

Resolution

Interstate Mining Compact Commission

BE IT KNOWN THAT:

WHEREAS, in 1980 Congress passed the Beville Amendment to the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. Sec. 6982(n)), which required the U.S. Environmental Protection Agency (EPA) to conduct a detailed and comprehensive study and submit a report on the adverse effects on human health and the environment, if any, from the disposal and utilization of fly ash waste, bottom ash waste, slag waste, flue gas emission control waste, and other byproduct materials generated primarily from the combustion of coal or other fossil fuels; and

WHEREAS, on May 22, 2000, EPA published a regulatory determination on wastes from the combustion of fossil fuels (65 Fed. Reg. 32214), wherein it concluded that coal combustion wastes do not warrant regulation under subtitle C of RCRA when they are disposed in landfills or surface impoundments, and that regulations under subtitle D of RCRA and/or the Surface Mining Control and Reclamation Act (SMCRA) are warranted when these wastes are used to fill surface or underground mines; and

WHEREAS, the placement of CCRs in mines has remained a state regulatory responsibility for over 25 years and, during that time, states have developed and implemented programs to safely and effectively manage the placement of CCRs in mines; and

WHEREAS, during the course of their 25 years of regulating the placement of coal combustion residues (CCRs) in mines, state regulatory agencies have evaluated thousands of CCR chemical analyses which have verified that CCRs used in mine reclamation do not chemically test as, or have the characteristics of, hazardous wastes; and

WHEREAS, beginning in May of 2001, the Interstate Mining Compact Commission (IMCC) sponsored and facilitated a series of intergovernmental discussions with the Office of Surface Mining (OSM), EPA and other stakeholders concerning existing state and federal regulatory programs and controls for the placement of coal combustion residues in mines; and

WHEREAS, concerns about the potential public health and environmental risks associated with using coal combustion wastes for reclamation in active and abandoned mines led Congress in 2004 to direct EPA to commission an independent study to examine this topic, pursuant to which the National Research Council (NRC) established the Committee on Mine Placement of Coal Combustion Wastes; and

WHEREAS, on March 1, 2006, the NRC released its report on "Managing Coal Combustion Residues in Mines"; and

WHEREAS, IMCC endorses the finding in the NRC report that OSM and its SMCRA state partners should take the lead in developing any new national standards for the placement of coal combustion residues (CCRs) in mines because the framework is already in place to deal with mine-related issues; and

WHEREAS, on June 21, 2010, the U.S. Environmental Protection Agency published a proposed rule regarding the disposal of coal combustion residuals from electric utilities; and

WHEREAS, EPA states in the preamble to the proposed rule that it is not proposing to address the placement of CCRs in mines, or the non-minefill uses of CCRs at coal mine sites


NOW THEREFORE BE IT RESOLVED:

That the Interstate Mining Compact Commission strongly supports the proposal of the U.S. Environmental Protection Agency, consistent with the approach recommended by the National Academy of Sciences, to exempt the placement of coal combustion residues in mines from the applicability of its proposed rules and to formally confirm the Office of Surface Mining's lead role in the development of rules regarding the placement of coal combustion residues in mines; and

That the Interstate Mining Compact Commission urges OSM, in coordination with EPA, to work closely with the states through IMCC in responding to the recommendations of the NRC report and developing rules for the placement of CCRs in mines.

Issued this 27th day of October, 2010

ATTEST:



Executive Director

