

the compact

The STREAM Act Becomes Law

IMCC is very pleased to see the Safeguarding Treatment for the Restoration of Ecosystems from Abandoned Mines Act (STREAM) Act become law as part of the Consolidated Appropriations Act of 2023, which was signed by President Biden on December 29. The STREAM Act will aid states' efforts to address long-term Abandoned Mine Lands (AML) impacts by allowing up to 30% of the new annual coal AML grants made under Infrastructure Investment and Jobs Act (IIJA) to be set aside in interest bearing state accounts. This will be similar to the acid mine drainage (AMD) set aside accounts that have long been authorized under the preexisting fee-based AML program. There are a couple important differences with the set aside accounts the STREAM Act authorizes under the IIJA. First, in addition to allowing money that is set aside to be used to address future AMD treatment costs, the STREAM Act also allows money to be set aside for future costs of addressing mine fires and mine subsidence. Second, unlike the preexisting AMD set aside which was not available to certified states, *any* state with long term needs in one of these areas may take advantage of the set aside account authorized by the STREAM Act. IMCC unanimously adopted a policy resolution in support of the STREAM Act at the recent IMCC Mid-year meeting.

Securing passage of the STREAM Act has been a primary focus for IMCC's efforts with Congress in 2022. We have been closely involved throughout the process of drafting, refining, and moving the bill. Since then, we have been working closely with staff for many key members of congress, including: Senators Casey (D-PA), Braun (R-IN), Manchin (D-WV), Capito (R-WV), and Barasso (R-WY); and Representatives Cartwright (D-PA), McKinley (R-WV) and Rogers (R-KY) as well as Committee staff with the House Energy and Minerals (EMR) Subcommittee and Senate Energy and Natural Resources (ENR) Committee. Two hearings were held in the House of Representatives on its version of the STREAM Act before it passed that chamber with broad bipartisan support on July 29 by a vote of 391-9. The Senate ENR Committee held a hearing on its version of the STREAM Act on December 1, followed by its adoption by unanimous consent vote on December 15. The broad support the bill enjoyed in both houses of Congress made it a candidate for inclusion as a rider in the Fiscal Year 2023 omnibus budget legislation that Congress adopted before adjourning at year end.

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**A Newsletter
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Interstate Mining
Compact Commission**

Upcoming Meetings:

IMCC 2023 Annual Meeting
April 2-5
The Notary Hotel
Philadelphia, Pennsylvania

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45th Anniversary of SMCRA

The Office of Surface Mining Reclamation and Enforcement (OSMRE) hosted an event to celebrate the 45th anniversary of the Surface Mining Control and Reclamation Act (SMCRA) on Wednesday, August 3 at the Interior Department headquarters in Washington, DC. IMCC Executive Director Tom Clarke was invited to attend. Representatives of OSMRE and Department of Interior (DOI) leadership in attendance included DOI Secretary Deb Haaland, Deputy Assistant Secretary for Land and Minerals Management Steve Feldgus, Principal Deputy Assistant Secretary for Land and Minerals Management Laura Daniel-Davis, and OSMRE Acting Director Glenda Owens. The remarks offered by OSMRE and DOI representatives focused on the accomplishments of the SMCRA AML program and hope for further invigoration of coal communities through the new \$11.3 billion in coal AML funding provided by the Infrastructure Investment and Jobs Act.



DOI Secretary Deb Haaland.



Principal Deputy Assistant Secretary for Land and Minerals Management Laura Daniel-Davis.



OSMRE Acting Director Glenda Owens (left) and IMCC Executive Director Tom Clarke.

Stan Barnard Award

IMCC Executive Director Tom Clarke was honored with the Stan Barnard Award at the National Association of Abandoned Mine Land Programs (NAAML) Annual Conference in Grand Junction, Colorado in October 2022. This award is presented annually to an individual who has “exhibited outstanding dedication, commitment, and hard work” in their service to state and tribal AML programs. When presenting the award, NAAML President Jeff Graves highlighted Tom’s ability to understand the needs of all types of AML programs from large to small, his legal acumen, his constant availability and responsiveness to state questions, and his work distilling state input into consensus and thoughtful positions to be communicated to OSMRE and Congress.

