



IMCC Mid-Year Meeting to be Held in Charleston, South Carolina

The Interstate Mining Compact Commission's (IMCC) Mid-Year Meeting will be held at the DoubleTree Suites Historic Hotel in Charleston, South Carolina from October 26 - 27, 2010.

The meeting will open on the morning of Tuesday, October 26 with a joint meeting of the Mine Safety and Health and Noncoal Environmental Affairs Committees. A joint meeting of the Abandoned Mine Lands and Coal Environmental Affairs Committees will immediately follow and reconvene following a luncheon at Noon. A casual reception will take place in the evening.

On the morning of Wednesday, October 27, the Resolutions and Finance and Administrative Committees will meet jointly, followed by the Executive Commission Annual Business Meeting, which will conclude the Mid-Year Meeting.

For room reservation information and a registration form, visit IMCC's website: www.imcc.isa.us and click on the "Conferences" tab, or contact: Beth Botsis by phone at 703.709.8654 or e-mail: bbotsis@imcc.isa.us.

House Committee Passes Mine Safety Legislation

The House Education and Labor Committee in July voted along party lines to pass and report out H.R. 5663, the "Robert C. Byrd Mine Safety and Health Act of 2010". The bill amends current safety laws that apply to facilities under the jurisdiction of the Mine Safety and Health Administration (MSHA) and the Occupational Safety and Health Administration (OSHA). The mine safety portions of the bill are limited to underground coal mines and gassy, underground metal and non-metal mines. A similar bill has been introduced in the Senate (S. 3671) by Senators Jay Rockefeller and Carte Goodwin of West Virginia. Further action on the bills was not anticipated until Congress returned from the August recess. IMCC submitted a letter to House Committee Chairman George Mill on July 12 supporting those portions of the bill that address certification of miners and funding for state mine safety programs.

OSM Hosts Forum on Protection of Bats at Coal Mines; IMCC Provides State Regulatory Overview

The Office of Surface Mining (OSM) sponsored an interactive forum on "Protecting Threatened Bats at Coal Mines" from August 31 - September 3 in Charleston, WV. Among the various presentations during the forum was a presentation by Executive Director Greg Conrad entitled "State Survey of Indiana Bat Protection and Enhancement Measures" followed by an interactive panel discussion facilitated by Mr. Conrad concerning "State-specific Protection Strategies at Coal Mines". Representatives from the states of Pennsylvania, Virginia, Ohio, West Virginia, Indiana and Kentucky provided overviews of their respective state program requirements for the protection of the Indiana Bat. Mr. Conrad reported on a survey of the states' experience with implementing the Range-wide Indiana Bat Protection and Enhancement Plan Guidelines that were adopted in September of 2009. A copy of the state survey and Mr. Conrad's presentation are available by contacting IMCC.

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Upcoming Meetings:

IMCC 2010 Mid-Year Meeting

October 26 - 27, 2010
DoubleTree Suites Historic Charleston Hotel
Charleston, South Carolina

IMCC 2011 Annual Meeting

April 3 - 6, 2011
Oglebay Lodge
Wheeling, West Virginia

IMCC 2011 Mid-Year Meeting

October 18 - 19, 2011
Marriott Grand Hotel
Point Clear, Alabama

For more information on IMCC Meetings as it becomes available, visit our website: www.imcc.isa.us and click on the "Conferences" tab. Copies of IMCC's Compact Newsletter are also available on the website by clicking on the "Publications" tab.

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IMCC Comments on OSM Oversight Improvement Documents

The Interstate Mining Compact Commission (IMCC) submitted written comments to the Office of Surface Mining (OSM) in early July concerning three documents that were released by the agency concerning proposed improvements to the federal oversight process regarding state regulatory programs. The three areas targeted for review included oversight inspection methodology; off-site impacts, and outreach. With regard to the potential for increased federal inspections, IMCC stated that "before OSM considers reallocating its resources to an expanded federal inspection work force (and potentially away from other OSM programs that directly support and assist the states), we request that OSM consider investing additional resources in program improvements that would enhance state primacy." IMCC also noted that federal oversight does not necessarily equate with more inspections. "Inspections, independent or otherwise, are only a part of an effective oversight program," IMCC argued. "There are many aspects of a state program that can be reviewed through some sort of auditing or performance review, including bonding activity, permitting actions, and public participation requirements. Placing significant resources into inspections would seem to foreclose or curtail other appropriate actions by OSM that could make a difference in evaluating state program performance."

House Bill Would Transfer AML Funds to Ailing UMW Pension Fund; IMCC Comments

A bill (H.R. 5479) introduced by House Natural Resources Committee Chairman Nick Rahall (D-WV) would result in the transfer of certain monies from the abandoned mine land (AML) trust fund to prevent the insolvency of the United Mine Workers (UMW) pension fund, which is "experiencing a significant erosion in its net assets due to the recent financial crisis", according to Chairman Rahall. A hearing on the bill was held on June 25 at which the Interstate Mining Compact Commission submitted a statement for the record. In its statement, IMCC indicated that it did not object to the legislation as long as the bill did not impact two existing obligations under the AML Trust Fund: 1) payments to states and tribes for their unappropriated state and tribal share balances that are due to them and 2) payments to certified states and tribes for the 50 percent statutory return of AML fees generated in these states and tribes in future years. The Committee passed the bill on July 22. A similar bill (S. 3649) has been introduced in the Senate by Senators Rockefeller and Goodwin. Future legislative action in both houses of Congress is uncertain.

