

## Participating Organizations

Alliance for a Living Ocean  
American Littoral Society  
Arthur Kill Coalition  
Asbury Park Fishing Club  
Bayberry Garden Club  
Bayshore Regional Watershed Council  
Bayside Saltwater Flyrodders  
Belford Seafood Co-op  
Belmar Fishing Club  
Beneath The Sea  
Bergen Save the Watershed Action Network  
Berkeley Shores Homeowners Civic Association  
Cape May Environmental Commission  
Central Jersey Anglers  
Citizens Conservation Council of Ocean County  
Clean Air Campaign, NJ  
Coalition Against Toxics  
Coalition for Peace & Justice/Unplug Salem  
Coast Alliance  
Coastal Jersey Parrot Head Club  
Communication Workers of America, Local 1034  
Concerned Businesses of COA  
Concerned Citizens of Bensonhurst  
Concerned Citizens of COA  
Concerned Citizens of Montauk  
Eastern Monmouth Chamber of Commerce  
Fisher's Island Conservancy  
Fisheries Defense Fund  
Fishermen's Dock Cooperative, Pt. Pleasant  
Friends of Island Beach State Park  
Friends of Liberty State Park, NJ  
Friends of the Boardwalk, NY  
Garden Club of Englewood  
Garden Club of Fair Haven  
Garden Club of Long Beach Island  
Garden Club of Middletown  
Garden Club of Morristown  
Garden Club of Navesink  
Garden Club of New Jersey  
Garden Club of New Vernon  
Garden Club of Oceanport  
Garden Club of Princeton  
Garden Club of Ridgewood  
Garden Club of Rumson  
Garden Club of Short Hills  
Garden Club of Shrewsbury  
Garden Club of Spring Lake  
Garden Club of Washington Valley  
Great Egg Harbor Watershed Association  
Highlands Business Partnership  
Highlands Chamber of Commerce  
Hudson River Fishermen's Association/NJ  
Jersey Coast Shark Anglers  
Jersey Shore Captains Association  
Jersey Shore Running Club  
Junior League of Monmouth County  
Keyport Environmental Commission  
Kiwanis Club of Manasquan  
Kiwanis Club of Shadow Lake Village  
Leonardo Party & Pleasure Boat Association  
Leonardo Tax Payers Association  
Main Street Wildwood  
Marine Trades Association of NJ  
Monmouth Conservation Foundation  
Monmouth County Association of Realtors  
Monmouth County Audubon Society  
Monmouth County Friends of Clearwater  
Montauk Fisherman's Emergency Fund  
National Coalition for Marine Conservation  
Natural Resources Protective Association, NY  
NJ Beach Buggy Association  
NJ Commercial Fishermen's Association  
NJ Environmental Federation  
NJ Environmental Lobby  
NJ Main Ship Owners Group  
NJ Marine Educators Association  
NJ PIRG Citizen Lobby  
Nottingham Hunting & Fishing Club, NJ  
NYC Sea Gypsies  
NY Marine Educators Association  
NY/NJ Baykeeper  
Ocean Wreck Divers, NJ  
PaddleOut.org  
Piscataway Saltwater Sportsmen Club  
Raritan Riverkeeper  
Religious On Water  
Riverside Drive Association  
Rotary Club of Long Branch  
Rotary District #7510 - Interact  
Saint George's by the River Church, NJ  
Saltwater Anglers of Bergen County  
Sandy Hook Bay Anglers  
Save Barnegat Bay  
Save the Bay, NJ  
SEAS Monmouth  
Seaweeders Garden Club  
Shark Research Institute  
Shark River Cleanup Coalition  
Shark River Surf Anglers  
Shore Adventure Club  
Shore Surf Club  
Sierra Club, Shore Chapter  
Soroptimist Club of Cape May County  
South Jersey Dive Club  
South Monmouth Board of Realtors  
Staten Island Friends of Clearwater  
Staten Island Tuna Club  
Strathmere Fishing & Environmental Club  
Surfers' Environmental Alliance  
Surfrider Foundation, Jersey Shore Chapter  
TACKLE, MA  
Terra Nova Garden Club  
Unitarian Universalist Congregation / Monm. Cnty.  
United Boatmen of NY/NJ  
United Bowhunters of NJ  
Volunteer Friends of Boaters, NJ  
WATERSPIRIT  
Women's Club of Brick Township  
Women's Club of Keyport  
Women's Club of Long Branch  
Women's Club of Merchantville  
Zen Society, NJ

# Clean Ocean Action



*Ocean Advocacy  
Since 1984*

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**September 18, 2008**

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U.S. Department of the Interior, Minerals Management Service  
381 Elden Street, Room 3120  
Herndon, VA 20170

James F. Bennett  
Branch Chief, Environmental Assessment Branch  
Minerals Management Service  
Mail Stop 4042, 381 Elden Street  
Herndon, Virginia 20170

**RE: Comments on Preparation of a 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2010-2015**

VIA MMS OCS PUBLIC CONNECT, PROJECT ID # 5YR-HQ-0010

Dear Ms. Orr and Mr. Bennett:

Please accept Clean Ocean Action's comments on the above-referenced Preparation of a 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2010-2015.<sup>1</sup>

Clean Ocean Action (herein "COA") is a broad-based coalition of 125 conservation, environmental, fishing, boating, diving, student, surfing, women's, business, service, and community groups. Our goal is to improve the degraded water quality of the marine waters off the New Jersey/New York coast. It is COA's mission to investigate, review, and question proposals that may affect ocean water quality in the New York/New Jersey Bight.<sup>2</sup> COA previously submitted comments opposing the inclusion of an area off the Virginia Coast that is currently under congressional moratorium in the draft Proposed 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2007-2012 (herein the "Proposed Leasing Program").

