

Outer Continental Shelf Lands Act

Agencies: Bureau of Ocean Energy Management (within the Department of the Interior)

Citation: [43 U.S.C. §§ 1331 *et seq.*](#)

Enacted as: the “Outer Continental Shelf Lands Act”, on August 7, 1953

Where Law Applies: Under the Outer Continental Shelf Lands Act (OCSLA), the subsoil and seabed of the outer continental shelf belong to the United States and “are subject to its jurisdiction, control, and power of disposition” (43 U.S.C. § 1332(1)). ‘Outer continental shelf’ is defined under OCSLA as “all submerged lands lying seaward and outside of the area of lands beneath navigable waters . . . and of which the subsoil and seabed appertain to the United States” (43 U.S.C. § 1331(a)).

Summary:

The [Outer Continental Shelf Lands Act \(OCSLA or Act\)](#) (43 U.S.C. §§ 1331 *et seq.*) defines the United States outer continental shelf (OCS) as all submerged lands lying seaward of state submerged lands and waters (as defined in the [Submerged Lands Act](#), e.g., 3 nautical miles offshore) which are under U.S. jurisdiction and control. Under the OCSLA, the Secretary of the Interior is responsible for the administration of mineral exploration and the development of the OCS. The Act empowers the Secretary to grant leases to the highest qualified responsible bidder on the basis of sealed competitive bids and to formulate regulations as necessary to carry out the provisions of the Act. The Act, as amended, provides guidelines for implementing an OCS oil and gas exploration and development program.

Since its original enactment in 1953, the OCSLA has been amended several times, most recently as a result of the [Energy Policy Act of 2005](#). Amendments have included, for example, the establishment of an oil spill liability fund and the distribution of a portion of the receipts from the leasing of mineral resources of the OCS to coastal states. In addition, the Energy Policy Act of 2005 amended OCSLA Section 8 to give jurisdiction of alternate energy-related uses (including renewable energy projects) on the outer continental shelf to the Department of the Interior.

Source: <http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Outer-Continental-Shelf/Lands-Act-History/OCSLA-History.aspx> (last visited Sept. 12, 2012).

Legislative History:

In the late 1800s, the citizens of Summerland, California, began producing numerous springs of crude oil and natural gas. After drilling a large quantity of wells on these springs, early oil drillers discovered that wells nearest the ocean were the best producers. This eventually led to wells drilled on the beach. As oil and natural gas became increasingly profitable, control over these resources became a major issue. The tidelands controversy between the United States and Texas precipitated the OCSLA: it involved a dispute over the title to 2.5 million acres of

submerged land in the Gulf of Mexico between low tide and the state's Gulfward boundary, almost 10 miles from shore. Texas first acquired this land when it entered the Union in 1845, with ownership recognized by federal officials for more than 100 years.

By 1910, America had quickly turned to oil as its primary natural resource, and several innovations resulted: the internal combustion engine, steel cable tool drilling, and the first diamond drill in 1919. Technology advanced quickly, and for a decade new valves, controls, and drilling control instrumentation were developed. In 1926 modern seismology was created. In the mid-1940s, major changes in the oil industry occurred as America was making its transition from a wartime- to postwar-economy. There was an enormous public demand for oil and gas, and offshore exploration encountered enormous challenges, such as underwater exploration, drilling location determination, and offshore communications. By 1949, 11 fields and 44 exploratory wells were operating in the Gulf of Mexico.

As the industry continued to evolve through the 1950s, oil production became the second-largest revenue generator for the country, after income taxes. The U.S. government passed the U.S. [Submerged Lands Act](#) in 1953, which set the federal government's title and ownership of submerged lands at three miles from a state's coastline. The OCSLA was also passed which provided for federal jurisdiction over submerged lands of the OCS and authorized the Secretary of the Interior to lease those lands for mineral development. After the Santa Barbara Oil Spill in 1969, Congress passed several acts which spurred the development of oil spill regulation and research. They included the [National Environmental Policy Act](#), which mandates a detailed environmental review before any major or controversial federal action, the Clean Air Act, which regulates the emission of air pollutants from industrial activities, and the [Coastal Zone Management Act](#), which requires state review of federal actions that would affect land and water use of the coastal zone. In 1977, the Clean Water Act passed, which regulates the discharge of pollutants into surface waters.

Creation of BOEM from the Reorganization of Minerals Management Service (MMS)

In 1982, Congress passed the [Federal Oil & Gas Royalty Management Act](#), which mandates protection of the environment and conservation of federal lands in the course of building oil and gas facilities. The Secretary of the Interior designated the MMS as the administrative agency responsible for the mineral leasing of submerged OCS lands and for the supervision of offshore operations after lease issuance. On May 19, 2010, MMS was renamed the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE). On October 1, 2010, the Office of Natural Resource Revenues (ONRR) split from BOEMRE, and on October 1, 2011, BOEMRE was divided into BOEM and BSEE. See the [Reorganization](#) page for more information.

Source: <http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Outer-Continental-Shelf/Lands-Act-History/OCSLA-History.aspx> (last visited April 4, 2013).

Cases:

- *Treasure Salvors, Inc. v. The Unidentified, Wrecked & Abandoned Vessel*, [569 F.2d 330 \(5th Cir. 1978\)](#), modifying [408 F. Supp. 907 \(S.D. Fla. 1976\)](#). Click [here](#) for a summary of the case.
 - The judgment of the lower court granting title under the law of finds was modified and affirmed. The federal government appeal of that judgment failed to demonstrate a claim of ownership over a shipwrecked Spanish vessel outside of the territorial jurisdiction of the U.S. The Court thus rejected the application of the Abandoned Property Act and the Antiquities Act. The Court also stated that "an extension of jurisdiction for purposes of controlling the exploitation of the natural resources of the continental shelf is not necessarily an extension of sovereignty." This case supports the view that OCSLA only extends federal control over the outer continental shelf for purposes of exploration and exploitation of natural resources and establishes that abandoned shipwrecks found on the OCS are governed by the traditional law of salvage, except where there is a specific preservation law or permitting regime that can be used to protect submerged cultural resources.

Law Articles:

James Kevin Meenan, *Cultural Resources Preservation and Underwater Archaeology: Some Notes on the Current Legal Framework and a Model Underwater Antiquities Statute*, 15 San Diego L. Rev. 623 (1977-78).

- Discusses the potential liberal construction of the term “natural resources” with regards to the seabed to extend jurisdiction to archaeological resources, as well as the *Treasure Salvors, Inc.* case.

Jeffrey T. Scrimo, *Raising the Dead: Improving the Recovery and Management of Historic Shipwrecks*, 5 Ocean & Coastal L.J. 271 (2000).

- Reviews maritime law and cases before the Abandoned Shipwreck Act, including OCSLA and the *Treasure Salvors, Inc.* case, as well as the *Cobb Coin Company, Inc.* case.

Other Relevant Sources:

[An Ocean Blueprint for the 21st Century: A Final Report of the U.S. Commission on Ocean Policy](#), Appendix 6 “U.S. Ocean and Coastal Law”

- Provides an overview of OCSLA and the amendments from 1978 to 1999.