

118TH CONGRESS
1ST SESSION

H. R. 4301

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.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2023

Ms. PORTER (for herself, Mr. GRIJALVA, Ms. BARRAGÁN, Mr. HUFFMAN, and Mr. LEVIN) introduced the following bill; which was referred to the Committee on Natural Resources

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 2023”.

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

2 Section 17(g) of the Mineral Leasing Act (30 U.S.C.
3 226(g)) is amended to read as follows:

4 “(g) BONDING REQUIREMENTS.—

5 “(1) DEFINITIONS.—In this subsection:

6 “(A) INTERIM RECLAMATION PLAN.—The
7 term ‘Interim Reclamation Plan’ means an on-
8 going plan specifying reclamation steps to be
9 taken on all disturbed areas covered by any
10 lease issued under this Act that are not needed
11 for active operations.

12 “(B) FINAL RECLAMATION PLAN.—The
13 term ‘Final Reclamation Plan’ means a plan
14 describing all reclamation activity to be con-
15 ducted for all disturbed areas, including loca-
16 tions, facilities, trenches, rights-of-way, roads,
17 and any other surface disturbance covered by a
18 lease issued under this Act prior to final aban-
19 donment.

20 “(C) OPERATOR.—The term ‘operator’
21 means, with respect to an oil or gas operation,
22 any entity, including the lessee or operating
23 rights owner, that has stated in writing to a rel-
24 evant authority that such entity is responsible
25 for any portion of such operation.

1 “(D) SECRETARY CONCERNED.—The term
2 ‘Secretary concerned’ means—

3 “(i) the Secretary of the Interior for
4 public lands administered by such Sec-
5 retary; and

6 “(ii) the Secretary of Agriculture for
7 forest service lands.

8 “(2) IN GENERAL.—The Secretary concerned
9 shall regulate all surface-disturbing activities con-
10 ducted pursuant to any lease issued under this Act,
11 and shall determine reclamation and other actions as
12 required in the interest of conservation of surface re-
13 sources.

14 “(3) RECLAMATION PLANS REQUIRED.—

15 “(A) ANALYSIS AND APPROVAL RE-
16 QUIRED.—No permit to drill on an oil and gas
17 lease issued under this Act may be granted
18 without the analysis and approval by the Sec-
19 retary concerned of both an interim reclamation
20 plan and a final reclamation plan covering pro-
21 posed surface-disturbing activities within the
22 lease area.

23 “(B) PLANS OF OPERATIONS.—All Federal
24 plans or permits submitted pursuant to this Act
25 with the potential to create surface disturbance

1 shall include an Interim and Final Reclamation
2 Plan.

3 “(C) SECRETARIAL REVIEW.—The Sec-
4 retary concerned shall review each Interim Rec-
5 lamation Plan at regular intervals and shall re-
6 quire such plans to be amended as warranted,
7 subject to the approval of such Secretary.

8 “(4) BONDING.—

9 “(A) IN GENERAL.—

10 “(i) REGULATION.—Not later than
11 180 days after the date of enactment of
12 the Bonding Reform and Taxpayer Protec-
13 tion Act of 2023, the Secretary concerned
14 shall, by regulation, require that an ade-
15 quate bond, surety, or other financial ar-
16 rangement be established prior to the com-
17 mencement of surface-disturbing activities
18 on any lease under this Act.

19 “(ii) AMOUNT OF BOND.—In deter-
20 mining the adequacy of a bond, surety, or
21 other financial instrument required by reg-
22 ulation under clause (i), the Secretary shall
23 find that such arrangement is adequate if
24 it is not less than the greater of—

25 “(I) the amount necessary for—

1 “(aa) the complete and time-
2 ly reclamation of the lease tract;

3 “(bb) the restoration of any
4 lands or surface waters adversely
5 affected by lease operations after
6 the abandonment or cessation of
7 oil and gas operations on the
8 lease; or

9 “(cc) in the case of an idled
10 well, the total plugging and rec-
11 lamation costs for each idled well
12 controlled by the same operator;

13 “(II) \$150,000 in the case of an
14 arrangement for an individual sur-
15 face-disturbing activity of each entity
16 on an oil or gas lease; or

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

20 “(iii) ADJUSTMENT FOR INFLA-
21 TION.—

22 “(I) IN GENERAL.—In the appli-
23 cation of clause (ii), the Secretaries
24 concerned shall jointly at least once
25 every three years, at the beginning of

1 the fiscal year, adjust the dollar
2 amounts in clause (ii) to account for
3 inflation based on the Consumer Price
4 Index for all urban consumer pub-
5 lished by the Department of Labor.

6 “(II) ROUNDING.—If any
7 amount as adjusted under subclause
8 (I) is not a multiple of \$1,000, such
9 amount shall be rounded to the next
10 higher multiple of \$1000.

