

U.S. Legislation Advances Restricting Use of Foreign Vessels in U.S. Offshore Projects

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On April 26, 2023, the U.S. House Transportation and Infrastructure Committee reported favorably [H.R. 2741](#), the Coast Guard Authorization Act of 2023, including the two provisions which will have an effect on the ability of the United States to produce both oil and gas resources offshore and renewable energy offshore.

The first section concerning offshore vessel manning is a reprise of a provision that passed the U.S. House of Representatives twice last year, but which did not become law. That provision (section 336) would restrict the citizenship of personnel manning vessels, rigs, platforms, and structures operating on the U.S. outer continental shelf in both the offshore wind and oil and gas industries.

The proposal would invalidate any existing manning exemption obtained from the Coast Guard 120 days after the law is enacted and modify the primary existing offshore manning exemption for foreign vessels to require such vessels to limit employment to U.S. citizens, permanent U.S. residents or citizens of the nation of vessel or structure registry. There is a further sub-limit applicable to permanent U.S. residents. In other words, a Panama-flag vessel could only employ U.S. citizens, U.S. residents, or Panamanian citizens when working on the U.S. OCS.

Rep. Jake Auchincloss (D-MA) argued that the offshore manning legislation would harm the U.S. offshore wind industry because that industry will be relying on foreign installation and other vessels for the foreseeable future. Restricting manning therefore would likely impede the industry without increasing U.S. employment since there are no equivalent vessels under U.S.-flag. Representatives John Garamendi (D-CA) and Garret Graves (R-LA) both asserted that the offshore industries could adapt and that there would be no disruption.

Rep. Auchincloss offered a substitute for the manning provision that would require all personnel offshore to be paid “a minimum wage, as such term is defined in section 3141 of title 40,” which several Committee members criticized as an imperfect attempt to invoke the prevailing wage requirements for certain U.S. Government contracts. The substitute amendment failed 6 to 54 with one voting present.

The proposed Coast Guard authorization bill also would amend the existing 2006-enacted requirement to utilize U.S.-flag vessels with registry endorsements to set, relocate, or recover anchors or other mooring equipment of a mobile offshore drilling unit (MODU) on the U.S. outer continental shelf. A U.S.-flag vessel with a registry endorsement can be built outside the United States unlike a such a vessel with a coastwise endorsement and can be 100 percent beneficially owned by non-U.S. citizens via a U.S. domiciled and U.S. citizen-managed entity.

The proposed amendment would add to the U.S.-flag restriction applicable to MODUs “or other energy production or transmission facility” as well as platforms engaged in commercial space transportation or exploration activities. It is not clear from the proposed legislation what energy facilities that are floating would require the use of anchors exist other than MODUs.

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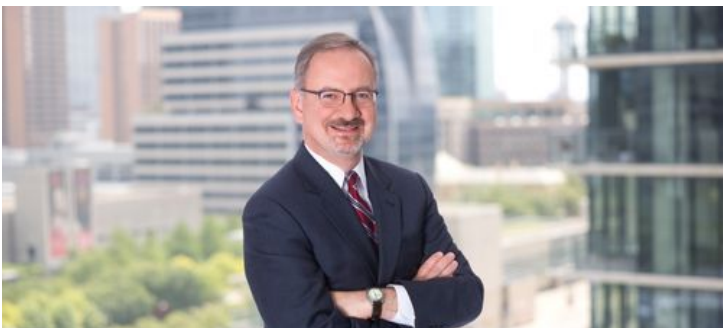
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