

109TH CONGRESS
1ST SESSION

H. R. 2721

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.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2005

Mr. PETERSON of Pennsylvania (for himself, Mr. HOLDEN, Mr. SHUSTER, Mr. PLATTS, Mr. GERLACH, Mr. ENGLISH of Pennsylvania, Ms. HART, Mr. KANJORSKI, Mr. SHERWOOD, Mr. DAVIS of Tennessee, Mr. REGULA, Mr. WAMP, Mr. RUPPERSBERGER, Mrs. BLACKBURN, Mr. FORD, Mr. GORDON, and Ms. SCHWARTZ of Pennsylvania) introduced the following bill; which was referred to the Committee on Resources

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Abandoned Mine Rec-
3 lamation Program Extension and Reform Act of 2005”.

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

6 The Surface Mining Control and Reclamation Act of
7 1977 (30 U.S.C. 1201 et seq.) is amended as follows:

8 (1) Section 401(c) is amended by—

9 (A) striking paragraph (2);

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

15 (C) striking the phrase “section 402(g)(1)
16 of this Act” in paragraph (2) and inserting in
17 its place “section 402(g)(1) or section
18 403(b)(1) of this Act”.

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

23 (3) Section 401(c)(6) is amended by striking
24 everything after “Department of the Interior” and
25 inserting in its place “with public and private orga-
26 nizations conducted for the purposes of this title of

1 this Act to such extent and in such amounts as are
2 provided in appropriation Acts;”.

3 (4) Section 401(c)(10) is amended by striking
4 “section 411” and inserting in its place “section
5 415”.

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

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

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

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

18 “(2) DISPOSITION OF UNAPPROPRIATED STATE-
19 SHARE BALANCE.—This paragraph applies to the
20 portion of the fund that was allocated to States and
21 Indian tribes under section 402(g)(1) of this Act
22 and that was not appropriated as of the end of the
23 fiscal year ending September 30, 2005.

24 “(A) STATES AND INDIAN TRIBES CER-
25 TIFIED AS OF SEPTEMBER 30, 2005.—States and

1 Indian tribes that have been certified under sec-
2 tion 411 of this Act as of September 30, 2005,
3 shall receive, subject to appropriation, the un-
4 appropriated balance of their allocation in an-
5 nual payments beginning with fiscal year 2006
6 and ending with fiscal year 2015.

7 “(B) STATES AND INDIAN TRIBES NOT
8 CERTIFIED AS OF SEPTEMBER 30, 2005.—States
9 and Indian tribes that have not been certified
10 under section 411 of this Act as of September
11 30, 2005, shall receive, subject to appropria-
12 tion, the unappropriated balance of their alloca-
13 tion as grants awarded in accordance with sec-
14 tions 403(b) and 405(h) of this Act.

15 “(C) STATES AND INDIAN TRIBES CERTI-
16 FYING AFTER SEPTEMBER 30, 2005.—States and
17 Indian tribes that are certified under section
18 411 of this Act after September 30, 2005, shall
19 receive, subject to appropriation, the portion of
20 their allocation under section 402(g)(1) of this
21 Act that has not been previously disbursed to
22 those States and tribes as grants under para-
23 graph (2)(B) of this subsection. Disbursement
24 shall be made in annual payments, beginning
25 with the fiscal year following certification and

1 ending with fiscal year 2015. These payments
2 shall be made using funds appropriated for the
3 purpose of making grants to States and Indian
4 tribes under section 405(h).

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

18 “(3) REALLOCATION OF OTHER UNAPPROPRI-
19 ATED BALANCES.—

20 “(A) RURAL ABANDONED MINE RECLAMA-
21 TION PROGRAM.—That part of the fund allo-
22 cated by section 402(g)(2) for the rural aban-
23 doned mine reclamation program under section
24 406 of this Act that has not been appropriated
25 as of September 30, 2005, shall be available for

1 appropriation for the purposes set forth in sec-
2 tion 403(b) of this Act.

3 “(B) SECRETARY’S DISCRETIONARY
4 SHARE.—That part of the fund allocated by
5 section 402(g)(3) for use by the Secretary that
6 has not been appropriated as of September 30,
7 2005, shall be available for appropriation for
8 the purposes set forth in section 403(b) of this
9 Act.

10 “(C) HISTORIC PRODUCTION ALLOCA-
11 TION.—That part of the fund allocated by sec-
12 tion 402(g)(5) for historic production supple-
13 mental grants to States and Indian tribes that
14 has not been appropriated as of September 30,
15 2005, shall be available for appropriation for
16 the purposes set forth in section 403(b) of this
17 Act.

18 “(e) INTEREST.—The Secretary of the Interior shall
19 notify the Secretary of the Treasury as to what portion
20 of the fund is not, in his or her judgment, required to
21 meet current withdrawals. The Secretary of the Treasury
22 shall invest such portion of the fund in public debt securi-
23 ties with maturities determined by the Secretary of the
24 Interior and suitable for the needs of the fund and achiev-
25 ing the purposes of the transfers under subsection (f).

