

INNOVATION IN OFFSHORE LEASING ACT

SEPTEMBER 6, 2016.—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

together with

ADDITIONAL VIEWS

[To accompany H.R. 5577]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 5577) to amend the Outer Continental Shelf Lands Act to authorize the Secretary of the Interior to conduct offshore oil and gas lease sales through Internet-based live lease sales, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Innovation in Offshore Leasing Act”.

SEC. 2. INTERNET-BASED OFFSHORE OIL AND GAS LEASE SALES.

(a) AUTHORIZATION.—Section 8 of the Outer Continental Shelf Leasing Act (43 U.S.C. 1337) is amended by adding at the end the following:

“(q) INTERNET-BASED OIL AND GAS LEASE SALES.—

“(1) IN GENERAL.—In order to modernize the Nation’s offshore leasing program to ensure the best return to the Federal taxpayer, reduce fraud, and ensure a fair and competitive leasing process, the Secretary may conduct lease sales under this section through Internet-based, sealed-bidding methods.

“(2) SALE REQUIREMENTS.—Sales conducted under paragraph (1) shall ensure—

“(A) a publicly and freely accessible digital delivery of the bid reading process, such as live Internet streaming, and an option for bidders to submit bids electronically;

“(B) a bidder verification process that discloses to bidders, by no later than 5 p.m. Central Time of the day before each sale, a list of all bids submitted (including the person submitting each bid) on each lease tract without disclosing bid amounts;

“(C) the ability for a bidder to correct a possible misreading of a submitted bid;

“(D) a designee from within the Office of the Solicitor of the Department of the Interior to act as an independent, third-party observer who will be present during the bid reading process to prevent wrongdoing, independently certify the bidding process, and maintain transparency;

“(E) data security measures to ensure bidder data is kept secure; and

“(F) a participant survey soliciting voluntary feedback from bidders on the bidding process.

“(3) TRANSPARENCY IN SALE-DAY STATISTICS.—

“(A) REQUIREMENT.—The Secretary shall publicly disclose statistical data regarding each lease sale under this subsection, on the day the sale is executed.

“(B) INCLUDED DATA.—Among data disclosed, the Secretary shall include—

“(i) the total value of high bids;

“(ii) the number of tracts offered;

“(iii) the number of acres offered;

“(iv) the number of tracts receiving bids;

“(v) the number of acres receiving bids;

“(vi) the total number of bids;

“(vii) the average number of bids per tract;

“(viii) the total number of bidders participating;

“(ix) bidding statistics by water depth;

“(x) the name of the entity that submitted each bid, the amount of the bid, and the tract for which the bid was submitted;

“(xi) of tracts receiving bids, the number of bids per tract by water depth;

“(xii) the tract receiving the greatest number of bids;

“(xiii) the tract receiving the highest bid; and

“(xiv) any other statistical data that may be disclosed in accordance with this Act.

“(C) DATA TRANSPARENCY.—The Secretary shall ensure all data regarding lease sales under this subsection is publicly available and easily accessible, free of charge, on the Internet, including for download and aggregation in machine-readable format.”.

(b) MODERNIZING LEASING THROUGH COLLABORATION.—

(1) IN GENERAL.—Before conducting the first Internet-based lease sale under the amendment made by this section, the Secretary of the Interior shall issue a request for information from each company present for bidding at the ten most recent oil and gas lease sales conducted by the Secretary under the Outer Continental Shelf Lands Act, in order to provide the bidding public sufficient opportunity to share innovative ideas, methods, and concerns regarding Internet-based leasing.

(2) INTEGRATION OF INFORMATION.—The Secretary shall review, evaluate, and integrate suggestions and concerns collected under paragraph (1) as the Secretary works to modernize the offshore leasing process through Internet-based leasing options.

(3) USER WORKSHOP.—The Secretary shall conduct not less than one user workshop with viable bidders prior to conducting an Internet-based lease sale to provide the bidding public with an opportunity to beta test any prototype of an Internet-based leasing platform.

(c) DEADLINE FOR GULF OF MEXICO LEASE SALE.—Not later than 18 months after the date of the enactment of this Act, the Secretary of the Interior shall conduct at least one Internet-based lease sale under the amendment made by subsection (a) for leasable acreage in the Gulf of Mexico.

(d) EVALUATING INTERNET-BASED OFFSHORE LEASING.—Not later than 90 days after the third Internet-based lease sale conducted under the amendment made by subsection (a), the Secretary of the Interior shall analyze all such Internet-based lease sales and transmit to Congress a thorough analysis of the sales. The analysis shall include—

(1) estimates of increases or decreases in such lease sales, compared to sales conducted by non-Internet-based bidding, in—

(A) the number of bidders;

(B) the average amount of bids;

- (C) the highest bid; and
- (D) the lowest bid;
- (2) an estimate of the total cost or savings to the Department of the Interior as a result of such sales, compared to sales conducted by non-Internet-based bidding;
- (3) voluntary and anonymous feedback from persons participating in such sales, on the Internet-based leasing process and potential areas for improvement in such sales; and
- (4) an evaluation of the demonstrated or expected effectiveness of different structures for lease sales that may provide an opportunity to better maximize bidder participation, ensure the highest return to the Federal taxpayers, minimize opportunities for fraud or collusion, and ensure the security and integrity of the leasing process.

