

Resolution
Interstate Mining Compact Commission

A Resolution Concerning Reauthorization of Fee Collection Authority under Title IV of the Surface Mining Control and Reclamation Act PL. 95-87

BE IT KNOWN THAT:

WHEREAS, Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) established the Abandoned Mine Land (AML) reclamation program; and

WHEREAS, the Interstate Mining Compact Commission (IMCC) is a multi-state organization representing the natural resource and environmental protection interests of its 25 member states, including the reclamation of land and water resources adversely affected by past mining and left in an abandoned or inadequately restored condition; and

WHEREAS, pursuant to the cooperative federalism approach contained in SMCRA, many IMCC member states administer AML programs approved, funded and overseen by the Office of Surface Mining Reclamation and Enforcement (OSMRE) within the U.S. Department of the Interior; and

WHEREAS, SMCRA Title IV establishes a reclamation fee on each ton of coal mined in the United States to fund abandoned mine land reclamation; and

WHEREAS, Congress enacted amendments to SMCRA in 2006 to address, among other things, continued collection of AML fees and funding for state and tribal programs to address existing and future AML reclamation; and

WHEREAS, the reclamation fee authorized under SMCRA Title IV will expire by operation of law on September 30, 2021; and

WHEREAS, since the enactment of SMCRA, 824,263 GPRA acres* of AML features (totaling some \$4 billion in construction costs) have been abated by the state and tribal AML programs; and

WHEREAS, presently, there are 801,845 GPRA acres of AML features (totaling some \$10 billion) that still need to be remediated; and

WHEREAS, without the funding generated by the Title IV reclamation fee, these remaining AML hazards will not be addressed, prolonging indefinitely the subjection of our citizens and environment to the hazards associated with AMLs.

WHEREAS, to complete reclamation of the remaining AML hazards, reauthorization of SMCRA Title IV fee collection authority is a necessity.

THEREFORE BE IT RESOLVED:

That the Interstate Mining Compact Commission strongly endorses reauthorization of Title IV reclamation fee collection authority to continue ongoing mandatory grants to states and tribes; and

Urges Congress to enact legislation reauthorizing Title IV fee collection authority for a period of fifteen years beyond September 2021; and

Strongly supports the continuation of states and tribes as the sole delivery mechanism for AML funds given their demonstrated 35-year history of effective and efficient program implementation; and

Advocates the consideration of other appropriate, related amendments to Title IV of SMCRA based on our ten years of experience since enactment of the 2006 amendments (see related attachment); and

Will cooperate with OSMRE and interested and affected stakeholders to assess these additional potential amendments



Issued this 19th day of October, 2016

ATTEST:

Executive Director

* Government Performance and Results Act (GPRA) acres: A conversion for each problem type features English units to acres that provides a single unit of measure for the Office of Surface Mining to report annual accomplishments for the Government Performance and Reports Act.

Proposed Legislative Amendments to Title IV of SMCRA

Existing Provisions Requiring Amendment:

- Extend fee collection to 2036
- Increase Mandatory Minimum Program funding to at least \$5 million

New Provisions:

- Fund all AML emergency programs as a mandatory expenditure from the Secretary's discretionary share under 402(g)(3)
- Allow all State and Tribal AML programs to utilize up to 30% of their entire, respective grant amounts for Acid Mine Drainage (AMD) set-aside
- Exempt AML funding from sequestration reductions under the Budget Control Act of 2011 or other deficit reduction laws and authorize the release of previously sequestered funding to the respective states and tribes
- Exempt AML reclamation projects from jurisdiction under the Mine Safety and Health Act of 1977
- Exempt state and tribal AML projects from NPDES permitting requirements under the Clean Water Act
- Any Treasury payments pursuant to section 402(h) required to shore up the UMWA pension plans that would cause the \$490 million cap to be exceeded shall not reduce treasury payments to certified states and tribes notwithstanding the prorate reduction provision in section 402(h)(3)(B)

Existing Provisions to Maintain Without Amendment:

- AML grant funding must remain an off-budget, mandatory appropriation
- Interest from the AML Fund shall continue to be transferred to the UMWA Pension Plans, but Principal from the AML Fund should remain dedicated exclusively to AML work
- Use of AML funds as local match for other federal programs (e.g. CWA 319 grants) shall be maintained
- AML Fee structure and priority ranking criteria shall remain unchanged
- Funding for Certified states and Tribes should be maintained