

113TH CONGRESS
1ST SESSION

H. R. 1965

To streamline and ensure onshore energy permitting, provide for onshore leasing certainty, and give certainty to oil shale development for American energy security, economic development, and job creation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2013

Mr. LAMBORN introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To streamline and ensure onshore energy permitting, provide for onshore leasing certainty, and give certainty to oil shale development for American energy security, economic development, and job creation, 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.**

4 This Act may be cited as the “Federal Lands Jobs
5 and Energy Security Act”.

1 SEC. 2. TABLE OF CONTENTS.

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Policies regarding buying, building, and working for America.

TITLE I—ONSHORE OIL AND GAS PERMIT STREAMLINING

Sec. 101. Short title.

Subtitle A—Application for Permits to Drill Process Reform

- Sec. 111. Permit to drill application timeline.
- Sec. 112. Solar and wind right-of-way rental reform.

Subtitle B—Administrative Protest Documentation Reform

Sec. 121. Administrative protest documentation reform.

Subtitle C—Permit Streamlining

- Sec. 131. Improve Federal energy permit coordination.
- Sec. 132. Administration of current law.

Subtitle D—Judicial Review

- Sec. 141. Definitions.
- Sec. 142. Exclusive venue for certain civil actions relating to covered energy projects.
- Sec. 143. Timely filing.
- Sec. 144. Expedition in hearing and determining the action.
- Sec. 145. Standard of review.
- Sec. 146. Limitation on injunction and prospective relief.
- Sec. 147. Limitation on attorneys' fees.
- Sec. 148. Legal standing.

TITLE II—OIL AND GAS LEASING CERTAINTY

- Sec. 201. Short title.
- Sec. 202. Minimum acreage requirement for onshore lease sales.
- Sec. 203. Leasing certainty.
- Sec. 204. Leasing consistency.
- Sec. 205. Reduce redundant policies.

TITLE III—OIL SHALE

- Sec. 301. Short title.
- Sec. 302. Effectiveness of oil shale regulations, amendments to resource management plans, and record of decision.
- Sec. 303. Oil shale leasing.

1 **SEC. 3. POLICIES REGARDING BUYING, BUILDING, AND**
2 **WORKING FOR AMERICA.**

3 (a) CONGRESSIONAL INTENT.—It is the intent of the
4 Congress that—

5 (1) this Act will support a healthy and growing
6 United States domestic energy sector that, in turn,
7 helps to reinvigorate American manufacturing,
8 transportation, and service sectors by employing the
9 vast talents of United States workers to assist in the
10 development of energy from domestic sources;

11 (2) to ensure a robust onshore energy produc-
12 tion industry and ensure that the benefits of devel-
13 opment support local communities, under this Act,
14 the Secretary shall make every effort to promote the
15 development of onshore American energy, and shall
16 take into consideration the socioeconomic impacts,
17 infrastructure requirements, and fiscal stability for
18 local communities located within areas containing
19 onshore energy resources; and

20 (3) the Congress will monitor the deployment of
21 personnel and material onshore to encourage the de-
22 velopment of American technology and manufac-
23 turing to enable United States workers to benefit
24 from this Act through good jobs and careers, as well
25 as the establishment of important industrial facilities
26 to support expanded access to American resources.

1 (b) REQUIREMENT.—The Secretary of the Interior
2 shall when possible, and practicable, encourage the use of
3 United States workers and equipment manufactured in
4 the United States in all construction related to mineral
5 resource development under this Act.

6 **TITLE I—ONSHORE OIL AND GAS**
7 **PERMIT STREAMLINING**

8 **SEC. 101. SHORT TITLE.**

9 This title may be cited as the “Streamlining Permit-
10 ting of American Energy Act of 2013”.

11 **Subtitle A—Application for Permits**
12 **to Drill Process Reform**

13 **SEC. 111. PERMIT TO DRILL APPLICATION TIMELINE.**

14 Section 17(p)(2) of the Mineral Leasing Act (30
15 U.S.C. 226(p)(2)) is amended to read as follows:

16 “(2) APPLICATIONS FOR PERMITS TO DRILL RE-
17 FORM AND PROCESS.—

18 “(A) TIMELINE.—The Secretary shall de-
19 cide whether to issue a permit to drill within 30
20 days after receiving an application for the per-
21 mit. The Secretary may extend such period for
22 up to 2 periods of 15 days each, if the Sec-
23 retary has given written notice of the delay to
24 the applicant. The notice shall be in the form
25 of a letter from the Secretary or a designee of

1 the Secretary, and shall include the names and
2 titles of the persons processing the application,
3 the specific reasons for the delay, and a specific
4 date a final decision on the application is ex-
5 pected.

