

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.

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## 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

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## 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.

○