

OFFSHORE WIND FOR TERRITORIES ACT

NOVEMBER 16, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 6665]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 6665) to amend the Outer Continental Shelf Lands Act to apply to territories of the United States, to establish offshore wind lease sale requirements, to provide dedicated funding for coral reef conservation, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 6665 is to amend the Outer Continental Shelf Lands Act to apply to territories of the United States, to establish offshore wind lease sale requirements, and to provide dedicated funding for coral reef conservation.

BACKGROUND AND NEED FOR LEGISLATION

Wind energy development on the U.S. Outer Continental Shelf (OCS) is a relatively new phenomenon, with a regulatory and statutory structure only being contemplated in the past two decades. The OCS are the submerged lands, subsoil and seabed that stretch from the low water mark of the shore to at least 200 miles seaward and in some cases beyond.¹ Under the federal Outer Continental Shelf Lands Act (OCSLA, 43 U.S.C. 1331 et seq.), the federal gov-

¹ <https://www.boem.gov/Outer-Continental-Shelf/>; <https://nauticalcharts.noaa.gov/data/us-maritime-limits-and-boundaries.html>.

ernment regulates the OCS outside of State jurisdiction, which is most cases is 3 nautical miles from shore.²

Although frameworks had long been established for onshore federal mineral leasing, and for oil and natural gas activities on the OCS, it was not until 2005 that Congress clarified the process for OCS renewable energy with the passage of the Energy Policy Act of 2005 (EPA05, Public Law 109–58). Prior to EPA05, the Army Corps of Engineers (Corps) generally led the offshore wind leasing process, as the projects were considered obstructions in “navigable waters of the United States.”³ EPA05 clarified this uncertainty by amending the OCSLA to provide the Secretary of the Interior the authority to lease offshore lands for the purposes of renewable energy development. Furthermore, EPA05 preserved and clarified the responsibilities of other federal agencies, such as the Corps, who operate on the OCS.

While several coastal States have seen the benefits envisioned under the OCSLA,⁴ these benefits have not spread to the territories. Currently, OCSLA does not apply to the territories and possessions of the United States.⁵ Therefore, the Department of the Interior (DOI) cannot lease or otherwise manage the federal OCS acreage offshore these islands for the purposes of development.

The inapplicability of OCSLA to the U.S. territories, as well as their distance from the mainland, have hindered the territories’ abilities to tap into the mainland’s large-scale electricity grids. Many are reliant on imported petroleum products. For instance, Guam’s per capita petroleum consumption is nearly twice that in the continental U.S.⁶ Moreover, the devastating hurricanes experienced by Puerto Rico again reiterated the need for modernization and diversification of fuel sources. These islands are in dire need of energy solutions.

Several of the territories are attempting to address the energy crisis they currently face. In 2008, Guam enacted a renewable portfolio goal of sourcing 8% of its power from renewable generation by 2020.⁷ Since that time, several major solar initiatives have taken off. Additionally, Guam has considerable offshore wind potential, and so long as the turbines are engineered to withstand typhoon conditions and earthquakes, offshore wind could prove a reliable energy resource. However, the long-term economic feasibility of a commercial offshore wind project is still unknown.

A predominant concern about offshore wind energy leasing is that development may directly conflict with existing uses and activities. Throughout the pre-leasing and leasing process for offshore areas of the mainland U.S., DOI attempts to engage with a variety of coastal and ocean users, including local tourism boards, coastal mayors, fisheries, and shippers.⁸ Yet, despite this outreach, many

²Id. Texas and the Gulf of Mexico coast of Florida have jurisdiction that extends 9 nautical miles seaward.

³U.S.C. 403.

⁴See Public Law 109–432.

⁵These include American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

⁶See U.S. Energy Information Administration-Guam, September 21, 2017, available at <https://www.eia.gov/state/analysis.php?sid=GQ>.

⁷See Guam Bill 166, March 2008.

⁸See Bureau of Ocean Energy Management, Regulatory Roadmap, available at (<https://www.boem.gov/Regulatory-Roadmap/>)

offshore stakeholders maintain that additional activities will impair or displace existing offshore interests.

