HOUSE COMMITTEE ON
NATURAL RESOURCES
RANKING MEMBER BRUCE WESTERMAN

To: House Committee on Natural Resources Republican Members
From: Subcommittee on Energy and Mineral Resources; Ashley Nichols Ashley.Nichols@mail.house.gov (251-656-8498) and Rebecca Konolige - Rebecca.Konolige@mail.house.gov (914-217-8728)
Date: March 5, 2021
Subject: Legislative Hearing on 5 Bills: **"**Modernizing Energy Development Laws for the Benefit of Taxpayers, Communities, and the Environment"

The Subcommittee on Energy and Mineral Resources will hold a legislative hearing, titled "Modernizing Energy Development Laws for the Benefit of Taxpayers, Communities, and the Environment*,"* on five bills on Tuesday, March 9, 2021, at 12:00pm. This is a virtual hearing.

I. KEY MESSAGES

- In his first days in office, President Biden issued three directives that will severely impact oil and gas development on federal lands and waters: Secretarial Order 3395, Executive Order 13990, and Executive Order 14008. Respectively, these actions suspended delegated authority to states for certain leasing and permitting activities, cancelled the Keystone XL project, and enacted an indefinite moratorium for leasing on federal lands.
- The cancellation of Keystone XL resulted in the direct loss of over 1,000 current jobs and 10,000 projected jobs for union workers. The directives hindering energy production on federal lands jeopardize countless livelihoods and an important revenue stream for public schools in the West.
- The Committee Majority hopes to continue this destructive trend by codifying harmful and unnecessary regulations in an attempt to end oil and gas production on federal lands with a proverbial "death by a thousand cuts."
- Under the guise of environmental improvement and "fair return" to the taxpayer, the five bills under consideration at this hearing would simply force demand overseas, endangering our energy security and devastating mineral revenues in the West.

II. WITNESSES

Panel I:

- Members of Congress testifying on their bills, TBD

Panel 2:

- **Mark Murphy**, President, Strata Production Company, Roswell, NM [Republican witness]
- **Tracy Stone-Manning**, Associate Vice President for Public Lands, National Wildlife Federation, Reston, VA
- **Hilary Cooper**, Commissioner, San Miguel County, CO
- **Brian Prest**, Fellow, Resources for the Future, Washington, DC

III. BACKGROUND

H.R. 1492 (DeGette)

Democrats will almost certainly attack the previous Administration's decisions to rescind and revise Obama-era rules, including revising the Bureau of Land Management's (BLM) Venting and Flaring Rule and amending the Environmental Protection Agency's (EPA) New Source Performance Standards (NSPS) Rule for the oil and gas industry.[1] [2] [3] Despite the fact that venting and flaring of methane is well-regulated by oil and gas producing states, this bill increases regulations on the volume of methane that can be vented or flared, codifies the Obama-era BLM methane rule, and instates exhaustive and unnecessary monitoring and reporting requirements.

BLM Regulations Regarding Methane Emissions from Oil and Gas. This legislation would codify the BLM's 2016 Venting and Flaring Rule, also known as the Methane and Waste Prevention Rule, until new regulations are issued by the BLM as directed by this legislation. The 2016 BLM rule was revised by the Trump Administration on September 28, 2018.[4] The original iteration of this rulemaking was overburdensome and duplicative of many existing state and federal regulations. It was also an example of executive overreach by the BLM, as the EPA has authority to regulate air emissions. Both the 2016 and 2018 rules were vacated in 2020, and the BLM reverted to the regulations in place before the 2016 rule was finalized.[5]

Self-Regulation Efforts for Venting and Flaring. Methane emissions, including venting and flaring, have decreased significantly over the past few decades, even as production has gone up. This has been achieved in the private sector, primarily through technological innovation. For example, U.S. emissions are 15% lower than they were in 1990, while production increased over 50% during that time period.[6] Currently, less than 1% of natural

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[1] Bureau of Land Management. Updating Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews. https://www.blm.gov/policy/im-2018-034

[2] Department of Interior. Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy. October 24, 2017. https://www.doi.gov/sites/doi.gov/files/uploads/interior_energy_actions_report_final.pdf

