

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1505
OFFERED BY MR. LOWENTHAL OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be referred to as the “Bonding Reform
3 and Taxpayer Protection Act of 2021”.

4 SEC. 2. SURFACE DISTURBANCE AND RECLAMATION.

5 Section 17(g) of the Mineral Leasing Act (30 U.S.C.
6 226(g)) is amended to read as follows:

7 “(g) BONDING REQUIREMENTS.—

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

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

15 “(B) FINAL RECLAMATION PLAN.—The
16 term ‘Final Reclamation Plan’ means a plan
17 describing all reclamation activity to be con-
18 ducted for all disturbed areas, including loca-

1 tions, facilities, trenches, rights-of-way, roads,
2 and any other surface disturbance covered by a
3 lease issued under this Act prior to final aban-
4 donment.

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

11 “(D) SECRETARY CONCERNED.—The term
12 ‘Secretary concerned’ means—

13 “(i) the Secretary of the Interior for
14 public lands administered by such Sec-
15 retary;

16 “(ii) the Secretary of Agriculture for
17 forest service lands.

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

24 “(3) RECLAMATION PLANS REQUIRED.—

1 “(A) ANALYSIS AND APPROVAL RE-
2 QUIRED.—No permit to drill on an oil and gas
3 lease issued under this Act may be granted
4 without the analysis and approval by the Sec-
5 retary concerned of both an interim reclamation
6 plan and a final reclamation plan covering pro-
7 posed surface-disturbing activities within the
8 lease area.

9 “(B) PLANS OF OPERATIONS.—All Federal
10 plans or permits submitted pursuant to this Act
11 with the potential to create surface disturbance
12 shall include an Interim and Final Reclamation
13 Plan.

14 “(C) SECRETARIAL REVIEW.—The Sec-
15 retary concerned shall review each Interim Rec-
16 lamation Plan at regular intervals and shall re-
17 quire such plans to be amended as warranted,
18 subject to the approval of such Secretary.

19 “(4) BONDING.—

20 “(A) IN GENERAL.—

21 “(i) REGULATION.—Not later than
22 180 days after the date of enactment of
23 the Bonding Reform and Taxpayer Protec-
24 tion Act of 2021, the Secretary concerned
25 shall, by regulation, require that an ade-

1 quate bond, surety, or other financial ar-
2 rangement be established prior to the com-
3 mencement of surface-disturbing activities
4 on any lease under this Act.

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

11 “(I) the amount necessary for—

12 “(aa) the complete and time-
13 ly reclamation of the lease tract;

14 “(bb) the restoration of any
15 lands or surface waters adversely
16 affected by lease operations after
17 the abandonment or cessation of
18 oil and gas operations on the
19 lease;

20 “(cc) in the case of an idled
21 well, the total plugging and rec-
22 lamation costs for each idled well
23 controlled by the same operator;
24 or

1 “(II) \$150,000 in the case of an
2 arrangement for an individual sur-
3 face-disturbing activity of each entity
4 on an oil or gas lease; or

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

8 “(iii) ADJUSTMENT FOR INFLA-
9 TION.—

10 “(I) IN GENERAL.—In the appli-
11 cation of clause (ii), the Secretaries
12 concerned shall jointly at least once
13 every three years, at the beginning of
14 the fiscal year, adjust the dollar
15 amounts in clause (ii) to account for
16 inflation based on the Consumer Price
17 Index for all urban consumer pub-
18 lished by the Department of Labor.

19 “(II) ROUNDING.—If any
20 amount as adjusted under subclause
21 (I) is not a multiple of \$1,000, such
22 amount shall be rounded to the next
23 higher multiple of \$1000.

24 “(B) PROHIBITION.—The Secretary con-
25 cerned shall not issue or approve the assign-

1 ment of any lease under the terms of this sec-
2 tion to any person, association, corporation, or
3 any subsidiary, affiliate, or person controlled by
4 or under common control with such person, as-
5 sociation, or corporation, during any period in
6 which, as determined by the relevant Secretary,
7 such entity has failed or refused to comply in
8 any material respect with the reclamation re-
9 quirements and other standards established
10 under this section for any prior lease to which
11 such requirements and standards applied.

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

1 “(D) REVIEW UPON TRANSFER.—The Sec-
2 retary concerned shall review the adequacy of a
3 bond, surety, or other financial instrument any-
4 time a lease or well under this Act is trans-
5 ferred. The Secretary shall find such bond, sur-
6 ety, or other financial instrument adequate if
7 such arrangement—

8 “(i) meets the requirement described
9 in subparagraph (A)(ii); and

10 “(ii) is not for a lesser amount than
11 the amount maintained by the current op-
12 erator.

