

2021 has truly been a banner year for the efforts of states to address the legacies of historic mining operations of all types across the country. Congress adopted legislation that will enable the states to make more progress towards correction of coal abandoned mine lands (AML) hazards than ever before. The same legislation also requires development of a program to address hardrock or non-coal AML issues, an important step toward a more focused effort by the federal government to address safety and environmental hazards from all types of mining. This legislation and IMCC's involvement in its adoption and implementation is covered in more detail below, along with other recent developments of interest to the states.

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Upcoming Meetings:

IMCC 2022 Annual Meeting
April 10-13
The Griffin Gate Hotel
Lexington, Kentucky

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Congress Adopts Bipartisan Infrastructure Law (BIL); Coal AML Funding Secured

On Friday, November 5, 2021, in a midnight vote, the House of Representatives passed the much-anticipated Bipartisan Infrastructure Framework bill (BIF), now known as the Bipartisan Infrastructure Law (BIL), which includes several elements of great importance to IMCC and NAAML P members. The President signed it into law on Monday, November 15, 2021. This bill fulfills the primary legislative goal of IMCC and NAAML P over the past few years, reauthorization of coal AML fee collection from industry at 80% of current rates for 13 years.

Beyond achieving our basic goal, the BIL brings truly significant, transformative changes to the coal AML program:

1. it delivers \$11.3 billion in additional US Treasury funding for coal AML, roughly twice the amount the states have been able to devote to AML work in the 40-year history of the program.
2. Congress recognized, for the first time, that coal AML is an issue worthy of an expenditure of general revenue from the US Treasury. This is quite important in view of the trend toward declining coal production, which can be expected to continue as the nation takes action to reduce carbon emissions.
3. As revenue from AML fees continues to decline, the newer, modified version of the AML program that governs the Treasury funds will become the coal AML program of the future.

IMCC had a hand in the development of the AML parts of the BIL from its inception. As originally drafted, the BIL included the treasury funding, but not reauthorization. When IMCC's suggestion to include reauthorization in the bill received bipartisan support, this was added and the path forward toward achievement of our long-term legislative goal was laid. IMCC's suggestion for changes in the formula for distribution of the new treasury funds to the states was also accepted. While we didn't get

everything we originally sought through reauthorization, or everything we would like to have gotten, we probably ended up getting more than we could have ever conceived when we began the reauthorization effort.

Above all, the adoption of this bill represents the culmination of years of concerted effort by the States and Tribes through IMCC and NAAMLN to inform Congress about the continuing importance of coal AML work. Thank you to everyone who contributed to this effort for your hard work and perseverance. IMCC once again served as a trusted source of information and integral part of the process where state mining interests are involved.

The next step for IMCC on coal AML has been working with OSMRE on implementation of the BIL. We have formed a task force of states for that purpose. This task force has met twice and has a third meeting scheduled in early January. OSMRE has begun to schedule listening sessions with the states. It has also committed to conducting biweekly meetings with IMCC on implementation issues.

After several years of uncertainty, the future of the SMCRA Title IV Coal AML program is now secure.

Hardrock AML Program Development

The Bi-Partisan Infrastructure Law (“BIL”, formerly known as “BIF”) authorizes \$3 billion in new hardrock AML funding for the Department of the Interior (DOI), with half of that amount allotted to grants for states and tribes. However, the BIL stopped short of actually *appropriating* that funding. Nonetheless, it directs DOI to develop a new program within 90 days of the Act’s passage (by February 13, 2022). Funding for a state and tribal hardrock AML program may become available when a federal budget for FY 2022 is passed. FY 2022 appropriations bills, include \$120 million in the House version and \$65 million in the Senate version for hardrock AML and plugging abandoned oil & gas wells. Even if funding fails to materialize for a hardrock AML program soon, this effort to organize a federal program is important because the absence of an extant program has been identified as a reason Congress has not devoted more funding to hardrock AML in the past. Once the framework for a program is in place, this obstacle to increased federal funding for hardrock AML will be eliminated.

The Interior Department’s Office of Environmental Policy and Compliance (OEPC) is charged with developing the hardrock AML program. To assist the OEPC, IMCC organized and led a series of virtual meetings of state and Tribal hardrock AML and minerals program managers. A survey IMCC developed in conjunction with the OEPC produced a wealth of information regarding the current status of hardrock AML work across the various states and Tribes. OEPC will be considering this information, as well as the states’ and Tribes’ priorities and suggestions in designing the new program. Roughly 40 states and Tribes participated in this effort. IMCC continues to coordinate with OEPC, to assure that voices of the states are heard. We also anticipate an ongoing role facilitating information sharing and benchmarking among the states and tribes as a new hardrock AML program is implemented.

IMCC Mid-Year Meetings

Due to a late-summer surge of the Delta variant of the Covid-19 virus that curtailed the ability of state representatives to travel, IMCC was once again forced to hold virtual meetings instead of a face-to-face Mid-Year Meeting for 2021.

In addition to the series of hardrock AML meetings IMCC held in August and September and its more recent meetings regarding implementation of the coal AML portions of the BIL, it hosted a virtual meeting between the leadership of the Office of Surface Mining Reclamation and Enforcement (OSMRE) and the member states on November 2, 2021. Among the topics discussed were the FY 2022 federal budget, the new administration's Title V priorities, and the status of the Bipartisan Infrastructure Law (BIL). Following the meeting with OSMRE, the IMCC Coal Environmental Committee and Abandoned Mine Lands (AML) Committee met jointly on November 3 and November 10, 2021 to continue to discuss the topics of concern brought up at the prior meeting with OSMRE. One outgrowth of these meetings was a survey IMCC conducted regarding state dam safety laws. Another important issue discussed was draft legislation regarding financial assurances for completion of reclamation at active mining operations under Title V of SMCRA.

