

108TH CONGRESS  
2D SESSION

# H. R. 3778

To amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2004

Mr. PETERSON of Pennsylvania (for himself and Mr. SHERWOOD) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Abandoned Mine Rec-  
5       lamation Program Extension and Reform Act of 2004”.

1 **SEC. 2. AMENDMENTS TO THE SURFACE MINING CONTROL**  
2 **AND RECLAMATION ACT OF 1977.**

3 The Surface Mining Control and Reclamation Act of  
4 1977 (30 U.S.C. 1201 et seq.) is amended as follows:

5 (1) Section 401(c) is amended by—

6 (A) striking paragraph (2);

7 (B) striking the word “and” after the first  
8 occurrence of the word “subsidence” in para-  
9 graph (1) and redesignating the portion of  
10 paragraph (1) following the deleted word as  
11 paragraph (2); and

12 (C) striking the phrase “section 402(g)(1)  
13 of this Act” in paragraph (2) and inserting in  
14 its place “section 402(g)(1) or section  
15 403(b)(1) of this Act”.

16 (2) Section 401(c)(5) is amended by inserting  
17 before the semicolon “, and other audit and collec-  
18 tion activities under sections 402(d) and 414(b) of  
19 this Act”.

20 (3) Section 401(c)(6) is amended by striking  
21 everything after “Department of the Interior” and  
22 inserting in its place “with public and private orga-  
23 nizations conducted for the purposes of this title of  
24 this Act to such extent and in such amounts as are  
25 provided in appropriation Acts;”.

1           (4) Section 401(c)(10) is amended by striking  
2           “section 411” and inserting in its place “section  
3           415”.

4           (5) Section 401(c)(12) is amended by striking  
5           “section 402(h)” and inserting in its place “sub-  
6           section (f) of this section”.

7           (6) In section 401, subsections (d) and (e) are  
8           amended to read as follows:

9           “(d) AVAILABILITY OF MONEYS FROM FUND.—

10           “(1) IN GENERAL.—Moneys from the fund shall  
11           be available for the purposes of this title of this Act,  
12           or for distribution under paragraph (2) of this sub-  
13           section, only when appropriated therefor. Such ap-  
14           propriations shall be made without fiscal year limita-  
15           tions.

16           “(2) DISPOSITION OF UNAPPROPRIATED STATE-  
17           SHARE BALANCE.—This paragraph applies to the  
18           portion of the fund that was allocated to States and  
19           Indian tribes under section 402(g)(1) of this Act  
20           and that was not appropriated as of the end of the  
21           fiscal year ending September 30, 2004.

22           “(A) STATES AND INDIAN TRIBES CER-  
23           TIFIED AS OF SEPTEMBER 30, 2004.—States and  
24           Indian tribes that have been certified under sec-  
25           tion 411 of this Act as of September 30, 2004,

1 shall receive, subject to appropriation, the un-  
2 appropriated balance of their allocation in an-  
3 nual payments beginning with fiscal year 2005  
4 and ending with fiscal year 2014.

5 “(B) STATES AND INDIAN TRIBES NOT  
6 CERTIFIED AS OF SEPTEMBER 30, 2004.—States  
7 and Indian tribes that have not been certified  
8 under section 411 of this Act as of September  
9 30, 2004, shall receive, subject to appropria-  
10 tion, the unappropriated balance of their alloca-  
11 tion as grants awarded in accordance with sec-  
12 tions 403(b) and 405(h) of this Act.

13 “(C) STATES AND INDIAN TRIBES CERTI-  
14 FYING AFTER SEPTEMBER 30, 2004.—States and  
15 Indian tribes that are certified under section  
16 411 of this Act after September 30, 2004, shall  
17 receive, subject to appropriation, the portion of  
18 their allocation under section 402(g)(1) of this  
19 Act that has not been previously disbursed to  
20 those States and tribes as grants under para-  
21 graph (2)(B) of this subsection. Disbursement  
22 shall be made in annual payments, beginning  
23 with the fiscal year following certification and  
24 ending with fiscal year 2014. These payments  
25 shall be made using funds appropriated for the

1 purpose of making grants to States and Indian  
2 tribes under section 405(h).