The Department of Interior's Minerals Management Service (MMS) is now preparing a new 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2010-2015 (herein the "New Leasing Program") which includes opening the entire Atlantic, Pacific and Gulf of Mexico OCS to Oil and Gas activities. Inclusion of these areas flies in the face of over 25 years of good governance policies to protect environmentally

<sup>1</sup> Fed. Reg. Vol. 73 (149) pg. 45065-45070

<sup>2</sup> Visit <http://www.cleanoceanaction.org> for more information.

sensitive areas, violates current moratoria, and puts the regional economic and environmental productivity and potential at risk. In short, COA strongly opposes the MMS's inclusion of any area that is currently protected by Congressional Moratorium including the three Atlantic Regions, and respectively demands that the MMS remove these regions from the New Leasing Program. The basis for this request follows.

### **Violation of Long-Standing Moratoria**

Since 1982, the waters of the Atlantic coast have been proactively defended and protected by an annual congressional prohibition on new offshore oil and gas leasing for over 25 years. These same waters have also been protected since 1990 by a separate Executive Order put in place by former President George H. W. Bush and subsequently extended by President William J. Clinton to the year 2012.<sup>3</sup> While President George W. Bush lifted the Executive Moratorium (or Executive Withdrawal) on July 14, 2008, the Congressional Moratorium still remains in full effect. As a result, moratorium areas now considered by MMS still remain unequivocally closed to leasing and pre-leasing activities.

As MMS itself acknowledges, the Congressional Moratorium “*limits MMS's latitude in spending appropriated funds. Therefore, some OCS planning areas are placed off limits for pre-lease activities and leasing.*”<sup>4</sup> Developing a new 5-Year Leasing Program clearly constitutes “*pre-leasing activities.*” Thus, by considering moratorium areas in this 5-Year Leasing Program, MMS is misusing federal funds to engage in a prohibited activity.

### **The Atlantic: A Unique Ecosystem**

MMS is proposing to open the entire Atlantic OCS to oil and/or gas exploration or activities, including the south, mid and north Atlantic regions. These regions encompass an extraordinarily important ecosystem, which is why the Congressional Moratorium has been imposed for over 25 years. In fact, in the coastal region from Virginia to New York alone, there are eleven National Wildlife Refuges, and a series of barrier islands that make up the International Shorebird Reserve designated by the United Nations as a World Biosphere Reserve. These national and international designations are designed to protect thousands of acres of coastal wetland and tidal marshes that are considered critical feeding habitat for millions of migratory birds that travel the Atlantic Flyway. The close proximity of the proposed oil and gas operations threatens the coastal habitat and waters of the entire region.

Moreover the proposed areas include the entire New York/New Jersey Bight (herein the “Bight”), an ecologically rich and unique marine system. The Bight is defined as the oceanic region from Montauk, NY to Cape May Point, NJ and off to the edge of the continental shelf. In the New Jersey/New York region alone, two estuaries are designated as nationally significant; the Barnegat Bay, along the NJ coast, and the Hudson River Estuary, in the shared waters of NY and NJ. Both of these important estuaries are intrinsically interconnected with the Bight, as is the Great South Bay of Long Island, NY, which is currently undergoing extensive restoration efforts to preserve and protect this valuable marine habitat.

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<sup>3</sup> Congressional Research Service, OCS Leasing Moratoria, 97-588 ENR.

<sup>4</sup> 5-Year OCS Leasing Program, Offshore Energy & Minerals Management, U.S. Minerals Management Service, at <http://www.mms.gov/5-year/moratoria.htm> (last visited Sept. 12, 2008).

Adding to this ecological richness, the warm waters of the Gulf Stream travel up the eastern coast from the Caribbean passing through the Bight to meet the cold waters of the north Atlantic off Canada. This remarkable ocean river brings biologically rich southern waters and significantly contributes to the marine environment of the Bight by increasing the diversity of oceanographic conditions and species. In fact, “*the Bight has one of the highest diversities of marine mammals and sea turtles reported anywhere in the United States.*”<sup>5</sup> The region supports more than 300 species of fish, nearly 350 species of birds, 7 species of sea turtles, and many marine mammals, such as 10 species of whales and several species of seals and porpoises. The draft EIS developed by MMS as part of the Proposed 5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2007-2012 (herein the “Proposed Leasing Program Draft EIS”), ranked the proposed region first in primary production from marine phytoplankton, with almost 140 million metric tons of carbon/year,<sup>6</sup> thus acknowledging the importance of this region to the base of the oceanic food web. It is also true that while the hydrological currents present in this region create a unique and diverse marine environment, these same currents would carry pollutants directly to the shorelines, including the beaches of New York and New Jersey.

The risks from exploring, developing and extracting potential oil and gas are high, significant, and dangerous for New Jersey and New York’s marine ecosystems and their dependent economies.

### **Ecological Risks**

Exploring and drilling for oil and gas resources is a complex process, which requires miles of pipelines, numerous tankers plying coastal waters, and many refineries. Oil and gas activities not only impact federal and state waters where platforms are located, but the land along the coast as well. In addition, thousands of ships pass through the shipping lanes to and from the NJ/NY Harbor every year, including oil tankers, chemical tankers, container carriers, car carriers, general cargo carriers, and cruise ships.<sup>7</sup> Placing oil and gas platforms near traffic lanes to the busiest port on the U.S. east coast will increase the potential for collisions.

Studies have shown “*the biological consequences of such development, whether offshore, in the coastal zone, or on-land, can be acute or chronic, resulting from pollution or physical alteration of habitat.*”<sup>8</sup> These potential risks and impacts include, but are not limited to:

- Unintentional releases of oil and gas from production, storage, or transportation facilities.<sup>9</sup> Such releases can range from catastrophic blowouts or spills to the release

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<sup>5</sup> Significant Habitats and Habitat Complexes of the NY Bight Watershed, U.S. Fish and Wildlife Service, [http://training.fws.gov/library/pubs5/web\\_link/text/int\\_fish.htm#Marine%20Mammals%20and%20Sea%20Turtles](http://training.fws.gov/library/pubs5/web_link/text/int_fish.htm#Marine%20Mammals%20and%20Sea%20Turtles) (last visited July 24, 2008).

<sup>6</sup> Outer Continental Shelf Oil and Gas Leasing Program 2007-2012, Draft Environmental Impact Statement, July 2006, Page 87, U.S. Department of the Interior, Minerals Management Service.

