

House Subcommittee Holds Hearing on AML Reauthorization, RECLAIM, & CRPA Bills

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A hearing was held on March 18, 2021 by the House Energy and Mineral Resources Subcommittee regarding three pieces of legislation that would address the abandoned mine land (AML) program for coal under the Surface Mining Control and Reclamation Act of 1977.

- H.R. 1734 would reauthorize the collection of AML fees paid by the coal industry for an additional 15 years at current rates. That authorization expires on September 30th of this year without congressional action. This bill would also:
 - End sequestration of AML grants and return to the states \$143 M that was previously sequestered
 - Increase funding for Minimum Program states (currently there are 13) from \$3 M to \$5M per year
 - Restore federal funding for AML emergencies
- H.R. 1733, the most recent version of the RECLAIM Act, would provide for the release of \$1 billion of the unappropriated balance in the AML Trust Fund (\$2.2 billion) over five years for AML projects that also address economic revitalization in the coalfields.
- H.R. 1146, the Community Reclamation Partnerships Act (CRPA), would provide for a Good Samaritan program whereby NGOs would enjoy liability protection when undertaking AML projects addressing acid mine drainage.

**A Newsletter
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Upcoming Meetings:

IMCC 2021 Mid-Year Meeting
October 18-20
Bourbon Orleans Hotel
New Orleans, Louisiana

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Each of these bills enjoys bi-partisan support and the hearing reflected this fact in terms of how the hearing was structured, the testimony of witnesses, and participation by Subcommittee Members.

Witnesses in the first panel at the hearing included Congressman Congressman Matt Cartwright (D) of Pennsylvania and Darin LaHood (R) of Illinois. Cartwright is the principal sponsor of H.R. 1734 and H.R. 1733, the Reauthorization and RECLAIM bills. Lahood is the principal sponsor of the CRPA bill, H.R. 1146.

The second panel featured two witnesses from non-governmental organizations, Marissa Lautenheiser of Rural Action in Ohio and Bobby Hughes of the Eastern Pennsylvania Coalition for Abandoned Mine Reclamation (EPCAMR), and three state witnesses, who all supported reauthorization:

- John Stefanko, Deputy Secretary of the Pennsylvania Department of Environmental Protection, on behalf of IMCC
- Susan Kozak, Director, Soil Conservation and Water Quality Division, Iowa Department of Agriculture and Land Stewardship, on behalf of NAAML
- Todd Parfitt, Director of the Wyoming Department of Environmental Quality

The archived video of this hearing can be found at: [Hearing | Committee Activity | The House Committee on Natural Resources](#)

IMCC has been assisting Congressmen Cartwright secure cosponsors for H.R. 1734 (Reauthorization). The next step for these bills in the House should be a hearing for markup of the bill before the entire House Committee on Natural Resources. We are hopeful that a markup hearing will be scheduled soon.

In the Senate, bills for reauthorization are expected to be introduced very soon. A version of RECLAIM is also expected to be introduced soon in the Senate as well.

President Biden Proposes Jobs & Infrastructure Package That Includes Money for AML

On Wednesday March 31, 2021, President Biden announced his proposal for a \$2 trillion package of spending on infrastructure called the "The American Jobs Plan". Details are not yet available, but according to the Administration's Fact Sheet on this proposal, it would:

Put the energy industry to work plugging orphan oil and gas wells and cleaning up abandoned mines. Hundreds of thousands of former orphan oil and gas wells and abandoned mines pose serious safety hazards, while also causing ongoing air, water, and other environmental damage. Many of these old wells and mines are located in rural communities that have suffered from years of disinvestment. President Biden's plan includes an immediate up-front investment of \$16 billion that will put hundreds of thousands to work in union jobs plugging oil and gas wells and restoring and reclaiming abandoned coal, hardrock, and uranium mines. In addition to creating good jobs in hard-hit communities, this investment will reduce the methane and brine that leaks from these wells, just as we invest in reducing leaks from other sources like aging pipes and distribution systems.

The complete Fact Sheet can be found at the White House website: [FACT SHEET: The American Jobs Plan | The White House](#)

Senate Confirms Debra Haaland as Secretary of the Interior Department

On Monday, March 15, 2021, the Senate voted to confirm the Biden Administration's nominee for Secretary of the Interior, Debra Haaland. Secretary Haaland previously served as a member of Congress from New Mexico. She is the first Native American to serve as Interior Secretary. Now that a Secretary has been confirmed, the Interior Department can be expected to move forward to fill other positions and begin to advance the administration's agenda. IMCC looks forward to working cooperatively with the Interior Department under Secretary Haaland's leadership.

On February 23 and 24, 2021 the Senate's Energy and Natural Resources Committee held a confirmation hearing on Secretary Haaland's nomination. During the hearing, she indicated that she supported AML reauthorization for a fifteen-year period and a similar program with respect to abandoned hardrock mines. These remarks can be found at the 50 minute mark of the archived webcast of the Committee's confirmation hearing. This webcast can be found at the following link: - [Hearing to Consider the Nomination of the Honorable Debra Haaland to be the Sec... \(senate.gov\)](#)

Laura Daniel Davis is the Administration's designee for Principal Deputy Assistant Secretary - Land and Mineral Management. Ms. Davis came to Interior from the National Wildlife Federation, where she has been Chief of Policy and Advocacy. She was formerly Chief of Staff to Interior Secretaries Sally Jewell and Ken Salazar.