3 “(D) NO EXPENDITURE RESTRICTIONS.—  
4 Monies disbursed under paragraphs (2)(A) and  
5 (C) of this subsection may be expended without  
6 regard to any other provision of this Act: *Pro-*  
7 *vided*, That, whenever a certified State or In-  
8 dian tribe becomes aware of a coal mining-re-  
9 lated problem within its borders, the State or  
10 tribe must first use those monies to promptly  
11 address that problem if the site is eligible for  
12 reclamation under section 404 of this Act and  
13 if the problem meets one of the priorities in  
14 paragraphs (1) and (2) of section 403(a) of this  
15 Act.

16 “(3) REALLOCATION OF OTHER UNAPPROPRI-  
17 ATED BALANCES.—

18 “(A) RURAL ABANDONED MINE RECLAMA-  
19 TION PROGRAM.—That part of the fund allo-  
20 cated by section 402(g)(2) for the rural aban-  
21 doned mine reclamation program under section  
22 406 of this Act that has not been appropriated  
23 as of September 30, 2004, shall be available for  
24 appropriation for the purposes set forth in sec-  
25 tion 403(b) of this Act.

1           “(B) FEDERAL SHARE.—That part of the  
2           fund allocated by section 402(g)(3) for use by  
3           the Secretary that has not been appropriated as  
4           of September 30, 2004, shall be available for  
5           appropriation for the purposes set forth in sec-  
6           tion 403(b) of this Act.

7           “(C) HISTORIC PRODUCTION ALLOCA-  
8           TION.—That part of the fund allocated by sec-  
9           tion 402(g)(5) for historic production supple-  
10          mental grants to States and Indian tribes that  
11          has not been appropriated as of September 30,  
12          2004, shall be available for appropriation for  
13          the purposes set forth in section 403(b) of this  
14          Act.

15          “(e) INTEREST.—The Secretary of the Interior shall  
16          notify the Secretary of the Treasury as to what portion  
17          of the fund is not, in his or her judgment, required to  
18          meet current withdrawals. The Secretary of the Treasury  
19          shall invest such portion of the fund in public debt securi-  
20          ties with maturities determined by the Secretary of the  
21          Interior and suitable for the needs of the fund and achiev-  
22          ing the purposes of the transfers under subsection (f).  
23          Such securities shall bear interest at rates determined by  
24          the Secretary of the Treasury, taking into consideration  
25          current market yields on outstanding marketable obliga-

1 tions of the United States of comparable maturities. The  
 2 income on such investments shall be credited to, and form  
 3 a part of, the fund.”.

4 (7) In Section 401, insert a new subsection (f)  
 5 as follows:

6 “(f) TRANSFERS TO COMBINED BENEFIT FUND.—

7 “(1) Notwithstanding any other provision of  
 8 law, at the beginning of each fiscal year, the Sec-  
 9 retary shall transfer from the fund to the United  
 10 Mine Workers of America Combined Benefit Fund  
 11 (referred to as the ‘Combined Fund’ in this title of  
 12 this Act), as established under section 9702 of the  
 13 Internal Revenue Code of 1986 (26 U.S.C. 9702),  
 14 an amount equal to the amount of expenditures that  
 15 the trustees of the Combined Fund estimate will be  
 16 debited against the unassigned beneficiaries pre-  
 17 mium account under section 9704(e) of the Internal  
 18 Revenue Code of 1986 (26 U.S.C. 9704(e)) for the  
 19 fiscal year of the Combined Fund in which the  
 20 transfer is made: *Provided*, That the amount trans-  
 21 ferred shall not exceed the amount available under  
 22 paragraph (2) of this subsection.

23 “(2) In making the transfers, the Secretary  
 24 shall first use the interest that has been earned by  
 25 and paid to the fund during the preceding year, fol-

1       lowed by any interest earned in prior years and not  
2       previously transferred.

3               “(3) If, for any fiscal year, the amount trans-  
4       ferred is more or less than the actual expenditures  
5       for the unassigned beneficiaries premium account in  
6       that year, the Secretary shall appropriately adjust  
7       the amount transferred for the next fiscal year.”.

8               (8) Section 402(a) is amended to read as fol-  
9       lows:

10       “(a) PAYMENT; RATE.—All operators of coal mining  
11       operations subject to the provisions of this Act shall pay  
12       to the Secretary of the Interior, for deposit in the fund,  
13       a reclamation fee according to the following schedule:

14               “(1) From October 1, 2004, through September  
15       30, 2009—

16                       “(A) 29.75 cents per ton of coal (except  
17       lignite) produced by surface mining;

18                       “(B) 12.75 cents per ton of coal produced  
19       by underground mining; and

20                       “(C) 8.5 cents per ton of lignite coal pro-  
21       duced.

