

STREAMLINING PERMITTING EFFICIENCIES IN ENERGY
DEVELOPMENT ACT

SEPTEMBER 6, 2018.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 6088]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 6088) to amend the Mineral Leasing Act to authorize notifications of permit to drill, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Streamlining Permitting Efficiencies in Energy Development Act” or the “SPEED Act”.

SEC. 2. NOTIFICATIONS OF PERMIT TO DRILL.

The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended by—

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

“SEC. 44. NOTIFICATIONS OF PERMIT TO DRILL.

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

“(b) **CONTENT OF NOTIFICATION.**—To be considered a complete notification of permit to drill under this section, an operator shall include in the notification of permit to drill submitted under this section—

- “(1) a notification of permit to drill form;
- “(2) a surface use plan of operations;
- “(3) a drilling plan;
- “(4) a well plat certified by a registered surveyor;
- “(5) an operator certification;
- “(6) evidence of bond coverage; and
- “(7) a notification of permit to drill fee in an amount to be determined by the Secretary.

“(c) JUSTIFICATIONS FOR OBJECTION.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary may not object to a notification of permit to drill under this section if the notification—

“(A) demonstrates that the drilling operations described in the notification of permit to drill will be located in—

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

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

“(iii) an area consisting of individual surface disturbances of less than 10 acres and the total surface disturbance on the lease is not greater than 150 acres and for which an approved land use plan or environmental review was prepared within the last 10 years under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that analyzed such drilling operations as a reasonably foreseeable activity;

“(iv) an area consisting of Federal mineral interests that is located within the boundaries of a communitization agreement or unit agreement which contains minerals leased by a State or private mineral owner for which a drilling permit has been approved by a State regulatory agency; or

“(v) an area in which a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applies for oil and gas drilling or re-entry activities; or

“(B) includes—

“(i) an environmental review that concludes that actions described in the notification of permit to drill pose no significant effects on the human environment or threatened or endangered species; and

“(ii) an archeological review that concludes that actions described in the notification of permit to drill pose no significant effects on cultural or historic properties or resources.

“(2) ENDANGERED SPECIES PROTECTION.—

“(A) IN GENERAL.—Notwithstanding paragraph (1), the Secretary shall object to a notification of permit to drill if the activity described in such notification of permit to drill is likely to jeopardize the continued existence of a species that is a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or result in the destruction or adverse modification of critical habitat of such species.

“(B) WITHDRAWAL OF OBJECTION.—The Secretary may withdraw an objection under subparagraph (A) if the operator consults with the Secretary on such objection and places conditions on the notification of permit to drill sufficient to comply with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

“(3) NATIONAL HISTORIC PRESERVATION.—

“(A) IN GENERAL.—Notwithstanding paragraph (1), the Secretary shall object to a notification of permit to drill if the activity described in such notification of permit to drill is likely to affect properties listed, or eligible for listing, in the National Register of Historic Places under section 306108 of title 54, United States Code (commonly known as the National Historic Preservation Act of 1966).

“(B) WITHDRAWAL OF OBJECTION.—The Secretary may withdraw an objection under subparagraph (A) if the operator consults with the Secretary on such objection and places conditions on the notification of permit to drill sufficient to comply with section 306108 of title 54, United States Code (commonly known as the National Historic Preservation Act of 1966).

“(d) OBJECTION OR NO ACTION.—

“(1) NOTIFICATION OF INCOMPLETE NOTIFICATION.—Not later than 15 days after receipt of a notification of permit to drill, or a revised notification of permit to drill, from an operator under this section, the Secretary shall notify the operator in writing if the notification of permit to drill is not complete.

“(2) NOTIFICATION OF OBJECTIONS.—Not later than 45 days after receipt of a complete notification of permit to drill from an operator under this section, the Secretary shall review the notification of permit to drill and—

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

“(B) take no action.

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

“(4) OPPORTUNITY TO RESUBMIT NOTIFICATION.—If the Secretary notifies an operator under paragraph (1) of an incomplete notification or paragraph (2) of an objection, the Secretary shall allow the operator to address such incomplete notification or objection and revise and resubmit the notification of permit to drill.

“(5) OPPORTUNITY TO RESUBMIT NOTIFICATION AS APD.—If the Secretary notifies an operator under paragraph (2) of an objection, the Secretary shall allow the operator to resubmit such information in the form of an APD.

