116TH CONGRESS
1ST SESSION

H. R. 1111

To promote the development of renewable energy on public lands, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Gosar (for himself and Mr. Levin of California) introduced the following bill; which was referred to the Committee on

A BILL

To promote the development of renewable energy on public lands, 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,
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4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Public Land Renewable
6 Energy Development Act of 2019”.
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8 SEC. 2. TABLE OF CONTENTS.
9 The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of Contents.
Sec. 3. Definitions.
Sec. 4. Land use planning; supplements to programmatic environmental impact statements.

Sec. 5. Environmental review on covered land.

Sec. 6. Program to improve renewable energy project permit coordination.

Sec. 7. Increasing economic certainty.

Sec. 8. Limited grandfathering.

Sec. 9. Renewable energy goal.

Sec. 10. Disposition of revenues.

Sec. 11. Promoting and enhancing development of geothermal energy.

Sec. 12. Facilitation of coproduction of geothermal energy on oil and gas leases.

Sec. 13. Noneconomic leasing of adjoining areas for development of geothermal resources.


SEC. 3. DEFINITIONS.

In this Act:

(1) COVERED LAND.—The term “covered land” means land that is—

(A) public lands administered by the Secretary; and

(B) not excluded from the development of geothermal, solar, or wind energy under—

(i) a land use plan established under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); or

(ii) other Federal law.

(2) EXCLUSION AREA.—The term “exclusion area” means covered land that is identified by the Bureau of Land Management as not suitable for development of renewable energy projects.

(3) FEDERAL LAND.—The term “Federal land” means—
(A) land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))); or

(B) public lands.

(4) **FUND.**—The term “Fund” means the Renewable Energy Resource Conservation Fund established by section 10(c)(1).

(5) **PRIORITY AREA; DESIGNATED LEASING AREAS.**—The terms “priority area” and “Designated Leasing Areas” mean covered land identified by the land use planning process of the Bureau of Land Management as being a preferred location for a renewable energy project for solar, wind, or geothermal energy.

(6) **PUBLIC LANDS.**—The term “public lands” has the meaning given that term in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(7) **RENEWABLE ENERGY PROJECT.**—The term “renewable energy project” means a project carried out on covered land that uses wind, solar, or geothermal energy to generate energy.

(8) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.
(9) **VARIANCE AREA.**—The term “variance area” means covered land that is—

(A) not an exclusion area;

(B) not a priority area; and

(C) identified by the Secretary as potentially available for renewable energy development and could be approved without a plan amendment, consistent with the principles of multiple use (as that term is defined in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)).

**SEC. 4. LAND USE PLANNING; SUPPLEMENTS TO PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENTS.**

(a) **PRIORITY AREAS.**—

(1) **IN GENERAL.**—The Secretary, in consultation with the Secretary of Energy, shall establish priority areas on covered land for geothermal, solar, and wind energy projects.

(2) **DEADLINE.**—

(A) **GEOTHERMAL ENERGY.**—For geothermal energy, the Secretary shall establish priority areas as soon as practicable, but not later than 5 years, after the date of the enactment of this Act.
(B) SOLAR ENERGY.—For solar energy, solar Designated Leasing Areas, including the solar energy zones established by the 2012 western solar plan of the Bureau of Land Management and any subsequent land use plan amendments, shall be considered to be priority areas for solar energy projects. The Secretary shall establish additional solar priority areas as soon as practicable, but not later than 3 years, after the date of the enactment of this Act.

(C) WIND ENERGY.—For wind energy, the Secretary shall establish additional wind priority areas as soon as practicable, but not later than 3 years, after the date of the enactment of this Act.

(b) VARIANCE AREAS.—To the maximum extent practicable, variance areas shall be considered for renewable energy project development, consistent with the principles of multiple use (as defined in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)).

(c) REVIEW AND MODIFICATION.—Not less than once every 5 years, the Secretary shall—

(1) review the adequacy of land allocations for geothermal, solar, and wind energy priority and vari-
ance areas for the purpose of encouraging new renewable energy development opportunities; and

(2) based on the review carried out under paragraph (1), add, modify, or eliminate priority, variance, and exclusion areas.