PURPOSE OF THE BILL

The purpose of H.R. 5577 is to amend the Outer Continental Shelf Lands Act to authorize the Secretary of the Interior to conduct offshore oil and gas lease sales through Internet-based live lease sales.

BACKGROUND AND NEED FOR LEGISLATION

Under the Outer Continental Shelf Lands Act (OCSLA), the Secretary of the Interior is authorized to conduct sealed-bid lease sales for oil and natural gas leasing on the 1.7 billion acres of U.S. outer Continental Shelf lands. The Secretary conducts these lease sales in accordance with the lease sale schedule presented every five years in the Outer Continental Shelf oil and natural gas leasing program, also known as the Five-Year Plan. A lease sale cannot be held unless it has been included in the Five-Year Plan. Lease sales are currently conducted in a sealed-bid format, with bids opened and read aloud at the Superdome in New Orleans, Louisiana. As of the July 2016 Combined Leasing Report, of the 1.7 billion offshore acres, only 21 million or 1.2% are currently under lease—for a total of 3,948 active leases held offshore.

To qualify to bid on an OCS lease, you must be a U.S. citizen, an alien lawfully admitted for permanent residence, a private, public or municipal corporation, or an association of such aforementioned qualifying candidates. To participate in a lease sale, a bidder must submit qualifying documents and be certified by the Bureau of Ocean Energy Management (BOEM), which includes meeting specific bonding requirements to make sure the bidder is able to meet all potential present and future lease obligations, including costs to plug abandoned wells, remove platforms and other facilities, and restore the lease to its original condition.

Leading up to a lease sale, BOEM will issue a Proposed Notice of Sale roughly four months prior to the sale date as well as a Final Notice of Sale no less than 30 days before the date of the lease sale. Lease sale notices are published in the Federal Register, allowing yet another opportunity after the multiple public comment periods for the Five-Year Plan for public comment on the specific lease sale. These sale notices contain details regarding the date, time, and location of the lease sale, as well as bidding instructions, maps of the lease blocks that will be available during the sale, lease terms (length of lease, rental fees and royalty rates) and other conditions or stipulations. A lease block is a three-mile by three-mile block, totaling 5,760 acres.

The sale notice also includes details of any site-specific stipulations for eligible lease blocks. For instance, in the most recent Central Gulf Lease Sale (#241) on March 23, 2016, the Final Notice of Sale makes note of the National Oceanic and Atmospheric Administration's proposal to expand the boundaries of the Flower Garden Banks National Marine Sanctuary (FGBNMS), advising bidders that ". . . certain activities related to oil and gas exploration and development are already prohibited within a significant portion of each of the banks recommended for expansion . . .". While the expansion of the FGBNMS is not even through the Environmental Impact Statement phase, BOEM notified bidders of potential future limitations on oil and gas activities in lease blocks that are impacted by this proposed expansion.

When an eligible company determines that it would like to bid on a lease block, it fills out a bidder form which fully describes the block and area number, the area name and/or map number, the company's name, its BOEM-assigned company number, and the amount of the bid stated in whole dollars. Additionally, companies are required to make a bid deposit in accordance with requirements published in the Final Notice of Sale—generally 20 percent of the bid amount. A successful bidder must transfer 20 percent of the successful bid amount by electronic funds transfer (EFT) to BOEM in one lump sum to the New York Federal Reserve Bank no later than 2:00 p.m. Eastern Standard Time on the day following the bid opening. Because BOEM must ensure that each successful bid meets fair return thresholds to be leased, the funds are deposited into an interest-bearing account and if the bid is rejected, the funds plus interest earned are transferred back to the bid submitter by EFT the next business day after rejection.

The sealed bid (bid form in a sealed envelope) is received by the BOEM Regional Director in the Gulf of Mexico within the time limits published in the Final Notice of Sale, generally closing at 10:00 a.m. the day before the sale. Sealed bids are opened and read aloud in a public place (the Superdome) on the date and time specified in the Final Notice of Sale.

Once BOEM deems a high bid to be acceptable and concurrence is achieved with the Department of Justice and the Federal Trade Commission, a lease package is delivered to the successful company with all necessary information, including copies of the lease. A company then must go through the permitting process with both BOEM and Bureau of Safety and Environmental Enforcement to obtain exploration plan approvals and applications for permits to drill a well on the lease block that has been acquired. The company must pay rental fees to BOEM for the duration of the lease if or until the company is able to reach commercial production, at which point the company then must pay a royalty to the federal government for all oil and natural gas developed from the lease. If a company does not conduct exploration or development activities on a lease within a specific period of time in accordance with the lease agreement, the lease could face cancellation.