6 “(B) NOTICE OF REASONS FOR DENIAL.—

7 If the application is denied, the Secretary shall
8 provide the applicant—

9 “(i) in writing, clear and comprehen-
10 sive reasons why the application was not
11 accepted and detailed information con-
12 cerning any deficiencies; and

13 “(ii) an opportunity to remedy any de-
14 ficiencies.

15 “(C) APPLICATION DEEMED APPROVED.—

16 If the Secretary has not made a decision on the
17 application by the end of the 60-day period be-
18 ginning on the date the application is received
19 by the Secretary, the application is deemed ap-
20 proved, except in cases in which existing reviews
21 under the National Environmental Policy Act of
22 1969 or Endangered Species Act of 1973 are
23 incomplete.

24 “(D) DENIAL OF PERMIT.—If the Sec-

25 retary decides not to issue a permit to drill in

1 accordance with subparagraph (A), the Sec-
2 retary shall—

3 “(i) provide to the applicant a descrip-
4 tion of the reasons for the denial of the
5 permit;

6 “(ii) allow the applicant to resubmit
7 an application for a permit to drill during
8 the 10-day period beginning on the date
9 the applicant receives the description of
10 the denial from the Secretary; and

11 “(iii) issue or deny any resubmitted
12 application not later than 10 days after the
13 date the application is submitted to the
14 Secretary.

15 “(E) FEE.—

16 “(i) IN GENERAL.—Notwithstanding
17 any other law, the Secretary shall collect a
18 single \$6,500 permit processing fee per ap-
19 plication from each applicant at the time
20 the final decision is made whether to issue
21 a permit under subparagraph (A). This fee
22 shall not apply to any resubmitted applica-
23 tion.

24 “(ii) TREATMENT OF PERMIT PROC-
25 ESSING FEE.—Of all fees collected under

1 this paragraph, 50 percent shall be trans-
2 ferred to the field office where they are col-
3 lected and used to process protests, leases,
4 and permits under this Act subject to ap-
5 propriation.”.

6 **SEC. 112. SOLAR AND WIND RIGHT-OF-WAY RENTAL RE-**
7 **FORM.**

8 (a) **IN GENERAL.**—Subject to subsection (b), and
9 notwithstanding any other provision of law, of fees col-
10 lected each fiscal year as annual wind energy and solar
11 energy right-of-way authorization fees required under sec-
12 tion 504(g) of the Federal Land Policy and Management
13 Act of 1976 (43 U.S.C. 1764(g))—

14 (1) no less than 25 percent shall be available,
15 subject to appropriation, for Department of the Inte-
16 rior field offices responsible for the land where the
17 fee was collected;

18 (2) no less than 25 percent shall be available,
19 subject to appropriation, for Bureau of Land Man-
20 agement permit approval activities; and

21 (3) no less than 25 percent shall be available,
22 subject to appropriation, to the Secretary of the In-
23 terior for department-wide permitting activities.

24 (b) **LIMITATION.**—The amount used under subsection
25 (a) each fiscal year shall not exceed \$10,000,000.

1 **Subtitle B—Administrative Protest**
2 **Documentation Reform**

3 **SEC. 121. ADMINISTRATIVE PROTEST DOCUMENTATION RE-**
4 **FORM.**

5 Section 17(p) of the Mineral Leasing Act (30 U.S.C.
6 226(p)) is further amended by adding at the end the fol-
7 lowing:

8 “(4) PROTEST FEE.—

9 “(A) IN GENERAL.—The Secretary shall
10 collect a \$5,000 documentation fee to accom-
11 pany each protest for a lease, right of way, or
12 application for permit to drill.

13 “(B) TREATMENT OF FEES.—Of all fees
14 collected under this paragraph, 50 percent shall
15 remain in the field office where they are col-
16 lected and used to process protests subject to
17 appropriation.”.