[3] https://www.federalregister.gov/documents/2016/06/03/2016-11971/oil-and-natural-gas-sector-emission-standards-for-new-reconstructed-and-modified-sources

[4] https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/operations-and-production/methane-and-waste-prevention-rule

[5] *Id.*

[6] https://thehill.com/opinion/energy-environment/460164-methane-emissions-continue-to-drop

gas is flared in the United States.[7] There is an inherent incentive for operators to vent or flare the smallest amount possible for safety and other necessary circumstances, as natural gas is the product that operators are trying to bring to market.[8] One of the ways to reduce the need to vent or flare is to increase the availability of pipelines or other infrastructure to capture the produced gas.[9] Prohibiting flaring, as this bill ultimately requires, makes no exceptions for circumstances when appropriate infrastructure is not available, or even in cases of emergencies. It should also be noted that pipelines are the least likely means of transportation to result in spills and personal injuries compared to road and rail.[10]

H.R. 1503 (Levin)

Due to federal regulatory hurdles, energy development on federal lands has lagged behind production on state and private lands. BLM oil and natural gas leases contributed about 9% of domestically produced oil and natural gas in 2019.[11] Policies implemented during the Obama Administration significantly hampered energy development, and the Trump Administration took several actions to encourage production on federal lands. This legislation will only worsen the disparity in production on federal and non-federal land.

National Environmental Policy Act of 1969 (NEPA) and Environmental Protests. Leased parcels undergo three rounds of review under NEPA before production can begin: during the development of resource management plans, before lease sales, and approval of an Application of Permit to Drill (APD).[12] This legislation would add a fourth round of NEPA review by reinstating the Master Leasing Plan (MLP) process. This process was implemented during the Obama Administration to bring stakeholders together to engage in consultation before the lease sale phase to avoid conflicts regarding leases and drilling operations. However, the MLP process only resulted in further delays without the intended benefits of reduced conflict during the lease sale and APD phase. The Trump Administration ended the use of MLPs.

Presently, BLM is required to resolve protests and issue leases within 60 days of sale. Because protests can be well over 1,000 pages, resolution generally takes much longer, resulting in delays in the issuance of leases and in revenue-sharing payments to the states. In response, the Trump Administration reduced the public protest period on lease sales to 10 days. This legislation would give the BLM 90 days to issue a lease, allowing protestors to delay the process further.

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[7] https://www.eia.gov/dnav/ng/ng_prod_sum_a_EPG0_FGW_mmcf_a.htm
[8] Western Energy Alliance. "Flaring." https://legacy.westernenergyalliance.org/knowledge-center/air/flaring

[9] Western Energy Alliance. "Flaring." https://legacy.westernenergyalliance.org/knowledge-center/air/flaring
[10] Diana Furchtgott-Roth. Manhattan Institute for Policy Research. "Pipelines Safest for Transportation of Oil and Gas." June 2013. https://media4.manhattan-institute.org/pdf/ib_23.pdf
[11] Congressional Research Service. Revenues and Disbursements from Oil and Natural Gas Production on Federal Lands. September 22, 2020. https://fas.org/sgp/crs/misc/R46537.pdf
[12] US Department of Interior. Bureau of Land Management. Land Use Planning and Leasing Reform. https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/land-use-planning (Accessed January 8, 2018).

Hydraulic Fracturing Rule This bill reinstates the 2015 BLM rule titled "Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands" until new federal regulations are put in place.[13] This rule, also known as the "fracking rule," was rescinded by the Trump Administration for being overly restrictive. Generally, the states are in the best position to regulate these activities given the unique geology and environmental concerns of each state; states have achieved measurable improvement in recent years regarding incidences of spills and other areas of concern. Moreover, a 2004 EPA study showed that injecting fracking fluids poses little or no threat to underground sources of drinking water.[14] Out of the thousands of wells that use fracking every year, the EPA found no incidents of contamination of drinking water wells from fracking fluids.[15] The vast majority of modern wells are fracked, with up to 95% of wells expected to utilize this technique in the next decade.[16] Impeding the ability of operators to use fracking on federal lands would be tantamount to banning production altogether.

