

116TH CONGRESS
1ST SESSION

H. R. 3225

To amend the Mineral Leasing Act to make certain adjustments in leasing on Federal lands for oil and gas drilling, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2019

Mr. LEVIN of California (for himself, Mr. GRIJALVA, and Mr. LOWENTHAL) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Mineral Leasing Act to make certain adjustments in leasing on Federal lands for oil and gas drilling, 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 cited as the “Restoring Community
5 Input and Public Protections in Oil and Gas Leasing Act
6 of 2019”.

1 **SEC. 2. LEASING PROCESS.**

2 (a) ONSHORE OIL AND GAS LEASING.—Section 17(a)
3 of the Mineral Leasing Act (30 U.S.C. 226(a)) is amended
4 to read as follows:

5 “(a) LEASING AUTHORITY.—

6 “(1) IN GENERAL.—All lands subject to disposi-
7 tion under this Act that are known or believed to
8 contain oil or gas deposits may be leased by the Sec-
9 retary.

10 “(2) RECEIPT OF FAIR MARKET VALUE.—Leas-
11 ing activities under this Act shall be conducted to
12 assure receipt of fair market value for the lands and
13 resources leased and the rights conveyed by the
14 United States.”.

15 (b) COMPETITIVE BIDDING.—Section 17(b)(1)(A) of
16 the Mineral Leasing Act (30 U.S.C. 226(b)(1)(A)) is
17 amended to read as follows:

18 “(A) COMPETITIVE BIDDING.—

19 “(i) IN GENERAL.—All lands to be
20 leased under this section shall be leased as
21 provided in this paragraph to the highest
22 responsible qualified bidder by competitive
23 bidding by sealed bid.

24 “(ii) GEOGRAPHIC LIMITATION.—The
25 Secretary shall lease lands under this para-
26 graph in units of not more than 2,560

1 acres, except in Alaska, where units shall
2 be not more than 5,760 acres. Such units
3 shall be as nearly compact as possible.

4 “(iii) FREQUENCY.—Lease sales
5 under this section shall be held for each
6 State in which there are lands eligible for
7 leasing no more than 3 times each year
8 and on a rotating basis such that the lands
9 under the responsibility of any Bureau of
10 Land Management field office are available
11 for leasing no more than one time each
12 year.

13 “(iv) ROYALTY.—A lease under this
14 section shall be conditioned upon the pay-
15 ment of a royalty at a rate of not less than
16 18.5 percent in amount or value of the
17 production removed or sold from the lease,
18 except as otherwise provided in this Act.

19 “(v) ISSUANCE OF LEASE.—The Sec-
20 retary may issue a lease under this section
21 to the responsible qualified bidder with the
22 highest bid that is equal to or greater than
23 the national minimum acceptable bid. The
24 Secretary shall decide whether to accept a
25 bid and issue a lease within 90 days fol-

1 lowing payment by the successful bidder of
2 the remainder of the bonus bid, if any, and
3 annual rental for the first lease year.

4 “(vi) REJECTION OF BID.—The Sec-
5 retary may reject a bid above the national
6 minimum acceptable bid if, after evaluation
7 of the value of the lands proposed for
8 lease, the Secretary determines that the
9 bid amount does not ensure that fair mar-
10 ket value is obtained for the lease.”.

11 (c) NATIONAL MINIMUM ACCEPTABLE BID.—Sub-
12 paragraph (B) of section 17(b)(1) of the Mineral Leasing
13 Act (30 U.S.C. 226(b)(1)), is amended to read as follows:

14 “(B) NATIONAL MINIMUM ACCEPTABLE
15 BID.—

16 “(i) IN GENERAL.—The national min-
17 imum acceptable bid shall be \$5 per acre.
18 All bids under this section for less than the
19 national minimum acceptable bid shall be
20 rejected.

