

# Subcommittee on Energy and Mineral Resources

Doug Lamborn, Chairman

Hearing Memorandum

June 30, 2016

**To:** All, Subcommittee on Energy and Mineral Resources

**From:** Majority Committee Staff, x5-9297  
Subcommittee on Energy and Mineral Resources

**Hearing:** Legislative Hearing on **H.R. 5577 (Rep. Garret Graves)**, To amend the Outer Continental Shelf Lands Act to allow for internet-based oil and natural gas leasing.  
**July 6, 2016 at 10:00a.m., 1324 Longworth House Office Building**

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**H.R. 5577 (Rep. Garret Graves)**, "*Innovation in Offshore Leasing Act*"

## **Summary of the Bill**

H.R. 5577 was introduced on June 24, 2016 by Rep. Garret Graves (R-LA) and Rep. Alan Lowenthal (D-CA). The bill amends the Outer Continental Shelf Lands Act to provide the Secretary of the Interior with the authority and direction to conduct internet-based oil and natural gas lease sales.

**Cosponsor:** Rep. Alan Lowenthal (D-CA)

## **Invited Witnesses (in alphabetical order)**

*Mr. William Britain*  
President/CEO  
EnergyNet  
Amarillo, TX

*Mr. Walter Cruickshank*  
Deputy Director  
Bureau of Ocean Energy Management  
Washington, D.C.

*Ms. Jayni Hein*  
Policy Director  
Institute for Policy Integrity  
New York University School of Law  
New York, NY

*Mr. Jon Hrobsky*  
Policy Director  
Brownstein Hyatt Farber Schreck  
Washington, D.C.

*Mr. Randall Luthi*  
President  
National Ocean Industries Association  
Washington, D.C.

## **Background**

Currently, under the Outer Continental Shelf Lands Act (OCSLA), the Secretary of the Interior has the authority 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. No lease sale can be held unless it has been included in the Five-Year Plan. The lease sales are currently conducted in a sealed-bid format, with bids opened and read aloud in the Superdome in New Orleans, Louisiana. As of the June 2016 Combined Leasing Report<sup>1</sup>, of the 1.7 billion offshore acres, only 22 million or **1.3%** are currently under lease – for a total of 4,119 active leases held offshore.

In order to qualify as 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. In order to participate in a lease sale, a bidder must submit qualifying documents and be certified by the Bureau of Ocean Energy Management, which includes meeting specific bonding requirements in order to make sure the bidder is able to meet all potential present and future lease obligations, including costs to plug and abandon wells, remove platforms and other facilities, and restore the lease to its original condition.

Prior to a lease sale, the Bureau of Ocean Energy Management (BOEM) issues a Proposed Notice of Sale<sup>2</sup> roughly four months prior to the sale date as well as a Final Notice of Sale<sup>3</sup> no less than 30-days before the date of the lease sale. Lease sale notices are published in the federal register, allowing another opportunity after the 5-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

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<sup>1</sup> <http://www.boem.gov/Combined-Leasing-Report-June-2016/>

<sup>2</sup> Proposed Notice of Sale for Central Gulf Lease Sale 241: <http://www.boem.gov/PNOS-241-Package/>

<sup>3</sup> Final Notice of Sale for Central Gulf Lease Sale 241: <http://www.boem.gov/Final-Notice-of-Sale-Package-for-Sale-241/>

the sale, and lease terms (length of lease, rental fees and royalty rates) and other conditions. 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 (NOAA) 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...”<sup>4</sup> While the expansion of the FGBNMS is not even through the Environmental Impact Statement (EIS) phase, BOEM is sure to notify 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 make a 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, their 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 in order 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 (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 (BSEE) to obtain exploration plan (EP) approvals and applications

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<sup>4</sup> <http://www.boem.gov/Final-Notice-of-Sale-Package-for-Sale-241/>; p. 4.

for permits to drill (APD) in order 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. The image below includes a snapshot of the sale statistics from Arctic Lease Sale #193 in the Chukchi Sea in 2008. In that sale, Lease Block #6762 received four bids from different companies. Given that the bids were sealed and each competing company could not see the each other's bid, the bid amounts vary 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.