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

“(f) ENVIRONMENTAL REVIEW.—

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

“(2) FIELD WORK AUTHORIZATION.—The Secretary shall issue a field work authorization to a third-party contractor for the purposes of paragraph (1) within a reasonable time.

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

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

“(h) SITE INSPECTION.—The Secretary may not require an operator that has submitted a notification of permit to drill for which the Secretary did not object to submit to a site inspection before commencement of the activities described in the notification of permit to drill.

“(i) FEDERAL ENFORCEMENT.—The Secretary may conduct inspections of and evaluate activities described in a notification of permit to drill for purposes of bringing an enforcement action. The Secretary may suspend enforcement proceedings if the operator modifies its activities to comply with the notification of permit to drill or obtains an APD for such activities.

“(j) APPLICATION OF NEPA.—

“(1) NO ACTION BY SECRETARY.—The decision by the Secretary to take no action under subsection (c)(1)(B)(2) shall not constitute a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

“(2) DEVELOPMENT OF REGULATIONS.—The development of any regulation pursuant to this section shall constitute a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

“(k) DEFINITIONS.—In this section:

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

“(2) AVAILABLE FEDERAL LAND.—The term ‘available Federal land’ means Federal land that—

“(A) is located within the boundaries of a State;

“(B) is not held by the United States in trust for the benefit of a federally recognized Indian Tribe;

“(C) is not a unit of the National Park System;

“(D) is not a unit of the National Wildlife Refuge System;

“(E) is not a Congressionally-approved wilderness area under the Wilderness Act (16 U.S.C. 1131 et seq.); and

“(F) is managed by the Director of the Bureau of Land Management or the Chief of the U.S. Forest Service.

“(3) DRILLING OPERATIONS.—The term ‘drilling operations’ means the drilling or re-entry of a well.

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

“(A) a description of the drilling program;

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

“(C) pertinent geologic data;

“(D) expected hazards;

“(E) proposed mitigation measures to address such hazards;

“(F) any other information specified in applicable notices or orders; and

“(G) any other pertinent data as the Secretary may require.

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

“(A) the road and drill pad location;

“(B) details of pad construction;

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

“(D) plans for reclamation of the surface;

“(E) any other information specified in applicable orders or notices; and

“(F) any other pertinent data as the Secretary may require.”.

PURPOSE OF THE BILL

The purpose of H.R. 6088 is to amend the Mineral Leasing Act to authorize notifications of permit to drill.

BACKGROUND AND NEED FOR LEGISLATION

Under the Mineral Leasing Act (30 U.S.C. 181 et seq.), oil and gas operators are required to submit an application for permit to drill (APD) for drilling activities on federal lands.¹ 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 more.² In fact, in 2017, BLM processed APDs in an average of 260 days.³ 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.⁴

Under the Mineral Leasing Act, the Department of the Interior must evaluate the surface impacts of drilling activities proposed in APDs before approval.⁵ BLM must analyze the surface use plan and drilling plan submitted in each application and determine the potential impacts of proposed drilling activities on endangered or threatened 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.

¹ 30 U.S.C. 181.

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

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

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

⁵ 30 U.S.C. 181.

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 notification of permit to drill (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. 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 federal 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.

Specifically, 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 of the Interior. To be considered for the NPD process, an applicant must either demonstrate that the proposed drilling operations are located in a developed field for which an approved land use plan or recent NEPA analysis exists; operations do not increase the surface disturbance at the proposed site; 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; 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 a NEPA categorical exclusion applies. Alternatively, the NPD can 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 of the Interior 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 the 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 may 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 any regulations pursuant to this legislation shall be considered a major federal action under NEPA.