22               “(2) From October 1, 2009, through September  
23       30, 2014—

24                       “(A) 28 cents per ton of coal (except lig-  
25       nite) produced by surface mining;



1           “(B) 12 cents per ton of coal produced by  
2           underground mining; and

3           “(C) 8 cents per ton of lignite coal pro-  
4           duced.

5           “(3) From October 1, 2014, through September  
6           30, 2018—

7           “(A) 26.25 cents per ton of coal (except  
8           lignite) produced by surface mining;

9           “(B) 11.25 cents per ton of coal produced  
10          by underground mining; and

11          “(C) 7.5 cents per ton of lignite coal pro-  
12          duced.

13          “(4) In lieu of the rates in paragraphs (1)  
14          through (3) above, the operator may pay a fee of 10  
15          per cent of the value of the coal at the mine, as de-  
16          termined by the Secretary, for each ton of coal pro-  
17          duced by surface or underground mining: *Provided*,  
18          That the alternate fee for lignite coal shall be 2 per-  
19          cent of the value of the coal at the mine, as deter-  
20          mined by the Secretary.”.

21          (9) Section 402(b) is amended by—

22                  (A) striking “Such fee” and inserting in  
23                  its place “Reclamation fees”; and

24                  (B) striking “2004” and all that follows  
25                  and inserting in its place “2018”.

1           (10) Section 402(c) is amended to read as fol-  
2       lows:

3       “(c) SUBMISSION OF QUARTERLY REPORTS.—

4           “(1) All operators of surface coal mining oper-  
5       ations shall submit a report no later than thirty days  
6       after the end of each calendar quarter. The report  
7       shall include—

8           “(A) a statement of the amount of coal  
9       produced during the calendar quarter, the  
10      method of coal removal and the type of coal;

11          “(B) an identification of the permittee and  
12      the operator of the surface coal mining oper-  
13      ation, the owner of the coal, the preparation  
14      plant or tippie receiving the coal or the loading  
15      point for the coal, and the person purchasing  
16      the coal from the operator or permittee;

17          “(C) the number of the permit required  
18      under section 506 of this Act; and

19          “(D) the identification number issued by  
20      the Mine Safety and Health Administration for  
21      the operation.

22          “(2) Each quarterly report shall contain a noti-  
23      fication of any changes in the information required  
24      by paragraph (1) of this subsection since the date of  
25      the preceding quarterly report.

1           “(3) The operator must certify, under penalty  
2           of perjury, that the information in each report is  
3           true, correct, and complete. Any person, corporate  
4           officer, agent or director who, on behalf of a coal  
5           mine operator, knowingly makes any false statement,  
6           representation or certification or knowingly fails to  
7           make any statement, representation or certification  
8           required in this section shall, upon conviction, be  
9           punished by a fine of not more than \$10,000, or by  
10          imprisonment for not more than one year, or both.

11          “(4) The information contained in the quarterly  
12          reports submitted under this subsection shall be  
13          maintained by the Secretary in a computerized data-  
14          base.”.

15          (11) Section 402(d) is amended by—

16                 (A) striking the word “PENALTY” from the  
17                 title and inserting in its place the word “AU-  
18                 DITS” ;

19                 (B) striking paragraph (1);

20                 (C) redesignating paragraph (2) as para-  
21                 graph (1); and

22                 (D) inserting paragraph (2) to read as fol-  
23                 lows:

24                 “(2) The Secretary is authorized to audit com-  
25                 pliance with the excise tax payment requirements of

1       section 4121 of the Internal Revenue Code of 1986  
2       (26 U.S.C. 4121) when conducting audits under this  
3       subsection.”.

4           (12) Section 402(f) is amended to read as fol-  
5       lows:

6       “(f) COOPERATION FROM OTHER AGENCIES.—All  
7       Federal and State agencies shall fully cooperate with the  
8       Secretary of the Interior in the enforcement of this sec-  
9       tion. Whenever the Secretary of the Interior believes that  
10      any person has not paid the full amount of the fee payable  
11      under section 402(a) of this Act or the excise tax payable  
12      under section 4121 of the Internal Revenue Code of 1986  
13      (26 U.S.C. 4121), he or she shall notify the Federal agen-  
14      cy responsible for enforcing the provisions of section 4121  
15      of the Internal Revenue Code of 1986 (26 U.S.C. 4121).”.