Fishermen are among the most concerned, as their livelihood directly depends on their ability to access large swaths of the sea. Importantly, the Department of Defense (DOD) is a major, active user of the OCS—particularly in the Pacific Theater—and conducts training and testing missions in nearly all OCS regions. Guam, for instance, is home to several major military installations, and is a critical hub for operations in the Pacific.⁹ Tourism may also be impacted by offshore wind turbines dotting the horizon. In most territories, tourism is a major economic driver. The presence of visible offshore wind installations might be considered a threat to the local tourism industry.¹⁰

Like the offshore areas of the mainland U.S., minimizing and mitigating potential conflicts with other ocean users, including local and regional stakeholders and the DOD, is essential to the successful development and progression of the wind industry off the territories.

H.R. 6665 applies the OCSLA to the submerged lands off American territories and possessions, providing DOI with management authority for such offshore acreage. The bill also creates a revenue sharing structure, providing 37.5% of the revenues generated to the adjacent territory. In addition, 12.5% of the revenues generated are deposited into the National Oceanic and Atmospheric Administration’s Coral Reef Conservation Program Fund.

SECTION-BY-SECTION ANALYSIS OF H.R. 6665

Section 2. Application of Outer Continental Shelf Lands Act with respect to the territories of the United States

- Amends the application of the Outer Continental Shelf Lands Act (OCSLA) to include the territories and possessions of the United States
- Excludes the territories and possessions from inclusion in a National OCS Oil and Gas Leasing Program

Section 3. Disposition of revenues with respect to territories of the United States

- Establishes a revenue sharing program for revenues generated by leasing and development offshore a territory
- Territories will receive 37.5% of qualifying revenues, consistent with the revenue sharing structure for the Gulf Coast States, as established in the Gulf of Mexico Energy Security Act (Public Law 109–432)
- 12.5% of revenues will be deposited into the Coral Reef Conservation Fund
- 50% of revenues generated will be deposited into U.S. Treasury

⁹See Military INSTALLATIONS, Joint Region Marianas Naval Base Guam, Guam, available at http://www.militaryinstallations.dod.mil/MOS/?p=132:CONTENT:0::NO::P4_INST_ID%2CP4_INST_TYPE:3025%2CINSTALLATION.

¹⁰See Michelle Froese, Study shows offshore wind would have no impact on Maryland tourism, Oct. 11, 2017, available at <https://www.windpowerengineering.com/business-news-projects/study-shows-offshore-wind-no-impact-maryland-tourism/> (“... some observers have expressed concern that the wind farms could impact tourism”).

Section 4. Wind lease sales for areas of outer continental shelf

- Directs DOI to conduct feasibility studies on offshore wind lease sales offshore all territories
- Should a study determine that a wind lease is feasible, DOI is directed to conduct a lease sale

Section 5. Establishment of Coral Reef Conservation Fund

- Establishes the Coral Reef Conservation Fund for the purpose of maintaining the health of coral reefs on the U.S. OCS
- Fund is subject to appropriation
- Renames existing Coral Reef Conservation Fund established under the Coral Reef Conservation Act of 2000 (16 U.S.C. 6404) as the “Coral Reef Public-Private Partnership”

COMMITTEE ACTION

H.R. 6665 was introduced on August 10, 2018, by Congresswoman Madeleine Z. Bordallo (D-GU). The bill was referred to the Committee on Natural Resources. On September 5, 2018, the Natural Resources Committee met to consider the bill. No amendments were offered, and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 14, 2018.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6665, the Offshore Wind for Territories Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kathleen Gramp.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 6665—Offshore Wind for Territories Act

Summary: H.R. 6665 would authorize the Department of the Interior (DOI) to auction leases for developing energy and mineral resources off the coast of certain U.S. territories and possessions, subject to certain conditions. In particular, the bill would direct DOI to study the potential for developing offshore wind resources within the territorial jurisdiction of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, and to offer leases in areas where such development is feasible. Under the bill, 37.5 percent of the income from such leases could be spent without further appropriation for payments to the affected jurisdictions.

