

116TH CONGRESS
2D SESSION

S. 4642

To amend the Mineral Leasing Act to ensure sufficient bonding and complete and timely reclamation of land and water disturbed by Federal and Indian oil and gas production, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 2020

Mr. BENNET introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Mineral Leasing Act to ensure sufficient bonding and complete and timely reclamation of land and water disturbed by Federal and Indian oil and gas production, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Oil and Gas Bonding Reform and Orphaned Well Reme-
6 diation Act”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—ORPHANED WELL REMEDIATION

Sec. 101. Orphaned well remediation program.

TITLE II—FEDERAL ONSHORE OIL AND GAS RECLAMATION BONDING PROGRAM

Sec. 201. Declaration of policy.

Sec. 202. Regulation of surface-disturbing activities.

TITLE III—MISCELLANEOUS

Sec. 301. Cost recovery.

Sec. 302. Regulations.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) according to the Interstate Oil and Gas
4 Compact Commission, there are in existence not
5 fewer than 56,600 orphaned well sites, and as many
6 as 746,000 undocumented orphaned well sites,
7 across the United States on Federal, State, Tribal,
8 and private land;

9 (2)(A) orphaned well sites—

10 (i) pose significant public health, safety,
11 and environmental risks; and

12 (ii) should be remediated; but

13 (B) there are no identified responsible parties
14 to provide for the remediation of those sites;

15 (3) it is reasonable for the Federal Govern-
16 ment—

17 (A) to provide financial resources to States
18 and Indian Tribes to rectify the long-term pub-

1 lic health, safety, and environmental risks de-
2 scribed in paragraph (2)(A)(i);

3 (B) to support the creation of jobs relating
4 to the remediation and reclamation of orphaned
5 well sites; and

6 (C) to update policies to ensure that wells
7 are not orphaned in the future;

8 (4) under the Mineral Leasing Act (30 U.S.C.
9 181 et seq.), the Secretary of the Interior (referred
10 to in this Act as the “Secretary”) is required—

11 (A) to ensure the complete and timely rec-
12 lamation of all Federal onshore oil and gas
13 lease tracts; and

14 (B) to secure financial assurances in the
15 form of bonds, sureties, or other approved fi-
16 nancial arrangements for remediation, reclama-
17 tion, and well closure;

18 (5) with respect to the Federal onshore oil and
19 gas leasing program, the Secretary—

20 (A) is required—

21 (i) regularly to review existing onshore
22 oil and gas financial assurances; and

23 (ii) to increase the amount of those
24 assurances, as necessary; but

1 (B) in practice, often fails to carry out the
2 activities described in subparagraph (A);

3 (6) the Secretary—

4 (A) implements well and financial assur-
5 ance adequacy review policies inconsistently
6 across field offices of the Department of the In-
7 terior;

8 (B) has failed to track systematically data
9 relating to potential liabilities and the adequacy
10 of financial assurances; and

11 (C) does not maintain information relating
12 to actual reclamation costs incurred for inac-
13 tive, orphaned, or inadequately reclaimed wells
14 and lease tracts;

15 (7) due to the shortcomings in the required
16 minimum financial assurance amounts and the inef-
17 fectiveness of the Secretary in tracking and review-
18 ing those financial assurances, the cost of reclaiming
19 existing Federal onshore oil and gas wells and lease
20 tracts far exceeds the amounts posted as financial
21 assurance; and

22 (8) the inadequacy of the Secretary in the ad-
23 ministration of financial assurances for Federal on-
24 shore oil and gas activities—

1 (A) poses a threat to land, water, and
 2 other resources; and

3 (B) is a major financial liability to the tax-
 4 payers of the United States, who are often re-
 5 sponsible for the costs of reclaiming onshore oil
 6 and gas wells and lease tracts that are inactive,
 7 orphaned, or inadequately reclaimed by lessees.

8 **TITLE I—ORPHANED WELL** 9 **REMEDIATION**

10 **SEC. 101. ORPHANED WELL REMEDIATION PROGRAM.**

11 (a) IN GENERAL.—Section 17 of the Mineral Leasing
 12 Act (30 U.S.C. 226) is amended by adding at the end the
 13 following:

14 “(q) ORPHANED WELL REMEDIATION PROGRAM.—

15 “(1) DEFINITIONS.—In this subsection:

16 “(A) INACTIVE.—The term ‘inactive’, with
 17 respect to a well under an oil or gas lease
 18 issued under this Act, has the meaning given
 19 the term in subsection (g)(1).

20 “(B) ORPHANED.—The term ‘orphaned’,
 21 with respect to a well or well site under an oil
 22 or gas lease issued under this Act, means that
 23 the owner or operator of the well or well site—

24 “(i) cannot be located; or

1 “(ii) is unable to plug and abandon
2 the well.

3 “(C) RESPONSIBLE PARTY.—The term ‘re-
4 sponsible party’, with respect to a well under a
5 lease issued under this Act, has the meaning
6 given the term in subsection (g)(1).

7 “(D) SECRETARY.—The term ‘Secretary’
8 means the Secretary of the Interior.

9 “(2) ESTABLISHMENT.—Not later than 90 days
10 after the date of enactment of this subsection, the
11 Secretary shall establish, in accordance with this
12 subsection—

13 “(A) in cooperation with the Secretary of
14 Agriculture, a program to remediate, reclaim,
15 and close orphaned oil and gas wells and well
16 sites located on land administered by the land
17 management agencies of the Department of the
18 Interior and the Department of Agriculture, re-
19 spectively; and

20 “(B) a program under which the Secretary
21 shall distribute 75 percent of the amounts made
22 available under paragraph (9) to States and In-
23 dian tribes that have submitted to the Secretary
24 an application to remediate, reclaim, and close
25 orphaned oil and gas wells and well sites on

1 land under the jurisdiction of the States and
2 Indian tribes.