<sup>7</sup> Safe Harbor Energy Project Deepwater Port License Application Vol. Two, Exhibit N, Atlantic Sea Island Group, Aug. 2007, p. N-66.

<sup>8</sup> Bolze, Dorene, and Mercedes Lee. 1989. *Offshore Oil and Gas Development: The Ecological Effects Beyond the Offshore Platform*, Proceedings from Sixth Symposium on Coastal and Ocean Management/ASCE, July 11-14, 1989, Charleston, SC.

<sup>9</sup> Accidents during the offshore oil and gas development by [Stanislav Patin](#), translation by Elena Cascio based on “[Environmental Impact of the Offshore Oil and Gas Industry](http://www.offshore-environment.com/accidents.html)” <http://www.offshore-environment.com/accidents.html> (last visited September 13, 2008).

of smaller quantities of materials into the ocean. The immediate damage and death to marine life as well as long-term ecological impacts and toxicity of oil-related spills have been well-documented.<sup>10,11,12,13</sup> Natural gas is highly flammable and several wellhead and pipeline accidents have resulted in fatal explosions,<sup>14,15,16,17</sup>

- The risk of spills and leaks from drilling platforms increase with high winds and waves during severe storms such as nor'easters and hurricanes. For example:
  - Hurricanes Katrina and Rita in 2005: Widespread and persistent oil slicks emanating from many platforms in the Gulf of Mexico<sup>18</sup> and significant pipeline damage when loose rigs dragged their anchors across the seabed<sup>19</sup> Damage just from Hurricane Rita included 115 oil platforms destroyed, 52 significantly damaging and 19 rigs adrift and the U.S. Coast Guard reported more than seven million gallons of petroleum products spilled,<sup>20</sup>
  - Hurricane Gustav on September 1, 2008: Preliminary damage reports of one (1) platform destroyed, one (1) platform “extensively damaged” and five (5) platforms “moderately damaged” in the Gulf of Mexico,<sup>21</sup>
  - Hurricane Ike on September 12, 2008: Initial reports of two (2) platforms currently adrift in the Gulf of Mexico,<sup>22</sup> at least twenty-four (24) platforms and three (3) jack-up rigs destroyed, four (4) platforms and one (1) jack-up rig extensively damaged and some pipelines damage.<sup>23</sup> The level of destruction

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<sup>10</sup> Buzzards Bay Oil Spill in Massachusetts: A cooperative natural resources damage assessment May 2003 National Oceanic and Atmospheric Administration <http://www.darrp.noaa.gov/northeast/buzzard/pdf/bbfactsht.pdf> (last visited September 13, 2008).

<sup>11</sup> *The Exxon Valdez oil spill*. Rice, Stanley D., Jeffrey W. Short, Mark G. Carls, Adam Moles, and Robert B. Spies. 2006. in: R.B. Spies, T. Cooney, A.M. Springer, T. Weingartner, and G. Kruse (eds.), *Long-term Ecological Change in the Northern Gulf of Alaska*. Elsevier Publications, Amsterdam. p. 413-514

<sup>12</sup> Induction of CYP1A in rainbow trout from bioavailable *Exxon Valdez* oil: fifteen years and still counting. Kathrine R. Springman, Jeffrey W. Short, Mandy Lindeberg, Stanley D. Rice. *Marine Environmental Research*, 2006. 62: S73-S73.

<sup>13</sup> *The West Falmouth Oil Spill: 100 Kg of Oil Found to Persist Decades Later*. Peacock, Emily, Robert Nelson, Andrew Solow, Joseph Warren, Jessica Baker, Christopher Reddy, *Environmental Forensics*, September 2005 Volume 6, Number 3 p. 273-281(9)

<sup>14</sup> Natural Gas Wellhead explodes in China, over 191 people killed, Dec. 2003

<sup>15</sup> Texas Eastern Transmission Corporation Natural Gas Pipeline Explosion and Fire, [Edison, New Jersey, March 23, 1994](#) (Two apartment buildings leveled and one fatality)

<sup>16</sup> XTO Natural Gas Wellhead explosion, one worker fatality, Forest Hills, Texas, April 23, 2006

<sup>17</sup> Sonat Exploration Company Natural Gas well explosion, 14 worker fatalities, Bryceland, Louisiana, October 24, 1998.

<sup>18</sup> Information available at <http://www.skytruth.com>

<sup>19</sup> Information available at <http://www.skytruth.com>

<sup>20</sup> Where offshore drilling goes, beaches suffer, Pittman, C., Tampa Bay Times, June 20, 2008

<http://tampabay.com/news/environment/water/article634009.ece>

<sup>21</sup> Preliminary Offshore Damage Reports from Hurricane Gustav, MMS Press Release: 3867, September 11, 2008

<http://www.mms.gov/ooc/press/2008/press0911a.htm>

<sup>22</sup> Confirmed Reports of Two Offshore Drilling Units Adrift, MMS, Industry, and US Coast Guard are monitoring their Paths, MMS Press Release #3869, September 13, 2008, <http://www.mms.gov/ooc/press/2008/press0913a.htm>

<sup>23</sup> Minerals Management Service Reports on Ike Damage Assessments, MMS Press Release # 3878, September 14, 2008

will increase once fair weather allows for a thorough assessment of the damage and all industry damage reports are received,<sup>24</sup>

- Routine releases of toxic metals, oil, gas, and byproducts (i.e., “drilling muds” and “cuttings”) from exploration and production contaminate surrounding sediments,
- Disturbance, permanent alteration and destruction of extensive regions of the ocean benthic or bottom environment, including the smothering of benthic organisms caused by exploration and production activities and pipeline and facility installations,
- Increased vessel strikes of endangered marine mammals and turtles by tankers and support ships,
- Increased risk of invasive species due to ballast water exchanges from tankers and Floating Production, Storage and Offloading systems (FPSO’s),
- Release of “produced waters” from offshore activities, which contain very substantial amounts of oil and grease, as well as heavy metals, toxic organics and a variety of highly toxic additives, which can create acute and chronic toxicity problems, and
- Onshore impacts, including extensive wetlands loss from the construction of onshore facilities and related structures.<sup>25</sup>

The negative impacts and risks listed above, as well as others, would lead to serious damage or destruction of New York and New Jersey’s marine and coastal resources, which are of extreme ecological value.