SALE STATISTICS

BOEM publishes sale statistics after each sale. Sale statistics include total acreage and number of lease blocks offered for sale, how many bids were received, how many companies were present for

bidding, which lease blocks received the highest number of competitive bids, the highest bid amounts, and other information. For example, the Arctic Lease Sale #193 that took place in the Chukchi Sea in 2008 received four bids from different companies for Lease Block #6762. Given that the bids were sealed and each competing company could not see the each other's bid, the bid amounts varied greatly. The bids on this lease block range from the highest, at \$94 million, to the lowest, at \$104,000. Again, the bid amounts received is just one portion of the revenues generated from offshore leasing, as the company with the highest bid then must pay rental fees and royalties for eventual development on that block.

CHANGES ADOPTED BY AMENDMENT

An amendment was offered by the bill sponsor, Congressman Garret Graves (R-LA), at the markup on July 13, 2016. This amendment reflected several changes requested by the Department of the Interior through BOEM as well as recommendations offered by witnesses at the hearing on the bill held on July 6, 2016. BOEM wanted the option to move forward with new Internet-ready capabilities that will allow bidders to submit sealed bids electronically rather than delivering the envelope in person, so text was included to reflect this addition. Furthermore, underlying bill language required a bidder verification process that discloses to bidders at least 24 hours before the bid reading process a list of bids submitted by all persons on each lease tract without disclosing bid amounts. While this is currently done for all lease sales, the Natural Resources Committee included this as a requirement to ensure this important data would continue to be disclosed in the future. However, BOEM noted that bids may still be coming in 24 hours prior to the sale, and therefore requested that the language be amended to require that this information be disclosed by 5:00 p.m. Central Time on the day before the sale.

Offshore energy experts testifying at the hearing applauded the inclusion of an independent observer to be present for the Internet lease sale, but noted that “. . . by placing the Inspector General in an operational role, the legislation may inadvertently frustrate the Inspector General's office's ability to be independent should they need to investigate an irregularity in a future sale.”¹ For this reason, the amendment directs the independent observer to come from the Office of the Solicitor of the Department of the Interior.

Finally, BOEM requested more time, specifically 18 months, to be able to conduct an Internet lease sale that meets all of the criteria in the legislation, so the amendment changed the deadline to conduct an Internet lease sale from one year to 18 months. Given that the amendment was adopted by unanimous consent and accommodated BOEM's request to further extend this deadline, it is the Committee's expectation that BOEM shall meet this deadline set by law.

GOVERNMENT TRANSPARENCY ENHANCED

Nothing in the underlying legislation in any way prevents any public entity or person from voicing their support or opposition to

¹See Subcommittee hearing at <http://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=400874>.

any leasing activity on the United States Outer Continental Shelf. In fact, as a result of this legislative effort, BOEM announced nine days after H.R. 5577 was ordered reported to the House of Representatives by the House Natural Resources Committee by unanimous consent on Friday, July 22, 2016, that the Western Gulf of Mexico Lease Sale 248, to be held on August 24, 2016, in New Orleans, Louisiana, would be the first federal offshore oil and gas auction broadcast live on the Internet. The Committee points out that leading up to Lease Sale 248, 18 public meetings were held related to the sale and five separate 45-day comment periods were provided to allow for public comment and input on this lease sale and offshore leasing in general. The Committee commends the August 24, 2016, lease sale not only because it was conducted as planned (unlike other lease sales that were originally included in the 2012–2017 Five-Year plan and later canceled for no reason), but also because it was the first opportunity where the public was able to watch the live-stream of the lease sale over the Internet on www.boem.gov. The Committee also looks forward to future efforts by the Department of the Interior to further integrate innovative solutions that both enhance efficiency and foster transparency in the development of our Nation’s oil and gas resources.

COMMITTEE ACTION

H.R. 5577 was introduced on June 24, 2016, by Congressman Garret Graves (R–LA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On July 6, 2016, the Subcommittee held a hearing on the bill. On July 12, 2016, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Garret Graves (R–LA) offered an amendment designated 001; it was adopted by unanimous consent. No further amendments were offered and the bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent on July 13, 2016.

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

1. Cost of Legislation and Section 308(a) of 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 enclosed cost estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 1, 2016.

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. 5577, the Innovation in Offshore Leasing 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.

Enclosure.

H.R. 5577—Innovation in Offshore Leasing Act

H.R. 5577 would authorize the Bureau of Ocean Energy Management (BOEM) to use Internet-based bidding methods for auctions of federal oil and gas leases in the Outer Continental Shelf (OCS). Such Internet-based auctions would have to provide bidders the option of submitting bids electronically and make the agency's reading of the scaled bids available in digital formats, such as live Internet streaming. Under this bill, BOEM would be required to conduct at least one Internet-based auction in the Gulf of Mexico within 18 months after enactment. Finally, the bill would direct BOEM to collect, analyze, and publish certain information about these auctions.