COMMITTEE ACTION

H.R. 6088 was introduced on June 13, 2018, by Congressman John R. Curtis (R-UT). The bill was referred to the Committee on Natural Resources. The Subcommittee on Energy and Mineral Resources held a hearing on a draft version of this bill on June 6, 2018. On June 20, 2018, the Natural Resources Committee met to consider the bill. Congressman Curtis offered an amendment designated #1; it was adopted by voice vote. Congressman Raúl M. Grijalva (D-AZ) offered an amendment designated 001; it was not adopted by a roll call vote of 18 ayes and 21 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
115th Congress

Date: 06.20.18

Recorded Vote #:5

Meeting on / Amendment on: FC Markup Grijalva [001] to HR 6088 (Rep. John R. Curtis)

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. Cook, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mr. McEachin, VA</i>	X		
Mr. Young, AK, Chairman Emeritus		X		Mr. Westerman, AR		X	
<i>Mrs. Napolitano, CA</i>	X			<i>Mr. Brown, MD</i>	X		
Mr. Gohmert, TX, Vice Chairman		X		Mr. Graves, LA		X	
<i>Ms. Bordallo, Guam</i>	X			<i>Mr. Clay, MO</i>	X		
Mr. Lamborn, CO		X		Mr. Hice, GA		X	
<i>Mr. Costa, CA</i>	X			<i>Mr. Gomez, CA</i>	X		
Mr. Wittman, VA		X		Mrs. Radewagen, AS		X	
<i>Mr. Sablan, CNMI</i>	X			<i>Ms. Velázquez, NY</i>	X		
Mr. McClintock, CA		X		Mr. Webster, FL		X	
<i>Ms. Tsongas, MA</i>	X			Mr. Bergman, MI		X	
Mr. Pearce, NM		X		Ms. Cheney, WY			
<i>Mr. Huffman, CA</i>	X			Mr. Johnson, LA			
Mr. Thompson, PA		X		Ms. González-Colón, PR		X	
<i>Mr. Lowenthal, CA</i>	X			Mr. Gianforte, MT		X	
Mr. Gosar, AZ		X		Mr. Curtis, UT		X	
<i>Mr. Beyer, VA</i>	X						
Mr. Labrador, ID							
<i>Mr. Gallego, AZ</i>	X						
Mr. Tipton, CO		X					
<i>Ms. Hanabusa, HI</i>	X						
Mr. LaMalfa, CA		X					
<i>Ms. Barragán, CA</i>	X						
Mr. Denham, CA							
<i>Mr. Soto, FL</i>	X			TOTAL:	18	21	

The Committee adjourned before completing action on the bill. On June 27, 2018, the Committee met to again consider the bill. Congressman Rob Bishop (R-UT) offered an amendment designated #1; it was adopted by voice vote. Congressman Raúl M. Grijalva (D-AZ) offered another amendment designated 001; it was not adopted by a roll call vote of 11 ayes and 17 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
115th Congress

Date: 06.27.18

Recorded Vote #:1

Meeting on / Amendment on: FC Markup Grijalva [001] to HR 6088 (Rep. John R. Curtis)

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. Cook, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mr. McEachin, VA</i>	X		
Mr. Young, AK, Chairman Emeritus				Mr. Westerman, AR		X	
<i>Mrs. Napolitano, CA</i>	X			<i>Mr. Brown, MD</i>	X		
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA			
<i>Ms. Bordallo, Guam</i>				<i>Mr. Clay, MO</i>			
Mr. Lamborn, CO		X		Mr. Hice, GA		X	
<i>Mr. Costa, CA</i>		X		<i>Mr. Gomez, CA</i>	X		
Mr. Wittman, VA		X		Mrs. Radewagen, AS		X	
<i>Mr. Sablan, CNMI</i>				<i>Ms. Velázquez, NY</i>			
Mr. McClintock, CA		X		Mr. Webster, FL		X	
<i>Ms. Tsongas, MA</i>	X			Mr. Bergman, MI			
Mr. Pearce, NM		X		Ms. Cheney, WY			
<i>Mr. Huffman, CA</i>	X			Mr. Johnson, LA			
Mr. Thompson, PA		X		Ms. González-Colón, PR			
<i>Mr. Lowenthal, CA</i>	X			Mr. Gianforte, MT		X	
Mr. Gosar, AZ		X		Mr. Curtis, UT		X	
<i>Mr. Beyer, VA</i>							
Mr. Labrador, ID							
<i>Mr. Gallego, AZ</i>	X						
Mr. Tipton, CO		X					
<i>Ms. Hanabusa, HI</i>							
Mr. LaMalfa, CA		X					
<i>Ms. Barragán, CA</i>	X						
Mr. Denham, CA							
<i>Mr. Soto, FL</i>	X			TOTAL:	11	17	

Congressman A. Donald McEachin (D-VA) offered an amendment designated 003; it was not adopted by a roll call vote of 12 ayes and 18 nays, as follows:

Committee on Natural Resources

U.S. House of Representatives

115th Congress

Date: 06.27.18

Recorded Vote #:2

Meeting on / Amendment on: FC Markup McEachin [003] to HR 6088 (Rep. John R. Curtis)

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. Cook, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mr. McEachin, VA</i>	X		
Mr. Young, AK, Chairman Emeritus				Mr. Westerman, AR		X	
<i>Mrs. Napolitano, CA</i>	X			<i>Mr. Brown, MD</i>	X		
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA			
<i>Ms. Bordallo, Guam</i>				<i>Mr. Clay, MO</i>			
Mr. Lamborn, CO		X		Mr. Hice, GA		X	
<i>Mr. Costa, CA</i>	X			<i>Mr. Gomez, CA</i>	X		
Mr. Wittman, VA		X		Mrs. Radewagen, AS		X	
<i>Mr. Sablan, CNMI</i>				<i>Ms. Velázquez, NY</i>			
Mr. McClintock, CA		X		Mr. Webster, FL		X	
<i>Ms. Tsongas, MA</i>	X			Mr. Bergman, MI		X	
Mr. Pearce, NM		X		Ms. Cheney, WY		X	
<i>Mr. Huffman, CA</i>	X			Mr. Johnson, LA			
Mr. Thompson, PA		X		Ms. González-Colón, PR			
<i>Mr. Lowenthal, CA</i>	X			Mr. Gianforte, MT		X	
Mr. Gosar, AZ		X		Mr. Curtis, UT		X	
<i>Mr. Beyer, VA</i>							
Mr. Labrador, ID							
<i>Mr. Gallego, AZ</i>	X						
Mr. Tipton, CO		X					
<i>Ms. Hanabusa, HI</i>							
Mr. LaMalfa, CA		X					
<i>Ms. Barragán, CA</i>	X						
Mr. Denham, CA							
<i>Mr. Soto, FL</i>	X			TOTAL:	12	18	

Congressman Jared Huffman (R-CA) offered an amendment designated 154; it was not adopted by a roll call vote of 12 ayes and 18 nays, as follows:

Committee on Natural Resources

U.S. House of Representatives

115th Congress

Date: 06.27.18

Recorded Vote #:3

Meeting on / Amendment on: FC Markup Huffman [154] to HR 6088 (Rep. John R. Curtis)

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. Cook, CA		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mr. McEachin, VA</i>	X		
Mr. Young, AK, Chairman Emeritus				Mr. Westerman, AR		X	
<i>Mrs. Napolitano, CA</i>	X			<i>Mr. Brown, MD</i>	X		
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA			
<i>Ms. Bordallo, Guam</i>				<i>Mr. Clay, MO</i>			
Mr. Lamborn, CO		X		Mr. Hice, GA		X	
<i>Mr. Costa, CA</i>	X			<i>Mr. Gomez, CA</i>	X		
Mr. Wittman, VA		X		Mrs. Radewagen, AS		X	
<i>Mr. Sablan, CNMI</i>				<i>Ms. Velázquez, NY</i>			
Mr. McClintock, CA		X		Mr. Webster, FL		X	
<i>Ms. Tsongas, MA</i>	X			Mr. Bergman, MI		X	
Mr. Pearce, NM		X		Ms. Cheney, WY		X	
<i>Mr. Huffman, CA</i>	X			Mr. Johnson, LA			
Mr. Thompson, PA		X		Ms. González-Colón, PR			
<i>Mr. Lowenthal, CA</i>	X			Mr. Gianforte, MT		X	
Mr. Gosar, AZ		X		Mr. Curtis, UT		X	
<i>Mr. Beyer, VA</i>							
Mr. Labrador, ID							
<i>Mr. Gallego, AZ</i>	X						
Mr. Tipton, CO		X					
<i>Ms. Hanabusa, HI</i>							
Mr. LaMalfa, CA		X					
<i>Ms. Barragán, CA</i>	X						
Mr. Denham, CA							
<i>Mr. Soto, FL</i>	X			TOTAL:	12	18	

No additional amendments were offered, and the bill, as amended, was ordered favorably reported to the House of Representatives by a roll call vote of 18 ayes and 12 nays, as follows:

Committee on Natural Resources
U.S. House of Representatives
115th Congress

Date: 06.27.18

Recorded Vote #:4

Meeting on / Amendment on: FC Markup Favorably Report HR 6088 (Rep. John R. Curtis)

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. Cook, CA	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. McEachin, VA</i>		X	
Mr. Young, AK, Chairman Emeritus				Mr. Westerman, AR	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Brown, MD</i>		X	
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA			
<i>Ms. Bordallo, Guam</i>				<i>Mr. Clay, MO</i>			
Mr. Lamborn, CO	X			Mr. Hice, GA	X		
<i>Mr. Costa, CA</i>		X		<i>Mr. Gomez, CA</i>		X	
Mr. Wittman, VA	X			Mrs. Radewagen, AS	X		
<i>Mr. Sablan, CNMI</i>				<i>Ms. Velázquez, NY</i>			
Mr. McClintock, CA	X			Mr. Webster, FL	X		
<i>Ms. Tsongas, MA</i>		X		Mr. Bergman, MI	X		
Mr. Pearce, NM	X			Ms. Cheney, WY	X		
<i>Mr. Huffman, CA</i>		X		Mr. Johnson, LA			
Mr. Thompson, PA	X			Ms. González-Colón, PR			
<i>Mr. Lowenthal, CA</i>		X		Mr. Gianforte, MT	X		
Mr. Gosar, AZ	X			Mr. Curtis, UT	X		
<i>Mr. Beyer, VA</i>							
Mr. Labrador, ID							
<i>Mr. Gallego, AZ</i>		X					
Mr. Tipton, CO	X						
<i>Ms. Hanabusa, HI</i>							
Mr. LaMalfa, CA	X						
<i>Ms. Barragán, CA</i>		X					
Mr. Denham, CA							
<i>Mr. Soto, FL</i>		X		TOTAL:	18	12	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 30, 2018.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6088, the SPEED Act.

If you wish further details on this estimate, we will be pleased to provide them, The CBO staff contact is Jeff LaFave.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 6088—SPEED Act

Summary: H.R. 6088 would require the Bureau of Land Management (BLM) to allow oil and gas producers to perform certain drilling activities on federal lands by obtaining a notification for permit to drill (NPD) in lieu of an application for permit to drill (APD). BLM could approve NPDs without completing the site inspections or environmental reviews that are required for APDs. When submitting an NPD, oil and gas producers would pay a fee that CBO expects would be the same as the fee for an APD. However, unlike with APDs, the agency would not have the same authority to spend those fees.

CBO estimates that enacting H.R. 6088 would reduce direct spending by \$125 million over the 2020–2026 period; therefore, pay-as-you-go procedures apply. In addition, CBO estimates that implementing the bill would cost \$125 million over the 2020–2026 period, subject to appropriation of the necessary amounts. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 6088 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 6088 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 6088 is shown in the following table. The costs

of the legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—												
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019–2023	2019–2028
DECREASES INDIRECT SPENDING													
Estimated Budget Authority	0	0	–16	–17	–17	–18	–18	–19	–20	0	0	–68	–125
Estimated Outlays	0	0	–16	–17	–17	–18	–18	–19	–20	0	0	–68	–125
INCREASES IN SPENDING SUBJECT TO APPROPRIATION													
Estimated Authorization Level	0	0	16	17	17	18	18	19	20	0	0	68	125
Estimated Outlays	0	0	16	17	17	18	18	19	20	0	0	68	125

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted late in 2018 and that the necessary amounts will be appropriated for each fiscal year.

Direct spending

CBO estimates that enacting H.R. 6088 would reduce direct spending by \$125 million over the 2020–2026 period.

Spending of Permit Fees. Under current law, BLM charges oil and gas producers a fee to submit an APD, and, over the 2020–2026 period, the agency will have the authority to spend all proceeds from those fees, without further appropriation, to administer oil and gas permitting. In 2017, the agency received APD fees totaling \$31 million. CBO expects that, over the 2020–2026 period, those fees will range from \$33 million to \$39 million and that BLM will spend those amounts annually. The agency’s authority to charge APD fees expires after 2026.