3 “(3) ACTIVITIES.—The programs established
4 under paragraph (2) shall—

5 “(A) use existing and updated inventories
6 of orphaned well sites to establish priority for
7 the distribution of funds under the programs
8 for activities, including—

9 “(i) remediating, reclaiming, and clos-
10 ing orphaned wells and well sites;

11 “(ii) remediating and reclaiming re-
12 lated well pads;

13 “(iii) reclaiming related access roads;
14 and

15 “(iv) restoring land, water, and habi-
16 tat impacted by orphaned wells and the
17 prior operation of the wells;

18 “(B) provide a public accounting of the
19 costs of remediation, reclamation, and closure
20 for each applicable orphaned oil or gas well and
21 well site; and

22 “(C) after remediation, reclamation, and
23 closure of an orphaned well or well site, seek—

24 “(i) to determine the identity, if un-
25 known, of any potential responsible party

1 associated with the orphaned well or well
 2 site, or a surety or guarantor of such a re-
 3 sponsible party, to the extent such infor-
 4 mation can be ascertained; and

5 “(ii) to obtain from responsible par-
 6 ties reimbursement for applicable expendi-
 7 tures, to the maximum extent practicable.

8 “(4) COOPERATION AND CONSULTATION.—In
 9 carrying out the programs established under para-
 10 graph (2), the Secretary shall—

11 “(A) work cooperatively with—

12 “(i) the Secretary of Agriculture; and

13 “(ii) each State, local government,
 14 and Indian tribe within the jurisdiction of
 15 which an orphaned well site on Federal
 16 land is located; and

17 “(B) consult with—

18 “(i) affected States, local govern-
 19 ments, and Indian tribes;

20 “(ii) the Secretary of Energy; and

21 “(iii) the Interstate Oil and Gas Com-
 22 pact Commission.

23 “(5) REPORT TO CONGRESS.—Not later than 1
 24 year after the date of enactment of this subsection,
 25 and not less frequently than once every 2 years

1 thereafter, the Secretary, in cooperation with the
2 Secretary of Agriculture and in consultation with af-
3 fected States and Indian tribes, shall submit to Con-
4 gress a report describing the expenditures under,
5 and the progress and achievements of, the programs
6 established under paragraph (2).

7 “(6) USE OF FUNDS.—

8 “(A) INITIAL PERIOD.—For the first 2 fis-
9 cal years beginning after the date of enactment
10 of this subsection, the funds made available to
11 remediate, reclaim, and close orphaned wells
12 and well sites under the program established
13 under paragraph (2)(B) shall be allocated based
14 on a demonstration of—

15 “(i) identified orphaned wells and well
16 sites in need of remediation, reclamation,
17 or closure, with a priority for sites posing
18 the greatest adverse impacts to—

19 “(I) public health and safety; and

20 “(II) land, water, and other re-
21 sources; and

22 “(ii) adequate programmatic and ad-
23 ministrative capacity to expend the funds
24 in a timely and effective manner.

“(B) SUBSEQUENT FISCAL YEARS.—For the third fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter, the Secretary shall make funds available under the program established under paragraph (2)(B) based on—

“(i) the factors described in subparagraph (A); and

“(ii) a determination by the Secretary that an affected State or Indian tribe is—

“(I) using bonds or other financial assurances that will fully cover costs associated with remediating and reclaiming orphaned oil and gas wells under the jurisdiction of the State or Indian tribe; or

“(II) adopting and using—

“(aa) bonds described in subclause (I); or

“(bb) other financial assurances.

“(C) UNUSED FUNDS.—In any case in which the Secretary determines that, for any fiscal year, a State or Indian tribe cannot effectively use any portion of the funds that other-

1 wise would be made available to the State or
2 Indian tribe under subparagraph (A) or (B),
3 the Secretary shall use those funds—

4 “(i) to remediate, reclaim, and close
5 orphaned wells and well sites on land ad-
6 ministered by the Secretary or the Sec-
7 retary of Agriculture;

8 “(ii) to review and update any inven-
9 tory of orphaned or inactive wells, includ-
10 ing wells previously identified as idle or
11 abandoned, on land described in clause (i);

12 “(iii) to carry out subsection
13 (g)(6)(E);

14 “(iv) to carry out paragraph (8); or

15 “(v)(I) to determine the identity of
16 any potential responsible party associated
17 with an orphaned well or well site, or a
18 surety or guarantor of such a responsible
19 party, to the extent such information can
20 be ascertained; and

21 “(II) to obtain from such a respon-
22 sible party reimbursement for applicable
23 expenditures, to the maximum extent prac-
24 ticable.

1 “(7) LIMITATION ON RE-LEASING.—Before con-
2 ducting any oil or gas development or production
3 leasing of Federal land that contains a well or well
4 site that was remediated, reclaimed, or closed pursu-
5 ant to this Act, the Secretary, or the Secretary of
6 Agriculture with respect to National Forest System
7 land, shall determine that—

8 “(A) re-leasing and development of the
9 land will not degrade the restored conditions ac-
10 complished pursuant to the remediation, rec-
11 lamation, or closure;

12 “(B) the land achieves compliance with all
13 applicable standards adopted pursuant to sub-
14 section (g)(5) prior to being re-leased; and

15 “(C) the party seeking to re-lease the land
16 has provided to the Secretary a specific jus-
17 tification of the reasons why the land should be
18 re-leased.