16           (13) Section 402(g) is amended by—

17           (A) amending the subsection heading to  
18           read “ALLOCATION OF FEE RECEIPTS AND  
19           OTHER MONIES PRIOR TO SEPTEMBER 30,  
20           2004.—”

21           (B) in paragraph (1), striking “Except as  
22           provided in subsection (h)” and inserting in its  
23           place “Except as otherwise provided in this  
24           Act”;

1 (C) amending paragraphs (1)(A)(ii) and  
2 (1)(B)(ii) to read as follows:

3 “(ii) Lands and waters which are eli-  
4 gible pursuant to section 404 (in the case  
5 of a State not certified under section 411).  
6 In the case of a State certified under sec-  
7 tion 411, eligible lands and waters shall be  
8 those which were mined or processed for  
9 minerals or which were affected by such  
10 mining or processing, and abandoned or  
11 left in an inadequate reclamation status  
12 prior to August 3, 1977; and for which  
13 there is no continuing reclamation respon-  
14 sibility under State or other Federal  
15 laws.”;

16 (D) striking “section 401(c)(2)” at the end  
17 of paragraph (2) and inserting in its place “for  
18 the purposes of section 406”;

19 (E) striking everything in paragraph (4)  
20 after “subparagraph (A)” in subparagraph (B)  
21 and inserting in its place “if the requirements  
22 of section 404(b) are met.”;

23 (F) striking paragraph (5) in its entirety  
24 and inserting in its place “This subsection ap-  
25 plies only to fees and other monies payable to

1 the fund as of September 30, 2004, and to  
2 monies appropriated from the fund as of that  
3 date. Sections 401(d) and 403(b) of this Act  
4 govern allocations and disbursements after that  
5 date.”;

6 (G) striking paragraphs (6) through (8) in  
7 their entirety; and

8 (H) striking subsection (h) paragraph (h)  
9 in its entirety.

10 (14) Section 403 is amended by—

11 (A) amending the title to read “FUND  
12 OBJECTIVES AND EXPENDITURES.”;

13 (B) striking the phrase “except as pro-  
14 vided for under section 411” in subsection (a)  
15 and inserting in its place “except as otherwise  
16 provided in this section, section 401(c), or sec-  
17 tion 411”;

18 (C) striking the period at the end of sub-  
19 section (a)(3) and inserting a semicolon in its  
20 place;

21 (D) amending subsection (b) to read as  
22 follows:

23 “(b) ALLOCATION OF FUNDS AFTER SEPTEMBER 30,  
24 2004.—

25 “(1) ALLOCATIONS TO STATES AND TRIBES.—

1           “(A) At the beginning of each fiscal year,  
2           or as soon thereafter as practicable, the Sec-  
3           retary shall allocate the monies appropriated  
4           from the fund for that year for grants to States  
5           and Indian tribes under section 405(h) of this  
6           Act. An allocation shall be made to each State  
7           and tribe that is eligible to receive a payment  
8           under section 401(d)(2)(C) of this Act and to  
9           each State and tribe that—

10                   “(i) has an approved abandoned mine  
11                   reclamation program under section 405 of  
12                   this Act that is not subject to the prohibi-  
13                   tion in paragraph (c) of that section;

14                   “(ii) is not certified under section 411  
15                   of this Act; and

16                   “(iii) has within its jurisdiction  
17                   unreclaimed lands or waters that are eligi-  
18                   ble pursuant to section 404 and that meet  
19                   one of the priorities stated in paragraphs  
20                   (1) and (2) of subsection (a) of this sec-  
21                   tion: *Provided*, That, when all States and  
22                   Indian tribes have completed or provided  
23                   for completion of reclamation of all lands  
24                   and waters meeting the priorities in para-

1 graphs (1) and (2) of subsection (a) of this  
2 section, this criterion will no longer apply.

3 “(B) In making these allocations, the Sec-  
4 retary shall use a formula based on historical  
5 coal production prior to August 3, 1977, in  
6 those States and tribes: *Provided*, That—

7 “(i) donations received under section  
8 401(b)(3) shall be allocated in accordance  
9 with any stipulations by the donor;

10 “(ii) no State or Indian tribe shall re-  
11 ceive an allocation of less than \$2,000,000  
12 under this paragraph; and

13 “(iii) no State or Indian tribe shall re-  
14 ceive an allocation of more than 25 percent  
15 of the total monies appropriated for grants  
16 under section 405(h): *Provided further*,  
17 That this restriction shall expire when  
18 fewer than eight States are eligible to re-  
19 ceive an allocation under paragraph (1) of  
20 this subsection.