#### **Economic Importance and Risk:**

The waters of the Bight also support significant economic and social values, which could be seriously damaged by offshore oil and gas activities, including commercial fishing, commercial shell-fishing, recreational fishing, recreational boating, water recreation, whale-watching, and shore tourism. For example, the summers of 1987 and 1988 provide stark evidence of water quality’s link to state and local economies. During this time, raw sewage, medical waste, and dead and dying dolphins washed ashore in the bi-state region. When all indirect effects of the 1988 event are included, losses were estimated at \$820.7 million to \$3.8 *billion* [in 1987\$].<sup>26</sup> Specific economic values of the marine resources of the NY/NJ Bight are described below.

- **Commercial Fishing:** In New Jersey, “[a]nnual commercial landings of finfish and shellfish are over 182 million pounds with an approximate dockside value of \$100 million,” according to the New Jersey Department of Environmental Protection (NJDEP), Coastal Management Program,<sup>27</sup> thus generating \$100 million to the New Jersey economy annually.<sup>28</sup> For 1999, the New York Sea Grant study estimated that New

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<sup>24</sup> Minerals Management Service Reports on Ike Damage Assessments, MMS Press Release # 3878, September 14, 2008

<sup>25</sup> Minerals Management Service, <http://www.home.mms.gov/homepg/ofshore/atlocs/atlocs.html>,

<sup>26</sup> Ofiara, Douglas D. and Bernard Brown, Marine Pollution Events of 1988 and Their Effect on Travel, Tourism, and Regional Activities in New Jersey, referenced as an Invited Paper presented at the Conference on Floatable Wastes in the Ocean: Social Economic and Public Health Implications. March 21-22, 1989 at SUNY- Stony Brook.

<sup>27</sup> The New Jersey Coastal Management Program, Fact Sheet 2, March 2002, p.1.

<sup>28</sup> The New Jersey Coastal Management Program, Fact Sheet 3, March 2002, p.1.

York's commercial fishing industry contributed a total of \$149.6 million to the state's economy and directly employed approximately 10,500 New Yorkers."<sup>29</sup>

- **Recreational Fishing:** In 2003, the American Sportfishing Association estimated that recreational fishing brought \$724,634,011 in retail sales with a total multiplier effect<sup>30</sup> of \$1,363,259,834 to the state of New Jersey.<sup>31</sup> Recreational fishing accounts for 12,021 jobs in New Jersey, with salaries and wages totaling \$328,359,434.<sup>32</sup> The sport generates \$7,750,295 in New Jersey income taxes and \$56,339,961 in federal income taxes.<sup>33</sup> The same report indicates that recreational fishing in New York generated \$1,116,861,525 in retail sales with a total multiplier effect of \$2,011,716,251.<sup>34</sup> The sport accounts for 17,083 jobs and \$503,486,172 in salaries and wages in New York.<sup>35</sup>
- **Surfing:** Residents in Monmouth County, NJ contributed at least \$10 million to the economy from surfing and associated businesses (includes purchasing equipment, wax, bathing suits, wet suits, parking fees, beach badges, food and beverages).
- **Tourism:** According to the New Jersey Department of Commerce, travel and tourism in New Jersey contributes \$32 billion in economic activities each year and generates 416,000 jobs (the second largest private sector employer). The four coastal counties – Atlantic, Cape May, Ocean, and Monmouth – account for more than 72% or \$21.6 billion in annual economic activity in New Jersey.<sup>36</sup> In 1995 (the most recent numbers accessible), coastal tourism in New York contributed \$2.9 billion to the overall economy, comprising 62.5% of the state economy.<sup>37</sup>
- **Natural Capital:**<sup>38</sup> According to the New Jersey Department of Environmental Protection, the ecological goods and services provided by the state's marine ecosystems

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<sup>29</sup> New York's Seafood Industry by Ken Gall, New York Seafood Council, New York Sea Grant, Stony Brook, NY. Available at [http://www.nyseafood.org/doc.asp?document\\_key=NYSeafoodIndustry#commercial](http://www.nyseafood.org/doc.asp?document_key=NYSeafoodIndustry#commercial) (last visited July 14, 2005).

<sup>30</sup>“Multiplier” is defined as “An effect in economics in which an increase in spending produces an increase in national income and consumption greater than the initial amount spent. For example, if a corporation builds a factory, it will employ construction workers and their suppliers as well as those who work in the factory. Indirectly, the new factory will stimulate employment in laundries, restaurants, and service industries in the factory's vicinity,” *The New Dictionary of Cultural Literacy*, Third Edition, Houghton Mifflin Company, 2002. Available at [Answers.com](http://www.answers.com/topic/multiplier-effect) 26 Oct. 2005. <http://www.answers.com/topic/multiplier-effect>.

<sup>31</sup> American Sportfishing Association, Fishing Statistics, Economic Impacts of Fishing available at [http://www.asafishing.org/asa/statistics/economic\\_impact/state\\_allfish\\_2003.html](http://www.asafishing.org/asa/statistics/economic_impact/state_allfish_2003.html) (last visited July 14, 2005).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> American Sportfishing Association, Fishing Statistics, “Economic Impacts of Fishing” available at [http://www.asafishing.org/asa/statistics/economic\\_impact/state\\_allfish\\_2003.html](http://www.asafishing.org/asa/statistics/economic_impact/state_allfish_2003.html) (last visited July 14, 2005).

<sup>35</sup> *Id.*

<sup>36</sup> NJ Commerce, Economic Growth and Tourism Commission, Frequently Asked Questions: Tourism in New Jersey, prepared for consideration by the Blue Ribbon Panel on Offshore Wind, April 2005.

<sup>37</sup> Coast Alliance, “State of the Coasts: A State-by-State Analysis of the Vital Link between Healthy Coasts and a Healthy Economy,” p.109, June 1995.