11 “(B) PROHIBITION.—The Secretary con-
12 cerned shall not issue or approve the assign-
13 ment of any lease under the terms of this sec-
14 tion to any person, association, corporation, or
15 any subsidiary, affiliate, or person controlled by
16 or under common control with such person, as-
17 sociation, or corporation, during any period in
18 which, as determined by the relevant Secretary,
19 such entity has failed or refused to comply in
20 any material respect with the reclamation re-
21 quirements and other standards established
22 under this section for any prior lease to which
23 such requirements and standards applied.

24 “(C) NOTICE AND OPPORTUNITY FOR COM-
25 PLIANCE.—Prior to making a determination not

1 to issue or approve the assignment of a lease
2 under subparagraph (B) with respect to an en-
3 tity the Secretary concerned shall provide such
4 entity with adequate notification and an oppor-
5 tunity to comply with such reclamation require-
6 ments and other standards and shall consider
7 whether any administrative or judicial appeal is
8 pending. Once the entity has complied with the
9 reclamation requirement or other standard con-
10 cerned each oil or gas lease may be issued to
11 such entity under this Act.

12 “(D) REVIEW UPON TRANSFER.—The Sec-
13 retary concerned shall review the adequacy of a
14 bond, surety, or other financial instrument any-
15 time a lease or well under this Act is trans-
16 ferred. The Secretary shall find such bond, sur-
17 ety, or other financial instrument adequate if
18 such arrangement—

19 “(i) meets the requirement described
20 in subparagraph (A)(ii); and

21 “(ii) is not for a lesser amount than
22 the amount maintained by the current op-
23 erator.

24 “(E) REQUIRING HIGHER BOND
25 AMOUNTS.—The Secretary concerned shall, at

1 any time that such Secretary determines that a
2 bond, surety, or other financial instrument re-
3 quired by a regulation issued pursuant to sub-
4 paragraph (A) no longer meets the require-
5 ments of clause (ii) of such subparagraph, in-
6 crease the required amount of such financial ar-
7 rangement to the level required by subpara-
8 graph (A).

9 “(F) PHASING-IN BOND INCREASES.—With
10 respect to a bond increased under subparagraph
11 (E), the Secretary concerned shall require the
12 operator to meet the following deadlines in
13 posting the amount of the increase that results
14 from the operation of such paragraph:

15 “(i) 25 percent of the increase by not
16 later than 1 year after the date on which
17 the determination was made under sub-
18 paragraph (D).

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

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

23 “(5) STANDARDS.—Not later than 180 days
24 after the date of enactment of the Bonding Reform
25 and Taxpayer Protection Act of 2023, the Secretary

1 of the Interior and the Secretary of Agriculture
2 shall, by regulation, establish uniform standards for
3 all Interim and Final Reclamation Plans. The goal
4 of such plans shall be the restoration of the affected
5 ecosystem to a condition approximating or equal to
6 that which existed prior to the surface disturbance.
7 Such standards shall include restoration of natural
8 vegetation and hydrology, habitat restoration, sal-
9 vage, storage and reuse of topsoils, erosion control,
10 control of invasive species and noxious weeds and
11 natural contouring.

12 “(6) MONITORING.—The Secretary concerned
13 shall not approve final abandonment and shall not
14 release any bond required by this Act until the
15 standards and requirement for final reclamation es-
16 tablished pursuant to this Act have been met.

17 “(7) FINANCIAL ASSURANCES.—The Secretary
18 concerned shall not release the financial assurance
19 established for a lease until the operator has paid
20 the inspection fees required under section 4 for the
21 lease covered by the financial assurance instrument.

22 “(8) BOND ADEQUACY REVIEW.—The Secretary
23 shall conduct bond adequacy reviews as required
24 under paragraph (4)(D) in accordance with Bureau

1 of Land Management Instruction Memorandum No.
2 2019–014, dated November 15, 2018.

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

8 **SEC. 3. CHANGES TO THE BLM PERMIT PROCESSING IM-**
9 **PROVEMENT FUND.**

10 (a) NAME OF FUND.—Section 35(c)(2)(B) of the
11 Mineral Leasing Act (30 U.S.C. 191(c)(2)(B)) is amended
12 by striking “BLM Permit Processing Improvement Fund”
13 and inserting “BLM Administration and Accountability
14 Fund”.

15 (b) ADDITIONAL USES.—Section 35(c)(3)(A) of such
16 Act (30 191(c)(3)(A)) is amended by adding at the end
17 the following: “Such coordination and processing shall in-
18 clude—

19 “(i) the coordination and review proc-
20 ess for financial assurances for oil and gas
21 leases and bond releases for oil and gas
22 leases;

23 “(ii) the inventory of orphaned wells
24 and coordinate the processing of requests

1 for delays in the permanent closure of in-
2 active wells; and

3 “(iii) coordination and processing re-
4 lated to environmental and cultural re-
5 sources reviews applicable to oil and gas
6 activities.”.

