

Interstate Mining Compact Commission

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Interstate Mining Compact Background

The mining industry is one of the most basic and important in the Nation. Our manufacturing activities, transportation systems, and the comfort of our homes depend on the products of mining. Yet it is also true that generations of mining operations have had their effect on the surface of our land and on the condition of other resources. There is an urgent need to find improved means of turning mined lands to their most useful functions and to find ways of reducing the undesirable effects of mining operations on other property and resources. The necessary programs should be undertaken with due regard for the interests of all land and other resource users, including homeowners, mining and other industries, recreationists, conservationists, and the general public.

Governmental action to assist mining industries in their efforts to become more efficient in their methods, thereby increasing yields at lower costs, also is in the public interest. Such activities can and should go hand in hand with programs aimed at improving the usefulness of the surface of mined land.

Individual states have the power to establish and maintain programs of land and other resource development, restoration and regulation appropriate to cope with the surface effects of mining. The Interstate Mining Compact would not shift responsibility for such programs. On the other hand, states acting singly without reference to actions in other jurisdictions labor under serious handicaps in mounting desirable programs. While physiographic, climatic and regional differences in density of population and varying availability of recreational facilities make the application of rigid, single standards inappropriate, fundamental equity would be served by making it possible for individual states to construct their programs in such a way that those mining operations which actually are similarly situated be afforded similar types of assistance and be subjected to comparable regulatory patterns. There is much that an interstate agency like the Interstate Mining Commission established by this compact could do to develop and pool experience in dealing with mining problems.

The Interstate Mining Compact could do much to overcome the limitations just outlined. The Interstate Compact to Conserve Oil and Gas (in successful operation for about thirty-five years and now participated in by virtually every oil and gas producing jurisdiction of the United States), suggests some of the accomplishments that might result from interstate efforts in the field of the mining of solid substances. "The form statute for the conservation of oil and gas," and the many other suggestions of the Interstate Oil Compact Commission, have brought an increasing degree of comparability into state programs affecting the production of oil and natural gas. Also, that Commission serves as a forum for the exchange of useful information in its field of interest. While the focus of an Interstate Mining Compact as here envisaged would be somewhat different from that of the Oil and Gas Compact, and while its format bears only slight resemblance to the Oil and Gas Compact, its basic approach is the same. By adopting the compact, states would obligate themselves to undertake and maintain certain types of programs. In addition, an interstate body with roots in each of the party states and an ability to facilitate the sharing of knowledge would be placed in operation.

The Interstate Mining Compact had its beginnings in 1964. In April of that year in Roanoke, Virginia, the Council of State Governments held a conference on surface mining, attended by state and federal legislative and administrative officials, by mining industry representatives, and by conservationists. In the aftermath of this meeting, the Southern Governors' Conference, that Fall, called on the Council of State Governments to assist the states in developing one or more compacts to deal with surface mining problems. These initiatives led to the subsequent adoption in many states of strengthened laws and programs for regulating surface mining; and to supplement these intra-state activities, the Interstate Mining Compact was drafted and became available for their consideration in the legislative sessions of 1996.

The Compact, Article by Article

It may be helpful to present a brief article-by-article description of the Compact. In

particular, a number of matters which appear rather cryptic in statutory language can be illustrated in order to supply a fuller idea of the considerations behind key provisions of the Compact's ten articles.

Article I – "Findings and Purposes"

This provides the general setting for the compact. It puts into language customary for declarations of legislative intent the considerations to be employed in interpreting the policies underlying the compact and its objectives.

Article II – "Definitions"

With only two exceptions, the words and phrases used in the compact should be taken in their ordinary dictionary meanings. The words "mining" and "State" are specially defined for the purposes of the Compact.

The definition of "mining" includes more than surface mining and more than would probably be included in mining as sometimes conceived. While the problem of effects on the surface of land and water are frequently identified as effects of surface mining processes, all mining operations have some effects on the surface. Consequently, for compact purposes, mining is defined in such a way as to include the surface effects of any kind of mining within the scope of the compact. If the Interstate Mining Commission were a regulatory or law making body, this novel definition could raise questions of considerable scope. However, in view of the entirely recommendatory character of the proposed Commission, it has seemed desirable to permit a wide scope for activities under the compact.

Also, it should be noted that the definition of "mining" is broad enough to include quarrying and excavation for the removal of a wide variety of materials. Such operations can present the same kinds of problems with respect to effects on land and water surface as so operations conducted in furtherance of activities more commonly understood to be mining.

Both deep mining and the various kinds of surface mining are involved. However, certain operations conducted underground are not meant to be encompassed, because they have no demonstrable effect on the surface. On the other hand, surface subsidence, underground mine fires, and the deposit of wastes above ground (whether associated with surface or deep mining operations) do have effects on the surface. Consequently, the definition of "mining" in the compact would cover them.

