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(Original Signature of Member)

117TH CONGRESS  
1ST SESSION

# **H. R. 1505**

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

Mr. LOWENTHAL introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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## **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”.

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) SECRETARY CONCERNED.—The term  
21 ‘Secretary concerned’ means—

22 “(i) the Secretary of the Interior for  
23 public lands administered by such Sec-  
24 retary;

25 “(ii) the Secretary of Agriculture for  
26 forest service lands,

1           “(2) IN GENERAL.—The Secretary concerned  
2 shall regulate all surface-disturbing activities con-  
3 ducted pursuant to any lease issued under this Act,  
4 and shall determine reclamation and other actions as  
5 required in the interest of conservation of surface re-  
6 sources.

7           “(3) RECLAMATION PLANS REQUIRED.—

8           “(A) ANALYSIS AND APPROVAL RE-  
9 QUIRED.—No permit to drill on an oil and gas  
10 lease issued under this Act may be granted  
11 without the analysis and approval by the Sec-  
12 retary concerned of both an interim reclamation  
13 plan and a final reclamation plan covering pro-  
14 posed surface-disturbing activities within the  
15 lease area.

16           “(B) PLANS OF OPERATIONS.—All Plans  
17 of Operations submitted and approved pursuant  
18 to this Act shall include an Interim Reclama-  
19 tion Plan.

20           “(C) SECRETARIAL REVIEW.—The Sec-  
21 retary concerned shall review each Interim Rec-  
22 lamation Plan at regular intervals and shall re-  
23 quire such plans to be amended as warranted,  
24 subject to the approval of such Secretary.

25           “(4) BONDING.—

1           “(A) IN GENERAL.—Not later than 180  
2           days after the date of enactment of the Bond-  
3           ing Reform and Taxpayer Protection Act of  
4           2021, the Secretary concerned shall, by regula-  
5           tion, require that an adequate bond, surety, or  
6           other financial arrangement be established prior  
7           to the commencement of surface-disturbing ac-  
8           tivities on any lease, to ensure the complete and  
9           timely reclamation of the lease tract, and the  
10          restoration of any lands or surface waters ad-  
11          versely affected by lease operations after the  
12          abandonment or cessation of oil and gas oper-  
13          ations on the lease.

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

1 under this section for any prior lease to which  
2 such requirements and standards applied.

3 “(C) NOTICE AND OPPORTUNITY FOR COM-  
4 PLIANCE.—Prior to making such determination  
5 with respect to any such entity the concerned  
6 Secretary shall provide such entity with ade-  
7 quate notification and an opportunity to comply  
8 with such reclamation requirements and other  
9 standards and shall consider whether any ad-  
10 ministrative or judicial appeal is pending. Once  
11 the entity has complied with the reclamation re-  
12 quirement or other standard concerned each oil  
13 or gas lease may be issued to such entity under  
14 this Act.

15 “(D) LIMITATION ON BONDS.—The Sec-  
16 retary concerned shall review the adequacy of a  
17 bond, surety, or other financial instrument any-  
18 time a lease is transferred. A bond, surety, or  
19 other financial arrangement described in sub-  
20 paragraph (A) shall not be adequate if it is less  
21 than—

22 “(i) \$150,000 in the case of an ar-  
23 rangement for an individual surface-dis-  
24 turbing activity of each entity on an indi-  
25 vidual oil or gas lease; or

1                   “(ii) \$500,000 in the case of an ar-  
2                   rangement for all surface-disturbing activi-  
3                   ties of each entity in a State.

4                   “(E) ADJUSTMENTS FOR INFLATION.—In  
5                   the application of subparagraph (B), the Secre-  
6                   taries concerned shall jointly at least once every  
7                   three years, at the beginning of the fiscal year,  
8                   adjust the dollar amounts in subparagraph (B)  
9                   to account for inflation based on the Consumer  
10                  Price Index for all urban consumer published  
11                  by the Department of Labor.

12                  “(F)     REQUIRING     HIGHER     BOND  
13                  AMOUNTS.—The Secretary concerned may re-  
14                  quire a higher level of a financial assurance  
15                  above the applicable minimum level required  
16                  under paragraph (D) as the Secretary con-  
17                  cerned determines to be appropriate or nec-  
18                  essary to ensure the complete and timely rec-  
19                  lamation of the lease tract, and the restoration  
20                  of any lands or surface waters adversely af-  
21                  fected by lease operations after the abandon-  
22                  ment or cessation of oil and gas operations on  
23                  the lease.