On December 14, 2021, IMCC held its Mid-Year Business Meeting, at which Executive Director Tom Clarke and the member states reviewed the Compact's audited financial statements for fiscal year 2021, the unaudited financial statement for the first quarter of fiscal year 2022, the 2020 Annual Report, and the executive director's report. Officers were elected and committee chairs were approved for 2022. IMCC hopes that it will be soon be safe to return to in-person meetings and currently plans to hold the 2022 Annual Meeting in Lexington, Kentucky from April 10 – 13, 2022 at the Marriott Griffin Gate Hotel.

Other Mining Related Provisions in the BIL

Development on Current and Former Coal Mine Land

Two sections of the BIL deal with energy development on “current and former mine land”, with “current and former mine land” defined as land subject to Title V of SMCRA:

- The Department of Energy is required to produce a report on the viability of siting solar energy on current and former coal mine land.
- A program to demonstrate the technical and economic viability of carrying out clean energy projects on current and former coal mine land is established. \$500 million is authorized for this latter program over the next five years.

Critical Minerals/ Rare Earth Elements

The BIL furthers Congress' interest in promoting domestic production of critical minerals (as defined by the Energy Act of 2020) in a number of ways.

- Streamlining Federal Permitting for Critical Minerals Production –
 - DOI/BLM and DOA/USFS are directed to complete the federal permitting and review processes with maximum efficiency, specifically by:
 - establishing timelines and schedules for “applications, operations plans, leases, license, permits, and other use authorizations” for critical mineral activities on federal land”;
 - establishing permitting performance goals and tracking progress using those goals;
 - engaging in early collaboration with agencies, project sponsors, and stakeholders;
 - ensuring transparency and accountability; and
 - *engaging in early and active consultation with state, local, and tribal governments to*

- avoid conflicts or duplication of effort,
 - resolve concerns, and
 - allow for concurrent rather than sequential review
- The agencies are directed to produce a report one year after the law is passed which details the steps the agencies have taken to comply with these provisions and quantify the time period for completing the federal permitting and review process for critical minerals. The agencies must also publish the performance metrics they develop and report on their progress in meeting those metrics.
- Enhancing Geologic Mapping for Critical Minerals: Ore Bodies, AML sites, and Mine Waste –
 - Critical minerals data will be added to the National Geologic Mapping Database (NGMD), which is designed to aid mineral exploration and development and other kinds of land use planning.
 - USGS is directed to update data on known mineral deposits to “characterize the whole ore body and emphasize recoverable critical minerals in a given surface or subsurface deposit.” USGS is given ten years to complete this work.
 - USGS is directed to add data on the location of AML sites and mine waste to the NGMD with priority given to AML sites with multiple critical minerals present. A timeframe for this work is not specified.
- Funding for Research and Development Related to Critical Minerals –
 - *Energy and Minerals Research Facility* - USGS is directed to work with an academic partner to build a facility to support “energy and mineral research and appurtenant associated structures”
 - *Rare Earth Elements Demonstration Facility* – DOE is directed to establish a demonstration program for “full scale integrated rare earth element extraction and separation facility and refinery”. It is specifically noted that the facility will provide environmental benefit by using feedstock from AMD, mine waste, or other deleterious materials.
 - *Critical Minerals Mining and Recycling Research* – The National Science Foundation (NSF) is directed to award competitive grants to support basic research to innovate critical minerals mining, recycling, and reclamation strategies and technologies. A critical minerals interagency subcommittee is established within the National Science and Technology Council to coordinate federal science and technology efforts related to securing reliable supplies of critical minerals. The Board of the NSF is directed to review the resulting research for opportunities to improve critical minerals supply chains, with ways to improve processes with federal agencies, states, and local government specifically noted as an interest.

Prevailing Wage Requirements

All AML work performed with the money provided by the BIL is required to comply with Davis-Bacon Act prevailing wage rate requirements.

IMCC Officers and Committee Leaders for 2022

Many challenges lie ahead in 2022 for state mining regulators and AML programs. Fortunately, we will have capable leadership who are prepared to meet them. At IMCC's December 14, 2021 Mid-Year Business Meeting, the membership elected the following officers and approved the following committee chairs and vice chairs for the coming year:

IMCC 2022 Officers

Chair - Arkansas

Vice Chair - Louisiana

Treasurer - Kentucky

IMCC 2022 Committee Chairpersons

Committee	Chair	Vice Chair
Abandoned Mine Lands	Jerry Schoeppner (NM)	Dustin Morin (AL)
Awards	James Matheny (MS)	Chris McKelvey (NY)
Finance	Gordon Slone (KY)	John Stefanko (PA)
Environmental Affairs - Coal Section	John Stefanko (PA)	Jonathan Rorrer (WV)
Environmental Affairs - Hardrock/Noncoal Section	Brent Goodrum (AK)	Dana Dean (UT)
Mine Safety & Health	Mary Ann Pritchard (OK)	Randy Moore (VA)
Resolutions	Larry Bengal (AR)	Abby Springer (LA)