

# Union Calendar No. 453

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 1505

[Report No. 117-629]

To amend the Mineral Leasing Act to make certain adjustments to the regulation of surface-disturbing activities and to protect taxpayers from unduly bearing the reclamation costs of oil and gas development, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2021

Mr. LOWENTHAL (for himself, Mr. GRIJALVA, Mr. LEVIN of California, Mr. CARTWRIGHT, Ms. LEE of California, Ms. BARRAGÁN, and Mr. HUFFMAN) introduced the following bill; which was referred to the Committee on Natural Resources

DECEMBER 14, 2022

Additional sponsors: Mr. BLUMENAUER, Ms. DEGETTE, Ms. MCCOLLUM, Mr. COHEN, Mr. QUIGLEY, Mr. HASTINGS, Ms. PORTER, Ms. LEGER FERNANDEZ, and Mr. CASTEN

DECEMBER 14, 2022

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on March 2, 2021]

# **A BILL**

To amend the Mineral Leasing Act to make certain adjustments to the regulation of surface-disturbing activities and to protect taxpayers from unduly bearing the reclamation costs of oil and gas development, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
 2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       *This Act may be referred to as the “Bonding Reform*  
 5       *and Taxpayer Protection Act of 2021”.*

6       **SEC. 2. SURFACE DISTURBANCE AND RECLAMATION.**

7       *Section 17(g) of the Mineral Leasing Act (30 U.S.C.*  
 8       *226(g)) is amended to read as follows:*

9       “(g) **BONDING REQUIREMENTS.**—

10       “(1) **DEFINITIONS.**—*In this subsection:*

11               “(A) **INTERIM RECLAMATION PLAN.**—*The*  
 12               *term ‘Interim Reclamation Plan’ means an on-*  
 13               *going plan specifying reclamation steps to be*  
 14               *taken on all disturbed areas covered by any lease*  
 15               *issued under this Act that are not needed for ac-*  
 16               *tive operations.*

17               “(B) **FINAL RECLAMATION PLAN.**—*The term*  
 18               *‘Final Reclamation Plan’ means a plan describ-*  
 19               *ing all reclamation activity to be conducted for*  
 20               *all disturbed areas, including locations, facili-*  
 21               *ties, trenches, rights-of-way, roads, and any*  
 22               *other surface disturbance covered by a lease*  
 23               *issued under this Act prior to final abandon-*  
 24               *ment.*

1           “(C) *OPERATOR.*—*The term ‘operator’*  
 2           *means, with respect to an oil or gas operation,*  
 3           *any entity, including the lessee or operating*  
 4           *rights owner, that has stated in writing to a rel-*  
 5           *evant authority that such entity is responsible*  
 6           *for any portion of such operation.*

7           “(D) *SECRETARY CONCERNED.*—*The term*  
 8           *‘Secretary concerned’ means—*

9                   “(i) *the Secretary of the Interior for*  
 10                  *public lands administered by such Sec-*  
 11                  *retary;*

12                  “(ii) *the Secretary of Agriculture for*  
 13                  *forest service lands.*

14           “(2) *IN GENERAL.*—*The Secretary concerned*  
 15           *shall regulate all surface-disturbing activities con-*  
 16           *ducted pursuant to any lease issued under this Act,*  
 17           *and shall determine reclamation and other actions as*  
 18           *required in the interest of conservation of surface re-*  
 19           *sources.*

20           “(3) *RECLAMATION PLANS REQUIRED.*—

21                   “(A) *ANALYSIS AND APPROVAL RE-*  
 22                  *QUIRED.*—*No permit to drill on an oil and gas*  
 23                  *lease issued under this Act may be granted with-*  
 24                  *out the analysis and approval by the Secretary*  
 25                  *concerned of both an interim reclamation plan*

1       *and a final reclamation plan covering proposed*  
2       *surface-disturbing activities within the lease*  
3       *area.*

4               “(B) *PLANS OF OPERATIONS.*—*All Federal*  
5       *plans or permits submitted pursuant to this Act*  
6       *with the potential to create surface disturbance*  
7       *shall include an Interim and Final Reclamation*  
8       *Plan.*

9               “(C) *SECRETARIAL REVIEW.*—*The Secretary*  
10       *concerned shall review each Interim Reclamation*  
11       *Plan at regular intervals and shall require such*  
12       *plans to be amended as warranted, subject to the*  
13       *approval of such Secretary.*

14              “(4) *BONDING.*—

15                      “(A) *IN GENERAL.*—

16                              “(i) *REGULATION.*—*Not later than 180*  
17       *days after the date of enactment of the*  
18       *Bonding Reform and Taxpayer Protection*  
19       *Act of 2021, the Secretary concerned shall,*  
20       *by regulation, require that an adequate*  
21       *bond, surety, or other financial arrange-*  
22       *ment be established prior to the commence-*  
23       *ment of surface-disturbing activities on any*  
24       *lease under this Act.*