24                  “(5) STANDARDS.—Not later than 180 days  
25                  after the date of enactment of the Bonding Reform

1 and Taxpayer Protection Act of 2021, the Secretary  
2 of the Interior and the Secretary of Agriculture  
3 shall, by regulation, establish uniform standards for  
4 all Interim and Final Reclamation Plans. The goal  
5 of such plans shall be the restoration of the affected  
6 ecosystem to a condition approximating or equal to  
7 that which existed prior to the surface disturbance.  
8 Such standards shall include restoration of natural  
9 vegetation and hydrology, habitat restoration, sal-  
10 vage, storage and reuse of topsoils, erosion control,  
11 control of invasive species and noxious weeds and  
12 natural contouring.

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

18 “(7) FINANCIAL ASSURANCES.—The Secretary  
19 concerned shall not release the financial assurance  
20 established for a lease until the applicable lessee has  
21 paid the inspection fees required under section 4 for  
22 the lease covered by the financial assurance instru-  
23 ment.

24 “(8) BOND ADEQUACY REVIEW.—The Secretary  
25 shall conduct bond adequacy reviews as required

1 under paragraph (4)(D) in accordance with Bureau  
2 of Land Management Instruction Memorandum No.  
3 2019-014, dated November 15, 2018.”.

4 **SEC. 3. CHANGES TO THE BLM PERMIT PROCESSING IM-**  
5 **PROVEMENT FUND.**

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

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

15 “(i) the coordination and review proc-  
16 ess for financial assurances for oil and gas  
17 leases and bond releases for oil and gas  
18 leases;

19 “(ii) the inventory of orphaned wells  
20 and coordinate the processing of requests  
21 for delays in the permanent closure of in-  
22 active wells; and

23 “(iii) coordination and processing re-  
24 lated to environmental and cultural re-



1 sources reviews applicable to oil and gas  
2 activities.”.

3 **SEC. 4. INSPECTION FEES.**

4 (a) IN GENERAL.—Section 108 of the Federal Oil  
5 and Gas Royalty Management Act of 1982 (30 U.S.C.  
6 1718) is amended by adding at the end the following:

7 “(d) INSPECTION FEES.—

8 “(1) IN GENERAL.—The designated operator  
9 under each oil and gas lease on Federal or Indian  
10 lands, or each unit and communitization agreement  
11 that includes one or more such Federal or Indian  
12 leases, that is subject to inspection under subsection  
13 (b) and that is in force at the start of the fiscal year  
14 2021, shall pay a nonrefundable annual inspection  
15 fee in an amount that, except as provided in para-  
16 graph (2), is established by the Secretary by regula-  
17 tion and is sufficient to recover the full costs in-  
18 curred by the United States for inspection and en-  
19 forcement with respect to such leases.

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

23 “(A) \$700 for each lease or unit or  
24 communitization agreement with no active or

1 inactive wells, but with surface use, disturbance  
2 or reclamation;

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

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

10 “(D) \$9,800 for each lease or unit or  
11 communitization agreement with more than 50  
12 wells, with any combination of active or inactive  
13 wells.

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

18 “(4) PENALTY.—If the designated operator  
19 fails to pay the full amount of the fee as prescribed  
20 in this section, the Secretary may, in addition to uti-  
21 lizing any other applicable enforcement authority,  
22 assess civil penalties against the operator under sec-  
23 tion 109 in the same manner as if this section were  
24 a mineral leasing law.”.

1 (b) ASSESSMENT FOR FISCAL YEAR 2022.—The Sec-  
2 retary of the Interior shall assess the fee under the amend-  
3 ment made by subsection (a) for fiscal year 2022, and pro-  
4 vide notice of such assessment to each designated operator  
5 who is liable for such fee, by not later than 60 days after  
6 the date of enactment of this Act.

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

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

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

14 (2) by inserting after subsection (g) the fol-  
15 lowing new subsection:

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

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

1           “(A) to ensure the complete and timely  
2           reclamation of the land, and the restoration of  
3           any lands or surface waters adversely affected  
4           by operations after the abandonment or ces-  
5           sation of oil and gas operations on the land;  
6           and

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

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

15                 “(A) plugging and abandoning wells;

16                 “(B) removing structures, equipment, ma-  
17                 terials, and other infrastructure;

18                 “(C) response costs and damage assess-  
19                 ments conducted;

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

22                 “(E) monitoring and studying affected ref-  
23                 uge resources.”.