

A NEWSLETTER PUBLISHED BY THE INTERSTATE MINING COMPACT COMMISSION

IMCC 2023 Meeting October 16-18 in Bozeman, Montana

The IMCC held our 2023 Mid-Year Meeting in Bozeman this October. A big thank you to our friends in Montana for hosting us, and to all our featured speakers. I am personally grateful for the warm welcome to the IMCC; I enjoyed meeting everyone and I hope to see you all at our upcoming meetings, further outlined below!

IMCC 2024 Meeting June 10-12 in Anchorage, Alaska

The IMCC's Annual Meeting for 2024 will be held at the Sheraton Anchorage Hotel. A June meeting will allow for longer days and nicer weather for a possible excursion Monday afternoon! More details to follow as we work with our friends in Alaska to provide another great Annual Meeting experience for you all.

IMCC 2024 Mid-Year Meeting in Missouri

We are looking at dates in mid-late October or early November to accommodate the September NAAML P meeting and are narrowing down venues in Missouri. More information to come! Please reach out with any questions and check the website for updates.

Upcoming Meetings:

IMCC 2024 Annual Meeting
June 10-12, 2023
The Sheraton Anchorage Hotel
Anchorage, Alaska

IMCC 2024 Mid-Year Meeting
Mid-October/November, 2024, TBD
Specific Venue TBD
Missouri

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Senate and House Committees Hold Oversight Hearings on SMCRA Programs

The Senate Energy and Natural Resources Committee and House Natural Resources Committee each held oversight hearings on Surface Mining Control and Reclamation Act (SMCRA) implementation issues in November of 2023. Both hearings featured witness testimony from IMCC member states as well as from OSMRE Deputy Director Glenda Owens. The hearings were successful in examining the difficulties experienced by the states in OSMRE's implementation of the Infrastructure Investment and Jobs Act (IIJA) -funded Abandoned Mine Lands (AML) program and the Abandoned Mine Lands Economic Revitalization program (AMLER) as well as difficulties experienced by states and the mining industry with OSMRE's handling of Federal Mine Plans reviews.

The Senate hearing on November 9 included state testimony from Rob Rice on behalf of the West Virginia Department of Environmental Protection and Don Newton on behalf of the Wyoming Department of Environmental Quality. Their statements primarily discussed the inadequacy of OSMRE's collaboration with the states and the multitude of administrative processes OSMRE has put in place for both the IIJA AML program and AMLER program and explained how they result in unnecessary delays, complications, and diversion of limited state program time and funding resources.

The House hearing on November 14 included state testimony from Benny McCament on behalf of the Ohio Department of Natural Resources, Dustin Morin for the Alabama Department of Labor, and Kyle Wendtland for the Wyoming Department of Environmental Quality. As with the Senate hearing, the state witnesses' testimony discussed OSMRE's lack of effective cooperation with states and the difficulties resulting from OSMRE's implementation of both Title IV and V SMCRA programs.

Members of both Committees expressed serious concern about the issues discussed by the state witnesses. They explored with the state witnesses the details of how OSMRE's handling of both Title IV and V program implementation is hindering the programs' success and questioned Deputy Director Owens on a number of issues, including why the agency is rewriting the TDN rule, delaying Federal Mine Plan approvals and failing to comply with new NEPA deadlines, failing to process unapproved state program amendments and state reclamation plan updates in timely fashion, complicating and delaying conduct of AMLER projects, inserting new priorities and establishing unnecessary administrative requirements for IJJA AML funding, and not meaningfully considering state input. Detailed synopses of both SMCRA oversight hearings can be found in IMCC's e-memo from Friday, December 1.



Senate Committee Holds Hearing on Two Hardrock Mining Bills

On Tuesday December 12, 2023, the Public Lands, Forests and Mining Subcommittee of the Senate Natural Resources Committee held a hearing on two bills of great interest to the hardrock mining industry: S. 1281, the “Mining Regulatory Clarity Act of 2023” and S. 1742, “Clean Energy Minerals Reform Act of 2023”.

The Mining Regulatory Clarity Act, sponsored by Senator Cortez Masto (D-NV), addresses the 9th Circuit Court of Appeal’s decision in *Center for Biologic Diversity v Fish and Wildlife Service*, known as the “*Rosemont*” decision. That decision held that mining claims Rosemont Copper held under the Mining Law of 1872 were not valid because no valuable minerals were located thereon and, therefore, Rosemont could not use the claims for a mill site and waste rock disposal. The bill would restore rules for placement of mine waste and other ancillary mining activities on mining claims to the pre-*Rosemont* status quo.

