

Resolution

INTERSTATE MINING COMPACT COMMISSION

BE IT KNOWN THAT:

WHEREAS, the Surface Mining Control and Reclamation Act of 1977 (SMCRA) provides for the vesting of exclusive jurisdiction with the states for the regulation of surface coal mining and reclamation operations within their borders following approval of a state program by the Secretary of the Interior; and

WHEREAS, over the past 30 years, the states have established and been recognized for their commitment to implementing the goals and objectives of SMCRA; and

WHEREAS, under the primacy regime envisioned by Congress under SMCRA, a stable, consistent and effective state/federal partnership was anticipated based on principles of comity and federalism; and

WHEREAS, a disregard for these principles will undermine the effective implementation of SMCRA; and

WHEREAS, on January 31, 2011, the Office of Surface Mining Reclamation and Enforcement (OSMRE) issued three directives as part of its Oversight Improvement Actions Initiative concerning the use of Ten-Day Notices (INE-35) and the annual evaluation of state program implementation (Reg-8 and Reg-23); and

WHEREAS, Directives Reg-8 and Reg-23 are inconsistent with the federalism scheme embodied in SMCRA and undermine state primacy, as further articulated in IMCC's comments to OSM of January 7, 2011; and

WHEREAS Directive INE-35 is illegal and contrary to SMCRA, particularly with regard to permit defects, as further articulated in IMCC's comments to OSM of January 7, 2011

NOW THEREFORE BE IT RESOLVED:

That the Interstate Mining Compact Commission reasserts its commitment to the principles of primacy and federalism that underlie implementation of the Surface Mining Control and Reclamation Act of 1977; and

That the IMCC looks for the same commitment from the Interior Department and the Office of Surface Mining Reclamation and Enforcement and anticipates the continuation of an effective state/federal partnership under SMCRA; and

That, in light of the above, the IMCC urges OSMRE to rescind the Ten-Day Notice directive (INE-35) and to work cooperatively with the states in re-designing Directives REG-8 and REG-23 concerning the annual evaluation of state programs to incorporate state concerns.

Issued this 7th day of April, 2011

ATTEST:



Executive Director