CBO estimates that implementing H.R. 6665 would reduce net direct spending by \$14 million over the 2019–2028 period, primarily as a result of new leasing activity for offshore wind resources. In addition, CBO estimates that it would cost \$3 million over the 2019–2023 period to complete the studies and planning activities required by the bill; any spending would be subject to the availability of appropriated funds.

Because enacting H.R. 6665 would affect direct spending; therefore, pay-as-you-go procedures apply. The bill would not affect revenues.

CBO estimates that enacting H.R. 6665 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 6665 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would benefit U.S. territories through the sharing of royalties generated from offshore wind leases.

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 6665 is shown in the following table. The costs of the legislation fall within budget functions 300 (natural resources and the environment) and 950 (undistributed offsetting receipts).

| | By fiscal year, in millions of dollars— | | | | | | | | | | | |
|--|---|------|------|------|------|------|------|------|------|---------------|---------------|-----|
| | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2019– 2028 | 2019– 2023 | |
| DECREASES IN DIRECT SPENDING | | | | | | | | | | | | |
| Estimated Budget Authority | 0 | 0 | 0 | 0 | 0 | –4 | –3 | –3 | –3 | –3 | 0 | –14 |
| Estimated Outlays | 0 | 0 | 0 | 0 | 0 | –4 | –3 | –3 | –3 | –3 | 0 | –14 |
| INCREASES IN SPENDING SUBJECT TO APPROPRIATION | | | | | | | | | | | | |
| Estimated Authorization Level | 0 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 3 | 9 |
| Estimated Outlays | 0 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 3 | 9 |

Components may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that H.R. 6665 will be enacted by the end of 2018. Estimated spending is based on historical patterns.

Direct spending

Based on the prices paid for leases of offshore wind resources in the Atlantic and the characteristics of the electricity markets in the Caribbean and the South Pacific, CBO estimates that implementing H.R. 6665 would increase net offsetting receipts (which

are recorded as reductions in direct spending) by \$14 million over the 2019–2028 period. That estimate reflects estimated gross proceeds of \$20 million and direct spending of \$6 million for payments to the affected jurisdictions.

Since 2013, DOI has conducted seven auctions of leases for offshore wind resources along the Atlantic coast, generating offsetting receipts of almost \$70 million. Taken together, the 12 existing leases cover nearly 1.4 million acres, with individual leases ranging in size from less than 70,000 acres to almost 190,000 acres each.¹ The prices paid for individual leases also have varied widely, ranging from less than \$1 million to \$42 million each, which is equivalent to less than \$1 per acre to more than \$500 per acre.

Several factors suggest that receipts from auctions in the Caribbean and South Pacific regions may be considerably lower, at least for the next few years. For example, technological advances are needed to deploy systems that can withstand category 5 hurricane strength winds. Similarly, current technologies for producing electricity from offshore wind may not be economically viable for the comparatively small markets in these regions.² On the other hand, the cost of conventional fuels in those regions is much higher than on the U.S. mainland, which may increase the relative value of offshore wind to utilities or large customers like the Department of Defense.

CBO expects that any such auctions would occur toward the end of the 10-year period because of the time needed to resolve such technical and economic issues. CBO estimates that few leases would be issued by 2028 because of the small size of the electricity markets in the Caribbean and South Pacific regions, but that the value of those leases would be similar to those paid for leases in the Atlantic because of the high cost of other fuel supplies. Thus, CBO estimates that gross proceeds would range from less than \$1 million to over \$40 million, with a midpoint of \$20 million. For this estimate, CBO assumes that payments to the affected jurisdictions would be made the year after proceeds are collected and would total \$6 million over the 2019–2028 period.