21 “(ii) RAISING THE NATIONAL MIN-
22 IMUM ACCEPTABLE BID.—The Secretary
23 may establish a higher national minimum
24 acceptable bid—

1 “(I) beginning at the end of the
2 four year period that begins on the
3 date of enactment of the Restoring
4 Community Input and Public Protec-
5 tion in Oil and Gas Leasing Act of
6 2019, at least once every 4 years, to
7 reflect the change in the Consumer
8 Price Index for All Urban Consumers
9 published by the Bureau of Labor
10 Statistics; and

11 “(II) at any time if the Secretary
12 finds that such a higher amount is
13 necessary to enhance financial returns
14 to the United States or to promote
15 more efficient management of oil and
16 gas resources on Federal lands.

17 “(iii) NOT A MAJOR FEDERAL AC-
18 TION.—The proposal or issuance of any
19 regulation to establish a higher national
20 minimum acceptable bid under clause (ii)
21 shall not be considered a major Federal ac-
22 tion that is subject to the requirements of
23 section 102(2)(C) of the National Environ-
24 mental Policy Act of 1969 (42 U.S.C.
25 4332(2)(C)).”.

1 (d) RENTALS.—Section 17(d) of the Mineral Leasing
2 Act (30 U.S.C. 226(d)) is amended to read as follows:

3 “(d) ANNUAL RENTALS.—All leases issued under this
4 section shall be conditioned upon the payment by the les-
5 see of a rental of—

6 “(1) not less than \$3.00 per acre per year dur-
7 ing the 2-year period beginning on the date the lease
8 begins for new leases, and after the end of such two
9 year period not less than \$5 per acre per year; or

10 “(2) such higher rental rate as the Secretary
11 may establish if the Secretary finds that such action
12 is necessary to enhance financial returns to the
13 United States and promote more efficient manage-
14 ment of oil and gas and alternative energy resources
15 on Federal lands.”.

16 (e) ELIMINATION OF NONCOMPETITIVE LEASING.—
17 The Mineral Leasing Act (30 U.S.C. 181 et seq.) is
18 amended—

19 (1) in section 17(b) (30 U.S.C. 226(b)), by
20 striking paragraph (3);

21 (2) by amending section 17(c) (30 U.S.C.
22 226(c)) to read as follows:

23 “(c) Lands made available for leasing under sub-
24 section (b)(1) but for which no bid is accepted may be

1 made available by the Secretary for a new round of sealed
2 bidding under such subsection.”;

3 (3) in section 17(e) (30 U.S.C. 226(e))—

4 (A) by striking “Competitive and non-
5 competitive leases” and inserting “Leases, in-
6 cluding leases for tar sand areas,”; and

7 (B) by striking “Provided, however” and
8 all that follows through “ten years.”;

9 (4) in section 31(d)(1) (30 U.S.C. 188(d)(1))
10 by striking “or section 17(e)”;

11 (5) in section 31(e) (30 U.S.C. 188(e))—

12 (A) in paragraph (2) by striking “, or the
13 inclusion” and all that follows and inserting a
14 semicolon; and

15 (B) in paragraph (3) by striking “(A)”
16 and by striking subparagraph (B);

17 (6) by striking section 31(f) (30 U.S.C. 188(f));

18 and

19 (7) in section 31(g) (30 U.S.C. 188(g))—

20 (A) in paragraph (1) by striking “as a
21 competitive” and all that follows through the
22 period and inserting “in the same manner as
23 the original lease issued pursuant to section
24 17.”;

1 (B) by striking paragraph (2) and redesignig-
2 nating paragraphs (3) and (4) as paragraphs
3 (2) and (3), respectively; and

4 (C) in paragraph (2), as redesignated, by
5 striking “, applicable to leases issued under
6 subsection 17(e) of this Act (30 U.S.C. 226(e))
7 except,” and inserting “, except”.

8 (f) LEASE TERM.—Section 17(e) of the Mineral
9 Leasing Act (30 U.S.C. 226(e)) is amended by striking
10 “10 years:” and inserting “5 years.”

