

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. 6107 (Rep. Pearce)**, To clarify that the Bureau of Land Management shall not require permits for oil and gas activities conducted on non-Federal surface estate to access subsurface mineral estate that is less than 50 percent Federally owned, and for other purposes.
June 27, 2018, at 10:15 AM; 1324 Longworth House Office Building

H.R. 6107, Ending Duplicative Permitting Act

Summary of the Bill

On June 14, 2018, Rep. Stevan Pearce (R-NM-02) introduced H.R. 6107, the “Ending Duplicative Permitting Act.” This legislation prohibits the Bureau of Land Management (BLM) from requiring permits for oil and gas activities conducted on non-federal surface estate to access subsurface mineral estate that is less than 50 percent federally owned.

Cosponsors

Rep. Liz Cheney (R-WY-At Large)
Rep. Rob Bishop (R-UT-01)
Rep. Louie Gohmert (R-TX-01)
Rep. Bill Johnson (R-OH-06)
Rep. Paul A. Gosar (R-AZ-04)
Rep. Kevin Cramer (R-ND-At Large)

Background

In recent years, BLM has required oil and gas operators to obtain federal permits for drilling and re-entry activities on State and privately-owned lands if the federal government holds an ownership interest in even a small portion in the subsurface mineral estate impacted by such operations.

While the States are able to issue oil and gas drilling permits for operations on State and private land in an average of 30 days, BLM processed applications for permits to drill in an

average of 260 days in 2017.¹ BLM's decision to require both State and federal permits for operations on areas where the federal government has no surface ownership has hindered development of State and private lands by prolonging the permitting process without providing additional environmental or safety benefits. The resulting delays have discouraged investment in oil and gas operations that would benefit the States, local governments and private landowners.

This legislation limits BLM's jurisdiction over drilling activities conducted on non-federal land to promote the efficient development of State and privately-owned minerals. Specifically, this legislation amends the Mineral Leasing Act (30 U.S.C. 181 et seq.) to clarify that a federal permit issued by BLM shall not be required for oil and gas drilling operations on State or private land if the federal government owns less than 50 percent of the subsurface mineral estate impacted by such activities and if the operator obtains and submits a State permit for such activities to BLM.

Major Provisions/Analysis of H.R. 6107

- Amends the Mineral Leasing Act to clarify that federal drilling permits shall not be required by BLM for oil and gas activities on non-federally-owned surface estate if the federal government owns less than 50 percent of the subsurface mineral estate impacted by such activities and if the operator obtains and submits a State permit for such activities to the Department of the Interior.
- An operator may commence with drilling activities 30 days after submission of the State permit to the Department.
- Oil and gas activities authorized by a State permit submitted to BLM in accordance with this legislation are categorically excluded from further analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. 306108) or section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536).
- This legislation shall not impact the payment of royalties due to the U.S. Treasury under the Mineral Leasing Act or the assessment of penalties under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1711 et seq.). The Department of the Interior may conduct inspections of the authorized activities to ensure royalties are properly valued and paid.
- This legislation does not apply to actions on Indian lands or resources managed in trust for the benefit of Indian tribes.

Cost

¹ Bureau of Land Management. Oil and Gas Statistics. Table 12. Time to Complete an Application for Permit to Drill (APD) Federal and Indian.

https://www.blm.gov/sites/blm.gov/files/Table12_Time_to_Complete_an_APD1.pdf

CBO has not scored this legislation.

Administration Position

Unknown.

Anticipated Amendments

Pearce – Makes technical changes to the bill. *Chairman Bishop supports.*

Lowenthal – Requires operators to certify to the Secretary that the State has rules requiring capture of not less than 99 percent of all methane extracted. *Chairman Bishop opposes. This amendment runs counter to the purpose of the bill, which is to allow States to manage land owned by the State and private landowners without Federal interference. States already regulate methane emissions and industry has managed to reduce emissions through innovation and technology.*

Effect on Current Law (Ramseyer)

Showing Current Law as amended by H.R. 6107

[new text highlighted in yellow; text to be deleted bracketed and highlighted in blue]

Section 17 of the Mineral Leasing Act (30 U.S.C. 226):

* * * * *

(q) NO FEDERAL PERMIT REQUIRED FOR OIL AND GAS ACTIVITIES ON CERTAIN LAND.—

(1) IN GENERAL.—The Secretary shall not require an operator to obtain a Federal drilling permit for oil and gas exploration and production activities conducted on non-Federal surface estate, provided that—

(A) the United States holds an ownership interest of less than 50 percent of the subsurface mineral estate to be accessed by the proposed action; and

(B) the operator submits to the Secretary a State permit to conduct oil and gas exploration and production activities on the non-Federal surface estate.

(2) NO FEDERAL ACTION.—Oil and gas exploration and production activities carried out under paragraph (1)—

(A) shall require no additional Federal action;

(B) may commence 30 days after submission of the State permit to the Secretary;

(C) are categorically excluded from any further analysis and documentation under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(D) shall not require any analysis under section 106 of the National Historic Preservation Act of 1966, as amended (54 U.S.C. 306108); and

(E) shall not require any analysis, assessment, or consultation under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536).

(3) ROYALTIES AND PRODUCTION ACCOUNTABILITY.—(A) Nothing in this subsection shall affect the amount of royalties due to the United States under this Act from the production of oil and gas, or alter the Secretary's authority to conduct audits and collect civil penalties pursuant to the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1711 et seq.).

(B) The Secretary may conduct on-site reviews and inspections to ensure proper accountability, measurement, and reporting of production of Federal oil and gas, and payment of royalties.

(4) EXCEPTIONS.—This subsection shall not apply to actions on Indian lands or resources managed in trust for the benefit of Indian tribes.