Finally, H.R. 6665 would authorize DOI to issue licenses to companies to explore and develop mineral resources other than oil and gas in areas within the exclusive economic zone (EEZ) on the OCS adjacent to any territory or possession of the United States. Based on the available information regarding deep-sea mining opportunities in the South Pacific, CBO estimates that any proceeds from issuing licenses for such mining would be negligible over the 2019–

¹According to the Energy Information Administration, the two largest markets, Puerto Rico and Guam, used 20 billion and 2 billion kilowatt-hours (kWh) in 2015, respectively. By comparison, the annual resource potential for individual leases in the Atlantic ranges from about 3 billion kWh to almost 9 billion kWh each, depending on the acreage of the lease. The estimated kilowatt-hour potential assumes an average of 3 megawatts of capacity per square kilometer and an average capacity factor of 45 percent. See Walt Musial, Principal Engineer and Manager of Offshore Wind, National Renewable Energy Laboratory, “Offshore Wind Energy Facility Characteristics,” (presentation at BOEM’s Offshore Wind and Maritime Industry Knowledge Exchange Workshop, March 5, 2018), <https://go.usa.gov/xPfng> (PDF, 2.1 MB). For data on electricity production for each jurisdiction, see Energy Information Administration, “U.S. States, State Profiles and Estimates: U.S. Overview” (accessed November 13, 2018), www.eia.gov/state/?sid=US. For more information on wind resources in the jurisdictions, see Frank Oteri and others, *2017 State of Wind Development in the United States by Region*, National Renewable Energy Laboratory, NREL/TP-5000-70738 (April 2018), www.nrel.gov/docs/fy18osti/70738.pdf (6.3 MB).

²See, for example, World Bank, *Precautionary Management of Deep Sea Mining Potential in Pacific Island Countries* (draft for discussion, accessed November 13, 2018). <http://tinyurl.com/y9a81q18> (PDF, 3.4 MB).

2028 period. According to the World Bank and others, the FEZs off the coast of American Samoa and other territories are relatively small and no large nodules of precious metals or minerals have been discovered.

Spending subject to appropriation

Based on historical trends in spending for similar activities, CBO estimates that completing the studies and activities related to leasing off the coast of U.S. territories would cost about \$3 million over the 2019–2023 period. Most of that spending would be for the technical and environmental assessments of offshore wind and mineral development off the coasts of U.S. territories in the Caribbean and South Pacific. CBO also estimates that conducting lease sales in those areas would cost about \$3 million, but expects that such spending would occur after 2023.

Finally, the bill would authorize DOE to deposit 12.5 percent of the proceeds in the Coastal Reef Conservation Fund; any spending of those amounts would be subject to appropriation. CBO estimates that spending from the Coastal Reef Conservation Fund would occur after 2023 and total about \$2 million over the 2024–2028 period.

Uncertainty: CBO aims to produce cost estimates that generally reflect the middle of a range of the most likely budgetary outcomes that would result if the legislation was enacted. The estimated reductions in direct spending resulting from the implementation of H.R. 6665 could be higher or lower for several reasons:

- CBO cannot predict the technical or economic feasibility of offshore wind systems in the Caribbean and South Pacific regions over the next 10 years. Proceeds from leasing could be higher if electricity from offshore wind systems becomes less expensive than alternative supplies but could be lower if current technological and market constraints continue; and
- CBO cannot predict the amount that companies would be willing to pay for leases of offshore wind resources. The prices paid for lease off the Atlantic coast have varied widely, reflecting differences in the strategic interests of bidders as well as technical and market conditions.

Pay-As-You-Go Considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 6665 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON SEPTEMBER 5, 2018

| | By fiscal year, in millions of dollars— | | | | | | | | | | | | | 2019–2023 | 2019–2028 |
|--------------------------------------|---|------|------|------|------|------|------|------|------|------|---|---|-----|-----------|-----------|
| | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | | | | | |
| NET DECREASE IN THE DEFICIT | | | | | | | | | | | | | | | |
| Statutory Pay-As-You-Go Impact | 0 | 0 | 0 | 0 | 0 | –4 | –3 | –3 | –3 | –3 | 0 | 0 | –14 | | |

Increase in long-term direct spending and deficits: CBO estimates that enacting H.R. 6665 would not increase net direct spend-

ing or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

Mandates: H.R. 6665 contains no intergovernmental or private-sector mandates as defined in UMRA and would benefit U.S. territories through the sharing of royalties generated from offshore wind leases.