<sup>38</sup> “Natural Capital” is defined by the NJ Department of Environmental Protection as “the economic value of goods and services provided by various naturally-occurring assets over an extended period, a period that for some assets is essentially perpetual on any meaningful human time scale.”

equate to \$5.3 billion/year for estuaries and tidal bays and \$389 million/year for other coastal waters [in 2004\$], including the coastal shelf out to the three-mile limit. New Jersey beaches provide the highest value per acre of any other habitat by far, with an ecoservices value of \$330 million/yr.<sup>39</sup> New Jersey did not include the economic value of the fish and shellfish present in these ecosystems, nor the important and valuable resources of the OCS, such as the reef and canyon systems, in their analysis. Similar values can be expected for both the northern and southern shores of Long Island, but actual dollar values are not readily available as New York has not conducted a formal analysis of the ecosystem services of their natural resources.

These revenues rely directly on a healthy and clean marine environment.

### **Public and Government Opposition**

Numerous federal and state elected officials and citizens have firmly and continuously opposed oil and gas development off the coast of New York and New Jersey, as is evidenced by the existing moratoriums, and the numerous bills introduced in opposition of offshore oil and gas drilling. On September 15, 2008, New Jersey Governor Jon Corzine wrote Department of the Interior's Secretary Dirk Kempthorne to reiterate his strong opposition to the proposed leasing program. As noted in his letter, he explained that *"due to the potential impacts of drilling to the future energy security of our New Jersey's residents, our coastal heritage, economy and environment, I continue to oppose leasing in the North and Mid-Atlantic Planning Areas and ask that you exclude these areas from the next five year program."*<sup>40</sup> Indeed, nearly the entire New Jersey U.S. Congressional delegation opposes Outer Continental Shelf development, in general and especially in the Atlantic where they have sustained the Moratoria for over 25 years. In addition, state officials and many municipalities object to the development of the Outer Continental Shelf.

### **A Drop in the Bucket- Proposal is Poor Judgment and Bad Governance**

**In short, the oil and natural gas potential in the entire Atlantic region (North, Mid and South) would last approximately 229 and 562 days, respectively.** Projections from the Energy Information Administration (EIA), the federal agency responsible for developing timely, high-quality information and preparing objective, credible energy analyses for use by the Congress, the Administration, and the public, indicate the New Leasing Plan's estimated amount of undiscovered technically recoverable oil and gas resources in the OCS currently under moratoria is significantly overstated by almost 8 billion barrel of oil and over 36 trillion cubic feet of natural gas.<sup>41</sup> Based on production and consumption estimates from the EIA,<sup>42</sup> the amount of technically recoverable oil in the entire Atlantic OCS is only enough to supply our

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<sup>39</sup> Valuing New Jersey's Natural Capital: An assessment of the economic value of the state's natural resources. April 2007 State of New Jersey New Jersey Department of Environmental Protection <http://www.state.nj.us/dep/dsr/naturalcap/>

<sup>40</sup> Letter from Governor Jon Corzine, New Jersey, to Secretary Dirk Kempthorne, U.S. Department of Interior 3 (Sept. 15, 2008) (on file with author).

<sup>41</sup> Comparison of Fed Reg Vol. 73 (149) Supplementary Information, pg. 45066 and the EIA "Annual Energy Outlook 2007", Issues in Focus, Table 10. U.S. Department of the Interior, DOI/EIA 0383 (2007)

<sup>42</sup> Annual Energy Outlook 2008, Oil and Natural Gas Projections, U.S. Department of the Interior, DOI/EIA 0383 (2008) <http://www.eia.doe.gov/oiaf/aeo/gas.html>

transportation fuel needs for approximately 229 days,<sup>43</sup> and natural gas supplies are only estimated to last 562 days<sup>44</sup> using 2030 national consumption rates (the year production is expected to begin). In fact, the EIA analyzed the impact of opening access to the lower 48 OCS under moratorium, and concluded that “[b]ecause oil prices are determined on the international market, however, any impact on average wellhead prices is expected to be insignificant.”

EIA’s analysis also concluded that “a significant portion of the additional resource [opening areas under moratorium] would not be economically attractive to develop at the reference case prices.”<sup>45</sup> In fact, oil prices are impacted by much more than just supply issues. The EIA reported that from 2004 to 2006 the rental price of offshore oil rigs increased by 225% for nearshore rigs and 340% for deepwater rigs and prices are expected to continue to rise.<sup>46</sup> An ongoing global shortage of offshore oil drilling ships finds “the world’s existing drill-ships are booked solid for the next five years,”<sup>47</sup> causing major delays in exploration and oil production operations. In addition to drilling equipment costs, other development costs have doubled in the past five years from factors such as “more acute competition for energy resources, shortages in steel, engineering and manufacturing capacity.”<sup>48</sup> Speculative trading has been impacting oil prices as early as 2006, when a U.S. Senate staff report found that “the demand for a barrel of oil that results from the purchase of a futures contract by a speculator is just as real as the demand for a barrel that results from the purchase of a futures contract by a refiner or other user of petroleum.”<sup>49</sup>

The recovery of such small amounts of oil and gas is not an economically or ecologically viable option, and more importantly, would put at risk the active economic and ecologic productivity and potentialities of the natural resources in the region.

The public relies on government officials to make sound policies based on scientific fact and risk management. To consider such invasive and ecologically risky activities for such small amounts of potential oil and gas is reckless, at best.