19 “(8) DATA COLLECTION.—

20 “(A) IN GENERAL.—Not later than 2 years
21 after the date of enactment of this subsection,
22 the Secretary and the Secretary of Agriculture
23 shall jointly develop, and make publicly avail-
24 able, a computer database to provide centralized
25 data relating to operations, reclamation activi-

1 ties, and financial assurances for each oil and
2 gas lease in effect under this Act.

3 “(B) INCLUSIONS.—The database under
4 subparagraph (A) shall include, with respect to
5 each lease described in that subparagraph, in-
6 formation relating to—

7 “(i) the number, location, and status
8 of each well subject to the lease;

9 “(ii) the number, location, and status
10 of each inactive and orphaned well subject
11 to the lease, and the length of time that
12 each such well has not been producing;

13 “(iii) the names of all responsible par-
14 ties for each well, including lessees and op-
15 erators;

16 “(iv) whether the lease is part of a
17 unit;

18 “(v) the amount of the financial as-
19 surance that has been established for the
20 lease;

21 “(vi) the history of financial assur-
22 ance amounts for the lease, including dates
23 of review and requested increases;

24 “(vii) inspection, violations, and en-
25 forcement actions taken with respect to the

1 lease, including resolution of each violation,
2 if any;

3 “(viii) whether the financial assurance
4 on the lease has been released;

5 “(ix) payment status for royalties,
6 rents, and fees; and

7 “(x) any additional information re-
8 quired to be collected pursuant to sub-
9 section (g)(6).

10 “(C) NOTIFICATION.—The Secretary
11 shall—

12 “(i) ensure that the database under
13 subparagraph (A) is made available to
14 each field office of the Bureau of Land
15 Management and the Forest Service, as
16 applicable; and

17 “(ii) provide automatic and timely no-
18 tification, on a lease-by-lease basis, of ap-
19 plicable requirements and deadlines to re-
20 view financial assurances and inactive well
21 status, in accordance with subsection (g).

22 “(D) PROVISION OF DATA AT EXPENSE OF
23 LESSEE.—

24 “(i) IN GENERAL.—Except as pro-
25 vided in clause (ii), the Secretary may re-

1 quire that data for the database under
2 subparagraph (A) shall be provided and
3 entered into the database—

4 “(I) by the applicable lessee; and

5 “(II) at the expense of the lessee.

6 “(ii) INSPECTION AND ENFORCEMENT
7 ACTIONS.—Any relevant data relating to a
8 Federal inspection or enforcement action
9 shall be provided and entered into the
10 database under subparagraph (A) by the
11 applicable Federal enforcement official.

12 “(iii) DATA QUALITY.—The Secretary
13 shall carry out such activities as the Sec-
14 retary determines to be necessary to en-
15 sure the quality of the data included in the
16 database under subparagraph (A).

17 “(9) FUNDING.—

18 “(A) IN GENERAL.—Notwithstanding any
19 other provision of law, from the Federal share
20 of royalty revenues deposited into the Treasury
21 pursuant to section 35, the Secretary of the
22 Treasury shall transfer to the Secretary to
23 carry out the programs established under para-
24 graph (2), to remain available until expended—

1 “(i) on October 1, 2020,
2 \$500,000,000;

3 “(ii) on October 1, 2021,
4 \$500,000,000; and

5 “(iii) on October 1, 2022, and on each
6 October 1 thereafter through October 1,
7 2029, \$250,000,000.

8 “(B) RECEIPT AND ACCEPTANCE.—The
9 Secretary shall be entitled to receive, shall ac-
10 cept, and shall use to carry out this subsection
11 the funds transferred under subparagraph (A),
12 without further appropriation.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 349 of the Energy Policy Act of
15 2005 (42 U.S.C. 15907) is amended by striking the
16 section designation and heading and all that follows
17 through “Out of any” in subsection (i) and inserting
18 the following:

19 **“SEC. 349. FEDERALLY DRILLED WELLS.**

20 “Out of any”.

21 (2) The table of contents for the Energy Policy
22 Act of 2005 (Public Law 109–58; 119 Stat. 596) is
23 amended by striking the item relating to section 349
24 and inserting the following:

“Sec. 349. Federally drilled wells.”.

1 **TITLE II—FEDERAL ONSHORE**
2 **OIL AND GAS RECLAMATION**
3 **BONDING PROGRAM**

4 **SEC. 201. DECLARATION OF POLICY.**

5 Congress declares that it is the policy of the United
6 States that—

7 (1) pursuant to this title and the amendments
8 made by this title, the Secretary, and the Secretary
9 of Agriculture with respect to National Forest Sys-
10 tem land, should—

11 (A) require the posting by holders of oil or
12 gas leases under the Mineral Leasing Act (30
13 U.S.C. 181 et seq.) or the Mineral Leasing Act
14 for Acquired Lands (30 U.S.C. 351 et seq.) of
15 financial assurances that are sufficient to pay
16 for the actual costs of remediating, reclaiming,
17 and closing onshore oil and gas wells, well sites,
18 and lease tracts; and

19 (B) implement a system of tracking and
20 reviewing the financial assurances described in
21 subparagraph (A) that ensures ongoing ade-
22 quacy and public transparency;

23 (2) in ensuring robust onshore oil and gas fi-
24 nancial assurances under paragraph (1), the Sec-
25 retary and the Secretary of Agriculture will—

1 (A) better protect the land, water, and
 2 other resources of the United States; and

3 (B) reduce the financial risks to taxpayers
 4 of paying for inadequately reclaimed onshore oil
 5 and gas wells and lease tracts; and

6 (3) in administering this title and the amend-
 7 ments made by this title, the Secretary, and the Sec-
 8 retary of Agriculture with respect to National Forest
 9 System land, should ensure that the actions of the
 10 applicable Secretary—

11 (A) are in accordance with the goals of
 12 multiple-use management; and

13 (B) will benefit the fiscal interests of the
 14 United States.