Montana Moves Toward Full IMCC Membership

The Interstate Mining Compact Commission (IMCC) is very pleased that after many years of working closely with IMCC and considering membership, the state of Montana is taking steps to become a full IMCC member. IMCC membership legislation approved by Governor Gianforte was introduced in the Montana Senate on December 9, 2022. It is sponsored by Senator Steve Hinebauch and has been assigned bill number SB 55.

Coordinating State Input on Hardrock Mining Reform for DOI Interagency Working Group

In February 2022, the Biden Administration announced a set of its “principles” to be considered in potential revision of the nation’s laws governing mining. Simultaneously, the Interior Department announced formation of an interagency working group (IWG) on mining law reform. The IWG was directed to examine hardrock mining laws, regulations, permitting policies, royalties and revenue streams from mineral production, critical minerals availability, operation and reclamation standards, financial assurance, permitting timeliness, community input and tribal consultation, hardrock AML, and Good Samaritan liability protections. Part of the IWG’s charge included outreach to state mining program leadership.

IMCC convened a group of states with interest in hardrock mining issues several times over the course of the year to discuss these topics and facilitate communication with the IWG. Formal comments in response to the IWG’s request for information were developed by IMCC with input from the states and submitted in August. These comments focused on the importance of consultation with states and achieving strong understanding of state level hardrock mining regulation and financial assurance systems, potential impacts of mining law reform on the integrity of state level hardrock mining regulation and state level revenues, in particular from a potential move away to a leasing system, and potential ways to improve the efficiency of federal environmental permitting for hardrock mining operations, such as NEPA reforms, establishment of deadlines and review schedules, and enhanced state agency collaboration. With the goal of enhancing coordination among states, IMCC also hosted a virtual forum of state mining program leaders to allow them to discuss issues that individual states intended to address in comments to the IWG. In addition, IMCC held virtual meetings for state mining program leadership to interact directly with the IWG in several virtual meetings that were held on June 9, Dec. 13, and Dec. 15. The federal lead for the IWG, Deputy Assistant Secretary for Land and

Minerals Management Steve Feldgus, presented a briefing on the work of the IWG during IMCC's Midyear meeting in New Orleans, LA on November 14.

OSMRE-States Roundtable Meetings

Following discussion between IMCC and the Office of Surface Mining Reclamation and Enforcement (OSMRE) at the IMCC Mid-year Meeting in New Orleans, LA on November 14, 2022, IMCC and OSMRE have agreed to hold a series of Roundtable meetings. These meetings will address the overall relationship and communication issues between OSMRE and the states as well as issues attending implementation of the coal AML funding provided by the Infrastructure Investment and Jobs Act (IIJA, also known as the Bipartisan Infrastructure Law or BIL).

The first such meeting was held virtually on Wednesday December 14. The members of IMCC and the National Association of Abandoned Mine Lands Programs' (NAAML) committee for BIL implementation issues participated in the meeting on behalf of the IMCC and NAAML membership. OSMRE and Department of Interior (DOI) leadership were represented in the meeting by OSMRE Acting Director Owens, DOI Deputy Assistant Secretary for Land and Minerals Management Steve Feldgus, DOI Senior Advisor and Infrastructure Coordinator Winnie Stachelberg, and OSMRE Regional Directors Tom Shoppe, Paul Ehret, and David Berry. Principal topics of discussion at the meeting included the need for efficiency in IIJA implementation, state reclamation plan amendments, the requirement for project lists to be included in FY23 IIJA grant applications, proposed updates to OSM-51 submission requirements/guidelines, the requirement for multiple AML grant applications for fee-based and IIJA-funded coal AML grants, use of new grant subaccounts for IIJA funding, OSMRE plans for responding to written questions from the states, and plans for subsequent Roundtable activities including a meeting to be held in person in Washington, DC and the establishment of state-OSMRE workgroups on topics to be determined.