Using information provided by the Department of the Interior and other agencies, CBO estimates that implementing the bill would cost about \$2 million over the 2017–2021 period, assuming appropriation of the necessary amounts. Firms participating in OCS auctions submit sealed bids at rates ranging from 300 to 3,000 bids a year, using standardized short forms developed by BOEM. CBO expects that the cost of developing and operating online systems to process such bids would be similar to the costs of other energy data collection and bidding systems, such as those used by the Energy Information Administration and for OCS auctions of renewable energy leases.

H.R. 5577 could affect offsetting receipts from bonus payments, which are treated as reductions in direct spending; therefore, pay-as-you-go procedures apply. CBO estimates, however, that the net effect on direct spending would be negligible because the cost to firms of participating in OCS auctions is small relative to the amounts paid for the leases, which can range from a few hundred million dollars to more than \$1 billion a year. Enacting the bill would not affect revenues.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than \$5 billion in one or more of the four consecutive 10-year periods beginning in 2027.

H.R. 5577 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Kathleen Gramp. The estimate was approved by Theresa Gullo, Assistant Direct 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 authorize the Secretary of the Interior to conduct offshore oil and gas lease sales through Internet-based live lease sales.

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. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

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 (new matter is printed in *italic* and existing law in which no change is proposed is shown in roman):

OUTER CONTINENTAL SHELF LANDS ACT

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SEC. 8. LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.—(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. Such regulations may provide for the deposit of cash bids in an interest-bearing account until the Secretary announces his decision on whether to accept the bids, with the interest earned thereon to be paid to the Treasury as to

bids that are accepted and to the unsuccessful bidders as to bids that are rejected. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

(B) variable royalty bid based on a per centum in amount or value of the production saved, removed, or sold, with either a fixed work commitment based on dollar amount for exploration or a fixed cash bonus as determined by the Secretary, or both;

(C) cash bonus bid, or work commitment bid based on a dollar amount for exploration with a fixed cash bonus, and a diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

(D) cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

(E) fixed cash bonus with the net profit share reserved as the bid variable;

(F) cash bonus bid with a royalty at no less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a fixed per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

(G) work commitment bid based on a dollar amount for exploration with a fixed cash bonus and a fixed royalty in amount or value of the production saved, removed, or sold;

(H) cash bonus bid with royalty at no less than 12 and ½ per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary, which suspensions may vary based on the price of production from the lease; or

(I) subject to the requirements of paragraph (4) of this subsection, any modification of bidding systems authorized in subparagraphs (A) through (G), or any other systems of bid variables, terms, and conditions which the Secretary determines to be useful to accomplish the purposes and policies of this Act, except that no such bidding system or modification shall have more than one bid variable.

(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years after the date of the lease sale.

(3)(A) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

(B) In the Western and Central Planning Areas of the Gulf of Mexico and the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 de-

grees, 30 minutes West longitude and in the Planning Areas offshore Alaska, the Secretary may, in order to—

(i) promote development or increased production on producing or non-producing leases; or

(ii) encourage production of marginal resources on producing or non-producing leases;

through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.

(C)(i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv)(I), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400–800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application.

The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 10(a) of the Administrative Procedures Act (5 U.S.C. 702), only for actions filed within 30 days of the Secretary's determination or redetermination.

(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

(I) For new production, as defined in clause (iv)(I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

(II) For new production, as defined in clause (iv)(II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

(iv) For purposes of this subparagraph, the term "new production" is—

(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or

(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

(v) During the production of volumes determined pursuant to clauses (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds \$28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds \$28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds \$3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject

to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds \$3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

(vi) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.

(4)(A) The Secretary of Energy shall submit any bidding system authorized in subparagraph (H) of paragraph (1) to the Senate and House of Representatives. The Secretary may institute such bidding system unless either the Senate or the House of Representatives passes a resolution of disapproval within thirty days after receipt of the bidding system.

(B) Subparagraphs (C) through (J) of this paragraph are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but they are applicable only with respect to the procedures to be followed in that House in the case of resolutions described by this paragraph, and they supersede other rules only to the extent that they are inconsistent therewith; and

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(C) A resolution disapproving a bidding system submitted pursuant to this paragraph shall immediately be referred to a committee (and all resolutions with respect to the same request shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representative, as the case may be.

(D) If the committee to which has been referred any resolution disapproving the bidding system of the Secretary has not reported the resolution at the end of ten calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same bidding system which has been referred to the committee.

(E) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(F) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge

the committee be made with respect to any other resolution with respect to the same bidding system.

(G) When the committee has reported, or has been discharged from further consideration of, a resolution as provided in this paragraph, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(H) Debate on the resolution is limited to not more than two hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(I) Motions to postpone, made with respect to the discharge from the committee, or the consideration of a resolution with respect to a bidding system, and motions to proceed to the consideration of other business, shall be decided without debate.

(J) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a bidding system shall be decided without debate.

(5)(A) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this Act, require, as to no more than 10 per centum of the tracts offered each year, each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random for the acquisition of valid statistical data if such bidding alternative is otherwise consistent with the provisions of this Act.

