

**STATEMENT OF  
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FOR  
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BEFORE THE  
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ON  
ENERGY AND MINERAL RESOURCES  
AND  
FISHERIES, WILDLIFE, AND OCEANS  
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Mr. Chairman and Members of the Subcommittees, thank you for the opportunity to appear here today to discuss with you the Minerals Management Service's (MMS) alternative energy and alternate use program.

The Department of the Interior appreciates the leadership that the Committee on Natural Resources has demonstrated in looking to the Federal Outer Continental Shelf (OCS) as a source of alternative energy and in providing the legislative means to allow the Nation to tap into that energy. The Administration first proposed legislation to establish an OCS alternative energy program in June 2002, and the legislation was first introduced as H.R. 5156 in July 2002. The Administration supported that bill and worked diligently with the Committee and others to bring the proposed legislation to fruition as part of the Energy Policy Act of 2005 (EPAAct).

Energy is vital to expanding our economy and enhancing Americans' quality of life. However, the Administration continues to be concerned with the imbalance that exists between our energy consumption and domestic energy production, and has been working to find ways to narrow the gap between the amount of energy used and the amount domestically produced. In his State of the Union Message on January 23, 2007, President Bush asked Congress and America's scientists, farmers, industry leaders, and entrepreneurs to join him in pursuing the goal of reducing U.S. gasoline usage by 20 percent in the next ten years – Twenty in Ten. One key component of the strategy to meet this goal is to increase the supply of renewable and alternative fuels. There is no single solution, but the Administration believes that renewable and other alternative sources are integral components of our Nation's energy future.

While the quantity of domestic energy produced from renewable resources is small in comparison to conventional resources, the growing cost of conventional energy resources and the need to diversify our Nation's energy portfolio has spurred an increased interest and growth in renewable energy development. The Energy Information Administration's (EIA) 2007 Annual Energy Outlook estimates that consumption of renewable fuels will grow from 6.5 quadrillion BTUs in 2005 to 10.2 quadrillion BTUs in 2030. This growth will be a result of advancements in renewable energy technologies, higher fossil fuel

prices, state requirements to produce renewable energy, and incentives provided under EAct. This is an increase of about 1 quadrillion BTUs more than EIA estimated in its 2005 Annual Energy Outlook. The EIA estimates that in 2030, renewable energy will account for over ten percent of our domestic energy production and about seven percent of our consumption.

The EAct encourages the development of renewable energy resources as part of an overall strategy to develop a diverse portfolio of domestic energy supplies for our future. In fact, according to EIA's 2007 Annual Energy Outlook, public and private wind and other renewable energy generating sectors of our economy are the fastest growing energy sources in the United States.

The quantity of domestic renewable energy produced on Federal lands is small in comparison to conventional resources. However, the growing cost of conventional energy resources and the need to diversify our energy portfolio has spurred an increased interest in renewable energy development on federal lands both onshore and offshore.

The Department of the Interior (Department), as the manager of over one fifth of the Nation's land, has a significant role to play in this projected increase in domestic renewable energy production. Lands managed by the Bureau of Land Management (BLM) currently supply almost half of the nation's geothermal generation and approximately 4 percent of domestically installed wind capacity. EAct gave the Department's bureaus, specifically the Minerals Management Service (MMS), the BLM, and the United States Geological Survey (USGS), new authorities for encouraging and facilitating the development of promising new energy sources such as onshore and offshore wind, solar, and biomass energy and to assist in ensuring these technologies are developed in an environmentally responsible manner.

Today, you have requested that I discuss with you the MMS's OCS Alternative Energy Program. The Administration first proposed legislation to establish an OCS alternative energy program in June 2002, and the legislation was first introduced as H.R. 5156 in July 2002. That bill represented the results of more than six months of extensive discussions and collaboration with all Federal agencies having permitting responsibilities on the OCS, as well as the President's Task Force on Energy Project Streamlining. More important, the legislation was developed in a consensus with MMS' sister agencies and reflected the best efforts of the Administration to address the array of issues associated with permitting various OCS energy-related projects that were not currently covered under existing statutes. Those projects included renewable energy projects such as wind, wave, ocean current and solar energy.

