

# Committee on Natural Resources

Rob Bishop Chairman  
Mark-Up Memorandum

November 27, 2017

To: All Natural Resources Committee Members

From: Majority Committee Staff—Chris Esparza (x5-9297)  
Subcommittee on Energy and Mineral Resources

Mark-Up: **H.R. 1778 (Rep. Liz Cheney, WY – At Large)**, To provide that an order by the Secretary of the Interior imposing a moratorium on Federal coal leasing shall not take effect unless a joint resolution of approval is enacted, and for other purposes.  
**November 29-30, 2017; 1324 Longworth HOB**

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## Summary of the Bill

The bill provides that an order by the Secretary of the Interior imposing a moratorium on Federal coal leasing shall not take effect unless a joint resolution of approval is enacted by the United States Congress within 30 legislative days after the proposed order is received by Congress.

## Cosponsors

Rep. Kevin Cramer (R-ND), Rep. Paul Gosar (R-AZ), Rep. David McKinley (R-WV), Rep. Keith Rothfus (R-PA), Rep. Evan Jenkins (R-WV)

## Background

The Bureau of Land Management (BLM) administers coal leasing on all federal lands.<sup>1</sup> BLM currently administers 309 federal coal leases on about 474,000 acres on federal public domain lands.<sup>2</sup> All leasing is done competitively with the exception of cases in which a party holds a “prospecting permit” issued prior to the Federal Coal Leasing Amendments Act of 1976 or where contiguous acres are added to existing leases.<sup>3</sup> This leasing process is governed by Section 2 of the Mineral Leasing Act.<sup>4</sup>

On January 16, 2016, then Secretary of the Interior Sally Jewell announced a moratorium on federal coal leasing for the purpose of examining the federal coal leasing program and to

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<sup>1</sup> 30 U.S.C. § 181.; 43 U.S.C. § 1731.

<sup>2</sup> Michael Ratner, 21st Century U.S. Energy Sources: A Primer 21st Century U.S. Energy Sources: A Primer (2017), [http://www.crs.gov/Reports/R44854?source=search&guid=06715c756d3641d48ca9283a44421216&index=7#\\_Toc483393813](http://www.crs.gov/Reports/R44854?source=search&guid=06715c756d3641d48ca9283a44421216&index=7#_Toc483393813).

<sup>3</sup> Marc Humphries, U.S. and World Coal Production, Federal Taxes, and Incentives (2013), [http://www.crs.gov/Reports/R43011?source=search&guid=f392b2a0209d4720845e25fe7027cf7f&index=0#\\_Toc351629777](http://www.crs.gov/Reports/R43011?source=search&guid=f392b2a0209d4720845e25fe7027cf7f&index=0#_Toc351629777).

<sup>4</sup> 30 U.S.C. § 201.

determine whether it requires modernization.<sup>5</sup> In the interim, the Secretary directed BLM to prepare a programmatic environmental impact statement (PEIS) of the leasing program as the basis for a review. Concerns raised throughout the review included whether the public was getting a fair market value for the sale of leases, coal mining operators lease modification abilities, and environmental pollution caused by coal's greenhouse gas emissions.<sup>6</sup> Alternatively, opponents of the moratorium noted the major negative impacts the leasing moratorium would have on coal communities, coal and energy markets, and reclamation efforts.<sup>7</sup>

In the final days of the Obama administration, the Department of the Interior finalized a report calling for major changes to the federal coal program.<sup>8</sup> Despite making final recommendations for the program that included charging a higher royalty rate to companies and taking greater note of environmental concerns, the report recommended continuing the moratorium for further analysis to be conducted.<sup>9</sup> The report failed to note any negative impact the moratorium itself had on the U.S. coal industry.<sup>10</sup> This year, U.S. coal production is projected to be down by over 25% as compared to 2014.<sup>11</sup> The negative impact is especially noteworthy for the state of Wyoming, which serves as the largest producer of coal in the United States.

### *Recent Events*

On March 28, 2017, the Trump Administration issued an executive order lifting any and all moratoria on federal coal leasing.<sup>12</sup> Ending the moratorium is expected to provide greater certainty to the coal industry and coal miners.<sup>13</sup> Despite ending the moratorium, Secretary of the Interior Zinke has vowed to continue researching royalty rates in an effort to continue the modernization review.<sup>14</sup> Since ending the moratorium, the administration has faced lawsuits from environmentalists and public lands supporters.<sup>15</sup>

The House Natural Resources Subcommittee on Energy and Mineral Resources held a legislative hearing on H.R. 1778 on July 27, 2017.

### **Major Provisions**

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<sup>5</sup> Dep't of the Interior Secretarial Order No. 3338, 81 FR 17720 (2016).

<sup>6</sup> Marc Humphries, *The Federal Coal Leasing Moratorium* (2017), <http://www.crs.gov/Reports/IN10460?source=search&guid=f392b2a0209d4720845e25fe7027cf7f&index=1>.

<sup>7</sup> *id.*

<sup>8</sup> Bureau of Land Management, *Federal Coal Program: Programmatic Environmental Impact Statement—Scoping Report, Volumes I and II* (January 2017), [https://eplanning.blm.gov/epl-front-office/projects/nepa/65353/95059/114965/CoalPEIS\\_RptsScoping\\_Vol1\\_508.pdf](https://eplanning.blm.gov/epl-front-office/projects/nepa/65353/95059/114965/CoalPEIS_RptsScoping_Vol1_508.pdf).

<sup>9</sup> *id.*

<sup>10</sup> *id.*

<sup>11</sup> U.S. Energy Information Administration, *Annual Energy Outlook 2017* (2017), <https://www.eia.gov/outlooks/aeo/>

<sup>12</sup> White House, "Presidential Executive Order on Promoting Energy Independence and Economic Growth," <https://www.whitehouse.gov/the-press-office/2017/03/28/presidential-executive-order-promoting-energy-independence-and-economy-1>.

<sup>13</sup> Devin Henry, *Trump Administration Ends Obama's Coal Leasing Freeze*, <http://thehill.com/policy/energy-environment/326375-interior-department-ends-obamas-coal-leasing-freeze>.

<sup>14</sup> *id.*

<sup>15</sup> *id.*

**Section 1. Congressional Approval for Order by Secretary of the Interior Imposing a Moratorium on Federal Coal Leasing.**

This legislation would require congressional approval of any order by the Secretary of Interior imposing a moratorium on federal coal leasing.

**Administration Position**

The administration position is unknown at this time.

**Anticipated Amendments**

None

**Cost**

A Congressional Budget Office cost estimate has not yet been completed for this bill.