(d) COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT.—For purposes of this section, compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be accomplished—

(1) for geothermal energy, by supplementing the October 2008 final programmatic environmental impact statement for geothermal leasing in the Western United States and incorporating any additional regional analyses that have been completed by Federal agencies since the programmatic environmental impact statement was finalized;

(2) for solar energy, by supplementing the July 2012 final programmatic environmental impact statement for solar energy development and incorporating any additional regional analyses that have been completed by Federal agencies since the programmatic environmental impact statement was finalized; and

(3) for wind energy, by supplementing the July 2005 final programmatic environmental impact
statement for wind energy development and incorporating any additional regional analyses that have been completed by Federal agencies since the programmatic environmental impact statement was finalized.

(e) No Effect on Processing Applications.—Any requirements to prepare a supplement to a programmatic environmental impact statement under this section shall not result in any delay in processing a pending application for a renewable energy project.

(f) Coordination.—In developing a supplement required by this section, the Secretary shall coordinate, on an ongoing basis, with appropriate State, Tribal, and local governments, transmission infrastructure owners and operators, developers, and other appropriate entities to ensure that priority areas identified by the Secretary are—

(1) economically viable (including having access to existing and/or planned transmission capacity);

(2) likely to avoid or minimize conflict with habitat for animals and plants, recreation, cultural resources, and other uses of covered land; and

(3) consistent with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), including subsection (c)(9) of that section (43 U.S.C. 1712(c)(9)).
SEC. 5. ENVIRONMENTAL REVIEW ON COVERED LAND.

(a) In General.—If the Secretary determines that a proposed renewable energy project has been sufficiently analyzed by a programmatic environmental impact statement conducted under section 4(d), the Secretary shall not require any additional review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) Additional Environmental Review.—If the Secretary determines that additional environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is necessary for a proposed renewable energy project, the Secretary shall rely on the analysis in the programmatic environmental impact statement conducted under section 4(d), to the maximum extent practicable when analyzing the potential impacts of the project.

(c) Relationship to Other Law.—Nothing in this section modifies or supersedes any requirement under applicable law.

SEC. 6. PROGRAM TO IMPROVE RENEWABLE ENERGY PROJECT PERMIT COORDINATION.

(a) Establishment.—The Secretary shall establish a national Renewable Energy Coordination Office and State, district, or field offices with responsibility to establish and implement a program to improve Federal permit coordination with respect to renewable energy projects on
covered land and other activities deemed necessary by the Secretary. In carrying out the program, the Secretary may temporarily assign qualified staff to Renewable Energy Coordination Offices to expedite the permitting of renewable energy projects.

(b) Memorandum of Understanding.—

(1) In general.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall enter into a memorandum of understanding for purposes of this section, including to specifically expedite the environmental analysis of applications for projects proposed in a variance area or a priority area, with the Secretary of Defense and the Secretary of Agriculture.

(2) State participation.—The Secretary may request the Governor of any interested State to be a signatory to the memorandum of understanding under paragraph (1).

(c) Designation of Qualified Staff.—

(1) In general.—Not later than 30 days after the date on which the memorandum of understanding under subsection (b) is executed, all Federal signatories, as appropriate, shall identify for each of the Bureau of Land Management Renewable Energy Coordination Offices one or more employees
who have expertise in the regulatory issues relating to the office in which the employee is employed, including, as applicable, particular expertise in—

(A) consultation regarding, and preparation of, biological opinions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536);

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

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

(D) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(E) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(F) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(G) implementation of the requirements of section 306108 of title 54, United States Code (formerly known as section 106 of the National Historic Preservation Act);
(H) planning under section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a); and

(I) the Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d).

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

(A) be responsible for addressing all issues relating to the jurisdiction of the home office or agency of the employee; and

(B) participate as part of the team of personnel working on proposed energy projects, planning, monitoring, inspection, enforcement, and environmental analyses.

(d) ADDITIONAL PERSONNEL.—The Secretary may assign such additional personnel for the Bureau of Land Management Renewable Energy Coordination Offices as are necessary to ensure the effective implementation of any programs administered by the offices in accordance with the multiple use mandate of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(1) accept donations for the purposes of public
lands management; and

(2) accept donations from renewable energy
companies working on public lands to help cover the
costs of environmental reviews.

(f) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than February 1
of the first fiscal year beginning after the date of the
enactment of this Act, and each February 1 there-
after, the Secretary shall submit to the Committee
on Energy and Natural Resources of the Senate and
the Committee on Natural Resources of the House
of Representatives a report describing the progress
made under the program established under sub-
section (a) during the preceding year.