State Revenue Sharing. Federal mineral revenues are a crucial source of income for the states, which they use to fund public services, including local schools, environmental restoration, and infrastructure projects.[17] In 2019, 34 energy-producing states received a total of $1.81 billion from oil and gas production on the federal lands and waters. In 2018, New Mexico received half of the proceeds of a lease sale in the Permian Basin totaling nearly $1 billion.[18] This legislation would jeopardize those payments by discouraging production on federal lands and delaying the issuance of leases due to additional regulatory requirements.

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[13] https://www.federalregister.gov/documents/2015/03/26/2015-06658/oil-and-gas-hydraulic-fracturing-on-federal-and-indian-lands

[14] US Environmental Protection Agency. Evaluation of Impacts to Underground Sources of Drinking Water by Hydraulic Fracturing of Coalbed Methane Reservoirs; National Study Final Report. https://nepis.epa.gov/Exe/ZyNET.exe/P100A2CM.TXT?ZyActionD=ZyDocument&Client=EPA&Index=2000+Thru+2005&Docs=&Query=&Time=&EndTime=&SearchMethod=1&TocRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5Czyfiles%5CIndex%20Data%5C00thru05%5CTxt%5C00000027%5CP100A2CM.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=hpfr&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=1&SeekPage=x&ZyPURL

[15] US Environmental Protection Agency. Evaluation of Impacts to Underground Sources of Drinking Water by Hydraulic Fracturing of Coalbed Methane Reservoirs; National Study Final Report. https://nepis.epa.gov/Exe/ZyNET.exe/P100A2CM.TXT?ZyActionD=ZyDocument&Client=EPA&Index=2000+Thru+2005&Docs=&Query=&Time=&EndTime=&SearchMethod=1&TocRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5Czyfiles%5CIndex%20Data%5C00thru05%5CTxt%5C00000027%5CP100A2CM.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=hpfr&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=1&SeekPage=x&ZyPURL

[16] American Petroleum Institute. https://www.api.org/oil-and-natural-gas/energy-primers/hydraulic-fracturing

[17] Marc Humphries, Mineral Royalties on Federal Lands: Issues for Congress (2015). http://www.crs.gov/reports/pdf/R43891

[18] https://www.doi.gov/pressreleases/they-said-it-couldnt-be-done-trump-admin-dominates-billion-dollar-oil-and-gas-sale

H.R. 1505 (Lowenthal)

The Department of the Interior (DOI) requires lessees to provide bonds to cover the reclamation of any lands impacted by oil and gas development before any surface disturbance can occur.[19] Operators may post individual bonds of at least $10,000 covering operations for one lease, at least $25,000 covering all operations within a particular state, or at least $150,000 to cover all operations nationwide. Operators may submit surety bonds or personal bonds. Surety bonds must be approved by the Department of the Treasury as an acceptable surety. Personal bonds may be backed by a cashier's check, a certified check, negotiable Treasury security, or a certificate of deposit payable to DOI.[20] For federal wells, the bonds are held by the BLM until the reclamation requirements are met. If an operator does not fulfill their reclamation responsibilities, and the bond provided to the federal government does not cover the cost of restoration, the wells become orphaned and the BLM must clean up the well.

Notably, when companies acquire other company's assets, they must assume responsibility for reclamation of any operations as well. Because companies that are struggling are often acquired by other companies, wells considered at-risk by the BLM are often ultimately reclaimed by operators. Though there are some bad actors who leave orphaned wells for the BLM to clean up, the vast majority of operators complete their reclamation responsibilities. According to the U.S. Government Accountability Office (GAO), of the 96,199 wells on federal lands, only 296 have been left to the BLM to reclaim, roughly 0.3%.[21] The BLM spends about $267,600 per year on reclamation, while the onshore oil and gas program returned $2.7 billion in royalties in 2018.[22] H.R. 1505 drastically raises bond levels for all operators, forcing them to tie up significant amounts of capital in unproductive operations, which could reduce production and revenues overall.