Previous CBO estimate: On December 1, 2017, CBO transmitted a cost estimate for H.R. 4239, the SECURE American Energy Act, as ordered reported by the House Committee on Natural Resources on November 8, 2017. Sections 108 and 109 of H.R. 4239 would authorize the leasing of wind resources in similar areas, and the estimates of gross proceeds are similar. However, H.R. 6665 would authorize a larger portion of those proceeds to be spent without further appropriation. Thus, the estimated net decrease in direct spending is smaller than estimated for the similar provisions in H.R. 4239. Differences in the estimated discretionary cost primarily reflect differences between the two bills.

Estimate prepared by: Federal costs: Kathleen Gramp; Mandates: Jon Sperl.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Outer Continental Shelf Lands Act to apply to territories of the United States, to establish offshore wind lease sale requirements, and to provide dedicated funding for coral reef conservation.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

OUTER CONTINENTAL SHELF LANDS ACT

* * * * *

SEC. 2. DEFINITIONS.—When used in this Act—

(a) The term “outer Continental Shelf” means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, Eighty-third Congress, first session), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control *or lying within the exclusive economic zone of the United States and the outer Continental Shelf adjacent to any territory or possession of the United States, except that such term shall not include any area conveyed by Congress to a territorial government for administration;*

(b) The term “Secretary” means the Secretary of the Interior, except that with respect to functions under this Act transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term “Secretary” means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be;

(c) The term “lease” means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of, minerals;

(d) The term “person” includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation;

(e) The term “coastal zone” means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

(f) The term “affected State” means, with respect to any program, plan, lease sale, or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, any State—

(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion

of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

(2) which is, or is proposed to be, directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of this Act;

(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the Outer Continental Shelf; or

(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

(g) The term "marine environment" means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

(h) The term "coastal environment" means the physical atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

(i) The term "human environment" means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf;

(j) The term "Governor" means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

(k) The term "exploration" means the process of searching for minerals, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

(l) The term "development" means those activities which take place following discovery of minerals in paying quantities, includ-

ing geophysical activity, drilling, platform construction, and operation of all onshore support facilities, and which are for the purpose of ultimately producing the minerals discovered;

(m) The term “production” means those activities which take place after the successful completion of any means for the removal of minerals, including such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and work-over drilling;

(n) The term “antitrust law” means—

- (1) the Sherman Act (15 U.S.C. 1 et seq.);
- (2) the Clayton Act (15 U.S.C. 12 et seq.);
- (3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);
- (4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or
- (5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

(o) The term “fair market value” means the value of any mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

(p) The term “major Federal action” means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); **[and]**

(q) The term “minerals” includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from “public lands” as defined in section 103 of the Federal Land Policy and Management Act of 1976~~...~~; *and*

(r) *The term “State” includes each territory of the United States.*

* * * * *

SEC. 9. DISPOSITION OF REVENUES.—**[All rentals]** (a) *IN GENERAL.—Except as otherwise provided in law, all rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.*

(b) *DISPOSITION OF REVENUES TO TERRITORIES OF THE UNITED STATES.—Of the rentals, royalties, and other sums paid to the Secretary under this Act from a lease for an area of land on the outer Continental Shelf adjacent to a territory and lying within the exclusive economic zone of the United States pertaining to such territory, and not otherwise obligated or appropriated—*

- (1) *50 percent shall be deposited in the Treasury and credited to miscellaneous receipts;*

(2) 12.5 percent shall be deposited in the Coral Reef Conservation Fund established under section 211 of the Coral Reef Conservation Act of 2000; and

(3) 37.5 percent shall be disbursed to territories of the United States in an amount for each territory (based on a formula established by the Secretary by regulation) that is inversely proportional to the respective distance between the point on the coastline of the territory that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract.