15 **SEC. 202. REGULATION OF SURFACE-DISTURBING ACTIVI-**
 16 **TIES.**

17 Section 17(g) of the Mineral Leasing Act (30 U.S.C.
 18 226(g)) is amended—

19 (1) in the sixth sentence—

20 (A) by striking “such entity” and inserting
 21 “the responsible party”; and

22 (B) by striking “Once the entity has com-
 23 plied with the” and inserting the following:

1 “(C) ISSUANCE OF LEASE AFTER COMPLI-
 2 ANCE.—On compliance by a responsible party
 3 under this paragraph with each”;

4 (2) in the fifth sentence, by striking “Prior to
 5 making such determination with respect to any such
 6 entity the concerned Secretary shall provide such en-
 7 tity with” and inserting the following:

8 “(B) REQUIREMENT FOR NOTICE AND OP-
 9 PORTUNITY TO COMPLY.—Before making a de-
 10 termination under subparagraph (A) with re-
 11 spect to a responsible party, the Secretary, or
 12 the Secretary of Agriculture with respect to Na-
 13 tional Forest System land, shall provide to the
 14 responsible party”;

15 (3) by striking the fourth sentence and insert-
 16 ing the following:

17 “(7) FAILURE OR REFUSAL TO COMPLY.—

18 “(A) IN GENERAL.—The Secretary, or the
 19 Secretary of Agriculture with respect to Na-
 20 tional Forest System land, shall not issue, or
 21 approve the assignment of, any lease under this
 22 section to a responsible party during any period
 23 in which, as determined by the applicable Sec-
 24 retary, the responsible party has failed or re-
 25 fused to comply in any material respect with a

1 reclamation requirement or other standard es-
 2 tablished under this section that is applicable to
 3 any other lease of the responsible party.”; and
 4 (4) by striking the subsection designation and
 5 all that follows through “operations on the lease.”
 6 and inserting the following:

7 “(g) REGULATION OF SURFACE-DISTURBING ACTIVI-
 8 TIES.—

9 “(1) DEFINITIONS.—In this subsection:

10 “(A) INACTIVE.—The term ‘inactive’, with
 11 respect to a well or well site under an oil or gas
 12 lease issued under this Act, means the well or
 13 well site is not—

14 “(i) currently producing oil or gas, as
 15 applicable, in paying quantities; or

16 “(ii) actively aiding in the production
 17 of oil or gas, as applicable, in paying quan-
 18 tities.

19 “(B) ORPHANED.—The term ‘orphaned’,
 20 with respect to a well or well site under an oil
 21 or gas lease issued under this Act, has the
 22 meaning given the term in subsection (q)(1).

23 “(C) RESPONSIBLE PARTY.—

24 “(i) IN GENERAL.—The term ‘respon-
 25 sible party’, with respect to a well or well

1 site under an oil or gas lease issued under
 2 this Act, means an individual or entity (in-
 3 cluding a lessee or operator) that is or will
 4 be responsible for—

5 “(I) the remediation, reclama-
 6 tion, and closure of the well or well
 7 site; or

8 “(II) the payment of financial as-
 9 surance for the well or well site in ac-
 10 cordance with paragraph (4).

11 “(ii) INCLUSIONS.—The term ‘respon-
 12 sible party’ includes—

13 “(I) an association, corporation,
 14 subsidiary, or affiliate of an individual
 15 or entity described in clause (i); and

16 “(II) any person controlled by, or
 17 under common control with, an indi-
 18 vidual or entity described in clause (i).

19 “(D) SECRETARY.—The term ‘Secretary’
 20 means the Secretary of the Interior.

21 “(2) REGULATION OF USE AND ACTIVITIES.—
 22 The Secretary, or the Secretary of Agriculture with
 23 respect to National Forest System land, shall—

1 “(A) regulate all use and activities con-
 2 ducted pursuant to any lease for oil or gas
 3 issued under this Act; and

4 “(B) determine the remediation, reclama-
 5 tion, well closure, and other activities that the
 6 responsible party shall be required to carry out
 7 in the interest of conservation of land, water,
 8 and surface resources, including resources with
 9 recreation, range, timber, mineral, watershed,
 10 fish or wildlife, natural scenic, scientific, or his-
 11 torical value.

12 “(3) RECLAMATION AND OPERATIONS PLAN RE-
 13 QUIRED.—

14 “(A) IN GENERAL.—Each application for a
 15 permit to drill submitted for a lease issued
 16 under this Act shall include a plan of operations
 17 for surface use, disturbance, and reclamation
 18 that covers all proposed activities and oper-
 19 ations within the lease area.