11 (g) OTHER LEASING REQUIREMENTS.—Section
12 17(g) of the Mineral Leasing Act (30 U.S.C. 226(g)), as
13 amended by section 8 of this Act, is further amended by
14 adding at the end the following:

15 “(7) LIMITATION.—The Secretary shall not
16 issue a lease or approve the assignment of any lease
17 to any person, or to any subsidiary or affiliate of
18 such person or any other person controlled by or
19 under common control with such person, unless such
20 person has the demonstrated capability to explore
21 and produce oil and gas under the lease.

22 “(8) PROTECTION OF LEASED LANDS FOR
23 OTHER USES.—Each lease under this section shall
24 include such terms as are necessary to preserve the
25 United States flexibility to control or prohibit activi-

1 ties that pose serious and unacceptable impacts to
2 the value of the leased lands for uses other than pro-
3 duction of oil and gas.”.

4 **SEC. 3. TRANSPARENCY AND LANDOWNER PROTECTIONS.**

5 (a) **DISCLOSURE OF IDENTITIES FILING DISCLO-**
6 **SURES OF INTEREST AND BIDS.**—Section 17(b) of the
7 Mineral Leasing Act (30 U.S.C. 226(b)), as amended by
8 this Act, is further amended by adding at the end the fol-
9 lowing:

10 “(3) **BIDDER IDENTITY.**—The Secretary—

11 “(A) shall require that each expression of
12 interest to bid for a lease under this section and
13 each bid for a lease under this section shall in-
14 clude the name of the person for whom such ex-
15 pression of interest or bid is submitted; and

16 “(B) shall promptly publish each such
17 name.”.

18 (b) **NOTICE REQUIREMENTS.**—Section 17(f) of the
19 Mineral Leasing Act (30 U.S.C. 226(f)) is amended by
20 striking “At least” and all that follows through “agen-
21 cies.” and inserting the following:

22 “(1) **REQUIRED NOTICE.**—At least 45 days be-
23 fore offering lands for lease under this section, and
24 at least 30 days before approving applications for
25 permits to drill under the provisions of a lease,

1 modifying the terms of any lease issued under this
2 section, or granting a waiver, exception, or modifica-
3 tion of any stipulation of a lease issued under this
4 section, the Secretary shall provide notice of the pro-
5 posed action to—

6 “(A) the general public by posting such no-
7 tice in the appropriate local office and on the
8 electronic website of the leasing and land man-
9 agement agencies offering the lands for lease;

10 “(B) all surface land owners in the area of
11 the lands being offered for lease; and

12 “(C) the holders of special recreation per-
13 mits for commercial use, competitive events,
14 and other organized activities on the lands
15 being offered for lease.

16 “(2) REQUIRED INFORMATION.—”.

17 (c) SURFACE OWNER PROTECTION.—

18 (1) POST-LEASE SURFACE USE AGREEMENT.—

19 (A) IN GENERAL.—Except as provided in
20 paragraph (2), the Secretary may not authorize
21 any operator to conduct exploration and drilling
22 operations on lands with respect to which title
23 to oil and gas resources is held by the United
24 States but title to the surface estate is not held
25 by the United States, until the operator has

1 filed with the Secretary a document, signed by
2 the operator and the surface owner or owners,
3 showing that the operator has secured a written
4 surface use agreement between the operator
5 and the surface owner or owners that meets the
6 requirements of subparagraph (B).