18 **Subtitle C—Permit Streamlining**

19 **SEC. 131. IMPROVE FEDERAL ENERGY PERMIT COORDINA-**
20 **TION.**

21 (a) ESTABLISHMENT.—The Secretary of the Interior
22 (referred to in this section as the “Secretary”) shall estab-
23 lish a Federal Permit Streamlining Project (referred to
24 in this section as the “Project”) in every Bureau of Land

1 Management field office with responsibility for permitting
2 energy projects on Federal land.

3 (b) MEMORANDUM OF UNDERSTANDING.—

4 (1) IN GENERAL.—Not later than 90 days after
5 the date of enactment of this Act, the Secretary
6 shall enter into a memorandum of understanding for
7 purposes of this section with—

8 (A) the Secretary of Agriculture;

9 (B) the Administrator of the Environ-
10 mental Protection Agency; and

11 (C) the Chief of the Army Corps of Engi-
12 neers.

13 (2) STATE PARTICIPATION.—The Secretary
14 may request that the Governor of any State with en-
15 ergy projects on Federal lands to be a signatory to
16 the memorandum of understanding.

17 (c) DESIGNATION OF QUALIFIED STAFF.—

18 (1) IN GENERAL.—Not later than 30 days after
19 the date of the signing of the memorandum of un-
20 derstanding under subsection (b), all Federal signa-
21 tory parties shall, if appropriate, assign to each of
22 the Bureau of Land Management field offices an
23 employee who has expertise in the regulatory issues
24 relating to the office in which the employee is em-

1 employed, including, as applicable, particular expertise
2 in—

3 (A) the consultations and the preparation
4 of biological opinions under section 7 of the En-
5 dangered Species Act of 1973 (16 U.S.C.
6 1536);

7 (B) permits under section 404 of Federal
8 Water Pollution Control Act (33 U.S.C. 1344);

9 (C) regulatory matters under the Clean Air
10 Act (42 U.S.C. 7401 et seq.);

11 (D) planning under the National Forest
12 Management Act of 1976 (16 U.S.C. 472a et
13 seq.); and

14 (E) the preparation of analyses under the
15 National Environmental Policy Act of 1969 (42
16 U.S.C. 4321 et seq.).

17 (2) DUTIES.—Each employee assigned under
18 paragraph (1) shall—

19 (A) not later than 90 days after the date
20 of assignment, report to the Bureau of Land
21 Management Field Managers in the office to
22 which the employee is assigned;

23 (B) be responsible for all issues relating to
24 the energy projects that arise under the au-
25 thorities of the employee’s home agency; and

1 (C) participate as part of the team of per-
2 sonnel working on proposed energy projects,
3 planning, and environmental analyses on Fed-
4 eral lands.

5 (d) **ADDITIONAL PERSONNEL.**—The Secretary shall
6 assign to each Bureau of Land Management field office
7 identified in subsection (a) any additional personnel that
8 are necessary to ensure the effective approval and imple-
9 mentation of energy projects administered by the Bureau
10 of Land Management field offices, including inspection
11 and enforcement relating to energy development on Fed-
12 eral land, in accordance with the multiple use mandate
13 of the Federal Land Policy and Management Act of 1976
14 (43 U.S.C. 1701 et seq.).

15 (e) **FUNDING.**—Funding for the additional personnel
16 shall come from the Department of the Interior reforms
17 identified in sections 101, 102, and 201.

18 (f) **SAVINGS PROVISION.**—Nothing in this section af-
19 fects—

20 (1) the operation of any Federal or State law;

21 or

22 (2) any delegation of authority made by the
23 head of a Federal agency whose employees are par-
24 ticipating in the Project.

1 (g) DEFINITION.—For purposes of this section the
2 term “energy projects” includes oil, natural gas, coal, and
3 other energy projects as defined by the Secretary.

4 **SEC. 132. ADMINISTRATION OF CURRENT LAW.**

5 Notwithstanding any other law, the Secretary of the
6 Interior shall not require a finding of extraordinary cir-
7 cumstances in administering section 390 of the Energy
8 Policy Act of 2005.

9 **Subtitle D—Judicial Review**

10 **SEC. 141. DEFINITIONS.**

11 In this subtitle—

12 (1) the term “covered civil action” means a civil
13 action containing a claim under section 702 of title
14 5, United States Code, regarding agency action (as
15 defined for the purposes of that section) affecting a
16 covered energy project on Federal lands of the
17 United States; and

18 (2) the term “covered energy project” means
19 the leasing of Federal lands of the United States for
20 the exploration, development, production, processing,
21 or transmission of oil, natural gas, wind, or any
22 other source of energy, and any action under such
23 a lease, except that the term does not include any
24 disputes between the parties to a lease regarding the

1 obligations under such lease, including regarding
2 any alleged breach of the lease.