After careful analysis of the mechanisms that were currently in place to handle requests for innovative, non-traditional energy-related projects on the Federal offshore lands, it became clear that—with limited exceptions—there existed no clear authority within the Federal government to comprehensively review, permit, and provide appropriate regulatory oversight for such projects. The exceptions to this general rule included oil, gas and other mineral activities permitted under the OCS Lands Act (43 U.S.C. 1301 *et*

*seq.*, Department of the Interior); offshore oil terminals permitted under the Deep Water Ports Act (33 U.S.C. 1501 *et seq.*, Department of Transportation); and projects permitted under the Ocean Thermal Energy Conversion Act (42 U.S.C. 9101 *et seq.*, Department of Commerce).

This meant that the vast majority of OCS alternate energy-related projects that were being, or which may be contemplated in the future, by the private sector had no clearly defined permitting process. There was no single agency with an overarching role to coordinate that process. Instead, various Federal agencies with different responsibilities were responsible for permitting a specific part of a proposed project. As the Federal Government's "land manager" and since the proposed legislation pertained to the permitting and oversight of energy uses on offshore Federal lands, it was only logical that any new legislative authority that was enacted remain with the Department already entrusted with that overall responsibility.

Congress recognized that management of alternative energy and alternate use activities would require comprehensive authority to permit access in a fair and equitable manner, to ensure environmental and operational compliance, and to achieve a fair return to the Nation. The Administration worked closely with the Committee to include the Administration's legislative proposal as part of the Energy Policy Act of 2005 (EPAAct).

Section 388 of the EPAAct amended the OSC Lands Act, and granted the Department discretionary authority to grant leases, easements or rights-of-way for activities on the OCS that produce or support production, transportation, or transmission of energy from sources other than oil and gas. Simply put, the new authorities under EPAAct gave the Department the ability to explore the future development of promising new ocean energy sources in the OCS such as wind, wave, ocean current, and solar energy. Additionally, the Department was given the authority to grant leases, easements, or rights-of-way for other OCS activities that make alternate use of existing OCS facilities. These other uses would be limited to energy-related and authorized marine-related purposes, such as offshore research, recreation and support for offshore operations to the extent that those activities are not authorized by other applicable law.

It is important to note that while the Department is the lead agency for this program, the MMS continues to work with its sister agencies to ensure that the unique roles they each have is considered and addressed in order to ensure that the Federal Government's myriad interests in such projects are fully considered and that the Nation's economic, environmental and land use interests are adequately protected. The Department's new EPAAct jurisdiction does not supersede or modify existing Federal authority; all activities permitted must adhere to existing Federal law, including the National Environmental Policy, Coastal Zone Management, Endangered Species, Marine Mammal Protection, Magnuson-Stevens Fishery Conservation and Management, and the Migratory Bird Treaty Acts.

The MMS is working diligently to develop a regulatory program to authorize offshore alternative energy proposals, such as wind, solar, wave, and ocean current technologies.

The renewable energy and alternate use draft programmatic environmental impact study (EIS), developed by the MMS, is currently open for public comment. The EIS will form the foundation for the new alternative energy program and for future applications. The MMS is developing regulations to implement the new EAct authority and expects to publish a proposed rule in late summer of 2007 and a final rule in early 2008.

Interest in OCS-based alternative energy development in the United States is growing, particularly in the Northeast and along the West coast. Many of these coastal states have put in place renewable energy portfolio standards (RPS) requiring utilities to substantially increase their reliance on renewable energy sources. For example, in the Northeast, New York has set a goal for public utilities to achieve a 25% share by 2013, one of the most aggressive targets in the country. In the Pacific West, Oregon has instituted a plan that calls for renewable energy to account for a 25% share, approximately 1,600 megawatts (MW) by 2025, while California has codified a renewable energy target of 20%, approximately 5,500 MW, by 2010. To put this into perspective, according to the Edison Electric Institute, based on 2005 average annual usage by U.S. residential customers, one megawatt of electricity powered roughly 790 homes. The OCS can provide clean sources of energy and has a role in helping states and the Federal Government meet their renewable energy targets.