7 (B) CONTENTS.—The surface use agree-
8 ment shall provide for—

9 (i) the use of only such portion of the
10 surface estate as is reasonably necessary
11 for exploration and drilling operations
12 based on site-specific conditions;

13 (ii) the accommodation of the surface
14 estate owner to the maximum extent prac-
15 ticable, including the location, use, timing,
16 and type of exploration and drilling oper-
17 ations, consistent with the operator's right
18 to develop the oil and gas estate;

19 (iii) the reclamation of the site to a
20 condition capable of supporting the uses
21 which such lands were capable of sup-
22 porting prior to exploration and drilling
23 operations; and

1 (iv) compensation for damages as a
2 result of exploration and drilling oper-
3 ations, including—

4 (I) loss of income and increased
5 costs incurred;

6 (II) damage to or destruction of
7 personal property, including crops,
8 forage, and livestock; and

9 (III) failure to reclaim the site in
10 accordance with clause (iii).

11 (C) PROCEDURE.—

12 (i) NOTICE OF INTENT TO CONCLUDE
13 AGREEMENT.—An operator shall notify the
14 surface estate owner or owners of the oper-
15 ator’s desire to conclude an agreement
16 under this section. If the surface estate
17 owner and the operator do not reach an
18 agreement within 90 days after the oper-
19 ator has provided such notice, the operator
20 may submit the matter to third-party arbi-
21 tration for resolution within a period of 90
22 days. The cost of such arbitration shall be
23 the responsibility of the operator.

24 (ii) LIST OF ARBITRATORS.—The Sec-
25 retary shall identify persons with experi-

1 ence in conducting arbitrations and shall
2 make this information available to opera-
3 tors.

4 (iii) REFERRAL.—Referral of a matter
5 for arbitration by an operator to an arbi-
6 trator identified by the Secretary pursuant
7 to clause (ii) shall be sufficient to con-
8 stitute compliance with clause (i).

9 (D) ATTORNEYS FEES.—If action is taken
10 to enforce or interpret any of the terms and
11 conditions contained in a surface use agree-
12 ment, the prevailing party shall be reimbursed
13 by the other party for reasonable attorneys fees
14 and actual costs incurred, in addition to any
15 other relief which a court or arbitration panel
16 may grant.

17 (2) AUTHORIZED EXPLORATION AND DRILLING
18 OPERATIONS.—

19 (A) AUTHORIZATION WITHOUT SURFACE
20 USE AGREEMENT.—The Secretary may author-
21 ize an operator to conduct exploration and drill-
22 ing operations on lands covered by paragraph
23 (1) in the absence of an agreement with the
24 surface estate owner or owners, if—

1 (i) the Secretary makes a determina-
2 tion in writing that the operator made a
3 good faith attempt to conclude such an
4 agreement, including referral of the matter
5 to arbitration pursuant to paragraph
6 (1)(C), but that no agreement was con-
7 cluded within 90 days after the referral to
8 arbitration;

9 (ii) the operator submits a plan of op-
10 erations that provides for the matters spec-
11 ified in paragraph (1)(B) and for compli-
12 ance with all other applicable requirements
13 of Federal and State law; and

14 (iii) the operator posts a bond or
15 other financial assurance in an amount the
16 Secretary determines to be adequate to en-
17 sure compensation to the surface estate
18 owner for any damages to the site, in the
19 form of a surety bond, trust fund, letter of
20 credit, government security, certificate of
21 deposit, cash, or equivalent.

22 (B) SURFACE OWNER PARTICIPATION.—

23 The Secretary shall provide surface estate own-
24 ers with an opportunity to—

1 (i) comment on plans of operations in
2 advance of a determination of compliance
3 with this Act;

4 (ii) participate in bond level deter-
5 minations and bond release proceedings
6 under this section;

7 (iii) attend an on-site inspection dur-
8 ing such determinations and proceedings;

9 (iv) file written objections to a pro-
10 posed bond release; and

11 (v) request and participate in an on-
12 site inspection when they have reason to
13 believe there is a violation of the terms and
14 conditions of a plan of operations.

15 (C) PAYMENT OF FINANCIAL GUAR-
16 ANTEE.—A surface estate owner with respect to
17 any land subject to a lease may petition the
18 Secretary for payment of all or any portion of
19 a bond or other financial assurance required
20 under this section as compensation for any
21 damages as a result of exploration and drilling
22 operations. Pursuant to such a petition, the
23 Secretary may use such bond or other guar-
24 antee to provide compensation to the surface es-
25 tate owner for such damages.