H.R. 1506 (Lowenthal)

This legislation requires energy operators on federal lands and waters to develop numerous reports based on the so-called Sustainable Accounting Standards produced by the Sustainability Accounting Standards Board (SASB). The SASB Foundation, established in 2011, is a non-profit organization that develops industry-specific standards to assist companies in disclosing financially material sustainability information to investors. The SASB receives no government funding and is not affiliated with any government agency.[23] The SASB relies heavily on private donors, including former presidential candidates

[19] US Department of the Interior. Bureau of Land Management. Bonding. https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/bonding
[20] US Department of the Interior. Bureau of Land Management. Bonding. https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/bonding
[21] US Government Accountability Office. Oil and Gas: Bureau of Land Management Should Address Risks from Insufficient Bonds to Reclaim Wells. GAO-19-615: Published: Sep 18, 2019. https://www.gao.gov/products/GAO-19-615
[22] US Department of the Interior. Bureau of Land Management. About the oil and gas program. https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/about
[23] Sustainable Accounting Standards Board. Solar Technology and Project Developers. Sustainable Accounting Standard. October 2018.

Michael Bloomberg and Tom Steyer, two of the largest contributors to the SASB. In fact, Michael Bloomberg was Chairman of the SASB Board from 2014-2018 and remains involved in the organization, according to the SASB website.[24]

The Sustainable Accounting Standards referenced in the bill include the following SASB documents: "Wind Technology and Project Developers," "Solar Technology and Project Developers," "Oil and Gas Exploration and Production," and "Coal Operations." The disclosure topics in these documents include greenhouse gas emissions; air quality; water management; waste management; biodiversity impacts; security, human rights and rights of indigenous peoples; community relations; workforce health and safety; reserves valuation and capital expenditures; business ethics and transparency; management of the legal and regulatory environment; critical incident risk management; and labor relations.[25] [26]

The standards for wind and solar companies also require them to disclose information related to sourcing materials, including minerals, for renewable energy projects. Specifically, the SASB notes that critical minerals are concentrated in countries with limited labor and environmental regulations or are subject to geopolitical tensions that may disrupt supply chains. The SASB notes that minerals such as copper, cobalt, gallium, graphite and rare earth elements are needed for renewable energy but may be difficult to source responsibly and encourages companies to source minerals from reliable suppliers or regions with less environmental or social risks. Specifically, the SASB requires companies to identify the critical minerals that present a risk to their operations and how they plan to mitigate that risk.[27] [28] Companies are currently not required to disclose information about their sourced materials as a condition of holding a federal lease. Transparency regarding the origin of critical minerals is needed, especially in light of Democrat efforts to shut down domestic mines, where minerals are sourced responsibly.

With the exception of the critical minerals disclosures, each of the disclosure and accounting topics are duplicative, as operators must already comply with requirements related to each of these topics at various stages of the regulatory process. For example, conventional energy operators are already required to report their emissions data annually to the EPA.[29] Additionally, the U.S. Securities and Exchange Commission (SEC) already requires companies listed on the U.S. stock exchange to report material risks in their regulatory filings, which includes information related to sustainability. Decisions regarding necessary disclosures should remain with the SEC and not be placed in the hands of an unaccountable non-governmental organization.

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[24] Sustainable Accounting Standards Board. The SASB Board of Directors. https://www.sasb.org/governance/foundation-board/
[25] Sustainable Accounting Standards Board. Coal Operations. Sustainable Accounting Standard. October 2018.
[26] Sustainable Accounting Standards Board. Oil and Gas Exploration and Production. Sustainable Accounting Standard. October 2018.
[27] Sustainable Accounting Standards Board. Solar Technology and Project Developers. Sustainable Accounting Standard. October 2018.
[28] Sustainable Accounting Standards Board. Wind Technology and Project Developers. Sustainable Accounting Standard. October 2018.
[29] US Environmental Protection Agency. Greenhouse Gas Reporting Program. GHGRP and the Oil and Gas Industry. https://www.epa.gov/ghgreporting/ghgrp-and-oil-and-gas-industry

Further, the requirements included in the bill would be almost impossible to implement and would upend the existing leasing process for energy production on federal lands. For instance, any company seeking a lease to produce oil, gas, coal, solar, or wind energy on public lands must submit a report based on the applicable Sustainable Accounting Standards along with their initial bid. Because the bill language is unclear, this may refer to global emissions produced by the company's operations worldwide, which is irrelevant to whether or not an operator can successfully execute a lease, or anticipated emissions from operations on the lease in question. Operators may be required to somehow account for anticipated emissions before holding a lease, completing the permitting process, and fully exploring and accounting for the geological and surface features of the leased lands. Further, it is not clear how the information provided by operators under this bill will be evaluated and how this information will be utilized by the BLM in making leasing and permitting decisions. The BLM ensures that holders of federal leases operate responsibly by imposing stipulations concerning environmental protections and stakeholder concerns. Reporting the information required by the SASB is duplicative of current regulations and unnecessary to ensure responsible development of a lease.