(2) INCLUSIONS.—Each report under this sub-
section shall include—

(A) projections for renewable energy pro-
duction and capacity installations; and

(B) a description of any problems relating
to leasing, permitting, siting, or production.

SEC. 7. INCREASING ECONOMIC CERTAINTY.

(a) CONSIDERATIONS.—The Secretary is authorized
to and shall consider acreage rental rates, capacity fees,
and other recurring annual fees in total when evaluating
existing rates paid for the use of Federal land by renewable energy projects.

(b) Increases in Base Rental Rates.—Once a base rental rate is established upon the issuance of a right-of-way authorization, increases in the base rent shall be limited to the Implicit Price Deflator-Gross Domestic Product (IPD–GDP) index for the entire term of the right-of-way authorization.

(e) reductions in Base Rental Rates.—The Secretary is authorized to reduce acreage rental rates and capacity fees, or both, for existing and new wind and solar authorizations if the Secretary determines—

(1) that the existing rates—

(A) exceed fair market value;

(B) impose economic hardships;

(C) limit commercial interest in a competitive lease sale or right-of-way grant; or

(D) are not competitively priced compared to other available land; or

(2) that a reduced rental rate or capacity fee is necessary to promote the greatest use of wind and solar energy resources, especially those resources inside priority areas. Rental rates and capacity fees for projects that are within the boundaries of a Designated Leasing Area but not formally recognized as
being in such an area shall be equivalent to rents and fees for new leases inside of a Designated Leasing Area.

SEC. 8. LIMITED GRANDFATHERING.

(a) Definition of Project.—In this section, the term “project” means a system described in section 2801.9(a)(4) of title 43, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(b) Requirement To Pay Rents and Fees.—The owner of a project that applied for a right-of-way under section 501 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) on or before December 19, 2016, shall be obligated to pay with respect to the right-of-way all rents and fees in effect before the effective date of the rule of the Bureau of Land Management entitled “Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections” (81 Fed. Reg. 92122 (December 19, 2016)).

SEC. 9. RENEWABLE ENERGY GOAL.

The Secretary and the Secretary of Agriculture shall seek to issue permits that, in total, authorize production of not less than 25 gigawatts of electricity from wind, solar, and geothermal energy projects by not later than
2025, through management of public lands and administra-

tion of Federal laws.

SEC. 10. DISPOSITION OF REVENUES.

(a) DISPOSITION OF REVENUES.—Beginning on Jan-

uary 1, 2020, of the amounts collected as bonus bids, rent-

als, fees, or other payments under a right-of-way, permit,

lease, or other authorization (other than under section

504(g) of the Federal Land Policy and Management Act

of 1976 (43 U.S.C. 1764(g))) for the development of wind

or solar energy on covered land, the following shall be

made available without further appropriation or fiscal year

limitation as follows:

(1) 25 percent shall be paid by the Secretary of

the Treasury to the State within the boundaries of

which the revenue is derived.

(2) 25 percent shall be paid by the Secretary of

the Treasury to the one or more counties within the

boundaries of which the revenue is derived, to be al-

located among the counties based on the percentage

of land from which the revenue is derived.

(3) 15 percent shall be deposited in the Treas-

ury and be made available to the Secretary to carry

out the program established under this Act, includ-

ing the transfer of the funds by the Bureau of Land

Management to other Federal agencies and State
agencies to facilitate the processing of renewable energy permits on Federal land, with priority given to using the amounts, to the maximum extent practicable without detrimental impacts to emerging markets, to expediting the issuance of permits required for the development of renewable energy projects in the States from which the revenues are derived.

(4) 25 percent shall be deposited in the Renewable Energy Resource Conservation Fund established by subsection (c).

(5) The remainder shall be deposited into the general fund of the Treasury for purposes of reducing the annual Federal budget deficit.

(b) PAYMENTS TO STATES AND COUNTIES.—

(1) IN GENERAL.—Amounts paid to States and counties under subsection (a) shall be used consistent with section 35 of the Mineral Leasing Act (30 U.S.C. 191).

(2) PAYMENTS IN LIEU OF TAXES.—A payment to a county under paragraph (1) shall be in addition to a payment in lieu of taxes received by the county under chapter 69 of title 31, United States Code.

