

**Received(Date):** 12 SEP 2002 12:30:13  
**From:** Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP [ OPD ] )  
**To:** Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )  
**Subject:** : terrorism insurance issue for MMS

##### Begin Original ARMS Header #####  
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)  
CREATOR:Kevin Warsh ( CN=Kevin Warsh/OU=OPD/O=EOP [ OPD ] )  
CREATION DATE/TIME:12-SEP-2002 12:30:13.00  
SUBJECT:: terrorism insurance issue for MMS  
TO:Brett M. Kavanaugh ( CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN  
##### End Original ARMS Header #####

these are views of interior department. let me know when you think we should release this letter (and letter from dot) to conferees?

----- Forwarded by Kevin Warsh/OPD/EOP on 09/12/2002  
12:00 PM -----

Robert C. McNally  
09/12/2002 08:06:52 AM  
Record Type: Record

To: Kevin Warsh/OPD/EOP@EOP  
cc:  
Subject: terrorism insurance issue for MMS

fyi  
----- Forwarded by Robert C. McNally/OPD/EOP on  
09/12/2002 08:08 AM -----

Chad\_Calvert@ios.doi.gov  
09/11/2002 08:00:15 PM  
Record Type: Record

To: Robert C. McNally/OPD/EOP@EOP  
cc:  
Subject: terrorism insurance issue for MMS

Bob,

Thanks for passing this draft text along to Kevin Warsh. It is attached in wpd and pasted in below. The letter is pretty self-explanatory. We would like to send it to the conferees, but were not sure who was clearing these. Any help or advice is appreciated.

I do not have a lot of other information that can be sent by email, but I know this is a big priority for the MMS and they are ready to provide whatever economic data NEC may require. It is their view that not

including OCS will have a drastic chilling effect on new investment in the Gulf of Mexico and could cause their bonus bids and future royalty revenue to decline.

I can be reached any time on my cell phone at

FOIA(b)6  
PRA-P6

Chad Calvert  
Deputy Director  
Congressional and Legislative Affairs  
Office of the Secretary  
U.S. Department of the Interior  
(202) 208-7693

#### MMS DRAFT LETTER TO CONFEREES ON TERRORISM INSURANCE

Dear Conferees:

As you continue your conference deliberations on the terrorism insurance legislation (H.R. 3210/S. 2600), the Department of the Interior respectfully requests that two important clarifications be made to the bill to ensure that critical maritime and energy production activities are covered.

First, it is extremely important that the geographic scope of the final bill be clarified to include all energy production facilities located on the Federal Outer Continental Shelf (OCS). Second, it is equally important that the definition of participating insurers in the final bill be clarified to include the insurers that provide coverage for facilities and operations on the OCS.

The geographic coverage in the current versions of the legislation apply only to areas located within the United States. During Senate debate on S. 2600, the bill was amended to expand the definition of "United States" to include the term "territorial sea," thus extending the geographic scope of the program to waters located up to 12 nautical miles offshore the United States. However, the OCS extends considerably further offshore than does the territorial sea (i.e., 12 miles versus 200 miles or more for many areas offshore the United States, such as the Gulf of Mexico).

In Federal waters alone, there are approximately 4,000 individual active drilling and production platforms (between 3 miles from shore to 180 miles from shore) and approximately 26,000 miles of active pipelines (between 1 inch and 55 inches in diameter). The vast majority of this offshore energy infrastructure lies outside the boundaries of the territorial sea and, thus, would not be covered under the current versions of the bill being considered in conference.

We would suggest that the final bill language extend the geographic scope of the program to the "continental shelf of the United States," as that term is defined in P.L. 103-322, the Violent Crime Control and Law Enforcement Act. The Minerals Management Service collects approximately \$3 billion per year from these OCS operations, making this activity one of the largest revenue sources for the Federal government. This revenue source

needs the protection of the terrorism insurance legislation.

Also, as S. 2600 is currently written, "participating insurers" are limited to those insurers that are state licensed or are foreign surplus lines insurers listed by the NAIC. This approach fails to recognize that the vast majority of insurance for OCS operations is obtained from the international insurance market?as opposed to the national market?with the preponderance coming from the London Insurance Market.

It appears that H.R. 3210 provides more flexibility with respect to the issue of "participating" insurance companies. H.R. 3210 directs the Secretary of the Treasury to ensure that the Act is applied as appropriate to any offshore or non-admitted entities that provide commercial property or casualty insurance. However, the most preferable approach would be to amend the definition of "participating insurer" to include those insurers that are accepted by relevant Federal agencies, such as the Departments of the Interior, Transportation, and Labor.

Insurance is critical to OCS operations, as it is the major mechanism for financial liability protection, either directly or indirectly, for these operations. Without the availability of such a mechanism, it is unlikely that many small and intermediate companies could operate on the OCS. In addition, current operations and new investment of the large companies would be severely limited, which would have an extremely damaging affect on the Federal income from OCS activities. It could also adversely affect the safety and pollution prevention from such operations.

Thank you for your careful consideration of these important clarifications to the terrorism insurance legislation.

Sincerely,

Assistant Secretary  
Land and Minerals Management