1 (D) BOND RELEASE.—Upon request and
2 after inspection and opportunity for surface es-
3 tate owner review, the Secretary may release
4 the financial assurance required under this sec-
5 tion if the Secretary determines that explo-
6 ration and drilling operations are ended and all
7 damages have been fully compensated.

8 (3) SURFACE OWNER NOTIFICATION.—The Sec-
9 retary shall notify surface estate owners in writing—

10 (A) not less than 45 days before lease
11 sales;

12 (B) of the identity of the lessee, not more
13 than 10 business days after a lease is issued;

14 (C) concerning any subsequent request or
15 decision regarding a lease not more than 5
16 business days after such request or decision, in-
17 cluding regarding modification of a lease, waiv-
18 er of a stipulation, or approval of a right of
19 way; and

20 (D) not more than 5 business days after
21 issuance of a drilling permit under a lease.

22 **SEC. 4. LEASE STIPULATIONS.**

23 (a) ENERGY POLICY ACT OF 2005.—Section
24 363(b)(3)(C) of the Energy Policy Act of 2005 (42 U.S.C.
25 15922(b)(3)(C)) is amended to read as follows:

1 “(C) adequately protective of the resource
2 for which the stipulations are applied;”.

3 (b) REVISION OF EXISTING MEMORANDUM.—Not
4 later than 180 days after the date of the enactment of
5 this Act the Secretary of the Interior and the Secretary
6 of Agriculture shall revise the memorandum of under-
7 standing under section 363(b)(3)(C) of the Energy Policy
8 Act of 2005 (42 U.S.C. 15922) in accordance with the
9 amendment made by subsection (a).

10 **SEC. 5. MASTER LEASING PLANS.**

11 Section 17(a) of the Mineral Leasing Act (30 U.S.C.
12 226(a)), as amended by section 2, is further amended by
13 adding at the end the following:

14 “(3) MASTER LEASING PLANS.—

15 “(A) IN GENERAL.—The Secretary may
16 adopt and implement a master leasing plan to
17 govern the issuance of oil and gas leases under
18 this Act for any Federal lands, in accordance
19 with Bureau of Land Management Instruction
20 Memorandum No. 2010–117, dated May 17,
21 2010, as in effect on April 24, 2017.

22 “(B) FACTORS AND CONSIDERATIONS.—In
23 deciding whether to adopt and implement a
24 master leasing plan, the Secretary—

1 “(i) shall consider the criteria set
2 forth in Bureau of Land Management In-
3 struction Memorandum No. 2010–117,
4 dated May 17, 2010, as in effect on April
5 24, 2017; and

6 “(ii) shall consider the benefits of
7 avoiding conflicts between mineral leasing
8 and other land uses, including conserva-
9 tion, recreation, and protection of cultural
10 and historic resources.

11 “(C) STATE REQUEST.—The Secretary
12 shall adopt and implement a master leasing
13 plan under subparagraph (A) applicable to
14 leases for Federal lands in a State or county of
15 a State, if requested by the government of such
16 State or county, respectively.

17 “(D) REQUEST BY AN INDIVIDUAL.—

18 “(i) IN GENERAL.—Any individual
19 who is a resident of a State or county of
20 a State may submit a petition to the Sec-
21 retary requesting that the Secretary adopt
22 and implement a master leasing plan under
23 subparagraph (A) applicable to the
24 issuance of leases for Federal lands in such
25 State or county, respectively.

1 “(ii) CONSIDERATION.—If the Sec-
2 retary receives such a petition, the Sec-
3 retary shall, not later than 60 days after
4 receiving such petition, issue a determina-
5 tion of whether or not the adoption and
6 implementation of such a master leasing
7 plan is appropriate.”.