(c) RENEWABLE ENERGY RESOURCE CONSERVATION FUND.—
(1) **IN GENERAL.**—There is established in the Treasury a fund to be known as the Renewable Energy Resource Conservation Fund, which shall be administered by the Secretary, in consultation with the Secretary of Agriculture.

(2) **USE OF FUNDS.**—The Secretary may make amounts in the Fund available to Federal, State, and Tribal agencies to be distributed in regions in which renewable energy projects are located on Federal land, for the purposes of—

(A) restoring and protecting—

   (i) fish and wildlife habitat for affected species;

   (ii) fish and wildlife corridors for affected species; and

   (iii) water resources in areas affected by wind, geothermal, or solar energy development; and

(B) preserving and improving recreational access to Federal land and water in an affected region through an easement, right-of-way, or other instrument from willing landowners for the purpose of enhancing public access to existing Federal land and water that is inaccessible or restricted.
(3) **Restriction on Use of Funds.**—No funds made available under this subsection may be used for the purchase of real property unless in fulfillment of paragraph (2)(B).

(4) **Partnerships.**—The Secretary may enter into cooperative agreements with State and Tribal agencies, nonprofit organizations, and other appropriate entities to carry out the activities described in subparagraphs (A) and (B) of paragraph (2).

(5) **Investment of Fund.**—

(A) **In General.**—Any amounts deposited in the Fund shall earn interest in an amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities.

(B) **Use.**—Any interest earned under subparagraph (A) may be expended in accordance with this subsection.

(6) **Report to Congress.**—At the end of each fiscal year, the Secretary shall report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate—
(A) the amount collected as described in subsection (a), by source, during that fiscal year;

(B) the amount and purpose of payments during that fiscal year to each Federal, State, and Tribal agency under paragraph (2); and

(C) the amount remaining in the Fund at the end of the fiscal year.

(7) INTENT OF CONGRESS.—It is the intent of Congress that the revenues deposited and used in the Fund shall supplement (and not supplant) annual appropriations for activities described in subparagraphs (A) and (B) of paragraph (2).

SEC. 11. PROMOTING AND ENHANCING DEVELOPMENT OF GEOTHERMAL ENERGY.

(a) IN GENERAL.—Section 234(a) of the Energy Policy Act of 2005 (42 U.S.C. 15873(a)) is amended by striking “in the first 5 fiscal years beginning after the date of the enactment of this Act” and inserting “through fiscal year 2022”.

(b) AUTHORIZATION.—Section 234(b) of the Energy Policy Act of 2005 (42 U.S.C. 15873(b)) is amended—

(1) by striking “Amounts” and inserting the following:

“(1) IN GENERAL.—Amounts”; and
(2) by adding at the end the following:

“(2) AUTHORIZATION.—Effective for fiscal year 2019 and each fiscal year thereafter, amounts deposited under subsection (a) shall be available to the Secretary of the Interior for expenditure, without further appropriation or fiscal year limitation, to implement the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and this Act.”.

SEC. 12. FACILITATION OF COPRODUCTION OF GEOTHERMAL ENERGY ON OIL AND GAS LEASES.

Section 4(b) of the Geothermal Steam Act of 1970 (30 U.S.C. 1003(b)) is amended by adding at the end the following:

“(4) LAND SUBJECT TO OIL AND GAS LEASE.—Land under an oil and gas lease issued pursuant to the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) that is subject to an approved application for permit to drill and from which oil and gas production is occurring may be available for noncompetitive leasing under subsection (c) by the holder of the oil and gas lease—

“(A) on a determination that geothermal energy will be produced from a well producing or capable of producing oil and gas; and
“(B) in order to provide for the coproduction of geothermal energy with oil and gas.”

SEC. 13. NONCOMPETITIVE LEASING OF ADJOINING AREAS FOR DEVELOPMENT OF GEOTHERMAL RESOURCES.

