To amend the Mineral Leasing Act to improve coal leasing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on __________________

A BILL

To amend the Mineral Leasing Act to improve coal leasing, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Coal Oversight and Leasing Reform Act of 2015” or the “COAL Reform Act of 2015”.

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Deferred bonus payments.
Sec. 3. Confidentiality requirements for consultants.
Sec. 4. Exploration data.
Sec. 5. Fair market value.
1 SEC. 2. DEFERRED BONUS PAYMENTS.

Section 2(a) of the Mineral Leasing Act (30 U.S.C. 201(a)) is amended—

(1) in paragraph (1), by striking the second and third sentences; and

(2) by striking paragraphs (4) and (5).

SEC. 3. CONFIDENTIALITY REQUIREMENTS FOR CONSULTANTS.

Section 2(a) of the Mineral Leasing Act (30 U.S.C. 201(a)) (as amended by section 2(2)) is amended by adding at the end the following:—

“(4) CONFIDENTIALITY REQUIREMENTS FOR CONSULTANTS.—If the Secretary uses an independent consultant in evaluating a lease sale, the independent consultant shall be subject to a non-disclosure agreement and any other confidentiality requirements the Secretary determines necessary.”.

SEC. 4. EXPLORATION DATA.

Section 2(b)(3) of the Mineral Leasing Act (30 U.S.C. 202(b)(3)) is amended by adding at the end the
following: “Subject to applicable penalties for submitting false data, the licensee shall certify the accuracy of the data submitted under this paragraph. The Secretary shall consider whether to independently verify the data submitted under this paragraph. The Secretary shall conduct and document any inspections of exploration activities conducted under this section.”.

SEC. 5. FAIR MARKET VALUE.

Section 2 of the Mineral Leasing Act is amended by inserting after subsection (d) (30 U.S.C. 202a) the following:

“(e) FAIR MARKET VALUE.—

“(1) IN GENERAL.—A proposed lease sale shall not be held under this section until the date on which the Secretary of the Interior (acting through the Director of the Bureau of Land Management) (referred to in this subsection as the ‘Secretary’), in consultation with the applicable Bureau of Land Management field office with jurisdiction over the leasing tract subject to the proposed lease sale and the Office of Valuation Services of the Department of Interior, makes a determination with respect to the fair market value of the coal to be extracted under the proposed lease.
“(2) CONSIDERATIONS AND REQUIREMENTS.—

In making a determination of fair market value under paragraph (1), the Secretary—

“(A)(i) shall account for the export potential of the coal to be extracted under the proposed lease, including—

“(I) conducting an analysis of whether the coal extracted under the proposed lease would be exported, the potential export markets for the coal, and the price at which the coal could be sold in export markets; and

“(II) providing in the appraisal report under paragraph (4) an assessment of export activity for coal extracted from other leases under this section; and

“(ii) for purposes of the analysis under clause (i)(I) and the assessment under clause (i)(II), may consult with other agencies with relevant expertise relating to coal exports, such as the Energy Information Administration;

“(B) shall use a comparable lease sale approach and income approach for purposes of calculating fair market value;
“(C) shall not rely on any information from lease sales conducted more than 5 years before the date of the proposed lease sale for purposes of calculating fair market value; and

“(D) shall consider domestic coal reserve estimates.

“(3) APPRAISAL REPORT.—The Secretary shall include a fair market value determination with respect to a lease under paragraph (1) in a formal, documented appraisal report that provides verification of the consultation required under that paragraph by including the signatures of the individuals representing the offices consulted under that paragraph in the completed appraisal report.

“(4) GAO REPORT.—Not later than 2 years after the date of enactment of this subsection, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report that describes whether the Secretary has complied with the requirements of paragraph (2)(A) in making fair market value determinations of leases under this subsection.

“(5) MINIMUM BIDS.—Notwithstanding any other provision of this Act, the Secretary may not accept a bid for a lease to extract coal under this
Act that is less than the fair market value of the coal to be extracted under the lease, even if a bid is above the minimum bid requirement.”.

**SEC. 6. PUBLIC AVAILABILITY OF DATA.**

Section 2 of the Mineral Leasing Act (as amended by section 5) is amended by adding at the end the following:

“(f) Public Availability of Appraisal Reports.—Any appraisal report conducted under this section shall be made publicly available on the website of the Bureau of Land Management, with appropriate redactions of or protections for confidential material or information.

“(g) Public Availability of Lease Sales, High Bids, Royalty Payments, and Revenue.—The Secretary shall track and make publicly available on the website of the Bureau of Land Management information on individual and total lease sales, high bids, royalty payments, and revenue relating to activities conducted under this section.”.