3 **SEC. 142. EXCLUSIVE VENUE FOR CERTAIN CIVIL ACTIONS**
4 **RELATING TO COVERED ENERGY PROJECTS.**

5 Venue for any covered civil action shall lie in the dis-
6 trict court where the project or leases exist or are pro-
7 posed.

8 **SEC. 143. TIMELY FILING.**

9 To ensure timely redress by the courts, a covered civil
10 action must be filed no later than the end of the 90-day
11 period beginning on the date of the final Federal agency
12 action to which it relates.

13 **SEC. 144. EXPEDITION IN HEARING AND DETERMINING THE**
14 **ACTION.**

15 The court shall endeavor to hear and determine any
16 covered civil action as expeditiously as possible.

17 **SEC. 145. STANDARD OF REVIEW.**

18 In any judicial review of a covered civil action, admin-
19 istrative findings and conclusions relating to the chal-
20 lenged Federal action or decision shall be presumed to be
21 correct, and the presumption may be rebutted only by the
22 preponderance of the evidence contained in the adminis-
23 trative record.

1 **SEC. 146. LIMITATION ON INJUNCTION AND PROSPECTIVE**
2 **RELIEF.**

3 In a covered civil action, the court shall not grant
4 or approve any prospective relief unless the court finds
5 that such relief is narrowly drawn, extends no further than
6 necessary to correct the violation of a legal requirement,
7 and is the least intrusive means necessary to correct that
8 violation. In addition, courts shall limit the duration of
9 preliminary injunctions to halt covered energy projects to
10 no more than 60 days, unless the court finds clear reasons
11 to extend the injunction. In such cases of extensions, such
12 extensions shall only be in 30-day increments and shall
13 require action by the court to renew the injunction.

14 **SEC. 147. LIMITATION ON ATTORNEYS' FEES.**

15 Sections 504 of title 5, United States Code, and 2412
16 of title 28, United States Code, (together commonly called
17 the Equal Access to Justice Act) do not apply to a covered
18 civil action, nor shall any party in such a covered civil ac-
19 tion receive payment from the Federal Government for
20 their attorneys' fees, expenses, and other court costs.

21 **SEC. 148. LEGAL STANDING.**

22 Challengers filing appeals with the Department of the
23 Interior Board of Land Appeals shall meet the same
24 standing requirements as challengers before a United
25 States district court.

1 **TITLE II—OIL AND GAS LEASING**
2 **CERTAINTY**

3 **SEC. 201. SHORT TITLE.**

4 This title may be cited as the “Providing Leasing
5 Certainty for American Energy Act of 2013”.

6 **SEC. 202. MINIMUM ACREAGE REQUIREMENT FOR ON-**
7 **SHORE LEASE SALES.**

8 In conducting lease sales as required by section 17(a)
9 of the Mineral Leasing Act (30 U.S.C. 226(a)), each year
10 the Secretary of the Interior shall perform the following:

11 (1) The Secretary shall offer for sale no less
12 than 25 percent of the annual nominated acreage
13 not previously made available for lease. Acreage of-
14 fered for lease pursuant to this paragraph shall not
15 be subject to protest and shall be eligible for cat-
16 egorical exclusions under section 390 of the Energy
17 Policy Act of 2005 (42 U.S.C. 15492), except that
18 it shall not be subject to the test of extraordinary
19 circumstances.

20 (2) In administering this section, the Secretary
21 shall only consider leasing of Federal lands that are
22 available for leasing at the time the lease sale oc-
23 curs.

1 **SEC. 203. LEASING CERTAINTY.**

2 Section 17(a) of the Mineral Leasing Act (30 U.S.C.
3 226(a)) is amended by inserting “(1)” before “All lands”,
4 and by adding at the end the following:

5 “(2)(A) The Secretary shall not withdraw any cov-
6 ered energy project issued under this Act without finding
7 a violation of the terms of the lease by the lessee.

8 “(B) The Secretary shall not infringe upon lease
9 rights under leases issued under this Act by indefinitely
10 delaying issuance of project approvals, drilling and seismic
11 permits, and rights of way for activities under such a
12 lease.

13 “(C) No later than 18 months after an area is des-
14 ignated as open under the current land use plan the Sec-
15 retary shall make available nominated areas for lease
16 under the criteria in section 2.

17 “(D) Notwithstanding any other law, the Secretary
18 shall issue all leases sold no later than 60 days after the
19 last payment is made.