20 “(B) INCLUSIONS.—Each plan of oper-
 21 ations under subparagraph (A) shall—

22 “(i) specify—

23 “(I) the location of all relevant
 24 facilities, roads, drill pads, trenches,
 25 and rights-of-way;

1 “(II) details regarding drill pad
2 construction, methods for contain-
3 ment, and disposal of waste material;

4 “(III) the identification, location,
5 and condition of any inactive or or-
6 phaned well sites on land covered by
7 the lease; and

8 “(IV) such other information as
9 the Secretary, or the Secretary of Ag-
10 riculture with respect to National
11 Forest System land, may require; and

12 “(ii) include the interim reclamation
13 plan and final reclamation plan developed
14 under subparagraph (C).

15 “(C) INTERIM AND FINAL RECLAMATION
16 PLANS.—

17 “(i) INTERIM RECLAMATION PLAN.—

18 “(I) IN GENERAL.—Each appli-
19 cant for a permit to drill under sub-
20 paragraph (A) shall develop for sub-
21 mission with the plan of operations of
22 the applicant under that subpara-
23 graph an interim reclamation plan
24 that specifies the reclamation activi-
25 ties that the applicant will carry out

1 to address the land, water, and re-
2 sources (including resources with
3 recreation, range, timber, mineral, wa-
4 tershed, fish or wildlife, natural sce-
5 nic, scientific, or historical value) im-
6 pacted by activities carried out pursu-
7 ant to the permit to drill that are not
8 needed for active operations.

9 “(II) REQUIREMENT.—The Sec-
10 retary, or the Secretary of Agriculture
11 with respect to National Forest Sys-
12 tem land, shall—

13 “(aa) review each interim
14 reclamation plan submitted under
15 subclause (I) at regular intervals;
16 and

17 “(bb) as the applicable Sec-
18 retary determines to be nec-
19 essary, require the amendment
20 and reapproval by the applicable
21 Secretary of the interim reclama-
22 tion plan.

23 “(ii) FINAL RECLAMATION PLAN.—

24 “(I) IN GENERAL.—Each appli-
25 cant for a permit to drill under sub-

1 paragraph (A) shall develop for sub-
2 mission with the plan of operations of
3 the applicant under that subpara-
4 graph a final reclamation plan that
5 includes a detailed description of the
6 reclamation activities the applicant
7 will carry out prior to final abandon-
8 ment or cessation of oil and gas oper-
9 ations with respect to all land, water,
10 and resources (including resources
11 with recreation, range, timber, min-
12 eral, watershed, fish or wildlife, nat-
13 ural scenic, scientific, or historical
14 value) impacted by activities carried
15 out pursuant to the permit to drill.

16 “(II) REVIEW AND APPROVAL.—

17 The Secretary, or the Secretary of Ag-
18 riculture with respect to National
19 Forest System land, shall review and
20 approve a final reclamation plan
21 under subclause (I) only after deter-
22 mining that the final reclamation plan
23 is consistent with the standards pro-
24 mulgated pursuant to paragraph (5).

1 “(D) ANALYSIS AND APPROVAL RE-
 2 QUIRED.—The Secretary, or the Secretary of
 3 Agriculture with respect to National Forest
 4 System land, shall not grant a permit to drill
 5 under this Act unless the applicable Secretary
 6 has analyzed and approved the plan of oper-
 7 ations submitted with the application for the
 8 permit under subparagraph (A), including the
 9 interim reclamation plan and the final reclama-
 10 tion plan under subparagraph (C).

11 “(4) FINANCIAL ASSURANCES.—

12 “(A) REQUIREMENT.—

13 “(i) IN GENERAL.—The Secretary, or
 14 the Secretary of Agriculture with respect
 15 to National Forest System land, shall pro-
 16 mulgate regulations to require that a fi-
 17 nancial assurance shall be provided by the
 18 lessee prior to the commencement of activi-
 19 ties on any lease issued under this Act to
 20 ensure the complete and timely remedi-
 21 ation and reclamation of any land, water,
 22 or other resources (including resources
 23 with recreation, range, timber, mineral,
 24 watershed, fish or wildlife, natural scenic,
 25 scientific, or historical value) adversely af-

1 fected by lease activities and operations
 2 after the abandonment or cessation of oil
 3 and gas operations on the lease.

4 “(ii) ELIMINATION OF NATIONWIDE
 5 FINANCIAL ASSURANCES.—

6 “(I) IN GENERAL.—A lessee may
 7 not provide a financial assurance
 8 under clause (i) on a nationwide basis
 9 for all leases of the lessee in the
 10 United States.

11 “(II) REQUIREMENT.—With re-
 12 spect to any nationwide financial as-
 13 surance in effect on the date of enact-
 14 ment of the Oil and Gas Bonding Re-
 15 form and Orphaned Well Remediation
 16 Act, the Secretary, or the Secretary of
 17 Agriculture with respect to National
 18 Forest System land, shall require
 19 that, not later than 1 year after that
 20 date of enactment, the lessee shall
 21 post financial assurances in accord-
 22 ance with this paragraph.