"State" obviously means any one of the fifty states. In order to open the compact to participation by the Commonwealth of Puerto Rico and the Territories, the word is specially defined.

Article III – "State Programs"

Each of the party states will continue to be the regulatory authority in fields related to the compact. The only function of the interstate agency established by the compact is to study and make recommendations with respect to mining, as defined by the compact, and to study and make recommendations designed to assist the mining industries to improve their techniques. On the other hand, it is thought essential that each party state obligate itself to undertake programs in the key areas to which it applies as set forth in this article. It will be noted that the emphasis is on state programs to accomplish certain results. In certain instances, voluntary measures of nongovernmental entities may be the means of accomplishing necessary objectives; in others, law and administration of a regulatory or other character may be necessary. Depending on the conditions and circumstances prevailing in each of the states, the various ingredients of the program may be used in differing combination. However, this article is a pledge that the states will have programs adequate to the purposes of the compact.

Article IV – "Powers"

This article enumerates a number of powers which the Interstate Mining Commission may exercise. All of them are of a study, recommendatory or consultative character. This implements one of the basic purposes of the compact, and where necessary, formulates the experience and expert research and thought necessary for the implementation of their individual programs.

Article V – "The Commission"

Although this article is lengthy, most of its provisions are of a more or less routine

character and deal with the internal management on the Interstate Mining Commission's day-by-day affairs. Two features of the article which merit special attention are the actual creation and composition of the Interstate Mining Commission, and the voting procedures for it.

The Governors of the party states are to be the commissioners. This means one commissioner from each party state. However, it was considered essential to provide mechanisms for the representation of the state by a Governor's alternate, when the Governor himself could not carry out his responsibilities in compact work in person. To accomplish this purpose, the article requires that there be in each party state an advisory body to counsel the Governor in matters relating to the compact. This body must include representatives of mining industries, conservation interests, and other public and private interests. While the precise composition and functioning of this advisory board is a matter for each state to consider and implement in its own way, Section 2 of the Suggested Enabling Act which accompanies the compact should be consulted for an illustration of what might be done along these lines. In order to assure the connection between the Governor's work on the Interstate Mining Commission and this advisory body, the article also requires that the Governor's alternate be a member of the advisory board.

The voting procedures contained in this article are divided into two parts. The net effect of the provision (assuming a membership of fifty-four jurisdictions) would be to require twenty-eight affirmative votes for the taking of certain specified important actions by the Commission, such as the making of recommendations or the authorization of certain kinds of studies, and to require only a majority of those present and voting on more routine business.

Article VI – "Advisory, Technical, and Regional Committees"

Because of the variety of interests and commodities involved in various aspects of mining and the use of mined lands, it is doubtful that any agency, however expert or representative, could contain within its own membership all of the necessary knowledge and awareness of the problems which the Interstate Mining Commission will have to consider. Consequently, this article gives the Commission authority to assemble and use advisory, technical, and regional committees of the widest possible scope. The committee structure authorized by this article and the state advisory groups required by Article V provide two means of making sure that the Commission will have the benefit of the views and knowledge of all relevant segments of the community.

Article VII – "Finance"

The basic support of the Interstate Mining Commission is to come from appropriations made by the party states. However, with a large number of jurisdictions participating, it is unlikely that the appropriation requested from any single state would be very large. The article contains a formula for the apportionment of appropriation requests. In part this formula is dependent on a comparison of relative values of ores and other solid matter mined in the party states. In making such comparisons, the Commission is authorized to use publicly available sources of information. For example, the U.S. Bureau of the Census and of Mines now publish data of this sort. In particular, the "Minerals Yearbook" of the Bureau of Mines contains state-by-state breakdown of the kind that could be used. The article also contains recognition of a power, conferred elsewhere in the compact, to accept gifts and grants to aid its work. The article also contains audit and accounting safeguards.

Article VIII – "Entry Into Force and Withdrawal"

Adoption by four states will be necessary to bring the compact into effect. Withdrawal by a state is possible upon enactment of a repeal of the compact and one year's notice to the other states. This notice provision is designed to give the other party states and the Commission an opportunity to adjust compact activities in accordance with the new situation.

Article IX – "Effect on Other Laws"

Since the compact operates in a field where there is already much state legislation, this article gives specific assurance that none of these other statutes are impaired or repealed by implication.

Article X – "Construction and Severability"

This is a technical provision of standard character and language.

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445-A Carlisle Drive | Herndon, VA 20170 | Tel.703.709.8654 | Fax.703.709.8655