Under H.R. 6088, BLM would be required to authorize, within one year of enactment, drilling on federal lands by issuing NPDs in lieu of APDs for activities that meet certain criteria. Using information provided by BLM, CBO expects that about half of all permit applicants could operate with NPDs. Because CBO expects that the fee to obtain an NPD would be the same as the APD fee, total receipts from permits authorizing drilling on federal lands would not change. However, because BLM would not have the authority to spend NPD fees, CBO estimates that enacting the bill would reduce direct spending by an average of about \$18 million a year over the 2020–2026 period.

Royalties from Oil and Gas Production. Under the bill, oil and gas producers that submitted NPDs would not be required to undergo the site inspections or complete the environmental analyses that are required for APDs. CBO expects that eliminating those requirements could expedite permitting for some NPDs. However, using information from BLM, CBO estimates that companies that obtained NPDs would be authorized to begin drilling operations only a few days sooner than if they had obtained APDs for the same activities. In addition, BLM could object to certain NPDs, which could lengthen the time required to obtain those NPDs beyond that required to obtain APDs for the same activities. On net, CBO estimates, enacting the bill would have no significant effect on the timing or quantity of oil and gas produced on federal lands

and would not significantly affect royalty payments received by the federal government over the 2020–2028 period.

Spending subject to appropriation

Under current law, over the 2020–2026 period, BLM can retain and spend, without further appropriation, all fees paid by oil and gas producers for APDs. The agency uses those funds to carry out a range of activities that support the processing of permits for oil and gas drilling. Because H.R. 6088 would reduce the amounts available for those purposes by \$125 million over the 2020–2026 period, CBO estimates that BLM would need that amount to continue to process permits at the same rate as under current law. Such spending would be subject to the availability of appropriated funds.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 6088, THE SPEED ACT, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON JUNE 27, 2018

	By fiscal year, in millions of dollars—														2018–2023	2018–2028
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028					
NET DECREASE IN THE DEFICIT																
Statutory Pay-As-You-Go Effect	0	0	-16	-17	-17	-18	-18	-19	-20	0	0	-68	-125			

Increase in long-term direct spending and deficits: CBO estimates that enacting H.R. 6088 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

Mandates: H.R. 6088 contains no intergovernmental or private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Jeff LaFave, Mandates: Jon Sperl.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimating Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Mineral Leasing Act to authorize notifications of permit to drill.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

MINERAL LEASING ACT

* * * * *

SEC. 44. NOTIFICATIONS OF PERMIT TO DRILL.

(a) *IN GENERAL.*—Not later than 1 year after the date of the enactment of this section, the Secretary shall establish procedures by which an operator may conduct drilling and production activities on available Federal land and non-Federal land after sending to the Secretary a notification of permit to drill under this section in lieu of obtaining an APD.

(b) *CONTENT OF NOTIFICATION.*—To be considered a complete notification of permit to drill under this section, an operator shall include in the notification of permit to drill submitted under this section—

- (1) a notification of permit to drill form;
- (2) a surface use plan of operations;
- (3) a drilling plan;
- (4) a well plat certified by a registered surveyor;
- (5) an operator certification;
- (6) evidence of bond coverage; and
- (7) a notification of permit to drill fee in an amount to be determined by the Secretary.

(c) *JUSTIFICATIONS FOR OBJECTION.*—

(1) *IN GENERAL.*—Except as otherwise provided in this subsection, the Secretary may not object to a notification of permit to drill under this section if the notification—

(A) demonstrates that the drilling operations described in the notification of permit to drill will be located in—

- (i) a developed field, where there are existing oil and gas wells within a 5-mile radius and for which an ap-

proved land use plan or environmental review was prepared within the last 10 years under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that analyzed such drilling operations as a reasonably foreseeable activity;

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

(iii) an area consisting of individual surface disturbances of less than 10 acres and the total surface disturbance on the lease is not greater than 150 acres and for which an approved land use plan or environmental review was prepared within the last 10 years under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that analyzed such drilling operations as a reasonably foreseeable activity;

(iv) an area consisting of Federal mineral interests that is located within the boundaries of a communitization agreement or unit agreement which contains minerals leased by a State or private mineral owner for which a drilling permit has been approved by a State regulatory agency; or

(v) an area in which a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applies for oil and gas drilling or re-entry activities; or

(B) includes—

(i) an environmental review that concludes that actions described in the notification of permit to drill pose no significant effects on the human environment or threatened or endangered species; and

(ii) an archeological review that concludes that actions described in the notification of permit to drill pose no significant effects on cultural or historic properties or resources.

