

Resolution
Interstate Mining Compact Commission

Re. Mine Placement of Coal Combustion Residues

BE IT KNOWN THAT:

WHEREAS, in 1980 Congress passed the Bevill Amendment to the Resource Conservation and Recovery Act (RCRA)(42 U.S.C. Sec. 6982(n)), which required the U.S. Environmental Protection Agency (EPA) to conduct a detailed and comprehensive study and submit a report on the adverse effects on human health and the environment, if any, from the disposal and utilization of fly ash waste, bottom ash waste, slag waste, flue gas emission control waste, and other byproduct materials generated primarily from the combustion of coal or other fossil fuels; and

WHEREAS, on May 22, 2000, EPA published a regulatory determination on wastes from the combustion of fossil fuels (65 Fed. Reg. 32214), wherein it concluded that coal combustion wastes do not warrant regulation under subtitle C of RCRA when they are disposed in landfills or surface impoundments, and the regulations under subtitle D of RCRA and/or the Surface Mining Control and Reclamation Act (SMCRA) are warranted when these wastes are used to fill surface or underground mines; and

WHEREAS, the placement of coal combustion residues (CCRs) in mines has remained a state regulatory responsibility for over 35 years, and, during that time, states have developed and implemented programs to safely and effectively manage the placement of CCRs in mines; and

WHEREAS, during the course of their 35 years of regulating the placement of CCRs in mines, state regulatory agencies have evaluated thousands of CCR chemical analyses which have verified that CCRs used in mine reclamation do not chemically test as, or have the characteristics of, hazardous wastes; and

WHEREAS, beginning in May of 2001, the Interstate Mining Compact Commission (IMCC) sponsored and facilitated a series of intergovernmental discussions with the Office of Surface Mining Reclamation and Enforcement (OSMRE), EPA, and other stakeholders concerning existing state and federal regulatory programs and controls for the placement of CCRs in mines; and

WHEREAS, concerns about the potential public health and environmental risks associated with using CCRs for reclamation in active and abandoned mines led Congress in 2004 to direct EPA to commission an independent study to examine this topic, pursuant to which the National Research Council (NRC) established the Committee on Mine Placement of Coal Combustion Wastes; and

WHEREAS, on March 1, 2006, the NRC released its report on “Managing Coal Combustion Residues in Mines”; and

WHEREAS, IMCC endorses the finding in the NRC report that OSMRE and its SMCRA state partners should take the lead in developing any new national standards for the placement of CCRs in mines because the statutory and regulatory framework pursuant to SMCRA is already in place to deal with mine-related issues; and

WHEREAS, on April 17, 2015, the U.S. EPA published a final rule regarding the disposal of coal combustion residues from electric utilities; and

WHEREAS, EPA states in the preamble to the rule that it is not proposing to address the placement of CCRs in mines, or the non-minefill uses of CCRs at coal mine sites; and

WHEREAS, on March 14, 2007, OSMRE published an advanced notice of proposed rulemaking titled: Placement of Coal Combustion Byproducts in Active and Abandoned Coal Mines (72 Fed. Reg. 12,025-12,030); and

WHEREAS, OSMRE has been in the process of developing a proposed rule and accompanying environmental assessments since that time, and reportedly anticipates publishing the proposed rule during the spring of 2017

NOW THEREFORE LET IT BE RESOLVED:

That the Interstate Mining Compact Commission strongly supports the proposal of the U.S. EPA, consistent with the approach recommended by the National Academy of Sciences, to exempt the placement of CCRs in mines from the applicability of EPA’s final rules and to formally confirm the Office of Surface Mining’s lead role in the development of rules regarding the placement of CCRs in mines; and

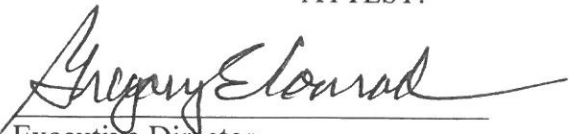
Urges OSMRE, in coordination with EPA, to work closely with the states through IMCC in responding to the recommendations of the NRC report and developing any rules for the placement of CCRs in mines; and

Urges OSMRE to share with the states the draft Environmental Assessment (EA) or Environmental Impact Statement (EIS) accompanying any proposed rule and to engage the states, through IMCC, in early, meaningful pre-rulemaking discussions on development of any proposed rule.



Issued this 19th day of October, 2016

ATTEST:


Executive Director