8 **SEC. 6. PARCEL REVIEW.**

9 Section 17(a) of the Mineral Leasing Act (30 U.S.C.
10 226(a)), as amended by sections 2 and 5 of this Act, is
11 further amended by adding at the end the following:

12 “(4) PARCEL REVIEW.—The Secretary shall
13 issue oil and gas leases under this Act only in ac-
14 cordance with subsections C through I of section III
15 of Bureau of Land Management Instruction Memo-
16 randum No. 2010–117, dated May 17, 2010, as in
17 effect on April 24, 2017.”.

18 **SEC. 7. ACREAGE LIMITATIONS.**

19 Section 27(d)(1) of the Mineral Leasing Act (30
20 U.S.C. 184(d)(1)) is amended by striking “, and acreage
21 under any lease any portion of which has been committed
22 to a federally approved unit or cooperative plan or
23 communitization agreement or for which royalty (includ-
24 ing compensatory royalty or royalty in-kind) was paid in
25 the preceding calendar year,”.

1 **SEC. 8. LAND MANAGEMENT.**

2 Section 17(g) of the Mineral Leasing Act (30 U.S.C.
3 226(g)), as amended by section 2(g) of this Act, is further
4 amended by adding at the end the following:

5 “(9) MULTIPLE-USE MANAGEMENT.—The Sec-
6 retary, and for National Forest lands, the Secretary
7 of Agriculture, shall manage lands that are subject
8 to an oil and gas lease under this Act in accordance
9 with the principles, policies, and requirements relat-
10 ing to multiple use under the Federal Land Policy
11 and Management Act of 1976 (43 U.S.C. 1701 et
12 seq.), until the beginning of operations on such
13 lease.”.

14 **SEC. 9. OIL SHALE.**

15 Section 21(a) of the Mineral Leasing Act (30 U.S.C.
16 241(a)) is amended—

17 (1) in paragraph (1), by striking “The Sec-
18 retary of the Interior” and inserting “Subject to
19 paragraph (6), the Secretary of the Interior”; and

20 (2) by adding at the end the following:

21 “(6) Beginning on the date of enactment of the
22 Restoring Community Input and Public Protections
23 in Oil and Gas Leasing Act of 2019, The Secretary
24 may not issue any lease for oil shale under this Act
25 before the date the Secretary issues a finding that
26 the technical and economic feasibility of development

1 of and production from such deposit has been dem-
2 onstrated under section 369 of the Energy Policy
3 Act of 2005 (42 U.S.C. 15927).”.

4 **SEC. 10. TRANSPARENCY IN MANAGEMENT OF LEASES.**

5 Section 17(a) of the Mineral Leasing Act (30 U.S.C.
6 226(a)), as amended by sections 2, 5, and 6 of this Act,
7 is further amended by adding at the end the following:

8 “(5) TRANSPARENCY IN MANAGEMENT OF
9 LEASES.—For each lease under this section, the Sec-
10 retary shall make available on a public website—

11 “(A) the identity of—

12 “(i) each person who is or has been a
13 lessee under the lease; and

14 “(ii) each person who is or has been
15 an operator under the lease;

16 “(B) notice of each transfer of the lease;
17 and

18 “(C) notice of each suspension of oper-
19 ations, each suspension of production, and each
20 suspension of operations and production.”.

21 **SEC. 11. LEASE CANCELLATION FOR IMPROPER ISSUANCE.**

22 Section 31(b) of the Mineral Leasing Act (30 U.S.C.
23 188(b)) is amended by inserting “if the lease was impropr-
24 erly issued or” after “30 days notice”.

1 **SEC. 12. FEES FOR EXPRESSIONS OF INTEREST.**

2 The Secretary of the Interior shall charge any person
3 who submits an expression of interest, as that term is de-
4 fined by the Secretary, a fee, in an amount determined
5 by the Secretary to be appropriate in aggregate to cover
6 the aggregate cost of processing expressions of interest.

○