(2) **ENDANGERED SPECIES PROTECTION.**—

(A) **IN GENERAL.**—Notwithstanding paragraph (1), the Secretary shall object to a notification of permit to drill if the activity described in such notification of permit to drill is likely to jeopardize the continued existence of a species that is a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or result in the destruction or adverse modification of critical habitat of such species.

(B) **WITHDRAWAL OF OBJECTION.**—The Secretary may withdraw an objection under subparagraph (A) if the operator consults with the Secretary on such objection and places conditions on the notification of permit to drill sufficient to comply with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(3) **NATIONAL HISTORIC PRESERVATION.**—

(A) **IN GENERAL.**—Notwithstanding paragraph (1), the Secretary shall object to a notification of permit to drill if the activity described in such notification of permit to drill

is likely to affect properties listed, or eligible for listing, in the National Register of Historic Places under section 306108 of title 54, United States Code (commonly known as the National Historic Preservation Act of 1966).

(B) WITHDRAWAL OF OBJECTION.—The Secretary may withdraw an objection under subparagraph (A) if the operator consults with the Secretary on such objection and places conditions on the notification of permit to drill sufficient to comply with section 306108 of title 54, United States Code (commonly known as the National Historic Preservation Act of 1966).

(d) OBJECTION OR NO ACTION.—

(1) NOTIFICATION OF INCOMPLETE NOTIFICATION.—Not later than 15 days after receipt of a notification of permit to drill, or a revised notification of permit to drill, from an operator under this section, the Secretary shall notify the operator in writing if the notification of permit to drill is not complete.

(2) NOTIFICATION OF OBJECTIONS.—Not later than 45 days after receipt of a complete notification of permit to drill from an operator under this section, the Secretary shall review the notification of permit to drill and—

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

(B) take no action.

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

(4) OPPORTUNITY TO RESUBMIT NOTIFICATION.—If the Secretary notifies an operator under paragraph (1) of an incomplete notification or paragraph (2) of an objection, the Secretary shall allow the operator to address such incomplete notification or objection and revise and resubmit the notification of permit to drill.

(5) OPPORTUNITY TO RESUBMIT NOTIFICATION AS APD.—If the Secretary notifies an operator under paragraph (2) of an objection, the Secretary shall allow the operator to resubmit such information in the form of an APD.

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

(f) ENVIRONMENTAL REVIEW.—

(1) IN GENERAL.—An environmental review or archeological review described in subsection (c)(1)(B) may be completed by a third-party contractor approved by the Secretary or pursuant to a memorandum of understanding between the operator and the Secretary.

(2) FIELD WORK AUTHORIZATION.—The Secretary shall issue a field work authorization to a third-party contractor for the purposes of paragraph (1) within a reasonable time.

(3) *REQUEST FOR CONCURRENCE.*—The Secretary shall allow a third-party contractor to submit a request to the State Historic Preservation Office on behalf of the Secretary.

(g) *ADDITIONAL SURFACE USE PERMITS.*—The Secretary may not require an operator that has submitted a notification of permit to drill for which the Secretary did not object to obtain a surface use permit for an action included in the notification of permit to drill.

(h) *SITE INSPECTION.*—The Secretary may not require an operator that has submitted a notification of permit to drill for which the Secretary did not object to submit to a site inspection before commencement of the activities described in the notification of permit to drill.

(i) *FEDERAL ENFORCEMENT.*—The Secretary may conduct inspections of and evaluate activities described in a notification of permit to drill for purposes of bringing an enforcement action. The Secretary may suspend enforcement proceedings if the operator modifies its activities to comply with the notification of permit to drill or obtains an APD for such activities.

(j) *APPLICATION OF NEPA.*—

(1) *NO ACTION BY SECRETARY.*—The decision by the Secretary to take no action under subsection (c)(1)(B)(2) shall not constitute a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(2) *DEVELOPMENT OF REGULATIONS.*—The development of any regulation pursuant to this section shall constitute a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(k) *DEFINITIONS.*—In this section:

(1) *APD.*—The term “APD” means an application to drill or re-enter a well.

