家科學院簽約以：
 - (A) 提供對研究計劃之擬訂與發展方面之建議與指導；及
 - (B) 評估所提研究計劃之適切

report to Congress on the conclusions of such assessment. The National Institute of Standards and Technology shall provide the Interagency Committee with advice and guidance on issues relating to quality assurance and standards measurements relating to its activities under this section.

(c) Oil pollution research and development program

- (1) Establishment - The Interagency Committee shall coordinate the establishment, by the agencies represented on the Interagency Committee, of a program for conducting oil pollution research and development, as provided in this subsection.
- (2) Innovative oil pollution technology - The program established under this subsection shall provide for research, development, and demonstration of new or improved technologies which are effective in preventing or mitigating oil discharges and which protect the environment, including -
 - (A) development of improved designs for vessels and facilities, and improved operational practices;
 - (B) research, development, and demonstration of improved technologies to measure the ullage of a vessel tank, prevent discharges from tank vents, prevent discharges during lightering and bunkering operations, contain discharges on the deck of a vessel, prevent discharges through the use of vacuums in tanks, and otherwise contain discharges of oil from vessels and facilities;
 - (C) research, development, and demonstration of new or improved systems of mechanical, chemical, biological, and other methods (including the use of dispersants, solvents, and bioremediation) for the recovery, removal, and disposal of oil, including evaluation of the environmental effects of the use of such systems;
 - (D) research and training, in consultation with the National Response Team, to improve industry's and Government's ability to quickly and effectively remove an oil discharge, including the long-term use, as appropriate, of the National Spill Control School in Corpus Christi, Texas;
 - (E) research to improve information systems for decisionmaking, including the use of data from coastal mapping, baseline data, and other data related to the environmental effects of oil discharges, and cleanup technologies;
 - (F) development of technologies and methods to protect public health and safety from oil discharges, including the population directly exposed to an oil discharge;
 - (G) development of technologies, methods, and standards for protecting removal personnel, including training, adequate supervision, protective equipment, maximum exposure limits, and decontamination procedures;
 - (H) research and development of methods to restore and rehabilitate natural resources damaged by oil discharges;
 - (I) research to evaluate the relative effectiveness and environmental impacts of bioremediation technologies; and
 - (J) the demonstration of a satellite-based, dependent surveillance vessel traffic system in Narragansett Bay to evaluate the utility of such system in reducing the risk of oil discharges from vessel collisions and groundings in confined waters.

性，並將評估結論提報國會。國家標準技術學會應對機構間委員會依本條所訂之各項作業就有關品質保證及標準衡量提供建議與指導。

(c) 油污染研究與發展計劃：

- (1) 設立：機構間委員會應與代表機構間委員會各機構協調擬訂本項所指油污染研究與發展計劃。
- (2) 油污染革新技術：本項訂定之計劃，應提供可有效防止或減輕洩油與保護環境之新的或改進技術之研究及發展與示範，包括：
 - (A) 對船舶及設施設計上之改進及增進作業效能之發展；
 - (B) 對測量油艙油位，防止油艙通氣孔洩油、防止卸駁及裝燃油作業時之洩油、承裝船舶甲板上之洩油、防止於油艙內使用抽油機時之洩油、及其他船舶及設施承裝洩油方法之研究、發展與示範技術之改進；
 - (C) 對用以回收、清除及處理油料之新式或改進之機械、化學、生物及其他方法(包括消散物、溶解物及生物方法之使用)之研究、發展及示範，包括對使用此等方法對環境影響之評估；
 - (D) 經與國家應變小組磋商，以增進業者及政府迅速而有效之清除洩油能力，包括長期使用位於德州 Corpus Christi 之國家洩油控制學校之研究與訓練；
 - (E) 對決策用資訊系統改進之研究，包括海岸製圖資料、基準線資料及其他有關洩油影響環境之資訊，及淨化技術；
 - (F) 洩油時保護公共衛生及安全之技術與方法之發展，包括直接暴露於洩油之民眾；
 - (G) 保護清除人員之技術、方法及標準之發展，包括訓練、適當之督導、保護裝備、最大暴露限度及消毒程序；
 - (H) 遭洩油損害天然資源恢復及重建方法之研究與發展；
 - (I) 使用生物技術效果及對環境之衝擊，加以評估之研究；
 - (J) 對評估在 Narragansett 灣使用衛星偵測船舶交通管制系統，以減少船舶在狹窄水域碰撞及擱淺洩油風險之示