**SEC. 7. LEASE MODIFICATIONS.**

Section 3(a)(1) of the Mineral Leasing Act (30 U.S.C. 203(a)(1)) is amended by inserting “and on completion of a fair market value determination under subsection (e)(1) with respect to the modifications” after “under paragraph (2)”.
SEC. 8. FINDINGS NECESSARY FOR COAL LEASE MODIFICATIONS.

Section 3(a)(2) of the Mineral Leasing Act (30 U.S.C. 203(a)(2)) is amended—

(1) in subparagraph (B), by striking “and” after the semicolon at the end;

(2) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(D) would not result in a reduction of revenue.”.

SEC. 9. SIZE OF COAL LEASING MODIFICATIONS.


SEC. 10. COAL LEASING PROGRAM.

The Mineral Leasing Act is amended by inserting after section 3 (30 U.S.C. 203) the following:

“SEC. 4. COAL LEASING PROGRAM.

“(a) IN GENERAL.—The Secretary shall prepare, periodically revise, and maintain a coal leasing program to implement this Act.

“(b) CONTENT.—The leasing program shall consist of a schedule of proposed lease sales indicating, as precisely as practicable, the size, timing, and location of leasing activity that the Secretary determines will best meet
national needs for the 5-year period following the approval or reapproval of the program.

“(c) PRINCIPLES.—The leasing program shall be prepared and maintained in a manner consistent with the following principles:

“(1) Leasing activities for coal subject to this Act shall be conducted—

“(A) to ensure receipt of fair market value for the land leased and the rights conveyed by the Federal Government; and

“(B) to maximize competition for Federal coal leases; and

“(C) to maximize the financial return per ton of coal leased for taxpayers of the United States.

“(2) Management of coal subject to this Act shall be conducted in a manner that considers—

“(A) the economic, social, and environmental values of Federal land and the coal resource; and

“(B) the potential impact of coal leasing on other resource values and the natural and human environments.

“(3) Timing and location of exploration, development, and production of coal among or within the
coal-bearing physiographic regions shall be based on a consideration of—

“(A) existing information concerning the geographical, geological, and ecological characteristics of the regions;

“(B) an equitable sharing of developmental benefits and environmental risks among or within the various regions;

“(C) the location of the regions with respect to, and the relative needs of, regional and national energy markets;

“(D) the location of the regions with respect to other anticipated uses of the resources and space of the regions;

“(E) the interest of potential coal producers in the development of coal resources as indicated by exploration or nomination;

“(F) laws, goals, and policies of affected States that have been specifically identified by the Governors of the States as relevant matters for the consideration of the Secretary;

“(G) the relative environmental sensitivity and natural productivity of different areas containing the coal; and
“(H) relevant environmental and predictive information for the different areas.

“(4) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between—

“(A) the potential for environmental damage;

“(B) the potential for the discovery of coal;

and

“(C) the potential for adverse impact on areas containing the coal.

“(5) The Secretary shall develop the plan and manage coal leasing and development in a manner that considers the impact of coal leasing and development on climate change.

“(d) ESTIMATED APPROPRIATIONS AND STAFF.—

The leasing program shall include estimates of the appropriations and staff required—

“(1) to obtain resource information and any other information needed to prepare the leasing program required by this section;

“(2) to analyze and interpret the exploratory data and any other information that may be compiled under this Act;
“(3) to conduct environmental studies and prepare any environmental impact statement required in accordance with this Act and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

“(4) to supervise operations conducted pursuant to each lease in the manner necessary to ensure due diligence in the exploration and development of the lease area and compliance with the requirement of applicable laws (including regulations) and with the terms of the lease.

“(e) PROPOSED LEASING PROGRAM.—

“(1) IN GENERAL.—During the preparation of any proposed leasing program under this section, the Secretary—

“(A) shall invite and consider suggestions for the program from—

“(i) any interested Federal agency, including the Department of Justice, in consultation with the Federal Trade Commission; and

“(ii) the Governor of any State that may become an affected State under the proposed program; and
“(B) may invite or consider any suggestions from—

“(i) the executive of any affected local government in an affected State, which have been previously submitted to the Governor of the State; and

“(ii) any other person.

“(2) Review and comments by affected States.—

“(A) In general.—After preparation and at least 60 days before publication of a proposed leasing program in the Federal Register pursuant to paragraph (3), the Secretary shall submit a copy of the proposed program to the Governor of each affected State for review and comment.