### **Conflicts with Department of Defense and National Aeronautics and Space Administration**

MMS continues to pursue areas for oil and gas developed in the Atlantic that are rejected by the U.S. military and National Aeronautics and Space Administration (NASA) due to significant risks. The U.S. Navy’s Virginia Capes Operations Area (hereinafter the “VACAPES”) includes offshore areas of Delaware, Maryland, Virginia and North Carolina to 155 nautical miles into the Atlantic Ocean, including 28,672 nm<sup>2</sup> of special use areas, 27,661 nm<sup>2</sup> of offshore surface and

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<sup>43</sup> Annual Energy Outlook 2007, Issues in Focus, Table 10. U.S. Department of the Interior, DOI/EIA 0383 (2007) <http://www.eia.doe.gov/oiaf/archive/aeo07/pdf/issues.pdf>

<sup>44</sup> Annual Energy Outlook 2007, Issues in Focus, Table 10. U.S. Department of the Interior, DOI/EIA 0383 (2007)

<sup>45</sup> Annual Energy Outlook 2007, Issues in Focus, U.S. Department of the Interior, DOI/EIA 0383 (2007)

<sup>46</sup> Annual Energy Outlook 2007, Issues in Focus, U.S. Department of the Interior, DOI/EIA 0383 (2007)

<sup>47</sup> “Dearth of ships delay drilling of offshore oil” by J. Mouawad and M. Fackler, NY Times Business Section, June 19, 2008

<sup>48</sup> “Dearth of ships delay drilling of offshore oil” by J. Mouawad and M. Fackler, NY Times Business Section, June 19, 2008

<sup>49</sup> “The role of market speculation in rising oil and gas prices: A need to put the cop back on the beat”, Permanent Subcommittee on Investigations U.S. Senate Committee on Homeland Security and Governmental Affairs, June 2006 <http://www.senate.gov/~levin/newsroom/supporting/2006/PSI.gasandoilspec.062606.pdf>



subsurface operations areas and 18,092 nm<sup>2</sup> of deep ocean areas (see map<sup>50</sup>).<sup>51</sup> The U.S. Navy currently conducts training and war exercises within VACAPES that utilize several different forms of live ammunition including gunnery exercises, airborne mine countermeasures, general subsurface operations, surface-to-air weapon delivery such as strafing, rockets and bombs, and antisubmarine rocket and torpedo firing.<sup>52</sup> In addition, Air Force activities in the proposed area include readiness training for tactical fighters and interceptor aircrafts, refueling operations, basic fighter maneuvering, air combat training, and air-to-air intercepts.<sup>53</sup> As stated in the Proposed Leasing Program Draft EIS, the U.S. Navy finds that military activities in the area “*have the potential to interfere with or interrupt exploration and drilling operations.*”<sup>54</sup> Naval training exercises and oil and gas activities are mutually exclusive and in direct conflict, as military weapons testing, the potential presence of unexploded ordnances in sediments from past exercises, and subvert underwater activities create a substantial risk to oil and gas exploration and production activities that dramatically increase the likelihood of a major oil spill or other catastrophes. This alone should eliminate the entire VACAPES from further consideration by MMS.

VACAPES endures many maneuvers and ordnance activities, which can be harmful to marine life. While these warrant review and concern, it is absolute that these military activities are incompatible with oil and gas development. Indeed, in April 2006<sup>55</sup> and again in November 2006,<sup>56</sup> Assistant Secretary to the Navy (Installations and Environment), Donald R. Schregardus, submitted comments as the Defense Department Executive Agent for OCS matters, on the draft Proposed Leasing Program. In his original letter, he clearly stated,

***“Because hazards in this area to operating crews and oil company equipment and structures would be so great, the U.S. Navy opposes oil and gas exploration and development in the program location.”***<sup>57</sup>

This was followed by a second letter in response to the Final Program, which still included the lease area within VACAPES with a new 25 mile buffer around the Virginia coastline.

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<sup>50</sup> High resolution map of VACAPES

<http://www.vacapesrangecomplexeis.com/Documents/VACAPESRangeComplex.pdf>

<sup>51</sup> Virginia Capes Range Complex Environmental Impact Statement/Overseas EIS, June 2008

<http://vlex.com/vid/39094396>

<sup>52</sup> Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007-2012 August 2006, Page 99, U.S. Department of the Interior, Minerals Management Service.

<sup>53</sup> Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007-2012 August 2006, Page 99, U.S. Department of the Interior, Minerals Management Service.

<sup>54</sup> Outer Continental Shelf Oil and Gas Leasing Program 2007-2012, Draft Environmental Impact Statement, July 2006, Page IV-2, U.S. Department of the Interior, Minerals Management Service.

<sup>55</sup> U.S. Department of the Navy, Letter to Minerals Management Service regarding the draft Proposed 5-year Outer Continental Shelf Oil and Gas Leasing Program for 2007-2012. April 10, 2006. MMS Comment ID # 5YR-HQ-0006-C00D1864

<sup>56</sup> U.S. Department of the Navy, Letter to Minerals Management Service regarding the Proposed 5-year Outer Continental Shelf Oil and Gas Leasing Program for 2007-2012. Nov. 27, 2006.

<sup>57</sup> U.S. Department of the Navy, Letter to Minerals Management Service regarding the draft Proposed 5-year Outer Continental Shelf Oil and Gas Leasing Program for 2007-2012. April 10, 2006. MMS Comment ID # 5YR-HQ-0006-C00D1864

***“However, the special interest sale proposed for the Mid-Atlantic region in 2011 is not acceptable to the Department because of its incompatibility with the military training and testing conducted in this area.”<sup>58]</sup>***

National Aeronautics and Space Administration (hereinafter “NASA”) also operates a research range off of Virginia’s Eastern Shore, where their activities include sub-surface, surface and air exercises.<sup>59</sup> NASA expressed their frustration with MMS’s failure to recognize the obvious “*safety and liability issues to oil activities and personnel from launch activities from our Wallops Flight Facility in Virginia,*”<sup>60</sup> in their original comments opposing the proposed oil and gas leasing activities within VACAPES<sup>61</sup>, and reiterated them in a second letter, written in response to the continued inclusion of this lease area in the Final Program.

***“NASA believes the Mineral Management Service has not adequately recognized the potential conflicts with OCS oil and gas activities within the Mid-Atlantic and Virginia proposed area, and the Department of Defense and NASA activities within the same area.”<sup>62</sup>***

It is unacceptable that despite the explicit danger to people and the environment, and the clear and repeated opposition from both the Department of the Defense and NASA, MMS has actually increased the proposed leasing area to include all of VACAPES.