21 “(C) The amount dedicated by section  
22 401(d)(2)(B) of this Act to each State or In-  
23 dian tribe that is not certified under section  
24 411 of this Act shall be reduced by the amount



1 allocated to that State or tribe under this para-  
2 graph.

3 “(D) Amounts allocated to States and In-  
4 dian tribes under this paragraph may be used  
5 to fund projects that protect, repair, replace,  
6 construct, or enhance facilities relating to water  
7 supply, including water distribution facilities  
8 and treatment plants, to replace water supplies  
9 adversely affected by coal mining practices. In  
10 making funding decisions on these projects, the  
11 State or tribe need not consider the priorities in  
12 subsection (a) of this section. If the adverse ef-  
13 fect on water supplies occurred both prior to  
14 and after August 3, 1977 (or other applicable  
15 date under section 404), section 404 shall not  
16 be construed to prohibit a State or Indian tribe  
17 from using funds under this paragraph if the  
18 State or Indian tribe determines that such ad-  
19 verse effects occurred predominantly prior to  
20 August 3, 1977 (or other applicable date under  
21 section 404).

22 “(2) FEDERAL EXPENDITURES.—To the extent  
23 authorized by annual appropriations, the Secretary  
24 may expend monies from the fund for any of the fol-  
25 lowing purposes—

1           “(A) providing assistance to small opera-  
2           tors under section 507(c) of this Act, either di-  
3           rectly or through grants to the States, subject  
4           to the limitation contained in section 401(c)(11)  
5           of this Act;

6           “(B) conducting emergency reclamation  
7           activities and projects under section 410 of this  
8           Act, either directly or through grants to the  
9           States and Indian tribes;

10           “(C) meeting the objectives of the fund set  
11           forth in paragraph (a) of this section for eligi-  
12           ble lands and waters pursuant to section 404 of  
13           this Act in States and on Indian lands where  
14           the State or Indian tribe does not have an ap-  
15           proved abandoned mine reclamation program  
16           pursuant to section 405 of this Act;

17           “(D) the administration of this title of this  
18           Act by the Secretary;

19           “(E) making supplemental grants to  
20           States and Indian tribes for the purposes of  
21           this title of this Act;

22           “(F) implementation of section 401(c)(6)  
23           of this Act; and

24           “(G) conducting other activities consistent  
25           with this title of this Act.”;

1           (E) in subsection (c), redesignating the  
2           first sentence as paragraph (1), the second and  
3           third sentences as paragraph (2), the fourth  
4           sentence as paragraph (3), and the last sen-  
5           tence as paragraph (4); and

6           (F) striking “section 411(a)” in paragraph  
7           (c)(1) and inserting in its place “section 411”.

8           (15) Section 404 is amended to read as follows:

9   **“SEC. 404. ELIGIBLE LANDS AND WATERS.**

10       “(a) IN GENERAL.—

11           “(1) Lands and waters eligible for reclamation  
12           or drainage abatement expenditures under this title  
13           of this Act are those which were mined for coal, or  
14           which were affected by such mining, waste banks,  
15           coal processing, or other coal mining processes, and  
16           abandoned or left in an inadequate reclamation sta-  
17           tus prior to August 3, 1977, and for which there is  
18           no continuing reclamation responsibility under State  
19           or other Federal laws. For other provisions relating  
20           to lands and waters eligible for such expenditures,  
21           see subsections (b) and (c) of this section and sec-  
22           tions 402(g)(1), 403(b)(1), and 409 of this Act.

23           “(2) Surface coal mining operations on lands el-  
24           igible for remining shall not affect the eligibility of  
25           such lands for reclamation and restoration under

1       this title of this Act after the release of the bond or  
2       deposit for any such operation as provided under  
3       section 519 of this Act. In the event the bond or de-  
4       posit for a surface coal mining operation on lands el-  
5       igible for remining is forfeited, funds available under  
6       this title of this Act may be used if the amount of  
7       such bond or deposit is not sufficient to provide for  
8       adequate reclamation or abatement. If conditions  
9       warrant, the Secretary, State, or Indian tribe shall  
10      immediately exercise the appropriate authority under  
11      section 410 of this Act.