(B) The bidding systems authorized by paragraph (1) of this subsection, other than the system authorized by subparagraph (A), shall be applied to not less than 20 per centum and not more than 60 per centum of the total area offered for leasing each year during the five-year period beginning on the date of enactment of this subsection, unless the Secretary determines that the requirements set forth in this subparagraph are inconsistent with the purposes and policies of this Act.

(6) At least ninety days prior to notice of any lease sale under subparagraph (D), (E), (F), or, if appropriate, (H) of paragraph (1), the Secretary shall by regulation establish rules to govern the calculation of net profits. In the event of any dispute between the United States and a lessee concerning the calculation of the net profits under the regulation issued pursuant to this paragraph, the burden of proof shall be on the lessee.

(7) After an oil and gas lease is granted pursuant to any of the work commitment options of paragraph (1) of this subsection—

(A) the lessee, at its option, shall deliver to the Secretary upon issuance of the lease either (i) a cash deposit for the full

amount of the exploration work commitment, or (ii) a performance bond in form and substance and with a surety satisfactory to the Secretary, in the principal amount of such exploration work commitment assuring the Secretary that such commitment shall be faithfully discharged in accordance with this section, regulations, and the lease; and for purposes of this subparagraph, the principal amount of such cash deposit or bond may, in accordance with regulations, be periodically reduced upon proof, satisfactory to the Secretary, that a portion of the exploration work commitment has been satisfied;

(B) 50 per centum of all exploration expenditures on, or directly related to, the lease, including, but not limited to (i) geological investigations and related activities, (ii) geophysical investigations including seismic, geomagnetic, and gravity surveys, data processing and interpretation, and (iii) exploratory drilling, core drilling, redrilling, and well completion or abandonment, including the drilling of wells sufficient to determine the size and area extent of any newly discovered field, and including the cost of mobilization and demobilization of drilling equipment, shall be included in satisfaction of the commitment, except that the lessee's general overhead cost shall not be so included against the work commitment, but its cost (including employee benefits) of employees directly assigned to such exploration work shall be so included; and

(C) if at the end of the primary term of the lease, including any extension thereof, the full dollar amount of the exploration work commitment has not been satisfied, the balance shall then be paid in cash to the Secretary.

(8) Not later than thirty days before any lease sale, the Secretary shall submit to the Congress and publish in the Federal Register a notice—

(A) identifying any bidding system which will be utilized for such lease sale and the reasons for the utilization of such bidding system; and

(B) designating the lease tracts selected which are to be offered in such sale under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (H) of paragraph (1), and the reasons such lease tracts are to be offered under a particular bidding system.

(b) An oil and gas lease issued pursuant to this section shall—

(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

(2) be for an initial period of—

(A) five years; or

(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas because of unusually deep water or other unusually adverse conditions, and as long after such initial period as oil or gas is produced from the area in paying quantities, or drilling or well rework-

ing operations as approved by the Secretary are conducted thereon;

(3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;

(4) entitle the lessee to explore, develop, and produce the oil and gas contained within the lease area, conditioned upon due diligence requirements and the approval of the development and production plan required by this Act;

(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act;

(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease; and

(7) provide a requirement that the lessee offer 20 per centum of the crude oil, condensate, and natural gas liquids produced on such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.

(c)(1) Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of such lease sale, except that the Attorney General, after consultation with the Federal Trade Commission, may agree to a shorter review period.

(2) The Attorney General may, in consultation with the Federal Trade Commission, conduct such antitrust review on the likely effects the issuance of such leases would have on competition as the Attorney General, after consultation with the Federal Trade Commission, deems appropriate and shall advise the Secretary with respect to such review. The Secretary shall provide such information as the Attorney General, after consultation with the Federal Trade Commission, may require in order to conduct any antitrust review pursuant to this paragraph and to make recommendations pursuant to paragraph (3) of this subsection.

(3) The Attorney General, after consultation with the Federal Trade Commission, may make such recommendations to the Secretary, including the nonacceptance of any bid, as may be appropriate to prevent any situation inconsistent with the antitrust laws. If the Secretary determines, or if the Attorney General advises the Secretary, after consultation with the Federal Trade Commission and prior to the issuance of any lease, that such lease may create or maintain a situation inconsistent with the antitrust laws, the Secretary may—

(A) refuse (i) to accept an otherwise qualified bid for such lease, or (ii) to issue such lease, notwithstanding subsection (a) of this section; or

(B) issue such lease, and notify the lessee and the Attorney General of the reason for such decision.

(4)(A) Nothing in this subsection shall restrict the power under any other Act or the common law of the Attorney General, the Federal Trade Commission, or any other Federal department or agency to secure information, conduct reviews, make recommendations, or seek appropriate relief.

(B) Neither the issuance of a lease nor anything in this subsection shall modify or abridge any private right of action under the antitrust laws.

(d) No bid for a lease may be submitted if the Secretary finds, after notice and hearing, that the bidder is not meeting due diligence requirements on other leases.

