

Amendment in the Nature of a Substitute to
S. 917 – OUTER CONTINENTAL SHELF REFORM ACT of 2011
To Be Offered by Senators Bingaman and Murkowski
June 2011

PURPOSES

The statutory purposes of the underlying bill, which this amendment generally preserves, are: to rationalize and reform the responsibilities of the Secretary of the Interior with respect to the resources of the Outer Continental Shelf (OCS) to improve management, oversight, accountability, and safety; to provide independent enforcement of safety and environmental statutes and development of regulations governing offshore activities; and to provide independent research capacity on issues related to the safety of offshore development including well containment and oil spill response.

SUMMARY OF MAJOR PROVISIONS

Structural Reform of Outer Continental Shelf Program Management

Section 4 reforms the organizational management of the OCS in several major ways. It would require reorganization of the agency so that the revenue collection functions are kept separate from the other functions; that no more than two other bureaus are to be designated to carry out the leasing, safety, and environmental functions in a way that minimizes potential conflicts of interest; and that the heads of those bureaus or offices created be appointed by the President and confirmed by the Senate. It would provide the Secretary with special hiring and compensation authorities for a certain number of employees as necessary to ensure that the agency has the technical ability to carry out its safety and environmental functions. Finally, it would formalize the current safety advisory board by creating the Outer Continental Shelf Safety and Environmental Advisory Board intended to be comprised of a balanced, unbiased group of experts selected through consultation with the National Academies of Science and Engineering to reflect a range of disciplines related to safe and environmentally responsible energy and mineral development activities. This Board would provide independent peer reviewed scientific and technical advice for use by the agency in carrying out its safety and environmental responsibilities in the development of OCS resources under the Department's jurisdiction.

Safety and Related Reform

Safety Requirements -- Section 5 would amend various aspects of the Outer Continental Shelf Lands Act to strengthen the planning, safety, and resource management requirements involved in offshore energy development to prevent future accidents and to create a culture of safety to govern both the regulator and the industry. It also would

provide the Department of the Interior with the scientific and technical capability to help in the exercise of adequate oversight over the industry through development of regulations, inspections, and enforcement.

Key requirements of this section would include: additional information for exploration plans, supplemental deepwater plans, and drilling permits for wells that focus on review of the system of operations as a whole and as related to the site specific conditions in which the system will operate; best commercially available technology; full review of the systems as a whole by qualified engineers; an evidentiary demonstration of hazard identification and plans to safely address those hazards; and requirements to ensure that containment systems and oil spill response plans are adequate and demonstrated for the exploratory phase of operations.

An operations management plan would also be required to be developed by operators to ensure that all employees use a consistent, well understood plan for management of changing circumstances. This plan would also be required to ensure that the industry employees who carry out these plans are adequately trained and experienced. Time limits currently applicable to review of exploration plans are extended from 30 to 60 days to ensure that the Secretary has adequate time for complete review.

The Secretary would be directed to find cost savings in the bureau's major expenditures on helicopter transport by allowing certain transport to regulated facilities on non-government helicopters, consistent with existing law; and through supplementary real-time data monitoring inspection.

Independent Research -- The Department of the Interior would be required to establish an independent Ocean Safety Institute for research and development on environmental and safety issues that must be used to inform regulatory activity, with the intent that science behind agency decisions in both areas will more consistently be transparent and credible. Existing research funding would be redirected to this research priority. This research, as well as data from required investigations of all accidents, would be required to be made public. The Secretary would be required to maximize the value of this information, in part by the exchange of technical information domestically and internationally to ensure widespread understanding of best practices.

Enforcement -- Enforcement of the law is strengthened in a number of respects. Inspection fees would be established at specific levels that will fully fund all inspections, so that increased numbers of appropriately trained inspectors will be available to oversee compliance with these rules. Congress will retain budget oversight over the expenditure of these fees. Operators who are not meeting safety or environmental requirements on other leases, or who have failed to meet their obligations for oil spill-related damages, would be disqualified from bidding on new leases. The Secretary would be required to review financial responsibility requirements to ensure that they are adequate to permit lessees to fulfill obligations, including oil spill-related obligations, and recommend any necessary changes to Congress. The National Transportation Safety Board would be authorized to perform independent investigations of any accident at the Secretary's request, and the Secretary is required to launch an independent investigation of any spill of national significance. Civil and criminal penalties for violations of any legal

requirements are increased. New ethics requirements are outlined to prevent conflicts of interest and limit industry influence of regulators.

Research Funding for Safer Oil and Gas Production

Section 7 amends section 999 of the Energy Policy Act of 2005 to ensure that its research is focused on safety and environmental protection in offshore oil and gas production; and to redirect a portion of the funding to the Department of the Interior to assist the Ocean Energy Safety Institute in carrying out its research responsibilities.