7 **SEC. 4. INSPECTION FEES.**

8 (a) IN GENERAL.—Section 108 of the Federal Oil
9 and Gas Royalty Management Act of 1982 (30 U.S.C.
10 1718) is amended by adding at the end the following:

11 “(d) INSPECTION FEES.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (5), the designated operator under each oil
14 and gas lease on Federal or Indian lands, or each
15 unit and communitization agreement that includes
16 one or more such Federal or Indian leases, that is
17 subject to inspection under subsection (b) and that
18 is in force at the start of the fiscal year 2023, shall
19 pay a nonrefundable annual inspection fee in an
20 amount that, except as provided in paragraph (2), is
21 established by the Secretary by regulation and is
22 sufficient to recover the full costs incurred by the
23 United States for inspection and enforcement with
24 respect to such leases.

1 “(2) AMOUNT.—Until the effective date of reg-
2 ulations under paragraph (1), the amount of the fee
3 shall be—

4 “(A) \$700 for each lease or unit or
5 communitization agreement with no active or
6 inactive wells, but with surface use, disturbance
7 or reclamation;

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

11 “(C) \$4,900 for each lease or unit or
12 communitization agreement with 11 to 50 wells,
13 with any combination of active or inactive wells;
14 and

15 “(D) \$9,800 for each lease or unit or
16 communitization agreement with more than 50
17 wells, with any combination of active or inactive
18 wells.

19 “(3) DUE DATE.—Payment of the fee under
20 this section shall be due, annually, not later than 30
21 days after the Secretary provides notice of the as-
22 sessment of the fee.

23 “(4) PENALTY.—If the designated operator
24 fails to pay the full amount of the fee as prescribed
25 in this section, the Secretary may, in addition to uti-

1 lizing any other applicable enforcement authority,
2 assess civil penalties against the operator under sec-
3 tion 109 in the same manner as if this section were
4 a mineral leasing law.

5 “(5) EXEMPTION FOR TRIBAL OPERATORS.—An
6 operator that is a Tribe or is controlled by a Tribe
7 is not subject to paragraph (1) with respect to a
8 lease, unit, or communitization agreement that is lo-
9 cated entirely on the lands of such Tribe.

10 “(6) ADJUSTMENT FOR INFLATION.—In the ap-
11 plication of paragraph (2), the Secretaries shall at
12 least once every three years, at the beginning of the
13 fiscal year, adjust the dollar amounts in paragraph
14 (2) to account for inflation based on the Consumer
15 Price Index for all urban consumer published by the
16 Department of Labor.”.

17 (b) ASSESSMENT FOR FISCAL YEAR 2024.—The Sec-
18 retary of the Interior shall assess the fee under the amend-
19 ment made by subsection (a) for fiscal year 2024, and pro-
20 vide notice of such assessment to each designated operator
21 who is liable for such fee, by not later than 60 days after
22 the date of enactment of this Act.

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

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

6 (1) by redesignating subsections (h) through
7 (o), as subsections (i) through (p), respectively; and

8 (2) by inserting after subsection (g) the fol-
9 lowing new subsection:

10 “(h) RECLAMATION, DAMAGES, AND FINANCIAL AS-
11 SURANCE FOR OIL AND GAS OPERATIONS ON REFUGE
12 LANDS.—

13 “(1) The Secretary, acting through the Direc-
14 tor, shall obtain adequate financial assurances from
15 non-Federal entities to repair potential damages to
16 refuge resources, prior to the commencement of sur-
17 face-disturbing activities as part of the development
18 of non-Federal minerals below refuge surface estate,
19 including—

20 “(A) to ensure the complete and timely
21 reclamation of the land, and the restoration of
22 any lands or surface waters adversely affected
23 by operations after the abandonment or ces-
24 sation of oil and gas operations on the land;
25 and

1 “(B) to meet potential response and as-
2 sessment costs and other damages to refuge re-
3 sources as a result of oil and gas operations.

4 “(2) Financial assurances forfeited by a non-
5 Federal entity under this subsection shall be re-
6 tained and available to the Secretary, without fur-
7 ther appropriation, and shall remain available until
8 expended, for—

9 “(A) plugging and abandoning wells;

10 “(B) removing structures, equipment, ma-
11 terials, and other infrastructure;

12 “(C) response costs and damage assess-
13 ments conducted;

14 “(D) restoration, replacement, or acquisi-
15 tion of the equivalent refuge resources; and

16 “(E) monitoring and studying affected ref-
17 uge resources.”.

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