(e) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General.

(f) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

(g)(1) At the time of soliciting nominations for the leasing of lands containing tracts wholly or partially within three nautical miles of the seaward boundary of any coastal State, and subsequently as new information is obtained or developed by the Secretary, the Secretary, in addition to the information required by section 26 of this Act, shall provide the Governor of such State—

(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

(B) at the request of the Governor of such State, all information from all sources concerning the geographical, geological, and ecological characteristics of such tracts;

(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

(D) at the request of the Governor of such State, an identification of any field, geological structure, or trap located wholly or partially within three nautical miles of the seaward boundary of such coastal State, including all information relating to the entire field, geological structure, or trap.

The provisions of the first sentence of subsection (c) and the provisions of subsections (e)–(h) of section 26 of this Act shall be applicable to the release by the Secretary of any information to any coastal State under this paragraph. In addition, the provisions of subsections (c) and (e)–(h) of section 26 of this Act shall apply in their entirety to the release by the Secretary to any coastal State of any information relating to Federal lands beyond three nautical miles of the seaward boundary of such coastal State.

(2) Notwithstanding any other provision of this Act, the Secretary shall deposit into a separate account in the Treasury of the United States all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of any Federal tract which lies wholly (or, in the case of Alaska, partially) until seven years from the date of settlement of any boundary dispute that is the subject of an agreement under section 7 of this Act entered into prior to January 1, 1986 or until April 15, 1993 with respect to any other tract) within three nautical miles of the seaward boundary of any coastal State, or, (except as provided above for Alaska) in the case where a Federal tract lies partially within three nautical miles of the seaward boundary, a percentage of bo-

nuses, rents, royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of such tract equal to the percentage of surface acreage of the tract that lies within such three nautical miles. Except as provided in paragraph (5) of this subsection, not later than the last business day of the month following the month in which those revenues are deposited in the Treasury, the Secretary shall transmit to such coastal State 27 percent of those revenues, together with all accrued interest thereon. The remaining balance of such revenues shall be transmitted simultaneously to the miscellaneous receipts account of the Treasury of the United States.

(3) Whenever the Secretary or the Governor of a coastal State determines that a common potentially hydrocarbon-bearing area may underlie the Federal and State boundary, the Secretary or the Governor shall notify the other party in writing of his determination and the Secretary shall provide to the Governor notice of the current and projected status of the tract or tracts containing the common potentially hydrocarbon-bearing area. If the Secretary has leased or intends to lease such tract or tracts, the Secretary and the Governor of the coastal State may enter into an agreement to divide the revenues from production of any common potentially hydrocarbon-bearing area, by unitization or other royalty sharing agreement, pursuant to existing law. If the Secretary and the Governor do not enter into an agreement, the Secretary may nevertheless proceed with the leasing of the tract or tracts. Any revenue received by the United States under such an agreement shall be subject to the requirements of paragraph (2).

(4) The deposits in the Treasury account described in this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

(5)(A) When there is a boundary dispute between the United States and a State which is subject to an agreement under section 7 of this Act, the Secretary shall credit to the account established pursuant to such agreement all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of any Federal tract which lies wholly or partially within three nautical miles of the seaward boundary asserted by the State, if that money has not otherwise been deposited in such account. Proceeds of an escrow account established pursuant to an agreement under section 7 shall be distributed as follows:

(i) Twenty-seven percent of all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978, of any tract which lies wholly within three nautical miles of the seaward boundary asserted by the Federal Government in the boundary dispute, together with all accrued interest thereon, shall be paid to the State either—

(I) within thirty days of December 1, 1987, or

(II) by the last business day of the month following the month in which those revenues are deposited in the Treasury, whichever date is later.

(ii) Upon the settlement of a boundary dispute which is subject to a section 7 agreement between the United States and a State, the Secretary shall pay to such State any additional moneys due such State from amounts deposited in or credited to the escrow account. If there is insufficient money deposited in the escrow account, the Secretary shall transmit, from any revenues derived from any lease of Federal lands under this Act, the remaining balance due such State in accordance with the formula set forth in section 8004(b)(1)(B) of the Outer Continental Shelf Lands Act Amendments of 1985.

(B) This paragraph applies to all Federal oil and gas lease sales, under this Act, including joint lease sales, occurring after September 18, 1978.

(6) This section shall be deemed to take effect on October 1, 1985, for purposes of determining the amounts to be deposited in the separate account and the States' shares described in paragraph (2).

(7) When the Secretary leases any tract which lies wholly or partially within three miles of the seaward boundary of two or more States, the revenues from such tract shall be distributed as otherwise provided by this section, except that the State's share of such revenues that would otherwise result under this section shall be divided equally among such States.

(h) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title or interest in, any submerged lands.