IMCC Comments on OSM Reprogramming Request of FY 2010 Moneys to Pay for Stream EIS

The Office of Surface Mining (OSM) submitted a request to Congress in June to reprogram certain moneys in its FY 2010 appropriation to pay for a comprehensive environmental impact statement (EIS) that will accompany a soon-to-be-proposed rule on stream protection. In its request, OSM, among other things, proposed to reprogram \$5,916,000 originally appropriated for annual grants to states and tribes to support their regulatory programs. IMCC submitted a letter to the House and Senate Appropriations Committees on July 1 providing an overview of the impacts that the proposed reprogramming would have on state regulatory programs. IMCC noted that "as states improve their fiscal positions and the overall economic climate begins to turn around, states will require, and be able to fully match, the appropriation for federal regulatory funds for state grants. It is short-sighted to conclude that regulatory grant funds can be reprogrammed without impacts on state programs in the next two fiscal years." IMCC also stated that "we believe there are more effective, productive ways for OSM to utilize the deobligated moneys that may occur from year to year rather than diverting funds from important activities that support state regulatory programs."

OSM Conducts Outreach Meeting on Stream Protection EIS

The Office of Surface Mining (OSM) has hosted a series of open houses throughout the summer in nine cities to gather public views on an Environmental Impact Statement (EIS) for its proposed stream protection rule. Among the various requirements anticipated in the rule are those addressing enhanced monitoring of surface and groundwater, defining damage to water quality downstream from permit areas, and providing more baseline data about hydrologic conditions and aquatic biology. IMCC participated in an outreach meeting to discuss a conceptual model for the proposed rule on May 3 and 4 in Washington, DC. On May 26, IMCC submitted comments to the agency concerning the concept paper and the agency's notice of intent to prepare an EIS on the rule. In its comments, IMCC stated that "we are not aware of any data that supports the need for this rulemaking. To the contrary, the data and information we are familiar with (including OSM oversight reports) indicates that the states have been implementing stream protection requirements in a fair, balanced and appropriate manner that comports with the requirements of SMCRA and our approved regulatory programs." IMCC recommended that OSM seriously consider other alternatives available to the agency for addressing stream protection. "We believe that there are a variety of tools, protocols, policies and other measures available to state and federal agencies that with some coordination could lead to a comprehensive and effective approach to protecting streams."

IMCC Urges Exemption for Coal Refuse Reclamation in EPA Rule

The Interstate Mining Compact Commission (IMCC), together with the National Association of Abandoned Mine Land Programs (NAAML), submitted comments to the U.S. Environmental Protection Agency (EPA) on August 3 concerning a proposed rule for the identification of non-hazardous secondary materials that are solid waste. Expressing its concern about the potential application of the proposed rule to legacy coal refuse piles generated prior to 1977, IMCC and NAAML noted that the states have exercised primary regulatory authority for these sites for many years and have comprehensive program requirements (regarding both active and abandoned mines) that insure adequate environmental protection. "It is inappropriate for EPA to subject these legacy coal refuse sites to additional regulatory requirements given the historic management methods and regulatory controls implemented by the states, all of which have resulted in the restoration of degraded lands and waters," IMCC and NAAML stated. "By requiring sources combusting coal refuse from legacy piles to be regulated under the proposed federal requirements, EPA circumvents state regulatory programs and material management programs that have proven to be viable and effective."

OSM/State Meetings Explore Regulatory and Policy Initiatives

The Office of Surface Mining (OSM) held two regional meetings during June with state regulatory authorities to explore and discuss several pending regulatory and policy initiatives. The Western Region meeting took place on June 15 and 16 in Salt Lake City and the Appalachian Region meeting took place on June 29 and 30 in Pittsburgh. Among the topics discussed during the meetings were federal budgetary impacts on state programs, OSM's stream protection rule and accompanying EIS, abandoned mine land program developments, Clean Water Act coordination, federal oversight of state programs, technical assistance, and a variety of technical issues including Marcellus Shale drilling, geospatial database developments, and stream restoration.

States Urge Adjustments to SMCRA for Hardrock AML Reclamation Work; Senate Committee Approves Bill

The Interstate Mining Compact Commission (IMCC) and the National Association of Abandoned Mine Land Programs testified before the Senate Energy and Natural Resources Committee on April 21 in support of a bill (S. 2830) introduced by Committee Chairman Jeff Bingaman (D-NM) that would confirm Congressional intent to allow moneys from the AML Trust Fund under the Surface Mining Control and Reclamation Act (SMCRA) to be used for hardrock AML reclamation. In their testimony, IMCC and NAAML stated that "S. 2830 would remedy the Interior Department's unfortunate interpretation of the 2006 Amendments [to SMCRA]". That interpretation would prohibit the use of moneys that are now being distributed to the states and tribes from their unappropriated balance in the Fund for hardrock AML reclamation projects. "This is a significant blow to states such as New Mexico, Utah and Colorado that have previously used SMCRA AML funds to address many of the more serious hardrock AML problems within their borders," IMCC and NAAML noted. The Senate Energy and Natural Resources Committee voted on June 21 to approve the bill. Similar action in the House is expected before year's end, where H.R. 4817 introduced by Rep. Teague (D-NM) is pending action in the House Natural Resources Committee.