(2) *AVAILABLE FEDERAL LAND.*—The term “available Federal land” means Federal land that—

(A) is located within the boundaries of a State;

(B) is not held by the United States in trust for the benefit of a federally recognized Indian Tribe;

(C) is not a unit of the National Park System;

(D) is not a unit of the National Wildlife Refuge System;

(E) is not a Congressionally-approved wilderness area under the Wilderness Act (16 U.S.C. 1131 et seq.); and

(F) is managed by the Director of the Bureau of Land Management or the Chief of the U.S. Forest Service.

(3) *DRILLING OPERATIONS.*—The term “drilling operations” means the drilling or re-entry of a well.

(4) *DRILLING PLAN.*—The term “drilling plan” means a plan containing—

(A) a description of the drilling program;

(B) the surface and projected completion zone location;

(C) pertinent geologic data;

(D) expected hazards;

(E) proposed mitigation measures to address such hazards;

(F) any other information specified in applicable notices or orders; and

(G) any other pertinent data as the Secretary may require.

(5) *SURFACE USE PLAN OF OPERATION.*—The term “surface use plan of operation” means a plan containing—

(A) the road and drill pad location;

(B) details of pad construction;

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

(D) plans for reclamation of the surface;

(E) any other information specified in applicable orders or notices; and

(F) any other pertinent data as the Secretary may require.

SEC. [44.] 45. SHORT TITLE.

This Act may be cited as the “Mineral Leasing Act”.

DISSENTING VIEWS

H.R. 6088 is another in a series of Republican bills designed to make drilling for oil and gas on public land easier and cheaper for large corporations by weakening protections for our air, water, and land, and keeping the public in the dark.

Despite the repeated inaccurate claims from the Majority, oil and gas companies have had no problems receiving drilling permits from the Bureau of Land Management (BLM). Companies hold over 7,200 approved permits that they have not used, the number of permits waiting to be reviewed is lower than at any point in the previous twelve years, and BLM's new permit processing system has brought the review time for drilling permits to under 60 days. For the Majority, it seems, this is not fast enough.

This bill would attempt to speed permit processing by eliminating the need for BLM to process most permits at all, replacing that review with a vague notification system that would allow companies to avoid public and environmental scrutiny of their drilling plans. While the Secretary has the authority to object to these new "Notifications for Permits to Drill" (NPD) within 45 days, the bill is designed to tie the Secretary of the Interior's hands and forbid such objections in nearly all cases.

First, the bill lays out five very broad drilling situations in which objections would be forbidden, including up to 150 acres of new well pads in entirely undeveloped regions as long as oil and gas drilling was considered to be a reasonably foreseeable activity in a land use plan approved in the last 10 years. Land use plans cover huge areas, typically millions of acres, and reasonably foreseeable development scenarios look at potential region-wide impacts, not specific impacts where wells will actually be drilled or roads will actually be built. The fact that NPDs would be allowed for new well pads of up to 10 acres provides incentives for companies to use multiple smaller pads instead of one potentially larger pad, greatly increasing the potential impacts on the surface.

Second, even if the NPD does not fall under one of those five situations, the Secretary would be unable to object if the operator submits an "environmental review" and an "archeological review," but there are no standards in the bill for what those reviews must include.

In all of these cases, there is no requirement that the public be informed about the drilling plans, nor any way for the public to comment on them. There is also no way for the BLM to meet its obligation to manage the land for multiple uses, meaning that hiking, fishing, camping, grazing, recreation, conservation, and other uses of public land will all be at the mercy of oil and gas companies seeking to drill.

The only amendment adopted at markup, offered by Chairman Bishop, made the bill worse by removing the ability for the Sec-

retary to require additional information from drilling companies. Democratic amendments to require additional information on the impact of the bill, tariffs, and oil exports on gas prices, as well as potential conflicts of interest between companies and the Secretary, were defeated by the Majority.

H.R. 6088 will do nothing to help American consumers, but will allow oil and gas companies operating on public land to avoid public scrutiny and environmental protection requirements. This legislation seems to be based on the adage that it is easier to seek forgiveness than to ask permission. Unfortunately, the permanent alteration of pristine landscapes, or the lasting damage from spills and blowouts in fragile areas, cannot be forgiven. For those reasons and more, we strongly oppose this legislation.

RAÚL M. GRIJALVA,
*Ranking Member, Committee
on Natural Resources.*

NYDIA M. VELÁZQUEZ.

A. DONALD MCEACHIN.