1           “(ii) *AMOUNT OF BOND.*—*In deter-*  
2           *mining the adequacy of a bond, surety, or*  
3           *other financial instrument required by reg-*  
4           *ulation under clause (i), the Secretary shall*  
5           *find that such arrangement is adequate if it*  
6           *is not less than the greater of—*

7                     “(I) *the amount necessary for—*

8                             “(aa) *the complete and time-*  
9                             *ly reclamation of the lease tract;*

10                            “(bb) *the restoration of any*  
11                            *lands or surface waters adversely*  
12                            *affected by lease operations after*  
13                            *the abandonment or cessation of*  
14                            *oil and gas operations on the*  
15                            *lease; or*

16                            “(cc) *in the case of an idled*  
17                            *well, the total plugging and rec-*  
18                            *lamation costs for each idled well*  
19                            *controlled by the same operator;*

20                            “(II) *\$150,000 in the case of an*  
21                            *arrangement for an individual surface-*  
22                            *disturbing activity of each entity on*  
23                            *an oil or gas lease; or*

1                   “(III) \$500,000 in the case of an  
2                   arrangement for all surface-disturbing  
3                   activities of each entity in a State.

4                   “(iii) *ADJUSTMENT FOR INFLATION.*—

5                   “(I) *IN GENERAL.*—In the appli-  
6                   cation of clause (ii), the Secretaries  
7                   concerned shall jointly at least once  
8                   every three years, at the beginning of  
9                   the fiscal year, adjust the dollar  
10                  amounts in clause (ii) to account for  
11                  inflation based on the Consumer Price  
12                  Index for all urban consumer published  
13                  by the Department of Labor.

14                  “(II) *ROUNDING.*—If any amount  
15                  as adjusted under subclause (I) is not  
16                  a multiple of \$1,000, such amount  
17                  shall be rounded to the next higher  
18                  multiple of \$1000.

19                  “(B) *PROHIBITION.*—The Secretary con-  
20                  cerned shall not issue or approve the assignment  
21                  of any lease under the terms of this section to  
22                  any person, association, corporation, or any sub-  
23                  sidiary, affiliate, or person controlled by or  
24                  under common control with such person, associa-  
25                  tion, or corporation, during any period in

1       *which, as determined by the relevant Secretary,*  
2       *such entity has failed or refused to comply in*  
3       *any material respect with the reclamation re-*  
4       *quirements and other standards established*  
5       *under this section for any prior lease to which*  
6       *such requirements and standards applied.*

7               “(C) NOTICE AND OPPORTUNITY FOR COM-  
8       *PLIANCE.—Prior to making a determination not*  
9       *to issue or approve the assignment of a lease*  
10       *under subparagraph (B) with respect to an enti-*  
11       *ty the Secretary concerned shall provide such en-*  
12       *tity with adequate notification and an oppor-*  
13       *tunity to comply with such reclamation require-*  
14       *ments and other standards and shall consider*  
15       *whether any administrative or judicial appeal is*  
16       *pending. Once the entity has complied with the*  
17       *reclamation requirement or other standard con-*  
18       *cerned each oil or gas lease may be issued to*  
19       *such entity under this Act.*

20               “(D) REVIEW UPON TRANSFER.—*The Sec-*  
21       *retary concerned shall review the adequacy of a*  
22       *bond, surety, or other financial instrument any-*  
23       *time a lease or well under this Act is transferred.*  
24       *The Secretary shall find such bond, surety, or*

1        *other financial instrument adequate if such ar-*  
 2        *range ment—*

3                *“(i) meets the requirement described in*  
 4                *subparagraph (A)(ii); and*

5                *“(ii) is not for a lesser amount than*  
 6                *the amount maintained by the current oper-*  
 7                *ator.*

8                *“(E)        REQUIRING        HIGHER        BOND*  
 9        *AMOUNTS.—The Secretary concerned shall, at*  
 10        *any time that such Secretary determines that a*  
 11        *bond, surety, or other financial instrument re-*  
 12        *quired by a regulation issued pursuant to sub-*  
 13        *paragraph (A) no longer meets the requirements*  
 14        *of clause (ii) of such subparagraph, increase the*  
 15        *required amount of such financial arrangement*  
 16        *to the level required by subparagraph (A).*

17                *“(F) PHASING-IN BOND INCREASES.—With*  
 18        *respect to a bond increased under subparagraph*  
 19        *(E), the Secretary concerned shall require the op-*  
 20        *erator to meet the following deadlines in posting*  
 21        *the amount of the increase that results from the*  
 22        *operation of such paragraph:*

23                *“(i) 25 percent of the increase by not*  
 24                *later than 1 year after the date on which*

1           *the determination was made under subpara-*  
2           *graph (D).*

3           “(ii) 75 percent of the increase by not  
4           later than 2 years after such date.