Government resource estimates and industry interest indicate that the OCS provides several significant sources of alternative energy. According to estimates provided to the MMS by the Department of Energy (DOE), the potential offshore wind resource, excluding Alaska and Hawaii, is 2,500 gigawatts (GW), ocean waves 240 GW, ocean tides 7.5 GW, and ocean currents 2.5 GW. Since the enactment of EAct, the MMS has spoken to several companies and become aware of dozens of potential development proposals involving offshore wind off the east coast from Virginia, north to Massachusetts.

The strongest wave energy resources are located on the west coast, where there is already substantial interest in wave energy development, particularly offshore Northern California and Oregon. Currently, the MMS is working with the Federal Energy Regulatory Commission (FERC) on a Memorandum of Understanding (MOU) to coordinate Federal efforts in reviewing and authorizing these exciting new proposals. The goal of this MOU will be to provide an efficient and effective process for reviewing and overseeing wave and current energy proposals in the OCS.

### **Alternative Energy and Alternate Use on the Outer Continental Shelf**

The Department and MMS decided that to facilitate the orderly development of the new programmatic responsibilities and associated rulemaking, we would not entertain for review any new applications relating to alternative energy or alternate use on the OCS until the program is in place.

As the first step in the rulemaking and program development process, the MMS on December 30, 2005, published an Advance Notice of Proposed Rulemaking (ANPR) to

solicit comments from all interested and affected parties. The ANPR sought comments on five major program areas: (1) access to OCS lands and resources; (2) environmental information, management, and compliance; (3) operations; (4) payments and revenues; and (5) coordination and consultation. We received a total of 149 comments originating from 26 states and the District of Columbia. These comments were submitted by private citizens, alternative energy industries and associations, environmental organizations, State and local governments, Federal agencies, nongovernmental organizations, universities, Members of Congress, small business, and the oil and gas industry. In general, the ANPR comments were supportive of renewable/alternative energy developments on the OCS and reuse of existing OCS facilities. Some comments received advised the MMS to proceed with caution as it develops the program and supporting regulations and advocated early stakeholder involvement with both the program and the individual project permitting. Many commenters who were familiar with the MMS OCS oil and gas program suggested that MMS use the offshore program as a model for consultation and environmental compliance. The renewable energy industry and environmental groups suggested that MMS establish a structured, rigid process, citing the need for predictability and for compliance and timeliness in reviews. Others, noting the up-and-coming nature of the renewables industry, advocated that MMS remain flexible in our program approach and address each project on a case-by-case basis. A majority of comments identified preparation of a programmatic environmental impact statement as a first step.

Currently, the MMS is preparing rules to guide the development of the program activities. At the same time, MMS is accepting comments on a draft programmatic EIS to examine the potential environmental consequences of implementing the program. However, the innovative and evolving nature of the offshore renewable technologies; the nascent industry; the need to acquire environmental and economic baseline information; and, the location of the promising resources in OCS frontier areas have all presented challenges to the program's regulatory development.

Despite these challenges, the MMS is proceeding in a deliberate and diligent manner in developing this important new regulatory program. The Agency has been working with many of the same agencies involved in activities already authorized under the OCS Lands Act, such as the Army Corps of Engineers, the National Oceanic and Atmospheric Administration, the Environmental Protection Agency, the U.S. Coast Guard, and the Fish and Wildlife Service, to establish new "renewable energy" interfaces with each agency's existing Federal statutory requirements and responsibilities. The MMS has also begun to forge new partnerships with the DOE and FERC and we are actively working on agreements with each agency.

On March 21, 2007, the MMS announced the availability of the draft programmatic EIS and the opportunity for public comment. This document is a high level analysis of the potential impacts of the activities that could result from establishment of an OCS alternative energy and alternate use program and regulations under MMS' new authority, from initial site characterization through decommissioning. The analysis looks at three alternatives: (1) establishment of a nationwide OCS program and regulations (the

proposed action); (2) case-by-case authorization of activities; and (3) no authorization of activities authorized under section 388. The programmatic EIS does not evaluate specific sites on the OCS as to their suitability for alternative energy activities. Thus, MMS will analyze siting issues as it considers specific project proposals. Written comments on the draft programmatic EIS will be accepted through May 21, 2007 and MMS will hold public hearings on the document in April and May of 2007. The final programmatic EIS is on schedule for publication in late summer 2007.