(3) Oil pollution technology evaluation - The program established under this subsection shall provide for oil pollution prevention and mitigation technology evaluation including -

- (A) the evaluation and testing of technologies developed independently of the research and development program established under this subsection;
- (B) the establishment, where appropriate, of standards and testing protocols traceable to national standards to measure the performance of oil pollution prevention or mitigation technologies; and
- (C) the use, where appropriate, of controlled field testing to evaluate real-world application of oil discharge prevention or mitigation technologies.

(4) Oil pollution effects research

(A) The Committee shall establish a research program to monitor and evaluate the environmental effects of oil discharges. Such program shall include the following elements:

- (i) The development of improved models and capabilities for predicting the environmental fate, transport, and effects of oil discharges.
- (ii) The development of methods, including economic methods, to assess damages to natural resources resulting from oil discharges.
- (iii) The identification of types of ecologically sensitive areas at particular risk to oil discharges and the preparation of scientific monitoring and evaluation plans, one for each of several types of ecological conditions, to be implemented in the event of major oil discharges in such areas.
- (iv) The collection of environmental baseline data in ecologically sensitive areas at particular risk to oil discharges where such data are insufficient.

(B) The Department of Commerce in consultation with the Environmental Protection Agency shall monitor and scientifically evaluate the long-term environmental effects of oil discharges if -

- (i) the amount of oil discharged exceeds 250,000 gallons;
- (ii) the oil discharge has occurred on or after January 1, 1989; and
- (iii) the Interagency Committee determines that a study of the long-term environmental effects of the discharge would be of significant scientific value, especially for preventing or responding to future oil discharges.

Areas for study may include the following sites where oil discharges have occurred: the New York/New Jersey Harbor area, where oil was discharged by an Exxon underwater pipeline, the T/B CIBRO SAVANNAH, and the M/V BT NAUTILUS; Narragansett Bay where oil was discharged by the WORLD PRODIGY; the Houston Ship Channel where oil was discharged by the RACHEL B; the Delaware River, where oil was discharged by the PRESIDENTE RIVERA, and Huntington Beach, California, where oil was discharged by the AMERICAN TRADER.

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(3)油污染技術評估：依本項所訂之計劃係提供防止及減輕洩油技術之評估，包括：

- (A)於依本項訂定之研究發展計畫中單獨發展之技術評估與測試；
- (B)測量污染防止或減輕技術效果國家標準及測試標準之建立；
- (C)運用實地測試方式，以評估洩油防止及減輕技術之實用性。

(4)洩油影響之研究：

(A)委員會應擬訂計劃，以監測及評估洩油對環境之影響。此項計劃應包括下列要點

- (i) 於環境安危、交通及洩油影響之預測模式與能力上之發展。
- (ii)對洩油造成天然資源損害之評估方法，包括經濟方法之發展。
- (iii)對洩油高風險生態敏感區類型之鑑定，及在各種生態情況下科學監測及評估計劃之擬訂，俾供在該區域發生重大洩油時實施。

(iv)於前項資料欠充足時，於洩油高風險生態敏感區對環境基準線資料之蒐集。

(B)商業部經與環境保護署磋商後，應對洩油對環境之長期影響加以監測及科學之評估，如：

- (i)洩油量超過 25 萬加侖時；
- (ii)於 1989 年 1 月 1 日以後發生洩油時；及；
- (iii)機構間委員會認為研究洩油對環境之長期影響具有重大科學價值，特別在對未來洩油之防止與應變時。

研究範圍可包括下列已發生洩油事件之場所：愛克森石油公司水下油管於紐約新澤西港區之洩油；Cibro Savannah 號及 Nautilus 號在紐約新澤西港區之洩油；World Prodigy 號於 Narragansett 灣之洩油；Rachel 號於休士頓航道之洩油；Rivera 號在 Delaware 河之洩油；American Trader 號在加州 Huntington 灘之洩油。

