

# Committee on Natural Resources

Rob Bishop Chairman  
Markup Memorandum

June 25, 2018

To: All Natural Resources Committee Members

From: Majority Committee Staff - Ashley Nichols (x59297)  
Subcommittee on Energy and Mineral Resources

Mark-Up: **H.R. 6088 (Rep. Curtis)**, To amend the Mineral Leasing Act to authorize notifications for permit to drill, and for other purposes.  
**June 27, 2018, at 10:15 AM; 1324 Longworth House Office Building**

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## **H.R. 6088, *Streamlining Permitting Efficiencies in Energy Development Act (SPEED Act)***

*We will resume consideration of this bill at the point where the Committee adjourned on June 20, 2017. The bill has been read and is open for amendment. Curtis amendment #1 had been adopted by voice vote, and the Grijalva amendment (001) had failed on a roll call vote of 18 ayes to 22 nays. Further amendments are in order.*

### **Summary of the Bill**

On June 13, 2018, Rep. John Curtis (R-UT-03) introduced H.R. 6088, the “Streamlining Permitting Efficiencies in Energy Development Act.” This legislation authorizes Notifications for Permit to Drill (NPDs) for certain oil and gas drilling operations in lieu of Applications of Permit to Drill (APDs).

### **Cosponsors**

Rep. Greg Gianforte (R-MT-At Large)  
Rep. Louise Gohmert (R-TX-01)  
Rep. Rob Bishop (R-UT-01)  
Rep. Paul A. Gosar (R-AZ-04)  
Rep. Bruce Westerman (R-AR-04)

### **Background**

Under the Mineral Leasing Act (30 U.S.C. 181 et seq.), oil and gas operators are required to submit an APD for drilling activities on federal lands.<sup>1</sup> Due to extensive regulatory requirements and lengthy environmental reviews under the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 et seq.), the Bureau of Land Management (BLM) has accumulated a significant backlog of APDs, some of which have been pending for a year or

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<sup>1</sup> 30 U.S.C. 181.

more.<sup>2</sup> In fact, in 2017, BLM processed APDs in an average of 260 days.<sup>3</sup> By comparison, States with oil and gas regulatory programs process drilling permits for activities on State and private land in an average of 30 days.<sup>4</sup>

Under the Mineral Leasing Act, the Department of the Interior must evaluate the surface impacts of drilling activities proposed in APDs before approval.<sup>5</sup> BLM must analyze the surface use plan and drilling plan submitted in each application and determine the potential impacts of proposed drilling activities on the species, cultural artifacts, historic sites and the human environment. While certain drilling activities have greater environmental impacts than others, each application is subject to review by BLM under NEPA. Some drilling activities may have a very insignificant impact on the environment, yet applications for their approval must wait in line behind other applications that require extensive environmental review and analysis.

This legislation would authorize a permitting program tailored to the approval of drilling operations that would have little or no environmental impact. Under this program, an oil and gas operator could submit a NPD in lieu of an APD if the proposed drilling activities meet certain criteria and do not pose environmental risk. This bill establishes criteria that each NPD must meet. If an NPD meets all the statutory and regulatory requirements, BLM does not need to take further action to approve the permit once submitted, as approval is granted by meeting the requirements set forth in statute and regulation. BLM will not be required to conduct any site inspections or environmental review under NEPA for individual NPDs submitted by operators.

This legislation will streamline the oil and gas permitting process by allowing BLM to expedite the approval of drilling activities that pose little or no environmental harm. The authorization of an NPD program will reduce the time and personnel needed to approve such drilling operations, allowing BLM to prioritize its limited resources on reviewing activities that have a larger environmental footprint.

### **Major Provisions/Analysis of H.R. 6088**

- Amends the Mineral Leasing Act to authorize an NPD program.
- Operators or lessees may submit an NPD for drilling and production activities on exploratory, development and service wells on federal oil and gas leases in lieu of an APD, if applicable.
- An applicant must include similar information required by the APD process, as well as any other information required by order, notice or regulation issued by the Secretary.

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<sup>2</sup> Letter from Brian Steed, Deputy Director of Policy and Programs, Department of the Interior, to Senator Mike Enzi, February 26, 2018.

<sup>3</sup> Bureau of Land Management. Oil and Gas Statistics. <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/oil-and-gas-statistics>

<sup>4</sup> Western Energy Alliance. Knowledge Center. Onshore Development. <https://www.westernenergyalliance.org/knowledge-center/land/onshore-development/permitting>

<sup>5</sup> 30 U.S.C. 181.

- To be considered for the NPD process, an applicant must either:
  - Demonstrate 1) that the proposed drilling operations are located in a developed field for which an approved land use plan or recent NEPA analysis exists; 2) operations do not increase the surface disturbance at the proposed site; 3) the proposed operations will impact less than ten acres so long as the total surface disturbance of a lease is less than 150 acres and for which an approved land use plan or NEPA analysis exists; 4) the proposed activity is within the boundaries of a communitization or unit agreement containing minerals leased by a State or private mineral owner for which a State regulatory body has approved a permit; or 5) a NEPA categorical exclusion applies; OR
  - Include an environmental review concluding the actions authorized under the NPD pose no significant effects under NEPA, to threatened or endangered species or cultural or historic properties or resources. Such environmental and archaeological reviews may be completed by third-party contractors pre-approved by BLM.
- Upon receipt of an NPD, the Secretary has 15 days to inform the applicant if the NPD is incomplete. If the Secretary finds that a completed NPD does not sufficiently meet the criteria listed above, the Secretary may issue objections to an NPD and the operator may respond to resolve any objections.
- After receiving a completed NPD, the Secretary has 45 days to issue any written objections to the NPD. If no objections are issued, drilling and production activities described in the NPD can commence without further approval from the Secretary. Upon receipt of any written objections, the applicant may resubmit NPD or resubmit such information as an APD.
- The Secretary may object to an NPD if it is likely that the proposed actions therein will jeopardize the continued existence of a threatened or endangered species listed under the Endangered Species Act of 1973 (ESA, 16 U.S.C. 1531 et seq.) or cause harm to cultural artifacts or sites protected under the National Historic Preservation Act (NHPA, 54 U.S.C. 300101 et seq.). The Secretary may require consultations under ESA or NHPA and attach conditions to an NPD based on those consultations.
- Unlike the approval process for APDs, the Secretary may not require site inspections for NPDs. However, the Secretary may conduct inspections of and evaluate activities authorized by any NPD for enforcement action.
- The Secretary shall not require any additional surface use permits for actions authorized under an NPD.

- Individual NPDs will not be subject to further analysis under NEPA, but the development of regulations pursuant to this legislation shall be considered a major federal action under NEPA.

### **Cost**

CBO has not scored the legislation.

### **Administration Position**

Unknown.

### **Anticipated Amendments**

Lowenthal – Requires the Secretary to object to a notification for permit to drill if the operator who submitted the notification has more than 500 approved permits to drill for which the operator has not commenced drilling operations. *Chairman Bishop opposes.*

McEachin - Requires operators to submit an estimate of the change in the sales price of oil by the operator due to tariffs on imported steel and United States exports of crude oil with a notification for permit to drill. *Chairman Bishop opposes.*

### **Effect on Current Law (Ramseyer)**

Link to Ramseyer text:

[https://naturalresources.house.gov/UploadedFiles/Ramseyer\\_Text\\_6.21.pdf](https://naturalresources.house.gov/UploadedFiles/Ramseyer_Text_6.21.pdf)