

Section by Section Analysis of Proposed Legislation

ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF

SECTION (a) establishes the purposes of the amendment. The purposes include the intention to protect the economic and land use interests of the United States through the management and oversight of alternate energy-related projects on OCS lands; to establish authority for the management and oversight of alternate energy-related activities on the OCS not currently covered by existing authorities; to provide for efficient interagency coordination in the siting and permitting of these activities; and to ensure that such activities are conducted in a manner that recognizes safety, protection of the environment, prevention of waste, conservation of natural resources issues, and the protection of national security interests. The amendment provides for an overarching authority to oversee the proper development of such projects, but will not supercede any existing authority.

SECTION (b) would add a new subsection (p) to Section 8 of the OCSLA. A section-by-section analysis for subsection 8(p) to the OSCLA is listed below:

Paragraph (p)(1) authorizes the Secretary of the Interior to grant an easement or right-of-way for lands on the OCS for alternate energy-related activities—including, but not limited to renewable energy projects such as wind, wave, or solar or more traditional projects such as liquified or compressed natural gas facilities—or to support previously authorized uses of oil and gas facilities located on the OCS—including, but not limited to offshore staging facilities to

support deep water oil and gas operations and emergency medical facilities. The authorization for the Secretary is limited to activities not otherwise authorized under the OCSLA, the Deepwater Ports Act (33 U.S.C. 1501 *et seq.*), or the Ocean Thermal Energy Conversion Act (42 U.S.C. 9101 *et seq.*). It also provides for consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government.

Paragraph (p)(2) provides that the Secretary of Interior will consult with the Secretary of Defense prior to exercising the authority granted in this subsection in order to ensure that issues related to national security and possible obstructions to navigation are considered with respect to the siting and conduct of possible energy activities under this subsection. It also provides a mechanism for the Federal government to receive a fair return for any easement or right-of-way granted through either a competitive or non-competitive system. The provision allows the Secretary of the Interior to determine whether easements or rights-of-way should be issued on a competitive or non-competitive basis and to consider various factors in making that determination. The ability to issue these non-competitive easements or rights-of-way will be important to new industries during periods when competition may not be possible.

Paragraph (p)(3) provides authority for the Secretary of the Interior to establish regulations to assure safety; protection of the environment; prevention of waste and conservation of the natural resources of the Outer Continental Shelf; protection of national security interests; and the protection of correlative rights. It also provides for consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal government and affected States. Under the OCSLA, the U.S. Coast Guard currently has special responsibilities, and those responsibilities would continue under this amendment.

Paragraph (p)(4) authorizes the Secretary of the Interior to require companies that conduct activities to maintain a bond to ensure that money will be available to complete activities in a manner that will not create a liability for the public.

Paragraph (p)(5) makes it clear that the proposed amendment will not interfere with existing statutory authorities currently exercised by other agencies. A special provision has been added that states that the provisions of subsection (p) do not apply to areas designated as National Marine Sanctuaries.