

[DISCUSSION DRAFT]

115TH CONGRESS
2D SESSION

H. R. _____

To amend the Mineral Leasing Act to authorize notifications of permit to drill, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CURTIS introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Mineral Leasing Act to authorize notifications of permit to drill, 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 [“_____ Act
5 of 2018”.]

6 **SEC. 2. NOTIFICATIONS OF PERMIT TO DRILL.**

7 The Mineral Leasing Act is amended by—

- 8 (1) redesignating section 44 as section 45; and
- 9 (2) inserting after section 43 the following:

1 **“SEC. 44. NOTIFICATIONS OF PERMIT TO DRILL.**

2 “(a) IN GENERAL.—Not later than 1 year after the
3 date of the enactment of this section, the Secretary shall
4 establish procedures by which an operator may conduct
5 drilling and production activities on eligible Federal land
6 after sending to the Secretary a notification of permit to
7 drill under this section in lieu of obtaining an APD.

8 “(b) CONTENT OF APPLICATION.—To be considered
9 a complete notification of permit to drill under this sec-
10 tion, an operator shall include in the notification of permit
11 to drill submitted under this section the following:

12 “(1) A notification of permit to drill form.

13 “(2) A surface use plan of operations.

14 “(3) A drilling plan.

15 “(4) A well plat certified by a registered sur-
16 veyor.

17 “(5) An operator certification.

18 “(6) Evidence of bond coverage.

19 “(7) A notification of permit to drill fee in an
20 amount to be determined by the Secretary.

21 “(8) Any other information required by order,
22 notice, or regulation issued by the Secretary pursu-
23 ant to this section.

24 “(c) JUSTIFICATIONS FOR OBJECTION.—

25 “(1) IN GENERAL.—Except as otherwise pro-
26 vided in this subsection, the Secretary may not ob-

1 ject to a notification of permit to drill under this
2 section if the application—

3 “(A) demonstrates that the drilling oper-
4 ations described in the notification of permit to
5 drill will be located in—

6 “(i) a developed field, where there are
7 existing oil and gas wells within a 5 mile
8 radius and for which an approved land use
9 plan or environmental review was prepared
10 within the last 10 years under the National
11 Environmental Policy Act of 1969 (42
12 U.S.C. 4321) that analyzed such drilling
13 operations as a reasonably foreseeable ac-
14 tivity;

15 “(ii) a location or well pad site at
16 which drilling has occurred within 10 years
17 before the date of spudding the well and
18 the proposed operations do not increase
19 the surface disturbance on the location or
20 well pad site;

21 “(iii) an area consisting of individual
22 surface disturbances of less than 10 acres
23 and the total surface disturbance on the
24 lease is not greater than 150 acres;

1 “(iv) an area consisting of Federal
2 mineral interests that is located within the
3 boundaries of a communitization agree-
4 ment or unit agreement which contains
5 minerals leased by a State or private min-
6 eral owner for which a drilling permit has
7 been approved by a State regulatory agen-
8 cy; or

9 “(v) an area in which a categorical ex-
10 clusion under the National Environmental
11 Policy Act of 1969 (42 U.S.C. 4321) ap-
12 plies for oil and gas drilling or re-entry ac-
13 tivities; or

14 “(B) includes—

15 “(i) an environmental review that con-
16 cludes that actions described in the notifi-
17 cation of permit to drill pose no significant
18 effects to the human environment or
19 threatened or endangered species; and

20 “(ii) an archeological review that con-
21 cludes that actions described in the notifi-
22 cation of permit to drill pose no significant
23 effects on cultural or historic properties or
24 resources.

25 “(2) ENDANGERED SPECIES PROTECTION.—

1 “(A) IN GENERAL.—Notwithstanding para-
2 graph (1), the Secretary shall object to a notifi-
3 cation of permit to drill if the activity described
4 in such notification of permit to drill is likely to
5 jeopardize the continued existence of a species
6 that is a threatened species or endangered spe-
7 cies under the Endangered Species Act of 1973
8 (16 U.S.C. 1531 et seq.) or result in the de-
9 struction or adverse modification of critical
10 habitat of such species.

11 “(B) WITHDRAWAL OF OBJECTION.—The
12 Secretary may withdraw an objection under
13 subparagraph (A) if the operator consults with
14 the Secretary on such objection and places con-
15 ditions on the notification of permit to drill suf-
16 ficient to comply with the Endangered Species
17 Act of 1973 (16 U.S.C. 1531 et seq.).

18 “(3) NATIONAL HISTORIC PRESERVATION.—

19 “(A) IN GENERAL.—Notwithstanding para-
20 graph (1), the Secretary shall object to a notifi-
21 cation of permit to drill if the activity described
22 in such notification of permit to drill is likely to
23 affect properties listed, or eligible for listing, in
24 the National Register of Historic Places under
25 section 306108 of title 54, United States Code.

1 “(B) WITHDRAWAL OF OBJECTION.—The
2 Secretary may withdraw an objection under
3 subparagraph (A) if the operator consults with
4 the Secretary on such objection and places con-
5 ditions on the notification of permit to drill suf-
6 ficient to comply with section 306108 of title
7 54, United States Code.

8 “(d) OBJECTION OR NO ACTION.—

9 “(1) NOTIFICATION OF INCOMPLETE APPLICA-
10 TION.—Not later than 15 days after receipt of a no-
11 tification of permit to drill, or a revised notification
12 of permit to drill, from an operator under this sec-
13 tion, if the notification of permit to drill is not com-
14 plete, the Secretary shall notify the operator in writ-
15 ing of such.