- (C) Research conducted under this paragraph by, or through, the United States Fish and Wildlife Service shall be directed and coordinated by the National Wetland Research Center.
- (5) Marine simulation research - The program established under this subsection shall include research on the greater use and application of geographic and vessel response simulation models, including the development of additional data bases and updating of existing data bases using, among others, the resources of the National Maritime Research Center. It shall include research and vessel simulations for -
- (A) contingency plan evaluation and amendment;
- (B) removal and strike team training;
- (C) tank vessel personnel training; and
- (D) those geographic areas where there is a significant likelihood of a major oil discharge.
- (6) Demonstration projects - The United States Coast Guard, in conjunction with other such agencies in the Department of Transportation as the Secretary of Transportation may designate, shall conduct 4 port oil pollution minimization demonstration projects, one each with (A) the Port Authority of New York and New Jersey, (B) the Ports of Los Angeles and Long Beach, California, (C) the Port of New Orleans, Louisiana, and (D) ports on the Great Lakes, for the purpose of developing and demonstrating integrated port oil pollution prevention and cleanup systems which utilize the information and implement the improved practices and technologies developed from the research, development, and demonstration program established in this section. Such systems shall utilize improved technologies and management practices for reducing the risk of oil discharges, including, as appropriate, improved data access, computerized tracking of oil shipments, improved vessel tracking and navigation systems, advanced technology to monitor pipeline and tank conditions, improved oil spill response capability, improved capability to predict the flow and effects of oil discharges in both the inner and outer harbor areas for the purposes of making infrastructure decisions, and such other activities necessary to achieve the purposes of this section.
- (7) Simulated environmental testing Agencies represented on the Interagency Committee shall ensure the long-term use and operation of the Oil and Hazardous Materials Simulated Environmental Test Tank (OHMSETT) Research Center in New Jersey for oil pollution technology testing and evaluations.
- (8) Regional research program
- (A) Consistent with the research plan in subsection (b) of this section, the Interagency Committee shall coordinate a program of competitive grants to universities or other research institutions, or groups of universities or research institutions, for the purposes of conducting a coordinated research program related to the regional aspects of oil pollution, such as prevention, removal, mitigation, and the effects of discharged oil on regional environments. For the purposes of this paragraph, a region means a Coast Guard district as set out in part 3 of title 33, Code of Federal Regulations (1989).
- (B) The Interagency Committee shall coordinate the publication by the agencies represented on the Interagency Committee
- (C) 依本款所進行或經由美國魚類及野生動物管理處所進行之研究，均應由 Wetland 國家研究中心指導協調。
- (5) 海洋模擬研究：依本項所訂定之計劃，應包括對地理及船舶模擬模型之更大利用之研究，包括利用國家海事研究中心及其他方面之資源對額外基本資料庫及現有資料庫更新之發展。此項研究並應包括下列研究與船舶模擬：
- (A) 緊急計劃之評鑑與修訂；
- (B) 清除及處理小組之訓練；
- (C) 油輪人員之訓練；及
- (D) 極可能發生重大洩油之地理區域。
- (6) 示範計劃：美國海岸防衛隊與運輸部指定之機構應共同擬訂四處港口實施減少油污示範計劃，各為：(A) 紐約及新澤西州港務局、(B) 加州洛杉磯及長堤港、(C) 路易斯安那州之紐奧良港及(D) 大湖區港口，以發展並示範依本條所訂定之研究、發展及示範計畫所發展出之資訊及改進之作業技術，以達成各港口污染防止及淨化系統整合性之發展與示範目的。此項方式應運用為減少油污風險所改進之技術及管理作業，包括適當改進之資訊使用、油料運輸之電腦追蹤、改進船舶追蹤及航行系統、改進油管及油槽情況監測技術、改進洩油應變能力、改進為決策之目的對在內外港區域洩油預測其流向及影響之能力、及其他為達成本條目之必要措施。
- (7) 模擬環境測試：代表機構間委員會之機構，應確實長期性使用操作於新澤西州研究中心為測試及評估油污技術所建造有害物質模擬環境測試槽 (OHMSETT)
- (8) 地區研究計劃：
- (A) 機構間委員會應與各大學或研究機構協調擬訂一項與 (b) 項計劃一致之計劃，進行協調此項計畫中有關地區油污污染之事項，例如洩油之防止、清除、減輕及對地區環境之影響。為本款之目的，地區係指依 1989 年聯邦法第 33 篇第 3 部份所劃定之海岸防衛區。
- (B) 機構間委員會應與委員會各代表機構協調依本項請求發