A second, in-person Roundtable meeting will be held on January 18 at OSMRE's Headquarters at the Main Interior Building in Washington, DC. Plans are currently developing for agenda items and other meeting plans. It is expected that the primary focus of this second meeting will be improving communication between OSMRE and the states.

IIJA Sec. 40704 Hardrock AML Grants Program Update

IMCC continues to work closely with the Interior Department's Office of Environmental Policy and Compliance (OEPC) on planning for the new hardrock AML program established by Section 40704 of the Infrastructure Investment and Jobs Act (IIJA). Implementation plans are still in the early stages due to the fact that a very limited amount of funding has been appropriated for the program so far. OEPC leadership has been very open to the states' input thus far. IMCC has several times convened a large group of state hardrock AML program leaders to gather state input and facilitate direct communication between states and OEPC. OEPC also provided presentations at IMCC annual and mid-year meetings and is currently meeting with IMCC every month to discuss progress with implementation plans.

A few things regarding implementation of the IIJA section 40704 AML program seem clear now. First, all types of non-coal AML sites will be eligible for this funding. Second, a significant portion of the \$5

million appropriated for the program in FY22 will go toward development of a national hardrock AML inventory. USGS has been charged with leading that effort, and they have been closely consulting with IMCC for state input into how the inventory should be constructed, what information it should contain, and a variety of other issues. The new national inventory is expected to serve primarily as a reporting tool and will not replace and preclude the states' use of their own existing hardrock AML inventories. Third, a draft MOU between OPEC, other federal agencies and IMCC that will outline how the new hardrock AML program will operate is being considered. The draft MOU also contemplates a role for IMCC in coordinating state input. IMCC is seeking to assure a voice for state programs in implementation decision-making.

Senate Hearing on IJJA Implementation

The Senate Energy and Natural Resources Committee, which has jurisdiction over mining issues, held a hearing on December 13 on a variety of topics related to the Interior Department's implementation of the Infrastructure Investment and Jobs Act (IJJA). Interior Department Deputy Secretary Tommy Beaudreau provided testimony. Senator Manchin (D-WV), the Committee Chair, briefly mentioned coal AML in his opening remarks, but the IJJA coal AML program was otherwise not mentioned in Deputy Secretary Beaudreau's testimony or questioning by the committee. In anticipation that there might be some discussion of IJJA coal AML implementation, IMCC provided the Committee a 5-page outline regarding the most pressing current issues state AML programs face in IJJA implementation. IMCC also provided a few sample questions regarding AML that might be asked of Deputy Secretary Beaudreau.

Here is a summary of the topics discussed in the hearing:

- Coal AML and orphan oil and gas well plugging programs
 - New controls to prevent fraud, waste, and abuse in spending IJJA funds
 - Report on Permitting Reform required by the IJJA is projected to completed during the first quarter of 2023
 - Earth Survey Mineral Mapping by USGS to be completed next year
 - Social cost of carbon/socially optimal level of oil production
 - Interior Decision Memo for Oil & Gas leasing in Cook Inlet, AK
 - Addressing BLM Staffing Needs, particularly in Nevada
 - Approval of Mine Plan and Carbon Capture & Storage for Center Mine & Project Tundra in North Dakota
 - Mineral Leasing generally, including critical minerals, and land withdrawals
-

Omnibus Budget Legislation for FY 2023

Members of Congress spent much of the month of December working on an agreement for funding the federal government for rest of FY 2023. An omnibus appropriations bill was successfully passed on December 23 and signed into law by President Biden on December 29. Provisions of this bill that are relevant to state mining regulatory and AML programs are summarized below.

The STREAM Act

The STREAM Act, which is discussed in more detail above, was included as a rider in the omnibus.