* * * * *

SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d) of this section, shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall consist of a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

(G) the relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and

(H) relevant environmental and predictive information for different areas of the outer Continental Shelf.

(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

(4) Leasing activities shall be conducted to assure receipt of fair market value for the lands leased and the rights conveyed by the Federal Government.

(b) The leasing program shall include estimates of the appropriations and staff required to—

(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this Act;

(3) conduct environmental studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirement of applicable laws and regulations, and with the terms of the lease.

(c)(1) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency, including the Attorney General, in consultation with the Federal Trade Commission, and from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider any suggestions from the executive of any affected local government in such an affected State, which have been previously submitted to the Governor of such State, and from any other person.

(2) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (3) of this subsection, the Secretary shall submit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor may solicit comments from those executives of local governments in his State which he, in his discretion, determines will be affected by the proposed program. If any comment by such Governor is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

(3) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, and the Governors of affected

States, and shall publish such proposed program in the Federal Register. Each Governor shall, upon request, submit a copy of the proposed leasing program to the executive of any local government affected by the proposed program.

(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General may, after consultation with the Federal Trade Commission, submit comments on the anticipated effects of such proposed program upon competition. Any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or local government was not accepted.

(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

(e) The Secretary shall review the leasing program approved under this section at least once each year. He may revise and reapprove such program, at any time, and such revision and reapproval, except in the case of a revision which is not significant, shall be in the same manner as originally developed.

(f) The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

(2) public notice of and participation in development of the leasing program;

(3) review by State and local governments which may be impacted by the proposed leasing;

(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

(5) consideration of the coastal zone management program being developed or administered by an affected coastal State pursuant to section 305 or section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454, 1455).

Such procedures shall be applicable to any significant revision or reapproval of the leasing program.

(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the de-

partment or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged or proprietary data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

(h) The heads of all Federal departments and agencies shall provide the Secretary with any nonprivileged or nonproprietary information he requests to assist him in preparing the leasing program and may provide the Secretary with any privileged or proprietary information he requests to assist him in preparing the leasing program. Privileged or proprietary information provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

(i) *This section shall not apply to the scheduling of lease sales in the outer Continental Shelf adjacent to the territories and possessions of the United States.*

* * * * *

SEC. 33. WIND LEASE SALES FOR AREAS OF OUTER CONTINENTAL SHELF.

(a) *AUTHORIZATION.*—*The Secretary may conduct wind lease sales on the outer Continental Shelf.*

(b) *WIND LEASE SALE PROCEDURE.*—*Any wind lease sale conducted under this section shall be considered a lease under section 8(p).*

(c) *WIND LEASE SALES OFF COASTS OF TERRITORIES OF THE UNITED STATES.*—

(1) *STUDY ON FEASIBILITY OF CONDUCTING WIND LEASE SALES.*—

(A) *IN GENERAL.*—*The Secretary shall conduct a study on the feasibility, including the technological and long-term economic feasibility, of conducting wind lease sales on an area of the outer Continental Shelf within the territorial jurisdiction of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.*

(B) *CONSULTATION.*—*In conducting the study required in paragraph (A), the Secretary shall consult—*

(i) *the National Renewable Energy Laboratory of the Department of Energy; and*

(ii) *the Governor of each of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.*

(C) *PUBLICATION.*—*The study required in paragraph (A) shall be published in the Federal Register for public comment for not fewer than 60 days.*

(D) *SUBMISSION OF RESULTS.*—*Not later than 18 months after the date of the enactment of this section, the Secretary shall submit the results of the study conducted under subparagraph (A) to:*

- (i) the Committee on Energy and Natural Resources of the Senate;
- (ii) the Committee on Natural Resources of the House of Representatives; and
- (iii) each of the delegates or resident commissioner to the House of Representatives from American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States, respectively.

(E) PUBLIC AVAILABILITY.—The study required under subparagraph (A) and results submitted under subparagraph (C) shall be made readily available on a public Government internet website.

(2) CALL FOR INFORMATION AND NOMINATIONS.—The Secretary shall issue a call for information and nominations for proposed wind lease sales for areas determined to be feasible under the study conducted under paragraph (1).