Essentially, this bill would outsource federal regulatory requirements to an unaccountable, unelected non-governmental organization, which could change the requirements at any time. The reports could easily serve as fodder for lawsuits filed by anti-energy groups, further hindering the regulatory process without providing additional benefits to the public.

H.R. 1517 (Porter)

Like several other bills under consideration at this hearing, this legislation seeks to achieve a greater return to the taxpayer by raising royalties, minimum bids, and rental fees for leasing federal land for oil and gas development. In reality, raising rental rates will only discourage development on our federal lands, hurting production and *reducing* return to the taxpayers. State royalty rates are higher than the federal royalty rate, but operators do not have to contend with the cumbersome, costly, and unpredictable federal regulatory process on state- and privately-owned lands. As a result, even with higher royalty rates, state- and privately-owned lands are often more attractive to investment. Disincentivizing production on federal lands will directly impact funding to energy producing states – onshore states receive 49% of the revenues produced within their borders to use for public services and education.

This bill also makes several other unnecessary and politically motivated changes to the statutes that govern mineral leasing onshore and offshore. For instance, it repeals Secretarial authority to relax royalty rates in certain areas offshore Alaska and the Gulf of Mexico to incentivize investment. Additionally, the bill allows the Secretary to take more time to issue a decision on administrative appeals, adding more uncertainty and cost to the federal leasing and permitting process. The bill also requires royalty payments on all gas produced on a federal leasing, including gas utilized for lease operations and gas that is released via venting and flaring.

IV. MAJOR PROVISIONS & ANALYSIS (or /SECTION-BY-SECTION)

H.R. 1492 (DeGette)

- Establishes "national goals" to decrease methane emissions from the oil and natural gas sector, with a 65% reduction compared to 2012 levels by 2025 and a 90% reduction compared to 2012 levels by 2030. The Administrator of the EPA shall issue regulations to meet such goals by December 31, 2022, and December 31, 2023, respectively.
- Amends the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1711 et seq.) to direct the Secretary of the Interior to issue regulations within 2 years of enactment of this Act establishing requirements for reducing and preventing the waste of gas, including by venting, flaring, and fugitive releases. These regulations shall require:
  - 85% capture of produced gas from each onshore well within 1 year of enactment of this Act, and 99% capture within 5 years.
  - Gas shall be flared, not vented, in cases when it is not captured. However, within 2 years of enactment, all new and refractured production wells shall be prohibited from flaring.
  - All application for permits to drill (APDs) shall demonstrate sufficient infrastructure to capture the expected quantity of produced gas and be published with a 30-day public comment period or longer.
  - Operators who routinely flare gas (before the prohibition on flaring established by this Act goes into effect) must submit a gas capture plan to the Secretary within 180 days.
  - Performance standards shall be set for new equipment to minimize gas loss; operators shall replace existing equipment within one year to meet such performance standards.
  - All operators shall have leak detection programs with regular inspections.
  - Leaks shall be repaired within 4 weeks, with a possible extension of 8 weeks in extraordinary circumstances.
  - Record shall be kept for maintenance, leak detection and repair, venting and flaring, and other operations as the Secretary deems appropriate.
- Within one year of enactment of this Act, the Secretary shall issue regulations requiring the measuring and reporting of all gas produced, consumed on site, or lost through venting, flaring, or fugitive releases. These regulations shall require:
  - Production and disposition reporting such that all new measured values, including vented and flared gas and fugitive releases, can be calculated. These amounts shall be reported to the Secretary.
  - Metering devices to measure flared gas.
  - The Secretary shall make all new data produced under new measuring and reporting requirements, including volumes of gas lost to venting, flaring, and fugitive releases, publicly available through the internet.
- The Secretary shall include enforcement mechanisms for noncompliance, including civil penalties for unauthorized venting and flaring and civil penalties for other new or existing procedures.
- Regulations shall be updated at least once every 5 years.