13 “(E) REQUIRING HIGHER BOND
14 AMOUNTS.—The Secretary concerned shall, at
15 any time that such Secretary determines that a
16 bond, surety, or other financial instrument re-
17 quired by a regulation issued pursuant to sub-
18 paragraph (A) no longer meets the require-
19 ments of clause (ii) of such subparagraph, in-
20 crease the required amount of such financial ar-
21 rangement to the level required by subpara-
22 graph (A).

23 “(F) PHASING-IN BOND INCREASES.—With
24 respect to a bond increased under subparagraph
25 (E), the Secretary concerned shall require the

1 operator to meet the following deadlines in
2 posting the amount of the increase that results
3 from the operation of such paragraph:

4 “(i) 25 percent of the increase by not
5 later than 1 year after the date on which
6 the determination was made under sub-
7 paragraph (D).

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

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

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

1 “(6) MONITORING.—The Secretary concerned
2 shall not approve final abandonment and shall not
3 release any bond required by this Act until the
4 standards and requirement for final reclamation es-
5 tablished pursuant to this Act have been met.

6 “(7) FINANCIAL ASSURANCES.—The Secretary
7 concerned shall not release the financial assurance
8 established for a lease until the operator has paid
9 the inspection fees required under section 4 for the
10 lease covered by the financial assurance instrument.

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

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

21 **SEC. 3. CHANGES TO THE BLM PERMIT PROCESSING IM-**
22 **PROVEMENT FUND.**

23 (a) NAME OF FUND.—Section 35(c)(2)(B) of the
24 Mineral Leasing Act (30 U.S.C. 191(c)(2)(B)) is amended
25 by striking “BLM Permit Processing Improvement Fund”

1 and inserting “BLM Administration and Accountability
2 Fund”.

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

7 “(i) the coordination and review proc-
8 ess for financial assurances for oil and gas
9 leases and bond releases for oil and gas
10 leases;

11 “(ii) the inventory of orphaned wells
12 and coordinate the processing of requests
13 for delays in the permanent closure of in-
14 active wells; and

15 “(iii) coordination and processing re-
16 lated to environmental and cultural re-
17 sources reviews applicable to oil and gas
18 activities.”.

19 **SEC. 4. INSPECTION FEES.**

20 (a) IN GENERAL.—Section 108 of the Federal Oil
21 and Gas Royalty Management Act of 1982 (30 U.S.C.
22 1718) is amended by adding at the end the following:

23 “(d) INSPECTION FEES.—

24 “(1) IN GENERAL.—The designated operator
25 under each oil and gas lease on Federal or Indian

1 lands, or each unit and communitization agreement
2 that includes one or more such Federal or Indian
3 leases, that is subject to inspection under subsection
4 (b) and that is in force at the start of the fiscal year
5 2021, shall pay a nonrefundable annual inspection
6 fee in an amount that, except as provided in para-
7 graph (2), is established by the Secretary by regula-
8 tion and is sufficient to recover the full costs in-
9 curred by the United States for inspection and en-
10 forcement with respect to such leases.

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

14 “(A) \$700 for each lease or unit or
15 communitization agreement with no active or
16 inactive wells, but with surface use, disturbance
17 or reclamation;

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

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

1 “(D) \$9,800 for each lease or unit or
2 communitization agreement with more than 50
3 wells, with any combination of active or inactive
4 wells.

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

9 “(4) PENALTY.—If the designated operator
10 fails to pay the full amount of the fee as prescribed
11 in this section, the Secretary may, in addition to uti-
12 lizing any other applicable enforcement authority,
13 assess civil penalties against the operator under sec-
14 tion 109 in the same manner as if this section were
15 a mineral leasing law.

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

23 (b) ASSESSMENT FOR FISCAL YEAR 2022.—The Sec-
24 retary of the Interior shall assess the fee under the amend-
25 ment made by subsection (a) for fiscal year 2022, and pro-

1 vide notice of such assessment to each designated operator
2 who is liable for such fee, by not later than 60 days after
3 the date of enactment of this Act.

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

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

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

11 (2) by inserting after subsection (g) the fol-
12 lowing new subsection:

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

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

23 “(A) to ensure the complete and timely
24 reclamation of the land, and the restoration of
25 any lands or surface waters adversely affected

1 by operations after the abandonment or ces-
2 sation of oil and gas operations on the land;
3 and

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

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

12 “(A) plugging and abandoning wells;

13 “(B) removing structures, equipment, ma-
14 terials, and other infrastructure;

15 “(C) response costs and damage assess-
16 ments 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.”.