23 “(B) FORM.—

24 “(i) IN GENERAL.—The financial as-
 25 surance under subparagraph (A) shall be

provided in the form of a surety, bond, 1
or more letters of credit, 1 or more certifi- 2
cates of deposit, or cash, subject to the ap- 3
proval of the Secretary, or the Secretary of 4
Agriculture with respect to National Forest 5
System land. 6

“(ii) LIMITATION.—Self-bonding shall 7
not be an acceptable form of financial as- 8
surance under subparagraph (A). 9

“(C) AMOUNT.— 10

“(i) IN GENERAL.—Subject to clause 11
(ii), the amount of a financial assurance 12
required under this paragraph shall be the 13
amount determined by the Secretary, or 14
the Secretary of Agriculture with respect 15
to National Forest System land, to be suf- 16
ficient to ensure the complete and timely 17
remediation and reclamation required 18
under subparagraph (A)(i) if the work 19
were to be performed by the applicable 20
Secretary in the event of forfeiture by the 21
lessee. 22

“(ii) MINIMUM AMOUNTS.— 23

“(I) IN GENERAL.—Subject to 24
subclause (II), the minimum amount 25

1 of a financial assurance required
2 under this paragraph shall be not less
3 than—

4 “(aa) \$75,000, in the case
5 of a financial assurance for sur-
6 face-disturbing activities of a re-
7 sponsible party on an individual
8 oil or gas lease; or

9 “(bb) \$200,000, in the case
10 of a financial assurance for all oil
11 and gas leases of a responsible
12 party in a State.

13 “(II) ADJUSTMENTS FOR INFLA-
14 TION.—Not later than 3 years after
15 the date of enactment of the Oil and
16 Gas Bonding Reform and Orphaned
17 Well Remediation Act, and not less
18 frequently than once every 3 years
19 thereafter, the Secretary, or the Sec-
20 retary of Agriculture with respect to
21 National Forest System land, shall
22 adjust for inflation the minimum
23 amounts under items (aa) and (bb) of
24 subclause (I).

1 “(iii) ADDITIONAL FACTORS.—The
2 Secretary, or the Secretary of Agriculture
3 with respect to National Forest System
4 land, shall establish the level of a financial
5 assurance required under this paragraph
6 above the applicable minimum level re-
7 quired under clause (ii) as the applicable
8 Secretary determines to be appropriate or
9 necessary to ensure the complete and time-
10 ly remediation and reclamation required
11 under subparagraph (A)(i), after taking
12 into consideration the following factors:

13 “(I) The depth of each relevant
14 proposed wellbore.

15 “(II) The presence of other re-
16 sources (including resources with
17 recreation, range, timber, mineral, wa-
18 tershed, fish or wildlife, natural sce-
19 nic, scientific, or historical value).

20 “(III) The number of wells to be
21 drilled on the lease.

22 “(IV) The number and percent-
23 age of low-producing and inactive
24 wells on—

1 “(aa) the applicable lease;
2 and

3 “(bb) any other leases held
4 by each applicable lessee, oper-
5 ator, and responsible party.

6 “(V) Any current or past viola-
7 tions by each responsible party.

8 “(VI) The anticipated condition
9 of the applicable well site and the ex-
10 tent of the remediation and reclama-
11 tion to be required.

12 “(VII) The ability of each re-
13 sponsible party to fully carry out that
14 remediation and reclamation.

15 “(VIII) Such other factors as the
16 applicable Secretary determines to be
17 relevant.

18 “(D) REVIEW.—

19 “(i) PROSPECTIVE.—

20 “(I) IN GENERAL.—With respect
21 to any financial assurance provided
22 after the date of enactment of the Oil
23 and Gas Bonding Reform and Or-
24 phaned Well Remediation Act, not
25 less frequently than once every 5

1 years, and before the applicable lease
2 is sold or transferred, the Secretary,
3 or the Secretary of Agriculture with
4 respect to National Forest System
5 land, shall review the financial assur-
6 ance to determine, after taking into
7 consideration the factors described in
8 subparagraph (C)(iii), whether the
9 amount of the financial assurance is
10 adequate to ensure the complete and
11 timely remediation and reclamation
12 required under subparagraph (A)(i).

13 “(II) AUTHORITY TO IN-
14 CREASE.—If the Secretary, or the
15 Secretary of Agriculture with respect
16 to National Forest System land, de-
17 termines under subclause (I) that the
18 amount of a financial assurance is not
19 adequate, the applicable Secretary
20 shall increase the amount of the fi-
21 nancial assurance in accordance with
22 subparagraph (C), including making
23 an adjustment for inflation, as appro-
24 priate.

25 “(ii) RETROSPECTIVE.—

1 “(I) IN GENERAL.—Not later
2 than 1 year after the date of enact-
3 ment of the Oil and Gas Bonding Re-
4 form and Orphaned Well Remediation
5 Act, and not less frequently than once
6 every 5 years thereafter, the Sec-
7 retary, or the Secretary of Agriculture
8 with respect to National Forest Sys-
9 tem land, shall—

10 “(aa) review the sufficiency
11 of each financial assurance pro-
12 vided before that date of enact-
13 ment;

14 “(bb) determine, after tak-
15 ing into consideration the factors
16 described in subparagraph
17 (C)(iii), whether the amount of
18 the financial assurance is ade-
19 quate to ensure the complete and
20 timely remediation and reclama-
21 tion required under subparagraph
22 (A)(i); and

23 “(cc) provide to each respon-
24 sible party a written notice, in-
25 cluding any relevant findings, re-

1 lating to the determination under
2 item (bb).

3 “(II) AUTHORITY TO IN-
4 CREASE.—If the Secretary, or the
5 Secretary of Agriculture with respect
6 to National Forest System land, de-
7 termines under subclause (I) that the
8 amount of a financial assurance is not
9 adequate, the applicable Secretary
10 shall increase the amount of the fi-
11 nancial assurance in accordance with
12 subparagraph (C), including making
13 an adjustment for inflation, as appro-
14 priate.