- Until or unless the above regulations are completed by the BLM as directed by this Act, the bill codifies the final rule of the BLM titled "Waste Prevention, Production Subject to Royalties, and Resources Conservation," published November 18, 2016, regulating the release of natural gas from venting, flaring, and leaks during onshore oil and natural gas production.
- Within 180 days of the one year period after the Secretary receives data from the new measuring and reporting requirements created by this Act, the Secretary shall submit a report to Congress describing 1) the volume of fugitive releases, and gas consumed or lost through venting and flaring, and 2) additional regulations the Secretary considers would help further curtail venting, flaring and fugitive releases.
    - Within one year of submission, the Secretary shall issue new regulations based on the content of the report.

H.R. 1503 (Levin)

- Amends the Mineral Leasing Act (30 U.S.C. 181 et seq., MLA) to require the Secretary of the Interior to ensure that leases awarded for oil and gas development assure receipt of fair market value for the lands and resources leased.
- All competitive bidding must be completed by sealed bid.
- Land cannot be leased in units larger than 2,560 acres, except Alaska, which may have units of 5,760 acres.
- Reduces the existing requirement for quarterly lease sales in each state to 3 lease sales per year. Each BLM office will only be required to have one lease sale per year.
- Increases the royalty rate for onshore oil and gas production from 12.5% to 18.75%.
- The Secretary is not required to accept the highest bid, or any bids at all for any lease sale. If a lease is issued, it must be issued 90 days after a sale rather than the current requirement of 60 days. A bid may be rejected if the Secretary determines that the bid does not ensure fair market value.
- The minimum national acceptable bid is raised to $5 per acre and allows the Secretary to set a higher minimum bid level without consultation under NEPA. All bids that are below the minimum national acceptable bid must be rejected and the Secretary may reject a bid above the national minimum acceptable bid if the Secretary determines that it does not ensure fair market value.
- Increases the rental rates for onshore oil and gas leases. Currently, rental fees are $1.50 per acre for the first 5 years of a lease and $2 thereafter. This legislation sets rental rates at $3 for the first 2 years and $5 thereafter and authorizes the Secretary to raise the rental rates administratively.
- Eliminates all authorizations for noncompetitive leasing.
- If there are no bids for certain parcels, the BLM may conduct a second round of sealed bidding.
- All lease terms are reduced from 10 years to 5 years.
- The Secretary may only issue leases to individuals or entities who have demonstrated capability to explore and produce oil and gas.
- The Secretary may include any terms in a lease to protect other uses of the land.

- All expressions of interest to bid for a lease must include the names of the potential bidders and the Secretary must make them public.
- The Secretary must provide notice to the general public, surface landowners, holders of recreational permits on impacted lands 45 days before a lease sale and 30 days before an Application for Permit to Drill is issued or modifying a lease.
- The Secretary can only issue a lease for the production of federally owned minerals contained under state- or privately-owned surface if the operator and landowner have entered into a surface use agreement.
- Amends the Energy Policy Act of 2005 (42 USC §13201 et seq.) to require the Secretaries of the Interior and Agriculture to ensure that leases include stipulations that are adequately protective of resources. Currently, the law requires the Secretaries to include stipulations that are "only as restrictive as necessary."
- Allows the Secretary to implement Master Leasing Plans (MLPs) on any federal lands and enables states, counties, and individual citizens to request the implementation of an MLP. The Secretary shall implement an MLP if requested by a state or county.
- Requires that leased acres for which royalties have been paid in the previous year be counted towards the aggregate total of leased acres held by one entity in one state.
- The Secretary may not issue an oil shale lease until the Secretary issues a finding that the technical and economic feasibility of development of and production has been demonstrated.
- The Secretary must publish online the name of lessees, operators, and each suspension of operations.
- Allows the Secretary to cancel a lease if it was improperly issued.
- Requires the Secretary to establish fees of at least $15 per acre for operators to submit an expression of interest for federally owned parcels. Every 4 years, the Secretary shall increase this fee to reflect changes in the Consumer Price Index or as the Secretary determines necessary.
- Amends the MLA to require replacement of any water affected by production and requires that an Application for Permit to Drill include a water management plan.
- Requires the Secretary to issue regulations governing the use of hydraulic fracturing under oil and gas leases on federal lands, and reinstates the rule titled "Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands" until a new final rule is enacted.