1 Such securities shall bear interest at rates determined by
2 the Secretary of the Treasury, taking into consideration
3 current market yields on outstanding marketable obliga-
4 tions of the United States of comparable maturities. The
5 income on such investments shall be credited to, and form
6 a part of, the fund.”.

7 (7) In section 401, insert a new subsection (f)
8 as follows:

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

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

1 “(2) In making the transfers, the Secretary
2 shall first use the interest that has been earned by
3 and paid to the fund during the preceding year, fol-
4 lowed by any interest earned in prior years and not
5 previously transferred.

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

11 (8) Section 402(b) is amended by—

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

14 (B) striking “2005” and all that follows
15 and inserting in its place “2019”.

16 (9) Section 402(c) is amended to read as fol-
17 lows:

18 “(c) SUBMISSION OF QUARTERLY REPORTS.—

19 “(1) All operators of surface coal mining oper-
20 ations shall submit a report no later than 30 days
21 after the end of each calendar quarter. The report
22 shall include—

23 “(A) a statement of the amount of coal
24 produced during the calendar quarter, the
25 method of coal removal and the type of coal;

1 “(B) an identification of the permittee and
2 the operator of the surface coal mining oper-
3 ation, the owner of the coal, the preparation
4 plant or tipple receiving the coal or the loading
5 point for the coal, and the person purchasing
6 the coal from the operator or permittee;

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

9 “(D) the identification number issued by
10 the Mine Safety and Health Administration for
11 the operation.

12 “(2) Each quarterly report shall contain a noti-
13 fication of any changes in the information required
14 by paragraph (1) of this subsection since the date of
15 the preceding quarterly report.

16 “(3) The operator must certify, under penalty
17 of perjury, that the information in each report is
18 true, correct, and complete. Any person, corporate
19 officer, agent or director who, on behalf of a coal
20 mine operator, knowingly makes any false statement,
21 representation or certification or knowingly fails to
22 make any statement, representation or certification
23 required in this section shall, upon conviction, be
24 punished by a fine of not more than \$10,000, or by
25 imprisonment for not more than 1 year, or both.

1 “(4) The information contained in the quarterly
2 reports submitted under this subsection shall be
3 maintained by the Secretary in a computerized data-
4 base.”.

5 (10) Section 402(d) is amended by—

6 (A) striking the word “PENALTY” from the
7 title and inserting in its place the word “AU-
8 DITS” ;

9 (B) striking paragraph (1);

10 (C) redesignating paragraph (2) as para-
11 graph (1); and

12 (D) inserting paragraph (2) to read as fol-
13 lows:

14 “(2) The Secretary is authorized to audit com-
15 pliance with the excise tax payment requirements of
16 section 4121 of the Internal Revenue Code of 1986
17 (26 U.S.C. 4121) when conducting audits under this
18 subsection.”.

19 (11) Section 402(f) is amended to read as fol-
20 lows:

21 “(f) COOPERATION FROM OTHER AGENCIES.—All
22 Federal and State agencies shall fully cooperate with the
23 Secretary of the Interior in the enforcement of this sec-
24 tion. Whenever the Secretary of the Interior believes that
25 any person has not paid the full amount of the fee payable

1 under section 402(a) of this Act or the excise tax payable
2 under section 4121 of the Internal Revenue Code of 1986
3 (26 U.S.C. 4121), he or she shall notify the Federal agen-
4 cy responsible for enforcing the provisions of section 4121
5 of the Internal Revenue Code of 1986 (26 U.S.C. 4121).”.

6 (12) Section 402(g) is amended by—

7 (A) amending the subsection heading to
8 read “ALLOCATION OF FEE RECEIPTS AND
9 OTHER MONIES PRIOR TO OCTOBER 1,
10 2005.—”;

11 (B) in paragraph (1), striking “Except as
12 provided in subsection (h)” and inserting in its
13 place “Except as otherwise provided in this
14 Act”;

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

17 “(ii) Lands and waters which are eli-
18 gible pursuant to section 404 (in the case
19 of a State not certified under section 411).
20 In the case of a State certified under sec-
21 tion 411, eligible lands and waters shall be
22 those which were mined or processed for
23 minerals or which were affected by such
24 mining or processing, and abandoned or
25 left in an inadequate reclamation status

1 prior to August 3, 1977; and for which
2 there is no continuing reclamation respon-
3 sibility under State or other Federal
4 laws.”;

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

8 (E) striking everything in paragraph (4)
9 after “subparagraph (A)” in subparagraph (B)
10 and inserting in its place “if the requirements
11 of section 404(b) are met.”;

12 (F) striking paragraph (5) in its entirety
13 and inserting in its place “This subsection ap-
14 plies only to fees and other monies payable to
15 the fund as of the expiration of September 30,
16 2005, and to monies appropriated from the
17 fund as of that date. Sections 401(d) and
18 403(b) of this Act govern allocations and dis-
19 bursements after that date.”;

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

22 (H) striking subsection (h) in its entirety.