Currently the proposed rule is undergoing internal Departmental review in accordance with Departmental and the Office of Management and Budget guidelines. Major components of the alternative energy portion of the rule include, but are not limited to what rights will be associated with leases, rights-of-way, rights-of-use and easements; financial terms such as financial assurance (bonding); rentals before production begins and operating fees when production commences; process for site assessment, construction and operation plans; environmental and safety management, inspections and facility assessments; and, end of life decommissioning.

The EPAct requires the Department to grant a lease, easement, or right-of-way on a competitive basis unless, after public notice, it is determined that there is no competitive interest. If there is no competitive interest, many of these initial applications may be issued noncompetitively, requiring the applicant to bear the cost of proposal-specific studies. However, based on the state-initiated renewable energy portfolio standards and interest from industry, it is expected that MMS will offer a competitive lease sale in the next 3 to 5 years most likely in the North Atlantic or the North Pacific.

MMS recently conducted a series of regional stakeholder meetings in several coastal states to assist in preparing the new rule. The purpose of these meetings was to identify and explore stakeholder issues and concerns; to discuss the various ocean energy technologies and economics; and, to identify state energy profiles and renewable energy portfolio standards.

Several coastal states (i.e., New Jersey, California, Washington, and Oregon) have approached MMS about partnering to efficiently evaluate and offer prospective OCS areas for lease on a regional basis. The U.S. Commission on Ocean Policy, the Pew Oceans Commission, and the Joint Ocean Commission Initiative, made similar recommendations concerning federal-state partnering to improve ocean governance in general. To promote such cooperation and coordination, the MMS proposes to establish federal/state task forces — a concept that has been used successfully in MMS's Marine Minerals Program — and to begin assessing potential development and environmental implications.

### **Cape Wind and Long Island Offshore Wind Projects**

The EPAct also gave the Department and MMS responsibility for two existing offshore alternative energy proposals, the Cape Wind Energy and the Long Island Offshore Wind

Park projects. The MMS is reviewing each proposal and supporting information, and is preparing project-specific environmental analyses.

Cape Wind Associates has proposed to construct an offshore wind facility located on Horseshoe Shoal in Nantucket Sound covering 24 square miles in federal waters and located 4.7 miles offshore Massachusetts. The proposal entails 130 offshore wind turbine generators to produce about 460 MW of electricity. The MMS anticipates publishing the draft EIS in late summer 2007. Because offshore wind is a new resource and technology for the Nation and Cape Wind is one of the first OCS alternative energy projects under review by MMS, the agency is proceeding with the review of the proposal and associated EIS in an appropriately deliberate and diligent manner.

The Long Island Power Authority and Florida Power and Light Energy have proposed an offshore wind project covering eight square miles in Federal waters, located between three and four miles off the south shore of Long Island, New York. The proposed wind project would entail installation of 40 offshore wind turbine generators with a capacity of 140 MW of electricity for use in Long Island communities. The timeline for the project is being revised and should be available in the near future.

## **Conclusion**

In conclusion, energy is vital to expanding our economy and enhancing Americans' quality of life. Producing energy from renewable and other alternative domestic resources is a critical component of the Nation's energy portfolio. Lands managed by the Department have a major role to play in the diversification of the Nation's energy sources. The Department has been working with other agencies and has taken steps in a variety of scientific endeavors to understand renewable and other alternative energy resources and to help bring them to a place where they may contribute to the energy mix of the country in an environmentally friendly way. The MMS has been working on a variety of fronts, both onshore and offshore, to meet the demand for renewable and other alternative sources of energy. We stand ready to respond to the ever-increasing need for energy development from the resources we manage on behalf of the Nation.

Thank you for the opportunity to highlight a few of the steps MMS has taken to encourage the development of renewable and other alternative energy resources on the OCS public lands. This concludes my testimony. I would be happy to answer any questions you have.