20 “(E) The Secretary shall not cancel or withdraw any
21 lease parcel after a competitive lease sale has occurred and
22 a winning bidder has submitted the last payment for the
23 parcel.

24 “(F) Not later than 60 days after a lease sale held
25 under this Act, the Secretary shall adjudicate any lease
26 protests filed following a lease sale. If after 60 days any

1 protest is left unsettled, said protest is automatically de-
2 nied and appeal rights of the protestor begin.

3 “(G) No additional lease stipulations may be added
4 after the parcel is sold without consultation and agree-
5 ment of the lessee, unless the Secretary deems such stipu-
6 lations as emergency actions to conserve the resources of
7 the United States.”.

8 **SEC. 204. LEASING CONSISTENCY.**

9 Federal land managers must follow existing resource
10 management plans and continue to actively lease in areas
11 designated as open when resource management plans are
12 being amended or revised, until such time as a new record
13 of decision is signed.

14 **SEC. 205. REDUCE REDUNDANT POLICIES.**

15 Bureau of Land Management Instruction Memo-
16 randum 2010–117 shall have no force or effect.

17 **TITLE III—OIL SHALE**

18 **SEC. 301. SHORT TITLE.**

19 This title may be cited as the “Protecting Investment
20 in Oil Shale the Next Generation of Environmental, En-
21 ergy, and Resource Security Act” or the “PIONEERS
22 Act”.

1 **SEC. 302. EFFECTIVENESS OF OIL SHALE REGULATIONS,**
2 **AMENDMENTS TO RESOURCE MANAGEMENT**
3 **PLANS, AND RECORD OF DECISION.**

4 (a) REGULATIONS.—Notwithstanding any other law
5 or regulation to the contrary, the final regulations regard-
6 ing oil shale management published by the Bureau of
7 Land Management on November 18, 2008 (73 Fed. Reg.
8 69,414) are deemed to satisfy all legal and procedural re-
9 quirements under any law, including the Federal Land
10 Policy and Management Act of 1976 (43 U.S.C. 1701 et
11 seq.), the Endangered Species Act of 1973 (16 U.S.C.
12 1531 et seq.), the National Environmental Policy Act of
13 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act
14 of 2005 (Public Law 109–58), and the Secretary of the
15 Interior shall implement those regulations, including the
16 oil shale leasing program authorized by the regulations,
17 without any other administrative action necessary.

18 (b) AMENDMENTS TO RESOURCE MANAGEMENT
19 PLANS AND RECORD OF DECISION.—Notwithstanding
20 any other law or regulation to the contrary, the November
21 17, 2008 U.S. Bureau of Land Management Approved Re-
22 source Management Plan Amendments/Record of Decision
23 for Oil Shale and Tar Sands Resources to Address Land
24 Use Allocations in Colorado, Utah, and Wyoming and
25 Final Programmatic Environmental Impact Statement are
26 deemed to satisfy all legal and procedural requirements

1 under any law, including the Federal Land Policy and
2 Management Act of 1976 (43 U.S.C. 1701 et seq.), the
3 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.),
4 the National Environmental Policy Act of 1969 (42 U.S.C.
5 4321 et seq.), and the Energy Policy Act of 2005 (Public
6 Law 109–58), and the Secretary of the Interior shall im-
7 plement the oil shale leasing program authorized by the
8 regulations referred to in subsection (a) in those areas cov-
9 ered by the resource management plans amended by such
10 amendments, and covered by such record of decision, with-
11 out any other administrative action necessary.

12 **SEC. 303. OIL SHALE LEASING.**

13 (a) **ADDITIONAL RESEARCH AND DEVELOPMENT**
14 **LEASE SALES.**—The Secretary of the Interior shall hold
15 a lease sale within 180 days after the date of enactment
16 of this Act offering an additional 10 parcels for lease for
17 research, development, and demonstration of oil shale re-
18 sources, under the terms offered in the solicitation of bids
19 for such leases published on January 15, 2009 (74 Fed.
20 Reg. 10).

21 (b) **COMMERCIAL LEASE SALES.**—No later than Jan-
22 uary 1, 2016, the Secretary of the Interior shall hold no
23 less than 5 separate commercial lease sales in areas con-
24 sidered to have the most potential for oil shale develop-
25 ment, as determined by the Secretary, in areas nominated

1 through public comment. Each lease sale shall be for an
2 area of not less than 25,000 acres, and in multiple lease
3 blocs.

○