15 “(E) RELEASE.—On request, and after no-
16 tice and opportunity for public comment, in-
17 spection by the Secretary, or the Secretary of
18 Agriculture with respect to National Forest
19 System land, and consultation with the Admin-
20 istrator of the Environmental Protection Agen-
21 cy, the applicable Secretary may release, in
22 whole or in part, the financial assurance re-
23 quired for a lease under this paragraph if the
24 Secretary determines that—

1 “(i) the remediation, reclamation, or
2 well closure covered by the financial assur-
3 ance has been completed in accordance
4 with—

5 “(I) subparagraph (A)(i); and

6 “(II) the standards established
7 under paragraph (5); and

8 “(ii) all other applicable Federal re-
9 quirements have been met.

10 “(5) STANDARDS.—

11 “(A) IN GENERAL.—The Secretary and the
12 Secretary of Agriculture shall jointly promul-
13 gate regulations to establish uniform standards
14 for the complete and timely reclamation of land,
15 water, and other resources (including resources
16 with recreation, range, timber, mineral, water-
17 shed, fish or wildlife, natural scenic, scientific,
18 or historical value) adversely impacted, directly
19 or indirectly, by oil and gas activities and oper-
20 ations (including any prior remediation or rec-
21 lamation efforts that fail to achieve compliance
22 with the standards described in subparagraph
23 (B)) to the condition that existed prior to the
24 adverse impact, including—

1 “(i) standards for the interim rec-
 2 lamation plans and final reclamation plans
 3 required under paragraph (3)(C); and

4 “(ii) timelines for—

5 “(I) commencing and completing
 6 the closure of wells and related reme-
 7 diation and reclamation activities; and

8 “(II) achieving compliance with
 9 the standards described in subpara-
 10 graph (B).

11 “(B) REQUIREMENTS.—The standards
 12 under subparagraph (A) shall include standards
 13 for—

14 “(i) the remediation and reclamation
 15 of natural vegetation and hydrology;

16 “(ii) habitat restoration;

17 “(iii) salvage, storage, and reuse of
 18 topsoils;

19 “(iv) erosion control;

20 “(v) reclamation of access roads;

21 “(vi) control of invasive species and
 22 noxious weeds; and

23 “(vii) natural contouring.

24 “(6) INACTIVE WELLS.—

1 “(A) IN GENERAL.—Any lessee the lease of
2 which includes an inactive well (except for a
3 well with an approved suspension of operations
4 pursuant to section 39) shall, as soon as prac-
5 ticable after determining that the well has been
6 inactive for a period of more than 30 consecu-
7 tive days—

8 “(i) bring the inactive well into—

9 “(I) production in paying quan-
10 tities; or

11 “(II) the active aid of production
12 in paying quantities;

13 “(ii) submit to the Secretary, or the
14 Secretary of Agriculture with respect to
15 National Forest System land, an applica-
16 tion for a delay in the remediation, rec-
17 lamation, and permanent closure of the
18 well in accordance with this subparagraph;
19 or

20 “(iii) permanently close the well and
21 complete the timely remediation and rec-
22 lamation required under paragraphs
23 (4)(A)(i) and (5).

24 “(B) PERIOD OF DELAY.—

1 “(i) IN GENERAL.—Subject to clause
 2 (ii), the Secretary, or the Secretary of Ag-
 3 riculture with respect to National Forest
 4 System land, may approve an application
 5 under subparagraph (A)(ii) for a delay in
 6 the remediation, reclamation, and perma-
 7 nent closure of an inactive well under sub-
 8 paragraph (A) for a period of not more
 9 than 1 year.

10 “(ii) EXTENSIONS.—

11 “(I) IN GENERAL.—Subject to
 12 subclause (II) and subparagraph (D),
 13 on receipt of application by a lessee
 14 under subparagraph (A)(ii), the Sec-
 15 retary, or the Secretary of Agriculture
 16 with respect to National Forest Sys-
 17 tem land, may approve 1 or more ad-
 18 ditional delays in the remediation, rec-
 19 lamation, and permanent closure of
 20 an inactive well, each of which addi-
 21 tional delays shall be for a period of
 22 not more than 1 year.

23 “(II) REQUIREMENT.—Before
 24 approving an application for an addi-
 25 tional delay under subclause (I), the

Secretary, or the Secretary of Agriculture with respect to National Forest System land, shall—

“(aa) review the amount of the financial assurance for the applicable lease; and

“(bb) increase the amount to ensure the complete and timely remediation, reclamation, and permanent closure required under paragraph (4)(A)(i) if the work were to be performed by the applicable Secretary in the event of forfeiture by the lessee.

“(C) APPLICATION REQUIREMENTS.—

“(i) IN GENERAL.—Each application of a lessee to delay permanent abandonment and reclamation of a well under subparagraph (A)(ii) or (B)(ii) shall include a description of—

“(I) the period of time during which the well has been inactive;

“(II) the justification for delaying permanent abandonment and reclamation of the well;

1 “(III) the probable duration of
2 the delay;

3 “(IV) the means by which the
4 wellbore is to be protected during the
5 delay; and

6 “(V) the contemplated eventual
7 disposition of the well.

8 “(ii) SPECIAL REQUIREMENTS FOR
9 APPLICATIONS FOR EXTENSION.—Each ap-
10 plication for a delay under subparagraph
11 (A)(ii) or (B)(ii) shall demonstrate,
12 through test results, that the applicable
13 well is—

14 “(I) mechanically sound; and

15 “(II) capable of—

16 “(aa) production in paying
17 quantities; or

18 “(bb) actively aiding in pro-
19 duction in paying quantities.