### **Boundary Issues Highly Objectionable**

We reiterate our previous rejection of the new boundaries of the four Atlantic Ocean Planning Areas. These new boundaries appear to correspond to the State offshore administrative boundaries published by MMS in January 2006 (i.e., the southerly boundary of the Mid-Atlantic Planning Area is identical to the state boundary shared by the Carolinas).<sup>63</sup> This is highly objectionable. First, these State boundaries were not formally adopted by rule and, therefore, were not subject to public comment. Secondly, the State boundaries were based upon “equidistant lines” and “geodetic calculations”<sup>64</sup>, and not environmental or biological factors, such as current, wind, fish migration patterns, etc. Third, the State boundaries were drawn in part to limit the number of “affected States” for any given action.<sup>65</sup> In light of various moratoriums and Presidential withdrawals, use of these State boundaries for oil and gas activities would appear to be unauthorized.

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<sup>58</sup> U.S. Department of the Navy, Letter to Minerals Management Service regarding the Proposed 5-year Outer Continental Shelf Oil and Gas Leasing Program for 2007-2012. Nov. 27, 2006.

<sup>59</sup> Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007-2012 August 2006, Page 99, U.S. Department of the Interior, Minerals Management Service.

<sup>60</sup> National Aeronautics and Space Administration (NASA), Letter to Minerals Management Service regarding the draft Proposed 5-year Outer Continental Shelf Oil and Gas Leasing Program for 2007-2012. April 10, 2006. MMS Comment ID # 5YR-HQ-0006-[C0001743](#)

<sup>61</sup> National Aeronautics and Space Administration (NASA), Letter to Minerals Management Service regarding the draft Proposed 5-year Outer Continental Shelf Oil and Gas Leasing Program for 2007-2012. April 10, 2006. MMS Comment ID # 5YR-HQ-0006-[C0001743](#)

<sup>62</sup> National Aeronautics and Space Administration (NASA), Letter to Minerals Management Service regarding the draft Proposed 5-year Outer Continental Shelf Oil and Gas Leasing Program for 2007-2012. November 27, 2006. MMS Comment ID # 5YR-HQ-0006-[C0002036](#)

<sup>63</sup> 71 Fed. Reg. 127

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

We are greatly concerned that MMS will use these new boundaries to discount the policies and concerns of New Jersey to any proposed oil and gas activities in the Mid or South Atlantic Planning Areas. Such a short-sighted approach would ignore the fact that, due to various environmental and biological factors, such as, the Gulf Stream and fish mobility and migration, activity offshore in the Mid and South Atlantic pose greater threats to New Jersey and New York waters of the Bight than activity off the coast of other states in the North Atlantic Planning Region.

For these same reasons, the recent proposal to grant individual state's the right to allow oil and gas activities off their coastline is ill-conceived and will jeopardize the economic and environmental livelihood of neighboring states. It is also in direct opposition to the recent conclusions of two national commissions on ocean policy. Both the Pew Oceans Commission<sup>66</sup> and the U.S. Commission on Ocean Policy<sup>67</sup> advocate for an integrated management approach based on ecosystem boundaries, as traditional state and federal jurisdictional boundaries are not relevant to ocean processes.

### **Global Warming**

The significant adverse impacts of global warming on the United States and the world have long been recognized by Congress,<sup>68</sup> codified by law,<sup>69</sup> upheld by the courts<sup>70</sup> and recognized by the Department of Interior (DOI) including their following conclusion: "*There is a consensus in the international community that global climate change is occurring and that it should be addressed in governmental decision making.*"<sup>71</sup> The extent of future warming depends on if, and how rapidly, the United States and the rest of the world reduce greenhouse gas pollution. Continued greenhouse gas emissions at or above current rates are projected to cause further warming and increasingly rapid and severe changes in the global climate system.<sup>72</sup> If society chooses to substantially reduce its emissions, the induced changes in climate would be smaller and more gradual.<sup>73,74</sup>

MMS's decision to increase fossil fuel production in the U.S. by opening up the entire lower 48 OCS to oil and gas leasing is irresponsible in the face of such overwhelming evidence that we must reduce fossil fuel consumption and seek "green" solutions such as those provided below, that will help solve our serious global warming problem.

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<sup>66</sup> America's Living Oceans: Charting a Course for Sea Change, The Final Report of the Pew Oceans Commission, June 2, 2003  
[http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Protecting\\_ocean\\_life/env\\_pew\\_oceans\\_final\\_report.pdf](http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Protecting_ocean_life/env_pew_oceans_final_report.pdf)

<sup>67</sup> [An Ocean Blueprint for the 21st Century](http://www.oceancommission.gov/documents/full_color_rpt/000_ocean_full_report.pdf) Final Report of the U.S. Commission on Ocean Policy  
[http://www.oceancommission.gov/documents/full\\_color\\_rpt/000\\_ocean\\_full\\_report.pdf](http://www.oceancommission.gov/documents/full_color_rpt/000_ocean_full_report.pdf)

<sup>68</sup> Global Change Research Act of 1990, Public Law 101-606, 104 Stat. 3096-3104 (1990)

<sup>69</sup> 15 U.S.C. §§ 2921 *et seq.*

<sup>70</sup> *Massachusetts v. Envtl. Prot. Agency*, 127 S. Ct. at 1455

<sup>71</sup> Secretarial Order 3226, Evaluating Climate Change Impacts in Management Planning (Jan. 19, 2001)  
[http://elips.doi.gov/elips/sec\\_orders/html\\_orders/3226.htm](http://elips.doi.gov/elips/sec_orders/html_orders/3226.htm)

<sup>72</sup> AR 6071, 7032-33

<sup>73</sup> AR 6071); *see Massachusetts v. Envtl. Prot. Agency*, 127 S. Ct. at 1458

<sup>74</sup>

## **“Green” Solution to Reduce Dependency on Foreign Oil and Fight Global Warming**

COA supports a federal and state energy plan that first and foremost promotes energy conservation and efficiency measures, as well as renewables. In addition to improving the environmental and economic quality of the country, a plan focused on green energy provides thousands of local, long-term, high quality jobs that will sustain thousands of families.