Section 4(b) of the Geothermal Steam Act of 1970 (30 U.S.C. 1003(b)) is further amended by adding at the end the following:

“(5) ADJOINING LAND.—

“(A) DEFINITIONS.—In this paragraph:

“(i) FAIR MARKET VALUE PER ACRE.—The term ‘fair market value per acre’ means a dollar amount per acre that—

“(I) except as provided in this clause, shall be equal to the market value per acre (taking into account the determination under subparagraph (B)(iii) regarding a valid discovery on the adjoining land) as determined by the Secretary under regulations issued under this paragraph;

“(II) shall be determined by the Secretary with respect to a lease under this paragraph, by not later
than the end of the 180-day period
beginning on the date the Secretary
receives an application for the lease;
and
“(III) shall be not less than the
greater of—
“(aa) 4 times the median
amount paid per acre for all land
leased under this Act during the
preceding year; or
“(bb) $50.
“(ii) INDUSTRY STANDARDS.—The
term ‘industry standards’ means the stand-
ards by which a qualified geothermal pro-
fessional assesses whether downhole or
flowing temperature measurements with
indications of permeability are sufficient to
produce energy from geothermal resources,
as determined through flow or injection
testing or measurement of lost circulation
while drilling.
“(iii) QUALIFIED FEDERAL LAND.—
The term ‘qualified Federal land’ means
land that is otherwise available for leasing
under this Act.
“(iv) Qualified geothermal professional.—The term ‘qualified geothermal professional’ means an individual who is an engineer or geoscientist in good professional standing with at least 5 years of experience in geothermal exploration, development, or project assessment.

“(v) Qualified lessee.—The term ‘qualified lessee’ means a person who may hold a geothermal lease under this Act (including applicable regulations).

“(vi) Valid discovery.—The term ‘valid discovery’ means a discovery of a geothermal resource by a new or existing slim hole or production well, that exhibits downhole or flowing temperature measurements with indications of permeability that are sufficient to meet industry standards.

“(B) Authority.—An area of qualified Federal land that adjoins other land for which a qualified lessee holds a legal right to develop geothermal resources may be available for a noncompetitive lease under this section to the qualified lessee at the fair market value per acre, if—
“(i) the area of qualified Federal land—

“(I) consists of not less than 1 acre and not more than 640 acres; and

“(II) is not already leased under this Act or nominated to be leased under subsection (a);

“(ii) the qualified lessee has not previously received a noncompetitive lease under this paragraph in connection with the valid discovery for which data has been submitted under clause (iii)(I); and

“(iii) sufficient geological and other technical data prepared by a qualified geothermal professional has been submitted by the qualified lessee to the applicable Federal land management agency that would lead individuals who are experienced in the subject matter to believe that—

“(I) there is a valid discovery of geothermal resources on the land for which the qualified lessee holds the legal right to develop geothermal resources; and
“(II) that geothermal feature extends into the adjoining areas.

“(C) Determination of Fair Market Value.—

“(i) In general.—The Secretary shall—

“(I) publish a notice of any request to lease land under this paragraph;

“(II) determine fair market value for purposes of this paragraph in accordance with procedures for making those determinations that are established by regulations issued by the Secretary;

“(III) provide to a qualified lessee and publish, with an opportunity for public comment for a period of 30 days, any proposed determination under this subparagraph of the fair market value of an area that the qualified lessee seeks to lease under this paragraph; and

“(IV) provide to the qualified lessee and any adversely affected party
the opportunity to appeal the final determination of fair market value in an administrative proceeding before the applicable Federal land management agency, in accordance with applicable law (including regulations).

“(ii) LIMITATION ON NOMINATION.—After publication of a notice of request to lease land under this paragraph, the Secretary may not accept under subsection (a) any nomination of the land for leasing unless the request has been denied or withdrawn.

“(iii) ANNUAL RENTAL.—For purposes of section 5(a)(3), a lease awarded under this paragraph shall be considered a lease awarded in a competitive lease sale.

“(D) REGULATIONS.—Not later than 270 days after the date of the enactment of this paragraph, the Secretary shall issue regulations to carry out this paragraph.”.

SEC. 14. SAVINGS CLAUSE.

Notwithstanding any other provision of this Act, the Secretary shall continue to manage public lands under the principles of multiple use and sustained yield in accord-
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1    ance with title I of the Federal Land Policy and Manage-
2    ment Act of 1976 (43 U.S.C. 1701 et seq.), including due
3    consideration of mineral and nonrenewable energy-related
4    projects and other nonrenewable energy uses, for the pur-
5    poses of land use planning, permit processing, and con-
6    ducting environmental reviews.