H.R. 1505 (Lowenthal)

- Prohibits the Secretary of the Interior from issuing an Application for Permit to Drill (APD) until the Secretary concerned (Secretary of Agriculture on Forest Service lands and the Secretary of the Interior on Bureau of Land Management lands) approves a interim reclamation plan and a final reclamation plan.
- Defines an Interim Reclamation Plan as a plan specifying reclamation steps to be taken on all disturbed areas on any lease not needed for active operations and defines a Final Reclamation Plan as a plan describing all reclamation activity to be conducted for all disturbed areas, including locations, facilities, trenches, rights-of-way, roads, and any other surface disturbance on a lease prior to abandonment.
- Requires the Secretary concerned to review each interim reclamation plan regularly and require amendments to the plan.

- Requires operators to provide an adequate bond, surety, or other financial arrangement before any surface disturbance activities begin.
- Prohibits the issuance of a lease to any person who has failed or refused to comply with reclamation requirements or other standards established under this Act for any applicable prior lease. Once reclamation requirements or other standards are met, a lease may be issued.
- A bond, surety, or other financial arrangement must be at least $150,000 for an individual surface disturbing activity or $500,000 for all surface disturbing activities of an entity within a given state. The Secretaries of Agriculture and Interior must jointly adjust these amounts for inflation every 3 years based on the Consumer Price Index.
- Directs the Secretaries to establish standards for all interim and final reclamation plans to restore the area to equal or approximate conditions before the disturbance occurred. The standards must include restoration of natural vegetation and hydrology, habitat restoration, salvage, storage and resume of topsoils, erosion control, control of invasive species and noxious weeds and natural contouring. Bonds will only be released by the Secretary when these standards of restoration are achieved.
- Financial assurances shall not be released until inspection fees established under this Act are paid. Annual inspection fees are established by the Secretary as follows, non-payment of which shall result in civil penalties:
    - $700 for each lease with surface use, disturbance, or reclamation, but no active or inactive wells
    - $1,225 for each lease with 1 to 10 wells, with any combination of active or inactive
    - $4,900 for each lease with 11 to 50 wells, with any combination of active or inactive
    - $9,800 for each lease with over 50 wells, with any combination of active or inactive
- Bond adequacy reviews shall be done periodically as required under the Bureau of Land Management Instruction Memorandum No. 2019-014.
- Amends the MLA to change the name of the "BLM Permit Processing Improvement Fund" to the "BLM Administration and Accountability Fund," and requires that coordinating and processing includes financial assurances and bond releases, the inventory of orphaned wells and requests for delays to close inactive wells, and environmental and cultural reviews applicable to oil and gas activities.
- Amends the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) to require the Secretary to obtain financial assurances from non-federal entities to repair potential damages to refuge resources, prior to the commencement of surface-disturbing activities as part of the development of non-federal minerals below refuge surface estate. Financial assurances forfeited by a non-federal entity shall be made available to the Secretary for reclamation and monitoring activities.

H.R. 1506 (Lowenthal)

- Requires any entity seeking a lease for a covered operation (production of oil, gas, coal, solar, and wind) on public lands to disclose the information described in that industry's applicable Sustainable Accounting Standard (as produced by the Sustainability Accounting Standards Board). Such a report much be submitted to the Secretary

concerned (Secretary of the Interior or Secretary of Agriculture, as applicable) at the time of a bid.

- Requires any entity holding a lease to submit a report to the Secretary detailing the information as described above on an annual basis.
- If the Secretary determines that any operator has not complied with the requirements described above, he or she may choose not to issue the lease or to suspend operations on an existing lease.
- The Secretary shall publish the reported information online for public consumption.
- No later than two years after enactment, and every two years after, the Secretary shall submit a report to Congress that includes 1) annual and two-year totals of greenhouse gas (GHG) emissions, air quality, water management, biodiversity impacts, production, and a number of other metrics described in the applicable Sustainable Accounting Standard, 2) any changes in that information, 3) projected future changes over 5, 10, and 25 years, and 4) for renewable energy projects, an estimate of the GHG that would have resulted to produce the same amount of energy from fossil fuel resources.