SPFBDCAP		UNITED STATES DEPARTMENT OF THE INTERIOR MINERALS MANAGEMENT SERVICE ALASKA OCS REGION						POSTSALE 09-SEP-2008 PAGE: 31			
Sale Number : 193		Final Bid Recap (all Bids by Area/Tract)									
Sale Identifier: CHUKCHI SEA											
Sale Date : 06-FEB-2008											
Region Name : Alaska OCS Region											
Area	NR03-02	Area Name	Posey								
Bid Type	OCS Number	Block	Block Size	Block Unit	Company	Percent(%)	Company Name	Amount Bid/Tract	Bid/Unit	Total Bonus	Rank
12 1/2*	RSC3 Y02269	6721	2,304.00H		02117	100.00000	Shell Gulf of Mexico Inc.	\$276.64		\$637,388.00	1
12 1/2*	RSC3 Y02270	6722	2,304.00H		02117	100.00000	Shell Gulf of Mexico Inc.	\$274.86		\$633,285.00	1
12 1/2*	RSC3 Y02271	6751	2,304.00H		02805	100.00000	Repsol E&P USA Inc.	\$108.94		\$251,000.00	1
12 1/2*	RSC3 Y02272	6752	2,304.00H		02805	100.00000	Repsol E&P USA Inc.	\$108.94		\$251,000.00	1
12 1/2*	RSC3 Y02273	6755	2,304.00H		02805	100.00000	Repsol E&P USA Inc.	\$65.55		\$151,023.00	1
12 1/2*	RSC3 Y02274	6757	2,304.00H		02117	100.00000	Shell Gulf of Mexico Inc.	\$42.34		\$97,549.00	1
12 1/2*	RSC3 Y02275	6759	2,304.00H		02805	100.00000	Repsol E&P USA Inc.	\$47.77		\$110,051.00	1
12 1/2*	RSC3 Y02276	6760	2,304.00H		02805	100.00000	Repsol E&P USA Inc.	\$71.61		\$165,000.00	1
12 1/2*	RSC3 Y02277	6761	2,304.00H		02117	100.00000	Shell Gulf of Mexico Inc.	\$11,505.58		\$26,508,859.00	1
					00056	100.00000	ConocoPhillips Company	\$11,219.00		\$25,848,570.00	2
					02920	100.00000	Eni Petroleum US LLC	\$218.58		\$503,603.00	3
					03010	100.00000	Iona Energy Company (US) Limited	\$26.48		\$61,000.00	4
	***Y02277 ***	TRACT TOTALS				TOTAL BIDS	4	TOTAL AMOUNT EXPOSED		\$52,922,032.00	
12 1/2*	RSC3 Y02278	6762	2,304.00H		02117	100.00000	Shell Gulf of Mexico Inc.	\$40,887.10		\$94,203,883.00	1
					00056	100.00000	ConocoPhillips Company	\$22,179.80		\$51,102,250.00	2
					03010	100.00000	Iona Energy Company (US) Limited	\$195.75		\$451,000.00	3
					02920	100.00000	Eni Petroleum US LLC	\$45.11		\$103,924.00	4
	***Y02278 ***	TRACT TOTALS				TOTAL BIDS	4	TOTAL AMOUNT EXPOSED		\$145,861,057.00	

## **Major Provisions of the Bill**

### **Section 1. Short Title**

**Section 2.** This section amends the Outer Continental Shelf Lands Act to provide the Secretary of the Interior with the authority to conduct internet-based, sealed-bid offshore oil and natural gas lease sales. The Secretary is required to meet specific requirements in conducting internet-based sales, such as: having an independent observer present; providing a “bid-map” to all bidders so that they may verify their bids prior to the bid-reading; ensuring data security for all bidder data; and feedback from bidders in order to continually improve the leasing process.

This section also includes increased data transparency measures to ensure that the Secretary not only discloses all available data related to sale-day statistics, but also ensures such data is made publicly available and easily accessible on a web-based format so that interested parties may easily be able to determine statistics on a lease sale as well as revenues generated to the federal treasury and do states that currently are entitled to a share of those revenues.

Finally, this section requires the Secretary to conduct not less than one workshop with viable bidders prior to the first internet-based lease sale in order to ensure feedback and an ability for bidders to familiarize themselves with the new platform. In order to ensure the timely modernization of the offshore leasing process, the Secretary is required to conduct one internet-based lease sale within one year of the date of enactment of this bill.

### **Cost**

No cost estimate is available from CBO at this time.

### **Administration Position**

Unknown.

### **Effect on Current Law (Ramseyer)**