(i) In order to meet the urgent need for further exploration and development of the sulphur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding sulphur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulphur and meet the requirements of subsection (a) of section 6 of this Act, and which sulphur leases shall be offered for bid by sealed bids and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

(j) A sulphur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of not more than ten years and so long thereafter as sulphur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon, (3) require the payment to the United States of such royalty as may be specified in the lease but not less than 5 per centum of the gross production of value of the sulphur at the wellhead, and (4) contained such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe at the time of offering the area for lease.

(k)(1) The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive

bidding leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

(2)(A) Notwithstanding paragraph (1), the Secretary may negotiate with any person an agreement for the use of Outer Continental Shelf sand, gravel and shell resources—

(i) for use in a program of, or project for, shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency; or

(ii) for use in a construction project, other than a project described in clause (i), that is funded in whole or in part by or authorized by the Federal Government.

(B) In carrying out a negotiation under this paragraph, the Secretary may assess a fee based on an assessment of the value of the resources and the public interest served by promoting development of the resources. No fee shall be assessed directly or indirectly under this subparagraph against a Federal, State, or local government agency.

(C) The Secretary may, through this paragraph and in consultation with the Secretary of Commerce, seek to facilitate projects in the coastal zone, as such term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453), that promote the policy set forth in section 303 of that Act (16 U.S.C. 1452).

(D) Any Federal agency which proposes to make use of sand, gravel and shell resources subject to the provisions of this Act shall enter into a Memorandum of Agreement with the Secretary concerning the potential use of those resources. The Secretary shall notify the Committee on Merchant Marine and Fisheries and the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on any proposed project for the use of those resources prior to the use of those resources.

(1) Notices of sale of leases, and the terms of bidding authorized by this section shall be published at least thirty days before the date of sale in accordance with rules and regulations promulgated by the Secretary.

(m) All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with section 9 of this Act.

(n) The issuance of any lease by the Secretary pursuant to this Act, or the making of any interim arrangements by the Secretary pursuant to section 7 of this Act shall not prejudice the ultimate settlement or adjudication of the question as to whether or not the area involved is in the outer Continental Shelf.

(o) The Secretary may cancel any lease obtained by fraud or misrepresentation.

(p) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government, may grant a lease, easement, or right-of-way

on the outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law, if those activities—

(A) support exploration, development, production, or storage of oil or natural gas, except that a lease, easement, or right-of-way shall not be granted in an area in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium;

(B) support transportation of oil or natural gas, excluding shipping activities;

(C) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

(D) use, for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under this Act, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium.

(2) PAYMENTS AND REVENUES.—(A) The Secretary shall establish royalties, fees, rentals, bonuses, or other payments to ensure a fair return to the United States for any lease, easement, or right-of-way granted under this subsection.

(B) The Secretary shall provide for the payment of 27 percent of the revenues received by the Federal Government as a result of payments under this section from projects that are located wholly or partially within the area extending three nautical miles seaward of State submerged lands. Payments shall be made based on a formula established by the Secretary by rulemaking no later than 180 days after the date of enactment of this section that provides for equitable distribution, based on proximity to the project, among coastal states that have a coastline that is located within 15 miles of the geographic center of the project.

(3) COMPETITIVE OR NONCOMPETITIVE BASIS.—Except with respect to projects that meet the criteria established under section 388(d) of the Energy Policy Act of 2005, the Secretary shall issue a lease, easement, or right-of-way under paragraph (1) on a competitive basis unless the Secretary determines after public notice of a proposed lease, easement, or right-of-way that there is no competitive interest.

(4) REQUIREMENTS.—The Secretary shall ensure that any activity under this subsection is carried out in a manner that provides for—

(A) safety;

(B) protection of the environment;

(C) prevention of waste;

(D) conservation of the natural resources of the outer Continental Shelf;

(E) coordination with relevant Federal agencies;

(F) protection of national security interests of the United States;

- (G) protection of correlative rights in the outer Continental Shelf;
 - (H) a fair return to the United States for any lease, easement, or right-of-way under this subsection;
 - (I) prevention of interference with reasonable uses (as determined by the Secretary) of the exclusive economic zone, the high seas, and the territorial seas;
 - (J) consideration of—
 - (i) the location of, and any schedule relating to, a lease, easement, or right-of-way for an area of the outer Continental Shelf; and
 - (ii) any other use of the sea or seabed, including use for a fishery, a sealane, a potential site of a deepwater port, or navigation;
 - (K) public notice and comment on any proposal submitted for a lease, easement, or right-of-way under this subsection; and
 - (L) oversight, inspection, research, monitoring, and enforcement relating to a lease, easement, or right-of-way under this subsection.
- (5) LEASE DURATION, SUSPENSION, AND CANCELLATION.—The Secretary shall provide for the duration, issuance, transfer, renewal, suspension, and cancellation of a lease, easement, or right-of-way under this subsection.
- (6) SECURITY.—The Secretary shall require the holder of a lease, easement, or right-of-way granted under this subsection to—
- (A) furnish a surety bond or other form of security, as prescribed by the Secretary;
 - (B) comply with such other requirements as the Secretary considers necessary to protect the interests of the public and the United States; and
 - (C) provide for the restoration of the lease, easement, or right-of-way.
- (7) COORDINATION AND CONSULTATION WITH AFFECTED STATE AND LOCAL GOVERNMENTS.—The Secretary shall provide for coordination and consultation with the Governor of any State or the executive of any local government that may be affected by a lease, easement, or right-of-way under this subsection.
- (8) REGULATIONS.—Not later than 270 days after the date of enactment of the Energy Policy Act of 2005, the Secretary, in consultation with the Secretary of Defense, the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, heads of other relevant departments and agencies of the Federal Government, and the Governor of any affected State, shall issue any necessary regulations to carry out this subsection.
- (9) EFFECT OF SUBSECTION.—Nothing in this subsection displaces, supersedes, limits, or modifies the jurisdiction, responsibility, or authority of any Federal or State agency under any other Federal law.
- (10) APPLICABILITY.—This subsection does not apply to any area on the outer Continental Shelf within the exterior boundaries of any unit of the National Park System, National Wild-