of a solicitation for grants under this subsection. The application shall be in such form and contain such information as may be required in the published solicitation. The applications shall be reviewed by the Interagency Committee, which shall make recommendations to the appropriate granting agency represented on the Interagency Committee for awarding the grant. The granting agency shall award the grants recommended by the Interagency Committee unless the agency decides not to award the grant due to budgetary or other compelling considerations and publishes its reasons for such a determination in the Federal Register. No grants may be made by any agency from any funds authorized for this paragraph unless such grant award has first been recommended by the Interagency Committee.

- (C) Any university or other research institution, or group of universities or research institutions, may apply for a grant for the regional research program established by this paragraph. The applicant must be located in the region, or in a State a part of which is in the region, for which the project is proposed as part of the regional research program. With respect to a group application, the entity or entities which will carry out the substantial portion of the proposed research must be located in the region, or in a State a part of which is in the region, for which the project is proposed as part of the regional research program.
 - (D) The Interagency Committee shall make recommendations on grants in such a manner as to ensure an appropriate balance within a region among the various aspects of oil pollution research, including prevention, removal, mitigation, and the effects of discharged oil on regional environments. In addition, the Interagency Committee shall make recommendations for grants based on the following criteria:
 - (i) There is available to the applicant for carrying out this paragraph demonstrated research resources.
 - (ii) The applicant demonstrates the capability of making a significant contribution to regional research needs.
 - (iii) The projects which the applicant proposes to carry out under the grant are consistent with the research plan under subsection (b)(1)(F) of this section and would further the objectives of the research and development program established in this section.
 - (E) Grants provided under this paragraph shall be for a period up to 3 years, subject to annual review by the granting agency, and provide not more than 80 percent of the costs of the research activities carried out in connection with the grant.
 - (F) No funds made available to carry out this subsection may be used for the acquisition of real property (including buildings) or construction of any building.
 - (G) Nothing in this paragraph is intended to alter or abridge the authority under existing law of any Federal agency to make grants, or enter into contracts or cooperative agreements, using funds other than those authorized in this Act for the purposes of carrying out this paragraph.
- (9) Funding - For each of the fiscal years 1991, 1992, 1993, 1994,

行刊物。申請者應依照規定之格式及內容資料。申請書應由機構間委員會審議，並建議權責機構予以批准。權責機構應依機構間委員會之建議予以批准，除非該機構認為由有經費或其他被迫之考慮因素，並在聯邦登記錄上予以刊行。任何機構均不得動用依本款授權之基金，除非機構間委員會已建議批准。

- (C)任一所大學或研究機構，或一組大學或研究機構，均得申請獎助，以從事本款所訂之地區研究分計劃。求償權人必須係在該地區內者，或某州其一部份係位於此地區內者，其分計畫即係該地區計畫之一部份。對集體之申請，實際完成此項研究之某單位或各單位必須係在該地區內或某州其一部份係位於此地區內，其分計畫係該地區計畫之一部份。
 - (D)機構間委員會應對地區內有關洩油之防止、清除、減輕及對地區環境之影響各方面之油污研究，加以平衡推動。此外，機構間委員會並應對下列事項建議加以獎助：
 - (i)求償權人依本款所示之研究資源進行研究時。
 - (ii)求償權人證明對地區研究所需具有重大貢獻能力時。
 - (iii)求償權人申請之研究計畫與(b)(1)(F)之研究計畫一致，並可進一步達成本條研究及發展計畫目標時。
 - (E)獎助之期限為3年，每年由批准機構加以審查，所提供之費用不得超過完成本項計畫全部研究活動費用之80%。
 - (F)執行本項之基金不得用於購置不動產(包括建築物)或建造任何建築物。
 - (G)本項無意更改或削弱現有法律或聯邦機構對獎助之提供，或運用非本項授權動支之基金，以訂定合約或合作協議。
- (9)基金：在1991年、1992年、1993