(3) CONDITIONAL WIND LEASE SALES.—

(A) IN GENERAL.—For each territory, the Secretary shall conduct not less than 1 wind lease sale on an area of the outer Continental Shelf within the territorial jurisdiction of such territory that meets each of the following criteria:

- (i) The study required under paragraph (1)(A) concluded that a wind lease sale on the area is feasible.
- (ii) The Secretary has determined that the call for information has generated sufficient interest for the area.
- (iii) The Secretary has consulted with the Secretary of Defense regarding such a sale.
- (iv) The Secretary has consulted with the Governor of the territory regarding the suitability of the area for wind energy development.

(B) EXCEPTION.—If no area of the outer Continental Shelf within the territorial jurisdiction of a territory meets each of the criteria in clauses (i) through (iii) of subparagraph (A), the requirement under subparagraph (A) shall not apply to such territory.

CORAL REEF CONSERVATION ACT OF 2000

* * * * *

TITLE II—CORAL REEF CONSERVATION

* * * * *

SEC. 205. [CORAL REEF CONSERVATION FUND] CORAL REEF PUBLIC-PRIVATE PARTNERSHIP.

(a) FUND.—The Administrator may enter into an agreement with a nonprofit organization that promotes coral reef conservation authorizing such organization to receive, hold, and administer funds received pursuant to this section. The organization shall invest, reinvest, and otherwise administer the funds and maintain such funds and any interest or revenues earned in a separate interest bearing account, hereafter referred to as the Fund, established by such organization solely to support partnerships between the public

and private sectors that further the purposes of this Act and are consistent with the national coral reef action strategy under section 203.

(b) **AUTHORIZATION TO SOLICIT DONATIONS.**—Pursuant to an agreement entered into under subsection (a) of this section, an organization may accept, receive, solicit, hold, administer, and use any gift to further the purposes of this title. Any moneys received as a gift shall be deposited and maintained in the **[Fund]** *separate interest bearing account* established by the organization under subsection (a).

(c) **REVIEW OF PERFORMANCE.**—The Administrator shall conduct a continuing review of the grant program administered by an organization under this section. Each review shall include a written assessment concerning the extent to which that organization has implemented the goals and requirements of this section and the national coral reef action strategy under section 203.

(d) **ADMINISTRATION.**—Under an agreement entered into pursuant to subsection (a), the Administrator may transfer funds appropriated to carry out this title to an organization. Amounts received by an organization under this subsection may be used for matching, in whole or in part, contributions (whether in money, services, or property) made to the organization by private persons and State and local government agencies.

* * * * *

SEC. 211. CORAL REEF CONSERVATION FUND.

(a) **ESTABLISHMENT.**—*There is established in the Treasury the Coral Reef Conservation Fund, hereafter referred to as the Fund.*

(b) **DEPOSITS.**—*For each fiscal year, there shall be deposited in the Fund the portion of such revenues due and payable to the United States under subsection (b)(2) of section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338).*

(c) **USES.**—*Amounts deposited in the Fund under this section and appropriated to the Secretary of Commerce under subsection (f) shall be used by the Secretary of Commerce to carry out the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.), with priority given to carrying out sections 204 and 206 of such Act (16 U.S.C. 6403 and 6405).*

(d) **AVAILABILITY.**—*Amounts deposited in the Fund shall remain in the Fund until appropriated by Congress.*

(e) **REPORTING.**—*The President shall include with the proposed budget for the United States Government submitted to Congress for a fiscal year a comprehensive statement of deposits into the Fund during the previous fiscal year and estimated requirements during the following fiscal year for appropriations from the Fund.*

(f) **AUTHORIZATION OF APPROPRIATIONS.**—*There are authorized to be appropriated from the Fund to the Secretary of Commerce, an amount equal to the amount deposited in the Fund in the previous fiscal year.*

(g) **NO LIMITATION.**—*Appropriations from the Fund pursuant to this section may be made without fiscal year limitation.*