life Refuge System, or National Marine Sanctuary System, or any National Monument.

(q) *INTERNET-BASED OIL AND GAS LEASE SALES.*—

(1) *IN GENERAL.*—*In order to modernize the Nation’s offshore leasing program to ensure the best return to the Federal taxpayer, reduce fraud, and ensure a fair and competitive leasing process, the Secretary may conduct lease sales under this section through Internet-based, sealed-bidding methods.*

(2) *SALE REQUIREMENTS.*—*Sales conducted under paragraph (1) shall ensure—*

(A) *a publicly and freely accessible digital delivery of the bid reading process, such as live Internet streaming, and an option for bidders to submit bids electronically;*

(B) *a bidder verification process that discloses to bidders, by no later than 5 p.m. Central Time of the day before each sale, a list of all bids submitted (including the person submitting each bid) on each lease tract without disclosing bid amounts;*

(C) *the ability for a bidder to correct a possible misreading of a submitted bid;*

(D) *a designee from within the Office of the Solicitor of the Department of the Interior to act as an independent, third-party observer who will be present during the bid reading process to prevent wrongdoing, independently certify the bidding process, and maintain transparency;*

(E) *data security measures to ensure bidder data is kept secure; and*

(F) *a participant survey soliciting voluntary feedback from bidders on the bidding process.*

(3) *TRANSPARENCY IN SALE-DAY STATISTICS.*—

(A) *REQUIREMENT.*—*The Secretary shall publicly disclose statistical data regarding each lease sale under this subsection, on the day the sale is executed.*

(B) *INCLUDED DATA.*—*Among data disclosed, the Secretary shall include—*

(i) *the total value of high bids;*

(ii) *the number of tracts offered;*

(iii) *the number of acres offered;*

(iv) *the number of tracts receiving bids;*

(v) *the number of acres receiving bids;*

(vi) *the total number of bids;*

(vii) *the average number of bids per tract;*

(viii) *the total number of bidders participating;*

(ix) *bidding statistics by water depth;*

(x) *the name of the entity that submitted each bid, the amount of the bid, and the tract for which the bid was submitted;*

(xi) *of tracts receiving bids, the number of bids per tract by water depth;*

(xii) *the tract receiving the greatest number of bids;*

(xiii) *the tract receiving the highest bid; and*

(xiv) *any other statistical data that may be disclosed in accordance with this Act.*

(C) *DATA TRANSPARENCY.*—*The Secretary shall ensure all data regarding lease sales under this subsection is publicly*

available and easily accessible, free of charge, on the Internet, including for download and aggregation in machine-readable format.

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ADDITIONAL VIEWS

While I respect the goals of openness, transparency, and fair return for the taxpayer in offshore lease sales as laid out by the sponsors of H.R. 5577, I fear that the impact of the bill would be to actually reduce the levels of openness and transparency in the offshore lease sale process, while providing little additional benefit for taxpayers.

Moving offshore oil and gas lease sales online diminishes the opportunities for public access and participation in the process. Ever since the *Deepwater Horizon* tragedy, there has been tremendous public interest in where offshore drilling would be allowed to take place, if it should be allowed at all. Over 300 people attended a recent offshore lease sale in order to make their opposition to offshore drilling heard, and moving lease sales online will only result in shutting those voices out without addressing any of their concerns.

Furthermore, because of the sealed-bid nature of the offshore leasing process, it isn't clear how having companies submit those bids electronically would result in a better return for the taxpayer. Instead of mailing a bid into the Bureau of Ocean Energy Management, companies would instead simply email the exact same bid. In fact, the expense of setting up a new online system could actually result in a cost to taxpayers, rather than a better return.

It is disappointing that the Administration has already taken steps to limit public participation, such as shutting the public out of the August 2016 Western Gulf of Mexico offshore lease sale. This is an unfortunate trend that I believe H.R. 5577 will only exacerbate, and for that reason I cannot support the bill.

RAÚL M. GRIJALVA,
Ranking Member,
Committee on Natural Resources.

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