“(B) Local governments.—The Governor of a State may solicit comments from the executives of local governments in the State that the Governor, at the discretion of the Governor, determines will be affected by the proposed program.

“(C) Reply by Secretary.—If any comment by a Governor is received by the Secretary at least 15 days before submission to Congress
pursuant to such paragraph (3) and includes a request for any modification of the proposed program, the Secretary shall reply in writing—

“(i)(I) granting or denying the request in whole or in part; or

“(II) granting the request in such modified form as the Secretary considers appropriate; and

“(ii) stating the reasons for the actions of the Secretary.

“(D) CORRESPONDENCE.—All correspondence between the Secretary and Governor of any affected State under this paragraph, together with any additional information and data relating to the correspondence, shall accompany the proposed program when the proposed program is submitted to Congress.

“(3) SUBMISSION AND PUBLICATION.—

“(A) IN GENERAL.—Not later than 270 days after the date of enactment of the COAL Reform Act of 2015, the Secretary shall—

“(i) submit a proposed leasing program to Congress, the Attorney General, and the Governors of affected States; and
“(ii) publish the proposed program in
the Federal Register.

“(B) LOCAL GOVERNMENTS.—A Governor
shall, on request, submit a copy of the proposed
leasing program to the executive of any local
government affected by the proposed program.

“(f) ADMINISTRATION.—

“(1) IN GENERAL.—Not later than 90 days
after the date of publication of a proposed leasing
program, the Attorney General may, after consulta-
tion with the Federal Trade Commission, submit
comments on the anticipated effects of the proposed
program on competition.

“(2) OTHER COMMENTS.—Any State, local gov-
ernment, or other person may submit comments and
recommendations as to any aspect of the proposed
program.

“(3) RESPONSE BY SECRETARY.—

“(A) IN GENERAL.—At least 60 days be-
fore approving a proposed leasing program, the
Secretary shall submit the proposed program to
the President and Congress, together with any
comments received.

“(B) RECOMMENDATIONS.—The submis-
sion shall indicate why any specific rec-
ommendation of the Attorney General or a State or local government was not accepted.

“(4) NEW LEASES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), after the leasing program has been approved by the Secretary or the date that is 18 months after the date of enactment of the COAL Reform Act of 2015 (whichever first occurs), no lease shall be issued under this Act unless the lease—

“(i) is for an area included in the approved leasing program; and

“(ii) contains provisions that are consistent with the approved leasing program.

“(B) CONTINUED LEASING.—Leasing shall be permitted to continue until the program is approved and while the program is under judicial or administrative review pursuant to this Act.

“(g) REVIEW AND REVISION.—

“(1) REVIEW.—The Secretary shall review the leasing program approved under this section at least once each year.

“(2) REVISIONS.—
“(A) IN GENERAL.—The Secretary may revise and reapprove the leasing program at any time.

“(B) PROCEDURE.—The Secretary shall revise and reapprove the leasing program in the same manner at the original plan unless the revision is not significant, as determined by the Secretary.

“(h) PROCEDURES.—

“(1) IN GENERAL.—The Secretary shall, by regulation, establish procedures for—

“(A) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

“(B) public notice of and participation in development of the leasing program;

“(C) review by State and local governments that may be impacted by the proposed leasing; and

“(D) periodic consultation with State and local governments, coal lessees and permittees, and representatives of other individuals or organizations engaged in activity in areas covered by leases.
“(2) Revisions.—The procedures shall be applicable to any significant revision or reapproval of the leasing program.

“(i) Information Requested by Secretary.—

“(1) In general.—The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) that may be necessary to assist the Secretary in preparing any environmental impact statement and in making other evaluations required by this Act.

“(2) Confidential Information.—

“(A) In general.—Data of a classified nature provided to the Secretary under this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested.

“(B) Period.—The Secretary shall maintain the confidentiality of all privileged or proprietary data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.
“(j) Information Provided by Other Federal Agencies.—

“(1) In general.—The head of a Federal department or agency—

“(A) shall provide the Secretary with any nonprivileged or nonproprietary information the Secretary requests to assist the Secretary in preparing the leasing program; and

“(B) may provide the Secretary with any privileged or proprietary information the Secretary requests to assist the Secretary in preparing the leasing program.

“(2) Confidential information.—Privileged or proprietary information provided to the Secretary under this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested.

“(3) Existing resources.—In carrying out this subsection, the Secretary may use the existing capabilities and resources of a Federal department or agency by appropriate agreement.