5           “(iii) 100 percent of the increase by  
6           not later than 3 years after such date.

7           “(5) *STANDARDS.*—Not later than 180 days after  
8           the date of enactment of the Bonding Reform and  
9           Taxpayer Protection Act of 2021, the Secretary of the  
10          Interior and the Secretary of Agriculture shall, by  
11          regulation, establish uniform standards for all In-  
12          terim and Final Reclamation Plans. The goal of such  
13          plans shall be the restoration of the affected ecosystem  
14          to a condition approximating or equal to that which  
15          existed prior to the surface disturbance. Such stand-  
16          ards shall include restoration of natural vegetation  
17          and hydrology, habitat restoration, salvage, storage  
18          and reuse of topsoils, erosion control, control of  
19          invasive species and noxious weeds and natural  
20          contouring.

21          “(6) *MONITORING.*—The Secretary concerned  
22          shall not approve final abandonment and shall not  
23          release any bond required by this Act until the stand-  
24          ards and requirement for final reclamation estab-  
25          lished pursuant to this Act have been met.

1           “(7) *FINANCIAL ASSURANCES.*—*The Secretary*  
 2           *concerned shall not release the financial assurance es-*  
 3           *tablished for a lease until the operator has paid the*  
 4           *inspection fees required under section 4 for the lease*  
 5           *covered by the financial assurance instrument.*

6           “(8) *BOND ADEQUACY REVIEW.*—*The Secretary*  
 7           *shall conduct bond adequacy reviews as required*  
 8           *under paragraph (4)(D) in accordance with Bureau*  
 9           *of Land Management Instruction Memorandum No.*  
 10          *2019-014, dated November 15, 2018.*

11          “(9) *ORPHANED WELL FEE.*—*The Secretary of*  
 12          *the Interior shall collect a per barrel of oil equivalent*  
 13          *fee of not less than \$0.10 on oil and gas produced*  
 14          *from Federal lands for the use of plugging and rec-*  
 15          *lamation of orphaned wells.”.*

16 **SEC. 3. CHANGES TO THE BLM PERMIT PROCESSING IM-**  
 17 **PROVEMENT FUND.**

18          (a) *NAME OF FUND.*—*Section 35(c)(2)(B) of the Min-*  
 19          *eral Leasing Act (30 U.S.C. 191(c)(2)(B)) is amended by*  
 20          *striking “BLM Permit Processing Improvement Fund” and*  
 21          *inserting “BLM Administration and Accountability*  
 22          *Fund”.*

23          (b) *ADDITIONAL USES.*—*Section 35(c)(3)(A) of such*  
 24          *Act (30 191(c)(3)(A)) is amended by adding at the end the*

1 following: “Such coordination and processing shall in-  
 2 clude—

3 “(i) the coordination and review proc-  
 4 ess for financial assurances for oil and gas  
 5 leases and bond releases for oil and gas  
 6 leases;

7 “(ii) the inventory of orphaned wells  
 8 and coordinate the processing of requests for  
 9 delays in the permanent closure of inactive  
 10 wells; and

11 “(iii) coordination and processing re-  
 12 lated to environmental and cultural re-  
 13 sources reviews applicable to oil and gas ac-  
 14 tivities.”.

15 **SEC. 4. INSPECTION FEES.**

16 (a) *IN GENERAL.*—Section 108 of the Federal Oil and  
 17 Gas Royalty Management Act of 1982 (30 U.S.C. 1718) is  
 18 amended by adding at the end the following:

19 “(d) *INSPECTION FEES.*—

20 “(1) *IN GENERAL.*—Except as provided in para-  
 21 graph (5), the designated operator under each oil and  
 22 gas lease on Federal or Indian lands, or each unit  
 23 and communitization agreement that includes one or  
 24 more such Federal or Indian leases, that is subject to  
 25 inspection under subsection (b) and that is in force

1       *at the start of the fiscal year 2021, shall pay a non-*  
2       *refundable annual inspection fee in an amount that,*  
3       *except as provided in paragraph (2), is established by*  
4       *the Secretary by regulation and is sufficient to re-*  
5       *cover the full costs incurred by the United States for*  
6       *inspection and enforcement with respect to such*  
7       *leases.*

8               “(2) AMOUNT.—*Until the effective date of regula-*  
9       *tions under paragraph (1), the amount of the fee shall*  
10       *be—*