12      “(b) INITIAL PROGRAM SITES AND BOND FOR-  
13      FEITURE SITES WITH INSOLVENT SURETIES.—

14           “(1) Sites of surface coal mining operations  
15      conducted after August 3, 1977, and lands and wa-  
16      ters affected by such operations are also eligible for  
17      reclamation or drainage abatement expenditures  
18      under this title of this Act if they were left in an in-  
19      adequate reclamation status and if the Secretary or  
20      the State, with the concurrence of the Secretary,  
21      makes either of the following findings:

22           “(A) A finding that the surface coal min-  
23      ing operation occurred during the period begin-  
24      ning on August 3, 1977, and ending on or be-  
25      fore the effective date of the State regulatory

1 program approved by the Secretary pursuant to  
2 section 503 of this Act for the State in which  
3 the site is located, and that any funds for rec-  
4 lamation or abatement which are available pur-  
5 suant to a bond or other form of financial guar-  
6 antee or from any other source are not suffi-  
7 cient to provide for adequate reclamation or  
8 abatement at the site.

9 “(B) A finding that the surface coal min-  
10 ing operation occurred during the period begin-  
11 ning on August 3, 1977, and ending on or be-  
12 fore November 5, 1990, and that the surety for  
13 the mining operation became insolvent during  
14 that period, and, as of November 5, 1990,  
15 funds immediately available from proceedings  
16 relating to that insolvency, or from any finan-  
17 cial guarantee or other source, are not suffi-  
18 cient to provide for adequate reclamation or  
19 abatement at the site.

20 “(2) All sites referred to in paragraph (1) with-  
21 in any State shall be reclaimed before the State or  
22 the Secretary may make the certification referred to  
23 in section 411 of this Act.

24 “(3) Amounts collected from assessment of civil  
25 penalties under section 518 of this Act are author-

1        ized to be appropriated for the purposes of this sub-  
2        section.”.

3            (16) Section 405 is amended by—

4            (A) in subsection (d), striking “sections  
5            402 and 410” and inserting in its place “sec-  
6            tions 402, 414, and 415”;

7            (B) in subsection (f), striking paragraph  
8            (5) in its entirety and redesignating paragraphs  
9            (6) and (7) as paragraphs (5) and (6);

10           (C) in subsection (f)(6), striking the colon  
11           after “grant” and inserting “and” before  
12           “type”;

13           (D) in subsection (g), striking the colon  
14           after “include” and inserting “subsection (f)  
15           of” before “this section”; and

16           (E) amending subsection (h) to read as fol-  
17           lows:

18        “(h) GRANT OF FUNDS.—

19           “(1) IN GENERAL.—Upon approval of the State  
20        Reclamation Plan under this section and of the sur-  
21        face coal mining regulatory program pursuant to  
22        section 503 of this Act, the Secretary shall grant, on  
23        an annual basis, funds to the State to implement the  
24        State reclamation program as approved by the Sec-  
25        retary.

1           “(2) APPLICATION PROCESSING DEADLINE.—

2       Within 60 days of receipt of a complete abandoned  
3       mine reclamation fund grant application from any  
4       eligible State, the Secretary shall grant to that State  
5       any and all funds available for such purposes in the  
6       applicable appropriations Act.

7           “(3) DISPOSITION OF UNEXPENDED FUNDS.—

8       Except as provided in paragraph (5), any funds not  
9       expended within 3 years after the date of any grant  
10      award shall be available for reallocation or expendi-  
11      ture by the Secretary for any purpose under section  
12      403(b) of this Act.

13          “(4) SOURCE OF FUNDS.—In awarding grants  
14      to States and Indian tribes that were not certified  
15      under section 411 as of September 30, 2004, the  
16      Secretary shall exhaust the funds dedicated to those  
17      States and tribes in section 401(d)(2)(B) before  
18      awarding any funds allocated to those States and  
19      tribes under section 403(b)(1).