The Clean Energy Minerals Reform Act, sponsored by Senator Heinrich (D-NM), would comprehensively reform the Mining Law of 1872. The bill is framed as an effort to support critical minerals/rare earth elements production needed for a clean energy transition, and does include provisions to that end, but for the most the bill is similar to past bills offered for reform of the Mining Law of 1872. It would, among other things, alter the claims system, expand land withdrawal capability, and create a revenue stream from new gross royalties on mineral production and fees, some of which would be dedicated to a hardrock AML program.

There was broad recognition by the Committee and the hearing witnesses of the importance of hardrock mining and the need for policy that can foster domestic production of critical minerals. There was general support for the Cortez Masto bill to provide a fix for the *Rosemont* decision, though there was discussion of amending the bill to assure that it would not expand the rights of claimants beyond what the bill intends. There was significant discussion of issues surrounding mining law reform, including the need for permitting reform and the merits of gross versus net royalties on mineral production. The two industry witnesses expressed a willingness to pay a royalty to the government in some amount much less than proposed by the Heinrich bill, if calculated on a net basis. The Senators also displayed clear recognition of the need for hardrock AML funding and support for any new royalties being devoted to that work. Hearing witnesses also advocated for liability protections for Good Samaritans seeking to do hardrock AML work.

A detailed synopsis of the hearing can be found in IMCC’s e-memo of Monday, December 18.

Interagency Working Group Publishes Report on Hardrock Mining Law Reform

The Biden Administration’s Interagency Working Group on Mining Laws, Regulations, and Permitting (IWG) released its report *Recommendations to Improve Mining on Public Lands* on September 12th, 2023. Dr. Steve Feldgus, Department of Interior Deputy Assistant Secretary for Land and Minerals Management and lead of the IWG, attended IMCC’s Mid-Year Meeting in Bozeman, Montana and provided the membership with a presentation on and opportunity to discuss the report’s recommendations.

The Report states that domestic mining for hardrock minerals, particularly “critical minerals”, needs to increase substantially in order to meet clean energy and climate goals. At the same time, it recommends

a major reworking of current hardrock mining regulation. The Report makes sixty-five recommendations in six broad issue categories, including: improving mineral exploration and development planning and permitting; increasing engagement with stakeholders and potentially affected communities; expanding consultation and engagement with Tribes; obtaining fair compensation for taxpayers for minerals extracted from Federal lands; protecting taxpayers from the cost of abandoned mine reclamation; and domestic mining and other issues. Among the most notable recommendations are: transitioning to a leasing system for all federal mineral development, expanding discretion for federal land management agency land withdrawals, instituting royalties for hardrock mining on public land with revenue devoted to hardrock AML and support for mining-impacted communities, and establishing Good Samaritan liability protections and incentives for re-mining.

DOI Selects New Lead of National Hardrock AML Program Grants Program

In October of 2023, the Department of Interior's Office of Environmental Policy and Compliance (OEPC) selected Moira Russell as Hardrock AML Program Manager. Ms. Russell will lead the new hardrock AML grants program authorized by section 40704 of the Infrastructure Investment and Jobs Act (IIJA), which includes grants for states. She brings extensive experience in state and federal level AML program management from her years working in OSMRE's Western Region. She has expressed her interest in working closely with the states in implementing this important new program and has already met with IMCC leadership to discuss the status of the program and opportunities for collaboration with the states.

Call Open for IMCC 2024 Awards Nominations

We are now accepting nominations for the 2023 IMCC National Reclamation Awards, Minerals Education Awards, and Mine Safety and Health Training Awards, which will be presented at the Annual Meeting in Anchorage, Alaska in June of 2024. We are relying on you to get this information to the appropriate persons within your department as well.

Thank you for getting the word out, and for your state's participation in this year's awards program. Please don't hesitate to reach out to me during this process at mhoggarth@imcc.isa.us. Questions and feedback are most welcome as I continue to get to know our program and the ways in which we can improve it!

Information regarding award criteria, submissions, and nomination forms can be found in the email sent November 27. Information and updates will be posted to the website.