H.R. 1517 (Porter)

- Increases the royalty rate for onshore oil and gas production from 12.5% to 18.75%. DOI must evaluate royalty rates every three years to achieve fair market value and determine whether the rate should be higher than 18.75% when the average state royalty rate exceeds 18.75%.
- Increases royalties for reinstated leases from 16.66% to 25%.
- Raises the minimum national acceptable bid to $5 per acre and requires DOI to adjust the minimum acceptable bid and the rental rates to reflect changes in the Consumer Price Index for All Urban Consumers once every 4 years.
- Increases the rental rates for onshore oil and gas leases from $2 to $3 for the first 5 years and from $3 to $5 every year thereafter.
- Amends the Federal Oil and Gas Royalty Management Act (30 USC § 1701 et seq., FOGRMA) to establish annual inspection fees are established by the Secretary as follows, non-payment of which shall result in civil penalties:
  - $700 for each lease with surface use, disturbance, or reclamation, but no active or inactive wells
  - $1,225 for each lease with 1 to 10 wells, with any combination of active or inactive
  - $4,900 for each lease with 11 to 50 wells, with any combination of active or inactive
  - $9,800 for each lease with over 50 wells, with any combination of active or inactive
- Raises the existing fees associated with civil and criminal penalties under the MLA, FOGRMA, and the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq., OCSLA). Currently, fees exist for committing fraud relating to a lease; violations of leases, permits or leasing laws; failure to pay royalties or allow inspections or audits; and knowingly submitting false information or illegally removing or transporting oil and gas.
- Repeals sections of the Energy Policy Act of 2005 allowing DOI to grant royalty relief for natural gas production from deep wells in the shallow waters of the Gulf of Mexico and from deep water production. The bill also repeals sections of OCSLA and the

Naval Petroleum Reserves Production Act (42 U.S.C. 6501 et seq.) allowing DOI to grant royalty relief for production offshore Alaska and in the National Petroleum Reserve- Alaska. The bill also repeals sections of the Naval Petroleum Reserves Production Act requiring the extension of producing leases and allowing for the extension of nonproducing leases.

- Amends MLA and OCSLA to prevent the Secretary from demanding royalty payments in the form of oil and gas if that amount would exceed the amount needed to fill the strategic petroleum reserve.
- Extends the time the Secretary has to issue decisions on administrative appeals from 33 months to 48 months.
- Within 2 years of passage, DOI must implement a pilot program with offshore operators that assesses the costs and benefits of automatic transmission of data regarding the volume and quality of oil and gas produced on federal leases on the outer continental shelf and issue a report to Congress.
- Requires DOI to issue regulations establishing a civil penalty for late or incorrect reporting under FOGRMA (at least $10 per failure).
- Requires DOI to publish final regulations regarding recordkeeping of natural gas measurement data (as set forth in 30 CFR 250.1203) to include operators and others involved in the transport, purchase, or sale of natural gas under the requirements of that rule.
- Applies sections of FOGRMA related to hearings, investigations, audits, and civil and criminal penalties (Sections 107, 109, 110) to leases for coal, any other solid mineral, and geothermal energy and to any lease for minerals and renewable energy developed offshore.
- Directs DOI to issue regulations prescribing when a federal lessee must report and pay royalties on the volume of oil and gas produced or is entitled to under a unitization agreement for federal or Indian leases.
- Requires that royalties authorized for gas production shall be assessed on all gas produced, including gas used within an operation on a lease and gas consumed or lost through venting and flaring. Exceptions are made for venting and flaring for less than 48 hours for emergency reasons and for gas used for enhanced oil and gas recovery.

V. COST

CBO has not scored this legislation.

VI. ADMINISTRATION POSITION

Unknown.

VII. EFFECT ON CURRENT LAW (RAMSEYER)

H.R. 1492 (DeGette)

Link to Ramsayer.

H.R. 1503 (Levin)

Link to Ramsayer.

H.R. 1505 (Lowenthal)

Link to Ramsayer.

H.R. 1506 (Lowenthal)

No Ramsayer required.

H.R. 1517 (Porter)

Link to Ramsayer.