20          “(5) STATE SET-ASIDE.—Any State with an  
21      abandoned mine reclamation program approved  
22      under subsection (d) may retain, without regard to  
23      the 3-year limitation referred to in paragraph (3),  
24      up to 10 percent of the total amount of the grants  
25      awarded annually to the State under paragraph (1),

1       excluding grants made under the authority of section  
2       403(b)(2), if those amounts are deposited into ei-  
3       ther—

4               “(A) a special trust fund established under  
5       State law that may earn interest and from  
6       which the State may make expenditures solely  
7       to achieve the priorities stated in section 403(a)  
8       after the State is no longer eligible to receive an  
9       allocation under section 403(b)(1) of this Act;  
10       or

11              “(B) an acid mine drainage abatement and  
12       treatment fund established under State law and  
13       from which the State may make expenditures  
14       solely for abatement of the causes of acid mine  
15       drainage and treatment of the effects of that  
16       drainage in a comprehensive manner within  
17       qualified hydrologic units affected by coal min-  
18       ing practices. Any interest earned by this fund  
19       shall be expended for the purposes of this para-  
20       graph. For purposes of this paragraph, the  
21       term ‘qualified hydrologic unit’ means a hydro-  
22       logic unit in which water quality has been sig-  
23       nificantly affected by acid mine drainage from  
24       coal mining practices in a manner that ad-



1           versely impacts biological resources and which  
2           contains lands and waters that—

3                   “(i) meet the eligibility requirements  
4                   of section 404 and at least one of the pri-  
5                   orities in paragraphs (1), (2), and (3) of  
6                   section 403(a); and

7                   “(ii) either are or are proposed to be  
8                   the subject of expenditures by the State  
9                   from bond forfeiture proceeds under sec-  
10                  tion 509 of this Act, or from other State  
11                  sources, to abate or treat acid mine drain-  
12                  age.”.

13           (17) Section 406 is amended by—

14                   (A) striking the word “Soil” wherever it  
15                   appears in subsection (h) and inserting in its  
16                   place the words “Natural Resources”; and

17                   (B) adding the following new subsection at  
18                  the end:

19                   “(i) AUTHORIZATION OF APPROPRIATIONS.—There is  
20                  authorized to be appropriated to the Secretary of Agri-  
21                  culture, from the general fund of the Treasury, such sums  
22                  as may be necessary to carry out the provisions of this  
23                  section.”.

24           (18) In section 408(a), the last sentence is  
25           amended by striking “, in accordance with this sub-

1 section, who owned the surface prior to May 2,  
2 1977, and”.

3 (19) Section 409 is amended—

4 (A) in the second sentence of subsection  
5 (a), by striking the second “the” before “gov-  
6 erning body”;

7 (B) in the last sentence of subsection (a),  
8 by striking “State regulatory authorities” and  
9 inserting in its place “States and Indian  
10 tribes”;

11 (C) in subsection (b), by inserting “section  
12 403(b)(1)” before “the provisions”; and

13 (D) in subsection (c)(3), by striking  
14 “which have made the certification referred to  
15 in section 411(a)” and inserting in its place  
16 “that have been certified under section 411 of  
17 this Act”.

18 (20) Section 410 is amended by—

19 (A) inserting the title “IN GENERAL.—” at  
20 the beginning of subsection (a);

21 (B) inserting the title “RIGHT OF  
22 ENTRY.—” at the beginning of subsection (b);  
23 and

24 (C) inserting a new subsection (c) to read  
25 as follows:

1       “(c) STATE ASSUMPTION OF EMERGENCY RECLAMA-  
 2       TION PROGRAM.—The Secretary may propose, and, after  
 3       opportunity for public comment, adopt, regulations to re-  
 4       quire that States assume responsibility for administering  
 5       the emergency reclamation program under this section to  
 6       remain eligible to receive grants under section 405(h) of  
 7       this Act. The regulations must establish procedures for  
 8       that assumption, including, at a minimum, a requirement  
 9       that States revise their abandoned mine reclamation plans  
 10      approved under section 405 of this Act to include provi-  
 11      sions that—

12               “(1) authorize the State to make the findings  
 13              required under subsection (a) of this section; and

14               “(2) enable the State to conduct emergency rec-  
 15              lamation activities consistent with subsection (b) of  
 16              this section.”.

17              (21) Section 411 is amended to read as follows:

18      **“SEC. 411. CERTIFICATION OF COMPLETION OF COAL REC-**  
 19                      **LAMATION.**

20              “(a) The Governor of a State, or the head of a gov-  
 21              erning body of an Indian tribe, with an approved aban-  
 22              doned mine reclamation program under section 405, may  
 23              certify to the Secretary that reclamation of all eligible  
 24              lands and waters under section 404 with the priorities  
 25              stated in paragraphs (1), (2), and (3) of section 403(a)

1 has been achieved. The Secretary, after notice in the Fed-  
 2 eral Register and opportunity for public comment, shall  
 3 concur with such certification if the Secretary determines  
 4 that such certification is correct.