“(k) Regulations.—Not later than 180 days after the date of enactment of the COAL Reform Act of 2015, the Secretary shall issue such regulations as are necessary
1 to carry out this section, including regulations that (to the
2 maximum extent practicable)—
3 “(1) minimize discretion by State offices of the
4 Department of the Interior in conducting lease sales;
5 and
6 “(2) maximize the financial return for tax-
7 payers of the United States.”.

8 **SEC. 11. RENTAL RATES.**

9 Section 7(a) of the Mineral Leasing Act (30 U.S.C. 207) is amended in the third sentence by inserting “at
10 a rental rate of not less than $100 per acre (as reviewed
11 and, if appropriate, adjusted by the Secretary every 5
12 years)” before the period at the end.

14 **SEC. 12. PRIMARY TERM OF LEASE.**

15 Section 7 of the Mineral Leasing Act (30 U.S.C. 207)
16 is amended—
17 (1) in subsection (a)—
18 (A) in the first sentence, by striking
19 “twenty” and inserting “10”;
20 (B) in the second sentence, by striking
21 “ten” and inserting “5”; and
22 (C) in the sixth sentence—
23 (i) by striking “twenty” and inserting
24 “10”; and
(ii) by striking “ten” and inserting “5”; and

(2) in subsection (b)(5), by striking “20” and inserting “10”.

SEC. 13. MINIMUM VALUE.

The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended—

(1) in sections 7(a) and 14 (30 U.S.C. 207(a), 223), by striking “12½ per centum” each place it appears and inserting “18.75 percent”;

(2) in section 17 (30 U.S.C. 226)—

(A) in subsection (b)—

(i) in paragraph (1)(A), in the fifth sentence, by striking “12.5 percent” and inserting “18.75 percent”; and

(ii) in paragraph (2)(A)(ii)—

(I) by striking “12½ per centum” and inserting “18.75 percent”; and

(II) by striking “(k)(1)(c)” and inserting “(k)(1)(C)”;

(B) in subsection (c)(1), in the second sentence, by striking “12.5 percent” and inserting “18.75 percent”; and
(C) in subsections (l) and (n)(1)(C), by striking “12½ per centum” each place it appears and inserting “18.75 percent”;

(3) in section 18 (41 Stat. 443), by striking “12½ per centum” and inserting “18.75 percent”;

and

(4) in sections 19, 20, and 31(f)(4) (30 U.S.C. 228, 229, 188(f)(4)), by striking “12½ per centum” each place it appears and inserting “18.75 percent”.

SEC. 14. INSPECTION AND ENFORCEMENT.

Section 41 of the Mineral Leasing Act (30 U.S.C. 195) is amended by adding at the end the following:

“(g) INSPECTION AND ENFORCEMENT.—

“(1) IN GENERAL.—The Director of the Bureau of Land Management shall promulgate regulations for inspections and enforcement of coal operations carried out under this Act to ensure consistent and effective inspections and enforcement.

“(2) INCLUSIONS.—The regulations promulgated pursuant to paragraph (1) shall—

“(A) provide for oversight of State inspection and enforcement programs for coal operations by the Washington, District of Columbia office of the Bureau of Land Management;
“(B) standardize inspection and enforcement practices for all State offices of the Bureau of Land Management;

“(C) require documentation of inspection and enforcement activities and the recordation of all inspection results in a central database; and

“(D) require periodic unannounced inspections.”.

SEC. 15. CIVIL PENALTIES.

Section 41 of the Mineral Leasing Act (30 U.S.C. 195) (as amended by section 14) is amended by adding at the end the following:

“(h) BLM Authority to Assess Civil Penalties.—

“(1) In General.—The Director of the Bureau of Land Management may include in a notice of noncompliance issued to a person subject to the requirements of this Act an assessment of a civil penalty in accordance with paragraph (2).

“(2) Maximum Amount.—Subject to paragraph (3), a penalty assessed pursuant to paragraph (1) shall not exceed $100,000 per incident per day.

“(3) Adjustment.—The Secretary may increase the maximum amount described in paragraph
(2) after notice and opportunity for public com-
ment.”.

SEC. 16. MORATORIUM ON NEW COAL LEASE SALES PEND-
ING IMPLEMENTATION.

Notwithstanding any other provision of law, the Sec-
retary of the Interior shall not conduct a new lease sale,
or enter into a new lease, for coal subject to the Mineral
Leasing Act (30 U.S.C. 181 et seq.) until the Secretary
certifies to Congress that this Act and the amendments
made by this Act have been implemented.