20 “(D) PROHIBITION.—

21 “(i) IN GENERAL.—No well may be
22 inactive for a period of more than 5 years.

23 “(ii) REQUIREMENT.—With respect to
24 a well under a lease issued under this Act

1 that has been inactive for a period of more
2 than 5 years, the applicable lessee shall—

3 “(I)(aa) bring the inactive well
4 into—

5 “(AA) production in paying
6 quantities; or

7 “(BB) the active aid of pro-
8 duction in paying quantities; and

9 “(bb) pay any related royalties,
10 rentals, or other fees due; or

11 “(II)(aa) permanently close the
12 well; and

13 “(bb) complete the timely remedi-
14 ation and reclamation required under
15 paragraph (4)(A)(i).

16 “(iii) ACTION BY SECRETARY.—In any
17 case in which a lessee has not carried out
18 any required action under clause (ii) with
19 respect to a well described in that clause,
20 the Secretary, or the Secretary of Agri-
21 culture with respect to National Forest
22 System land, shall execute forfeiture of the
23 financial assurance associated with the
24 well.

25 “(E) INVENTORY.—

1 “(i) IN GENERAL.—Not later than
 2 180 days after the date of enactment of
 3 the Oil and Gas Bonding Reform and Or-
 4 phaned Well Remediation Act, and not less
 5 frequently than annually thereafter, the
 6 Secretary, or the Secretary of Agriculture
 7 with respect to National Forest System
 8 land, shall complete an inventory of all
 9 wells that, as of the date of publication of
 10 the inventory—

11 “(I) are inactive or orphaned; or

12 “(II) have previously been identi-
 13 fied as idle or abandoned.

14 “(ii) INCLUSIONS.—Each inventory
 15 under clause (i) shall identify, with respect
 16 to each inactive or orphaned well—

17 “(I) the location of the well;

18 “(II) the period of time during
 19 which the well has been inactive or or-
 20 phaned;

21 “(III) the responsible parties as-
 22 sociated with the well; and

23 “(IV) any financial assurance
 24 provided to remediate and reclaim the
 25 well, including the most recent date

1 on which the Secretary reviewed that
 2 financial assurance.”.

3 **TITLE III—MISCELLANEOUS**

4 **SEC. 301. COST RECOVERY.**

5 (a) IN GENERAL.—Section 17 of the Mineral Leasing
 6 Act (30 U.S.C. 226) (as amended by section 101(a)) is
 7 amended by adding at the end the following:

8 “(r) COST RECOVERY REQUIREMENTS.—

9 “(1) IN GENERAL.—Before approving an appli-
 10 cation for a permit to drill pursuant to a lease
 11 issued under this Act, the Secretary of the Interior,
 12 or the Secretary of Agriculture with respect to Na-
 13 tional Forest System land, shall determine the cost
 14 to the Federal Government of carrying out Federal
 15 inspection and enforcement actions for the lease.

16 “(2) FINANCIAL ASSURANCES.—The Secretary
 17 of the Interior, or the Secretary of Agriculture with
 18 respect to National Forest System land, shall not re-
 19 lease the financial assurance established for a lease
 20 under subsection (g)(4)(E) until the applicable lessee
 21 has reimbursed the applicable Secretary for the total
 22 cost of Federal inspection and enforcement actions
 23 on the lease.”.

24 (b) USE OF BLM PERMIT PROCESSING IMPROVE-
 25 MENT FUND.—Section 35(c)(3) of the Mineral Leasing

1 Act (30 U.S.C. 191(c)(3)) is amended by striking sub-
 2 paragraph (A) and inserting the following:

3 “(A) IN GENERAL.—Of the amounts in the
 4 Fund, the Secretary of the Interior, in consulta-
 5 tion with the Secretary of Agriculture, shall
 6 use, without further appropriation or fiscal year
 7 limitation—

8 “(i) 50 percent—

9 “(I) to carry out the coordination
 10 and review process for—

11 “(aa) financial assurances
 12 for oil and gas leases under this
 13 Act; and

14 “(bb) bond releases for oil
 15 and gas leases under this Act;

16 “(II) to coordinate—

17 “(aa) the inventory of wells
 18 that are orphaned (as defined in
 19 subsection (q)(1)) or inactive (as
 20 defined in subsection (g)(1)); and

21 “(bb) the processing of re-
 22 quests for delays in the perma-
 23 nent closure of wells that are in-
 24 active (as so defined); and

1 “(III) to coordinate and process
2 environmental and cultural resource
3 reviews applicable to oil and gas ac-
4 tivities under this Act; and

5 “(ii) the remaining amounts for the
6 coordination and processing of oil and gas
7 use authorizations on onshore Federal and
8 Indian trust mineral estate land.”.

9 **SEC. 302. REGULATIONS.**

10 (a) IN GENERAL.—Not later than 1 year after the
11 date of enactment of this Act, the Secretary and the Sec-
12 retary of Agriculture shall jointly promulgate regulations
13 to implement this Act and the amendments made by this
14 Act.

15 (b) EFFECT ON FUNDING.—The funds made avail-
16 able pursuant to subsection (q)(9) of section 17 of the
17 Mineral Leasing Act (30 U.S.C. 226) (as added by section
18 101(a)) shall be disbursed and expended in accordance
19 with applicable interim guidance pending completion of
20 the rulemaking required under subsection (a).

○