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## Department of the Interior Announces Comprehensive Review of Federal Coal Program

JANUARY 15, 2016

On January 15, Secretary Sally Jewell announced that the Department of the Interior will launch a comprehensive review to identify and evaluate potential reforms to the federal coal program. During the review, which is expected to take approximately three years, the Interior Department will impose a moratorium on the issuance of new coal leases. The Bureau of Land Management (BLM) will not hold lease sales or process new lease applications for surface and underground coal during this period. The moratorium does not, however, apply to existing coal production activities, and is subject to several specific exceptions described below

The federal review, in the form of a Programmatic Environmental Impact Statement (PEIS), will address the following issues:

- the appropriate leasing mechanisms to determine how, when and where to lease;
- how to account for the environmental and public health impacts of federal coal production; and
- how to “ensure the sale of these public resources results in a fair return to the American taxpayers, including whether current royalty rates should be adjusted.”

The analysis will also address whether US coal exports should factor into leasing and other program decisions; the role of federal coal in fulfilling the energy needs of the United States; and how extracting and burning coal affects climate change. The last such review was undertaken more than three decades ago.

The moratorium is subject to specific exceptions, including for metallurgical coal (typically used in steel production), small lease modifications and emergency leasing, including where there is a demonstrated safety-related need or insufficient reserves. Preparatory work on pending applications may continue, including NEPA analyses, but the BLM will not make final decisions on new leases, absent an applicable exemption. Pending leases that have already completed NEPA analyses and received a final Record of Decision or Decision Order by a federal agency under the existing regulations will be allowed to complete the final procedural steps to secure a lease or lease modification. Activities on tribal land are also exempt.

The federal coal leasing program-which accounts for approximately 40 percent of US coal production-has come under scrutiny from public interest groups and government investigators who contend the government regularly sells coal for less than its full market value. Secretary Jewell said in 2015 that it was time to modernize the leasing program to make it more transparent and more competitive. President Obama also signaled the pending move in his State of the Union address this week, in which he pledged “to change the way we manage our oil and coal resources, so that they better reflect the costs they impose on taxpayers and our planet.”

The programmatic review will start with public sessions in early 2016 to help determine the scope of the review, and will include numerous opportunities for public participation throughout the process. The Interior Department will release an interim report by the end of 2016 with conclusions from the scoping process about alternatives that will be evaluated and, as appropriate, any initial analytical results.

Contact our [Energy, Environment and Natural Resources](#) attorneys for further information or assistance in engaging with the Department of the Interior as this important review gets under way.