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Octopus Arms: The Reach of OCSLA after *Valladolid*

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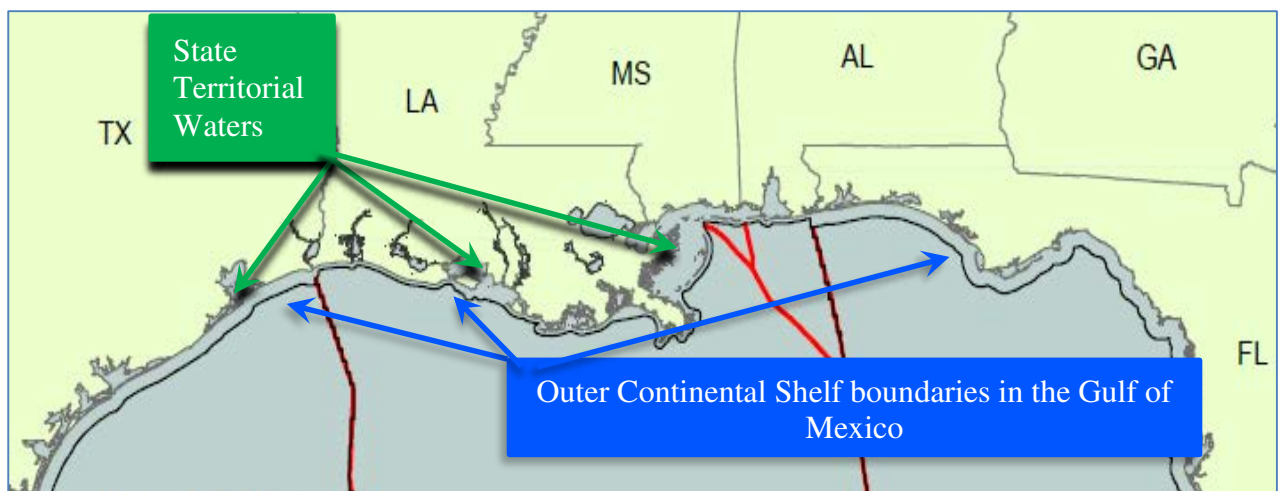
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Section 1333(b) of the Outer Continental Shelf Lands' Act (OCSLA)¹ extends coverage of the Longshore & Harbor Workers' Compensation Act (LHWCA) to workers whose injury results from extractive activities on the Outer Continental Shelf (OCS or Shelf).² This paper will discuss the contours of OCSLA's statutory reach after the Supreme Court's *Valladolid* opinion in 2012.³

I. What is the Outer Continental Shelf?

The OCS boundary marks the federal government's province over submerged lands seaward of a state's territorial waters. The OCS starts 9 nautical miles (total of 10.26 land miles) offshore Texas and Florida, and 3 nautical miles (total of 3.45 land miles) offshore Louisiana, California, Alaska and all other states. This is a snapshot⁴ of the OCS boundary in the Gulf of Mexico:



¹ 43 U.S.C. § 1333(b).

² 33 U.S.C. § 901, *et seq.*

³ *Pac. Operators Offshore, LLP v. Valladolid*, 132 S. Ct. 680, 683 (2012).

⁴ The Bureau of Ocean Energy Management (formerly MMS and BOEMRE) has a wealth of general mapping information pertaining to the OCS. <http://www.boem.gov/Maps-and-GIS-Data/> (last visited 12/9/15).

The OCSLA – shortened to just “OCSLA” in maritime parlance – was passed by Congress in 1953.⁵ It is a broad law that gives the U.S. Secretary of the Interior responsibility for the administration of exploration and development of the OCS.

Section 1333(b) of OCSLA extends the remedies of the Longshore & Harbor Workers’ Compensation Act (LHWCA) to injuries or deaths of employees resulting from operations on the OCS “for the purpose of exploring for, developing, removing, or transporting by pipeline the natural resources [of the Outer Continental Shelf].”⁶ Therefore, benefits available under OCSLA are the same benefits available under the LHWCA. As with the LHWCA, employers may be liable for OCSLA workers’ compensation benefits but are shielded from tort lawsuits by the employee. In most cases, OCSLA covers claims by non-seaman against their employers for injuries or death on a fixed offshore platform or other structures (e.g., jack-up rig, lift boat, crew boat, helicopter, etc.) on or above the Outer Continental Shelf.

Liability for federal workers’ compensation benefits under OCSLA is one of many offshore remedies for personal injury. Workers not covered under OCSLA include:

- Seamen, whose personal injury remedies are provided under the Jones Act and general maritime law, are excluded from coverage under OCSLA.⁷ For example, a crew boat captain’s personal injury claims against his employer for an incident on the OCS while carrying supplies to a platform is not covered by OCSLA.⁸ The captain would be

⁵ OUTER CONTINENTAL SHELF LANDS ACT, 83 P.L. 212; 67 STAT. 462; 83 CONG. CH. 345. (August 7, 1953)(current version at 43 U.S.C. § 1331, *et seq.*).

⁶ 43 U.S.C. § 1333(b).

⁷ 43 U.S.C. § 1333(b)(1).

⁸ *See, e.g., Noble Drilling Corp. v. Smith*, 412 F.2d 952, 954 (5th Cir. 1969).

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