16 “(2) NOTIFICATION OF OBJECTIONS.—Not later
17 than 45 days after receipt of a complete notification
18 of permit to drill from an operator under this sec-
19 tion, the Secretary shall review the notification of
20 permit to drill and—

21 “(A) notify the operator in writing of any
22 objections to the notification of permit to drill;
23 or

24 “(B) take no action.

1 “(3) NO ACTION REQUIRED.—If the Secretary
2 has not notified an operator under either paragraph
3 (1) or paragraph (2) within 45 days after receipt of
4 a notification of permit to drill from the operator
5 under this section, the operator may, without further
6 action from the Secretary, conduct the drilling and
7 production activities for which the notification of
8 permit to drill was submitted.

9 “(4) OPPORTUNITY TO RESUBMIT APPLICA-
10 TION.—If the Secretary notifies an operator under
11 paragraph (1) of an incomplete application or para-
12 graph (2) of an objection, the Secretary shall allow
13 the operator to address such incomplete application
14 or objection and revise and resubmit the notification
15 of permit to drill.

16 “(5) OPPORTUNITY TO RESUBMIT APPLICATION
17 AS APD.—If the Secretary notifies an operator under
18 paragraph (2) of an objection, the Secretary shall
19 allow the operator to resubmit such information in
20 the form of an application for an APD.

21 “(e) APPLICATION FEE.—The Secretary may not
22 charge an operator under this section a fee for submitting
23 a notification of permit to drill greater than the fee the
24 Secretary charges an applicant for an APD.

25 “(f) ENVIRONMENTAL REVIEW.—

1 “(1) IN GENERAL.—An environmental review or
2 archeological review described in subsection
3 (c)(1)(B) may be completed by a third-party con-
4 tractor approved by the Secretary or pursuant to an
5 memorandum of understanding between the operator
6 and the Secretary.

7 “(2) FIELD WORK AUTHORIZATION.—The Sec-
8 retary shall issue a field work authorization to a
9 third-party contractor for the purposes of paragraph
10 (1) within a reasonable time period.

11 “(3) REQUEST FOR CONCURRENCE.—The Sec-
12 retary shall allow a third-party contractor to submit
13 a request to the State Historic Preservation Office
14 on behalf of the Secretary.

15 “(g) ADDITIONAL SURFACE USE PERMITS.—The
16 Secretary may not require an operator that has submitted
17 a notification of permit to drill for which the Secretary
18 did not notice an objection to obtain a surface use permit
19 for an action included in the notification of permit to drill.

20 “(h) SITE INSPECTION.—The Secretary may not re-
21 quire an operator that has submitted a notification of per-
22 mit to drill for which the Secretary did not notice an objec-
23 tion to submit to a site inspection before commencement
24 of the activities described in the notification of permit to
25 drill.

1 “(i) FEDERAL ENFORCEMENT.—The Secretary may
2 conduct inspections of and evaluate activities described in
3 a notification of permit to drill for purposes of bringing
4 an enforcement action. The Secretary may suspend en-
5 forcement proceedings if the operator modifies its activi-
6 ties to comply with the notification of permit to drill or
7 obtains an APD for such activities.

8 “(j) APPLICATION OF NEPA.—

9 “(1) NO ACTION BY SECRETARY.—The decision
10 by the Secretary to take no action under subsection
11 (e)(1)(B)(2) shall not constitute a major Federal ac-
12 tion under section 102(2)(C) of the National Envi-
13 ronmental Policy Act of 1969 (42 U.S.C.
14 4321(2)(C)).

15 “(2) DEVELOPMENT OF REGULATIONS.—The
16 development of any regulation pursuant to this sec-
17 tion shall constitute a major Federal action under
18 section 102(2)(C) of the National Environmental
19 Policy Act of 1969 (42 U.S.C. 4321(2)(C)).

20 “(k) DEFINITIONS.—In this section:

21 “(1) APD.—The term ‘APD’ means an applica-
22 tion to drill or re-enter a well.

23 “(2) DRILLING OPERATIONS.—The term ‘drill-
24 ing operations’ means the drilling or re-entry of a
25 well.

1 “(3) DRILLING PLAN.—The term ‘drilling plan’
2 means a plan containing—

3 “(A) a description of the drilling program;

4 “(B) the surface and projected completion
5 zone location;

6 “(C) pertinent geologic data;

7 “(D) expected hazards;

8 “(E) proposed mitigation measures to ad-
9 dress such hazards;

10 “(F) any other information specified in ap-
11 plicable notices or orders; and

12 “(G) any other pertinent data as the Sec-
13 retary may require.

14 “(4) SURFACE USE PLAN OF OPERATION.—The
15 term ‘surface use plan of operation’ means a plan
16 containing—

17 “(A) the road and drillpad location;

18 “(B) details of pad construction;

19 “(C) methods for containment and disposal
20 of waste material;

21 “(D) plans for reclamation of the surface;

22 “(E) any other information specified in ap-
23 plicable orders or notices; and

24 “(F) any other pertinent data as the Sec-
25 retary may require.”.

1 **SEC. 3. DRILLING ON NON-FEDERAL SURFACE ESTATE.**

2 The Secretary of the Interior shall not require a per-
3 mit to be issued by the Bureau of Land Management for
4 a drilling operation on non-Federal land or a drilling oper-
5 ation that develops non-Federal minerals if such drilling
6 operation has been authorized under a State-issued permit
7 and the such State has provided notification to the Sec-
8 retary.