5 “(b) The Secretary may make the certification re-  
 6 ferred to in subsection (a) on behalf of any State or Indian  
 7 tribe if, on the basis of the inventory referred to in section  
 8 403(c), all reclamation projects relating to the priorities  
 9 set forth in paragraphs (1), (2), and (3) of section 403(a)  
 10 for eligible lands and waters under section 404 in such  
 11 State or tribe have been completed. The Secretary shall  
 12 only make such certification after notice in the Federal  
 13 Register and opportunity for public comment.”.

14 (22) Section 413(d) is amended by striking  
 15 “(33 U.S.C.A. 1151, et seq. as amended)” and in-  
 16 serting in its place “(33 U.S.C. 1251 et seq.)”.

17 (23) Section 413(e) is amended by striking the  
 18 comma after the word “agencies”.

19 (24) Section 414 is amended to read as follows:

20 **“SEC. 414. INTERAGENCY COOPERATION.**

21 “(a) IN GENERAL.—All departments, boards, com-  
 22 missioners, and agencies of the United States of America  
 23 shall cooperate with the Secretary by providing technical  
 24 expertise, personnel, equipment, materials, and supplies to

1 implement and administer the provisions of this title of  
2 this Act.

3 “(b) EXCISE TAX COLLECTION.—Notwithstanding  
4 any provision of law to the contrary, the Secretary is au-  
5 thorized to collect the excise tax imposed by section 4121  
6 of the Internal Revenue Code of 1986 (26 U.S.C. 4121).  
7 The Secretary of the Treasury shall enter into an agree-  
8 ment with the Secretary providing for reimbursement of  
9 any additional expenses that the Office incurs in connec-  
10 tion with collecting this tax and conducting audits related  
11 thereto.”.

12 (25) Section 415 is added to read as follows:

13 **“SEC. 415. REMINING INCENTIVES.**

14 “(a) Notwithstanding any other provision of this Act  
15 to the contrary, the Secretary may propose, and, after op-  
16 portunity for public comment, adopt, regulations that  
17 would prescribe conditions under which the fund may be  
18 used to promote remining of eligible lands under section  
19 404 to leverage use of monies available from the fund to  
20 achieve more reclamation of those lands than would other-  
21 wise be likely to occur. Any such regulations shall specify  
22 that these incentives will apply only in situations in which  
23 the agency administering this title of this Act determines,  
24 with the concurrence of the regulatory authority under  
25 title V of this Act, that the site is otherwise not likely

1 to be remined and reclaimed under the applicable regu-  
2 latory program.

3 “(b) Incentives that may be considered include, but  
4 are not limited to:

5 “(1) A rebate or waiver of the reclamation fee  
6 payments required under section 402(a) of this Act.  
7 The rebate or waiver shall be limited to operations  
8 that remove or reprocess abandoned coal mine waste  
9 or that remine sites meeting the priorities in para-  
10 graph (1) or (2) of section 403(a). The amount of  
11 the rebate or waiver shall be limited to the estimated  
12 cost of reclaiming those sites under this title of this  
13 Act.

14 “(2) Use of the fund to provide financial assur-  
15 ance for remining operations in lieu of all or part of  
16 the performance bond required under section 509 of  
17 this Act.”.

18 (26) Section 510 is amended by—

19 (A) inserting a sentence at the end of sub-  
20 section (c) to read as follows: “In applying the  
21 prohibitions of this subsection after October 24,  
22 1992, the regulatory authority shall not include  
23 any violation resulting from an unanticipated  
24 event or condition at a surface coal mining op-  
25 eration on lands eligible for remining under a

1 permit held by the person making the applica-  
2 tion.”; and

3 (B) striking subsection (e) in its entirety.

4 (27) Section 515(b)(22)(B) is amended to read  
5 as follows:

6 “(B) the areas of disposal are within either  
7 a bonded permit area or the boundaries of an  
8 abandoned mine land reclamation project ap-  
9 proved under title IV of this Act, and all or-  
10 ganic matter shall be removed immediately  
11 prior to spoil placement;”.

12 (28) Section 701 is amended by—

13 (A) in paragraph (33), striking “section  
14 510(e)” and inserting in its place “section  
15 510(c)”; and

16 (B) amending paragraph (34) to read as  
17 follows:

18 “(34) the term ‘lands eligible for remining’  
19 means those lands eligible for expenditures under  
20 section 404 of this Act.”.

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