



**House of Representatives Passes the Deep Ocean Energy Resources Act, H.R. 4761  
Which Requires the Employment of American Citizens Aboard All Vessels and Rigs  
in the Gulf of Mexico, Even if Owned by a Foreign Company**

On June 29, 2006, the House of Representatives passed the Deep Ocean Energy Resources Act (DOER), H.R. 4761 (109<sup>th</sup> Cong.) by a vote of 232 to 187. This Act, which is pending before the Senate, makes important changes to the legal framework governing offshore exploration and related offshore service industries.

Under existing law, the regular complement of the crew aboard vessels, rigs, platforms and other structures used in the exploration, drilling and production of oil and gas on the U.S. Outer Continental Shelf (OCS) must be U.S. citizens and resident aliens unless the vessel, rig, etc. is more than 50 percent owned and controlled by a foreign citizen, in which case the vessel or rig may be manned by foreign citizens. 43 U.S.C. § 1356(a). The Coast Guard promulgated regulations consistent with this manning provision, which allow foreign owned and controlled companies to use foreign labor on the OCS. 46 CFR Part 141.

The Deep Ocean Energy Resources Act would effectively reverse existing regulations and the 1996 Federal Court decision *United Assoc. of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, AFL-CIO v. Reno*, 73 F.3d 1134, 1139 (D.C. Cir. 1996), which found the Immigration and Nationality Act did not apply to the OCS because the specific manning provisions of 43 U.S.C. § 1356 should be given precedence over the more general provisions set forth in 43 U.S.C. § 1333 (which calls for the application of the Laws of the United States on the OCS). Specifically, section 29 of DOER would amend 43 U.S.C. 1356(a) to state that the manning regulations “shall be supplemental and complimentary with and under no circumstances a substitution for the provisions of the Constitution and laws of the United States extended to the subsoil and seabed of the Outer Continental Shelf pursuant to section 4(a)(1) of this Act.”

The full impact of DOER’s Hire American provision is not yet known, although it is clear the Immigration and Nationality Act (and its regulations) will apply to all vessels and rigs on the OCS, requiring the employment of American citizens in all capacities. More importantly, however, since DOER is a significant departure from the practice that has existed for decades, the existing shortages of qualified personnel on the OCS will be greatly exacerbated. In all likelihood, a phase-in of the new regulations will be necessary and companies should be eligible to petition for the employment of



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foreign citizens on a limited basis (in time and scope) because of the labor shortages, either through the present manning exemption process or the INA visa process.

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