and 1995, \$6,000,000 of amounts in the Fund shall be available to carry out the regional research program in paragraph (8), such amounts to be available in equal amounts for the regional research program in each region; except that if the agencies represented on the Interagency Committee determine that regional research needs exist which cannot be addressed within such funding limits, such agencies may use their authority under paragraph (10) to make additional grants to meet such needs. For the purposes of this paragraph, the research program carried out by the Prince William Sound Oil Spill Recovery Institute established under section 2731 of this title, shall not be eligible to receive grants under this paragraph.

- (10) Grants - In carrying out the research and development program established under this subsection, the agencies represented on the Interagency Committee may enter into contracts and cooperative agreements and make grants to universities, research institutions, and other persons. Such contracts, cooperative agreements, and grants shall address research and technology priorities set forth in the oil pollution research plan under subsection (b) of this section.
- (11) Utilization of resources - In carrying out research under this section, the Department of Transportation shall continue to utilize the resources of the Research and Special Programs Administration of the Department of Transportation, to the maximum extent practicable.
- (d) International cooperation - In accordance with the research plan submitted under subsection (b) of this section, the Interagency Committee shall coordinate and cooperate with other nations and foreign research entities in conducting oil pollution research, development, and demonstration activities, including controlled field tests of oil discharges.
- (e) Biennial reports - The Chairman of the Interagency Committee shall submit to Congress every 2 years on October 30 a report on the activities carried out under this section in the preceding 2 fiscal years, and on activities proposed to be carried out under this section in the current 2 fiscal year period.
- (f) Funding - Not to exceed \$22,000,000 of amounts in the Fund shall be available annually to carry out this section except for subsection (c)(8) of this section. Of such sums -
- (1) funds authorized to be appropriated to carry out the activities under subsection (c)(4) of this section shall not exceed \$5,000,000 for fiscal year 1991 or \$3,500,000 for any subsequent fiscal year; and
 - (2) not less than \$3,000,000 shall be available for carrying out the activities in subsection (c)(6) of this section for fiscal years 1992, 1993, 1994, and 1995.
- All activities authorized in this section, including subsection (c)(8) of this section, are subject to appropriations.

年、1994 年及 1995 年每一會計年度，基金應準備美元六百萬元之金額以完成第(8)項之地區研究計劃。各地區之地區研究計劃金額均屬相等。如代表機構間委員會之機構認為此項基金之限額不敷地區研究之需，此等機構得依(10)款之授權，另行增加獎助費用。為本項之目的，依第 2731 條設立之威廉王子海峽洩油回收學校所實施之研究計劃，在其存續期間，應為海岸防衛隊第 17 區所制訂之地區研究計劃。

- (10) 獎助事項：在執行事項之研究與發展計劃時，代表機構間委員會之機構可與大學、研究機構及其他人訂定合約或合作協議。並提供獎助予各大學、研究機構與其他人員。此項合約、合作協議、及獎助事項中應依(b)項油污染研究計劃之規定，載明研究與技術之優先順序。
- (11) 於執行本條之研究時，運輸部應繼續充分利用運輸部研究與特別計劃處之支援。
- (d) 國際間合作：依(b)項所提出之研究計劃，機構間委員會應與其他國家或外國研究團體協調合作從事污染研究、發展及示範活動，包括管制性之洩油實地測試。
- (e) 雙年度報告：機構間委員會應於每兩年之 10 月 30 日將執行本條過去二會計年度之活動及未來兩會計年度活動計劃提報國會。
- (f) 基金：執行本條之基金金額不得超過美元 2,200 萬元，(c)(8)款除外。其金額為：
- (1) 1991 會計年度撥付(c)(4)款活動之基金超過美元 500 萬元或其以後會計年度不得超過美元 350 萬元；及
 - (2) 1992 年、1993 年、1994 年、1995 年會計年度撥付實施(c)(6)款活動基金不應少於美元 300 萬元。所有本條授權之活動，包括(c)(8)款在內，均予撥款。