11               “(A) *\$700 for each lease or unit or*  
12       *communitization agreement with no active or in-*  
13       *active wells, but with surface use, disturbance or*  
14       *reclamation;*

15               “(B) *\$1,225 for each lease or unit or*  
16       *communitization agreement with 1 to 10 wells,*  
17       *with any combination of active or inactive wells;*

18               “(C) *\$4,900 for each lease or unit or*  
19       *communitization agreement with 11 to 50 wells,*  
20       *with any combination of active or inactive wells;*  
21       *and*

22               “(D) *\$9,800 for each lease or unit or*  
23       *communitization agreement with more than 50*  
24       *wells, with any combination of active or inactive*  
25       *wells.*

1           “(3) *DUE DATE.*—*Payment of the fee under this*  
2           *section shall be due, annually, not later than 30 days*  
3           *after the Secretary provides notice of the assessment*  
4           *of the fee.*

5           “(4) *PENALTY.*—*If the designated operator fails*  
6           *to pay the full amount of the fee as prescribed in this*  
7           *section, the Secretary may, in addition to utilizing*  
8           *any other applicable enforcement authority, assess*  
9           *civil penalties against the operator under section 109*  
10          *in the same manner as if this section were a mineral*  
11          *leasing law.*

12          “(5) *EXEMPTION FOR TRIBAL OPERATORS.*—*An*  
13          *operator that is a Tribe or is controlled by a Tribe*  
14          *is not subject to paragraph (1) with respect to a lease,*  
15          *unit, or communitization agreement that is located*  
16          *entirely on the lands of such Tribe.*

17          “(6) *ADJUSTMENT FOR INFLATION.*—*In the ap-*  
18          *plication of paragraph (2), the Secretaries shall at*  
19          *least once every three years, at the beginning of the*  
20          *fiscal year, adjust the dollar amounts in paragraph*  
21          *(2) to account for inflation based on the Consumer*  
22          *Price Index for all urban consumer published by the*  
23          *Department of Labor.”.*

24          “(b) *ASSESSMENT FOR FISCAL YEAR 2022.*—*The Sec-*  
25          *retary of the Interior shall assess the fee under the amend-*

1 *ment made by subsection (a) for fiscal year 2022, and pro-*  
 2 *vide notice of such assessment to each designated operator*  
 3 *who is liable for such fee, by not later than 60 days after*  
 4 *the date of enactment of this Act.*

5 **SEC. 5. BONDING EQUITY FOR NATIONAL WILDLIFE REF-**  
 6 **UGE SYSTEM LANDS.**

7 *Section 4 of the National Wildlife Refuge System Ad-*  
 8 *ministration Act of 1966 (16 U.S.C. 668dd et seq.) is*  
 9 *amended—*

10 *(1) by redesignating subsections (h) through (o),*  
 11 *as subsections (i) through (p), respectively; and*

12 *(2) by inserting after subsection (g) the following*  
 13 *new subsection:*

14 *“(h) RECLAMATION, DAMAGES, AND FINANCIAL AS-*  
 15 *SURANCE FOR OIL AND GAS OPERATIONS ON REFUGE*  
 16 *LANDS.—*

17 *“(1) The Secretary, acting through the Director,*  
 18 *shall obtain adequate financial assurances from non-*  
 19 *Federal entities to repair potential damages to refuge*  
 20 *resources, prior to the commencement of surface-dis-*  
 21 *turbing activities as part of the development of non-*  
 22 *Federal minerals below refuge surface estate, includ-*  
 23 *ing—*

24 *“(A) to ensure the complete and timely rec-*  
 25 *lamation of the land, and the restoration of any*

1        *lands or surface waters adversely affected by op-*  
2        *erations after the abandonment or cessation of*  
3        *oil and gas operations on the land; and*

4                *“(B) to meet potential response and assess-*  
5        *ment costs and other damages to refuge resources*  
6        *as a result of oil and gas operations.*

7                *“(2) Financial assurances forfeited by a non-*  
8        *Federal entity under this subsection shall be retained*  
9        *and available to the Secretary, without further appro-*  
10       *priation, and shall remain available until expended,*  
11       *for—*

12                *“(A) plugging and abandoning wells;*

13                *“(B) removing structures, equipment, mate-*  
14       *rials, and other infrastructure;*

15                *“(C) response costs and damage assessments*  
16       *conducted;*

17                *“(D) restoration, replacement, or acquisi-*  
18       *tion of the equivalent refuge resources; and*

19                *“(E) monitoring and studying affected ref-*  
20       *uge resources.”.*



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2<sup>D</sup> Session

**H. R. 1505**

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