The Energy Independence and Security Act of 2007 (EISA 2007) increased fuel efficiency standards by 2020, aka Corporate Average Fuel Economy (CAFE), to an average of 35 mpg for an automaker’s entire fleet of vehicles; expanded renewable fuel standards to require the use of 36 billion gallons of ethanol by 2022; created many new appliance and lighting efficiency standards by 2012; created or enhanced industrial waste heat or natural gas efficiency and energy use in Federal buildings; and made other advancements as well.<sup>75</sup> The estimated fuel savings from efficiency improvements such as the new CAFE standards will reach 1.09 billion barrels per year (bby) by 2030.<sup>76</sup> A conservative estimate of the total savings from all measures in the EISA 2007 could reduce oil consumption by 1.46 bby by 2030.<sup>77</sup> And much more can still be done.

Increasing fuel economy standards further to 40 mpg for all vehicles by 2020 (not even including hybrids or other “advanced technologies”), a target that has been shown to be economically and technically feasible,<sup>78</sup> would save more oil in 15 years than is estimated to exist in the entire area under moratorium in the lower 48.<sup>79</sup> Further increasing the renewable fuel standard to 25% by 2025 would save 1.13 bby.<sup>80</sup> According to the EIA, adoption of a national renewable portfolio standard requiring 25% of electricity sales to be produced from renewable sources by 2025, would annually reduce natural gas use by close to 10% by 2030.<sup>81</sup> The American Council for an Energy Efficient Economy (ACEEE) identified a large number of feasible fuel efficiency measures (beyond cars and light trucks) in the transportation, industry and residential sectors that would result in a savings of 390.55 mby by 2020 under a moderate scenario and 525 mby under a more aggressive, but still feasible, scenario.<sup>82</sup>

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<sup>75</sup> Energy Independence and Security Act of 2007 (Public Law 110-140)

[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110\\_cong\\_public\\_laws&docid=f:publ140.110.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_public_laws&docid=f:publ140.110.pdf)

<sup>76</sup> Comparison of Projected Transportation Sector Demand for 2030 from 2007 Report without savings from EISA 2007 and the 2008 Report with EISA 2007 Annual Energy Outlook 2008, Oil and Natural Gas Projections, U.S. Department of the Interior, DOI/EIA 0383 (2008) <http://www.eia.doe.gov/oiaf/aeo/gas.html> compared to Annual Energy Outlook 2007, Oil and Natural Gas Projections, U.S. Department of the Interior, DOI/EIA 0383 (2007) [http://www.eia.doe.gov/oiaf/archive/aeo07/pdf/trend\\_4.pdf](http://www.eia.doe.gov/oiaf/archive/aeo07/pdf/trend_4.pdf)

<sup>77</sup> Will EISA 2007 make us energy independent?, D.L. Greene, Oak Ridge National Laboratory, Center for Transportation Analysis, Presentation for 2008 SAE Government/Industry Meetings, Washington, D.C., May 12, 2008 <http://www.sae.org/events/gim/presentations/2008greene.pdf>

<sup>78</sup> Technical options for improving the fuel economy of U.S. cars and light trucks by 2010-2015, DeCicco, An, and Ross, ACEEE, Report T012, 2001 <http://www.aceee.org/store/proddetail.cfm?CFID=1784946&CFTOKEN=60750022&ItemID=264&CategoryID=7>

<sup>79</sup> Fuel Economy: The Single Most Effective Step for Cutting Oil Dependence, Presentation by Union of Concerned Scientists Donald MacKenzie PowerShift energy alternatives event Lawrence, Kansas April 29, 2006.

<sup>80</sup> Energy and Economic Impacts of 25% RPS and a 25% RFS by 2025, EIA, Sept 2007, SR-OIAF/2007-05 [http://www.eia.doe.gov/oiaf/servicerpt/eeim/pdf/sroiaf\(2007\)05.pdf](http://www.eia.doe.gov/oiaf/servicerpt/eeim/pdf/sroiaf(2007)05.pdf)

<sup>81</sup> Energy and Economic Impacts of both a 25% RPS and a 25% RFS by 2025, EIA Report SR/OIAF/2007-05, August 2007 [http://www.eia.doe.gov/oiaf/servicerpt/eeim/pdf/sroiaf\(2007\)05.pdf](http://www.eia.doe.gov/oiaf/servicerpt/eeim/pdf/sroiaf(2007)05.pdf)

<sup>82</sup> Reducing oil use through energy efficiency, beyond cars and light trucks. Elliot, Langer and Nadel, ACEEE, Report E061, Jan 2007 <http://aceee.org/pubs/e061.pdf?CFID=1784946&CFTOKEN=60750022>

All of these steps will not only reduce our dependency of foreign oil and eliminate the need to risk our valuable marine resources, but they will also have the added benefit of reducing dangerous air pollution, including emissions that cause global warming. In the words of the U.S. Department of Energy: **“Energy efficiency and clean, renewable energy will mean a stronger economy, a cleaner environment, and greater energy independence for America.”**<sup>83</sup>

**In conclusion:**

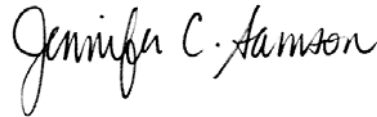
Based on above described concerns and rationale, MMS must rescind the New Leasing Program. This region is under Congressional moratoria, includes areas opposed for development by important federal agencies, promotes our dependency on fossil fuels, fails to consider viable fuel efficiency alternatives and, most importantly, unnecessarily puts at risk an area that is economically and environmentally dependent upon clean coastlines and ocean waters. In addition, the U.S. Atlantic coast contains too little fossil fuel resources to justify the expense and environmental risk of offshore drilling activities when there are economically and technically feasible alternatives available.

Please send any correspondence to Clean Ocean Action, 18 Hartshorne Dr., Suite 2, Highlands, NJ 07732, or email at [science@cleanoceanaction.org](mailto:science@cleanoceanaction.org). We will distribute to listed parties.

Sincerely,



Cindy Zipf  
Executive Director



Jennifer Samson, Ph.D.  
Principal Scientist

cc: NJ US Congressional Delegation  
open letter

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<sup>83</sup> Department of Energy, Energy Efficiency and Renewable Energy website, <http://www.eere.energy.gov/>