Glenda Owens, with whom we are all familiar, serves as Acting Director of OSMRE.

Senate Confirms Michael Regan as EPA Administrator

On Thursday March 11, 2021, The Senate voted to confirm the Biden Administration's nominee for Administrator of the Environmental Protection Agency, Michael Regan. Before becoming EPA Administrator, Mr. Regan served as Secretary of the North Carolina Department of Environmental Quality. He previously worked for EPA and the Environmental Defense Fund. IMCC hopes to continue its good relationship with EPA under Administrator Regan's leadership.

IMCC 2021 Mid-Year Meeting Scheduled for New Orleans.

The Interstate Mining Compact Commission has made plans to hold its 2021 Mid-Year Meeting at the Bourbon Orleans Hotel in New Orleans, Louisiana. Planning is currently underway for the meeting, which will begin Monday, October 18, and conclude on Wednesday, October 20. A schedule for the various IMCC committee meetings to be held in conjunction with the meeting will be posted on the IMCC website once the itinerary is finalized.

In light of the growing availability of COVID vaccinations, IMCC remains hopeful that we will be able to hold this meeting as scheduled, however in recognition of the evolving nature of health concerns from the pandemic, IMCC again negotiated a 75 day "no fault" cancellation provision in its contract with the Bourbon Orleans for this meeting.

Congratulations IMCC 2021 Award Winners!

The Compact extends a big thank you to everyone who submitted a nomination for the 2021 IMCC Reclamation and Mine Safety and Health Training Awards this year. Despite the difficulty some companies, agencies, and the post office were facing due to COVID, IMCC still received several nominations showcasing all the amazing work being done in our member states.

The 2021 Award Winners are as follows:

Reclamation Award, Coal Category
Randolph Land Holding Company
Jordan Grove
Illinois

Reclamation Award, Noncoal Category
Martin Marietta Materials
Clinton Quarry
Ohio

Mine Safety and Health Training Award
State Award, Coal Surface Category
Virginia Department of Mines, Minerals and Energy – Division of Mines

Mine Safety and Health Training Award

State Award, Coal Underground Category

Virginia Department of Mines, Minerals and Energy – Division of Mines

Mine Safety and Health Training Award

Industry Award, Coal Underground Category

ICG Tygart Valley

West Virginia

Mine Safety and Health Training Award

Industry Award, Coal Surface Category

Navajo Transitional Energy Company and North American Coal - Bisti Fuels

New Mexico

OSMRE’s New Ten Day Notice Rule is Challenged in Court

On January 22, 2021, the Citizens Coal Council, Sierra Club and Appalachian Voices filed a challenge to OSMRE’s recent Ten Day Notice (TDN) rule in the US District Court for the District of Columbia. The groups contend the rule is arbitrary and capricious and violates the Surface Mining Control and Reclamation Act (SMCRA), the federal Administrative Procedure Act (APA) and the National Environmental Policy Act (NEPA). They ask the court to determine that the rule violates SMCRA, and its promulgation violates the federal APA and NEPA. The court is asked to vacate the rule and enjoin OSMRE from implementing it. They also seek an award of attorney’s fees and litigation costs.

IMCC is informed that the plaintiffs have yet to serve a copy of this lawsuit on the federal government’s lawyers, accordingly no deadline for OSMRE to respond to the suit has been established. IMCC has hosted several virtual meetings to attempt to organize a coalition of states to participate as litigants in the case.

The case is assigned to Senior Status federal Judge Reggie Walton. Judge Walton has decided at least two other mining related cases. In 2012, he struck down guidance the EPA had issued for coal mining operations in Appalachia on two bases: (1) the guidance exceeded EPA’s authority under SMCRA, and (2) the guidance amounted to a “final rule” that EPA had not promulgated through the rulemaking procedure under the federal Administrative Procedure Act. In 2014, he struck down a rule OSMRE had promulgated in 2008 that sought to clarify SMCRA’s Stream Buffer Zone Rule and the inter-relationship of SMCRA and the Clean Water Act in the permitting of mining-related fills. His ruling reinstated OSMRE’s 1983 Stream Buffer Zone rule.

Unplanned Subsidence Workgroup Formed

A vexing problem for some state regulators has been the issue of the appropriate steps regulators should take when unexpected, unplanned subsidence first occurs many years after mining has been completed and the mine operator obtained final bond release thereby terminating regulatory jurisdiction under the Surface Mining Reclamation and Enforcement Act of 1977. A federal-state workgroup has been formed to examine this issue and make recommendations. Part of the group’s work will be to survey the states to gather information and determine the scope of the problem. State participants in the workgroup include representatives of the Illinois, Utah, Pennsylvania, and Ohio programs. IMCC has organized initial meetings of the state participants to discuss the purposes of the workgroup, and its charter. The federal participants in the workgroup are led by Paul Ehret of OSMRE. An initial meeting of the entire workgroup is expected to be scheduled very soon.

Information Needed: Permitting Data for the IMCC Annual Report

IMCC requires statistics from each state for permits issued and land disturbed during 2020 for the yearly IMCC Annual Report. If you have not already done so, please take a moment to send the information for your state to Brittany Mills (bmills@imcc.isa.us) by May 30, 2021. Examples of past reports and how this data is used can be found on the IMCC website at <http://imcc.isa.us/publications>