Abandoned Mine Land Economic Revitalization (AMLER) Program

A total of \$135m is appropriated, representing an increase of \$12.5m. This amount is allocated as follows:

- \$88,042,000 for three Appalachian states with the greatest need, based on inventory (\$29,347,333.33 each)
- \$35,218,000 for the next three Appalachian states in terms of need, based on inventory (\$11,739,333.33 each)
- \$11,740,000 for tribes

The bill also contains the following proviso specifying that the AMLER appropriations to states and tribes: “shall be allocated to States and Indian Tribes within 60 days after the date of enactment of this Act.” The Explanatory Statement accompanying the bill states that: “The Office is expected to continue to follow the additional program direction provided in Senate Report 116-123. The Committees expect the Office to increase its capacity and expertise to improve collaboration with States and Tribes and to process proposed projects in a timely and transparent manner.”

SMCRA Title V Grants

The same amount as last year, \$65m, is appropriated for Title V state grants.

Hardrock AML (IIJA Section 40704)

Unfortunately, only \$5m is appropriated for the hardrock AML program and orphan oil & gas well plugging program, combined. Because the oil & gas well program is still well funded under the IIJA, we believe the Interior Department is likely to allocate all of this funding to hardrock AML. The explanatory statement further breaks down the \$5m appropriation as follows:

- \$1.7m for state grants
- \$400k for tribal grants
- \$2.1m for federal agencies
- \$800k for federal program management

Hardrock AML (BLM)

\$16.5m is appropriated to the Bureau of Land Management (BLM) for hardrock AML reclamation, independent of IIJA Section 40704.

Mine Safety and Health Administration

\$10,537,000 is appropriated for state assistance grants.

United States Geological Survey (USGS) Critical Minerals Mapping

\$10,848,000 is appropriated for Earth MRI (critical minerals mapping by USGS), an increase of \$5m, for “mine waste research and to characterize mine waste as a potential source for critical minerals”.

Sage Grouse ESA Prohibition Continued

The omnibus continues the prohibition against use of Interior Department funds to write a rule with respect to listing the sage grouse and Columbia basin distinct population segment of sage grouse under section 4 of the Endangered Species Act.

IMCC Meetings

The Interstate Mining Compact Commission held its Mid-Year Meeting in New Orleans, Louisiana November 14-16, 2022. On Monday, The Honorable Thomas Harris, Secretary of the Louisiana Department of Natural Resources, welcomed everyone to the Pelican State; followed by a meeting between the member state attendees and officials from the Department of the Interior and the Office of Surface Reclamation and Enforcement. The Interior Department was represented during this meeting by Deputy Assistant Secretary Steve Feldgus and OSMRE Acting Director Glenda Owens. Committee meetings continued over the next two days. Attendees also received presentations from Chris Haas with the US Department of Energy (DOE) on the DOE's Clean Energy Demonstration Program for Mine Sites; from William B. Lodder, Jr., Environmental Compliance and Cleanup Division Chief with the Office of Environmental Policy and Compliance on the federal hardrock AML program; and from Rebecca Konolige, House Natural Resources Committee, Energy and Mineral Resources Subcommittee Professional Staff on permitting reform bills.

The Compact's Annual Meeting, will be held April 2-5, 2023 in Philadelphia, Pennsylvania at the Notary Hotel just outside Philadelphia's historic district, Independence Hall, and the Liberty Bell. Alongside daily committee meetings, the Compact will be holding its annual Awards Banquet to honor the winners of the 2023 Reclamation, Mine Safety and Health Training, and Education Awards. We hope that you will be able to join us.

IMCC 2023 Officers and Committee Chairpersons

At the end of year business meeting, IMCC member states elected the officers and approved the committee chairpersons for 2023. IMCC is looking forward to continuing to work with everyone in the new year.

IMCC 2023 Officers
Chair - Louisiana
Vice Chair - Kentucky
Treasurer - Pennsylvania

2023 Committee Chairpersons	
Committee	Chair
Abandoned Mine Lands	Dustin Morin (AL)
Awards	Psalm Wyckoff (NY)
Finance	John Stefanko (PA)
Environmental Affairs - Coal Section	Jonathan Rorrer (WV)
Environmental Affairs - Hardrock/Noncoal Section	Dana Dean (UT)
Mine Safety and Health	Randy Moore (VA)
Resolutions	Abby Springer (LA)