23 (13) Section 403 is amended by—

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

1 (B) striking the phrase “except as pro-
2 vided for under section 411” in subsection (a)
3 and inserting in its place “except as otherwise
4 provided in this section, section 401(c), or sec-
5 tion 411”;

6 (C) striking the period at the end of sub-
7 section (a)(3) and inserting a semicolon in its
8 place;

9 (D) amending subsection (b) to read as
10 follows:

11 “(b) ALLOCATION OF FUNDS AFTER SEPTEMBER 30,
12 2005.—

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

14 “(A) At the beginning of each fiscal year
15 beginning after September 30, 2005, or as soon
16 thereafter as practicable, the Secretary shall al-
17 locate the monies appropriated from the fund
18 for that year for grants to States and Indian
19 tribes under section 405(h) of this Act. An allo-
20 cation shall be made to each State and tribe
21 that is eligible to receive a payment under sec-
22 tion 401(d)(2)(C) of this Act and to each State
23 and tribe that—

24 “(i) has an approved abandoned mine
25 reclamation program under section 405 of

1 this Act that is not subject to the prohibi-
2 tion in paragraph (c) of that section;

3 “(ii) is not certified under section 411
4 of this Act; and

5 “(iii) has within its jurisdiction
6 unreclaimed lands or waters that are eligi-
7 ble pursuant to section 404 and that meet
8 one of the priorities stated in paragraphs
9 (1) and (2) of subsection (a) of this sec-
10 tion: *Provided*, That, when all States and
11 Indian tribes have completed or provided
12 for completion of reclamation of all lands
13 and waters meeting the priorities in para-
14 graphs (1) and (2) of subsection (a) of this
15 section, this criterion will no longer apply.

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

20 “(i) donations received under section
21 401(b)(3) shall be allocated in accordance
22 with any stipulations by the donor;

23 “(ii) no State or Indian tribe shall re-
24 ceive an allocation of less than \$3,000,000
25 under this paragraph;

1 “(iii) Tennessee shall receive an allo-
2 cation of not less than \$3,000,000; and

3 “(iv) no State or Indian tribe shall re-
4 ceive an allocation of more than 25 percent
5 of the total monies appropriated for grants
6 under section 405(h): *Provided further*,
7 That this restriction shall expire when
8 fewer than eight States are eligible to re-
9 ceive an allocation under paragraph (1) of
10 this subsection.

11 “(C) The amount dedicated by section
12 401(d)(2)(B) of this Act to each State or In-
13 dian tribe that is not certified under section
14 411 of this Act shall be reduced by the amount
15 allocated to that State or tribe under this para-
16 graph.

17 “(D) Amounts allocated to States and In-
18 dian tribes under this paragraph may be used
19 to fund projects that protect, repair, replace,
20 construct, or enhance facilities relating to water
21 supply, including water distribution facilities
22 and treatment plants, to replace water supplies
23 adversely affected by coal mining practices. In
24 making funding decisions on these projects, the
25 State or tribe need not consider the priorities in

1 subsection (a) of this section. If the adverse ef-
2 fect on water supplies occurred both prior to
3 and after August 3, 1977 (or other applicable
4 date under section 404), section 404 shall not
5 be construed to prohibit a State or Indian tribe
6 from using funds under this paragraph if the
7 State or Indian tribe determines that such ad-
8 verse effects occurred predominantly prior to
9 August 3, 1977 (or other applicable date under
10 section 404).

11 “(2) FEDERAL EXPENDITURES.—To the extent
12 authorized by annual appropriations, the Secretary
13 may expend monies from the fund for any of the fol-
14 lowing purposes—

15 “(A) providing assistance to small opera-
16 tors under section 507(c) of this Act, either di-
17 rectly or through grants to the States, subject
18 to the limitation contained in section 401(c)(11)
19 of this Act;

20 “(B) conducting emergency reclamation
21 activities and projects under section 410 of this
22 Act, either directly or through grants to the
23 States and Indian tribes;

24 “(C) meeting the objectives of the fund set
25 forth in paragraph (a) of this section for eligi-

1 ble lands and waters pursuant to section 404 of
2 this Act in States and on Indian lands where
3 the State or Indian tribe does not have an ap-
4 proved abandoned mine reclamation program
5 pursuant to section 405 of this Act;

6 “(D) the administration of this title of this
7 Act by the Secretary;

8 “(E) making supplemental grants to
9 States and Indian tribes for the purposes of
10 this title of this Act;

11 “(F) implementation of section 401(c)(6)
12 of this Act; and

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

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

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

22 (14) Section 404 is amended to read as follows:

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

24 “(a) IN GENERAL.—

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

13 “(2) Surface coal mining operations on lands el-
14 igible for remining shall not affect the eligibility of
15 such lands for reclamation and restoration under
16 this title of this Act after the release of the bond or
17 deposit for any such operation as provided under
18 section 519 of this Act. In the event the bond or de-
19 posit for a surface coal mining operation on lands el-
20 igible for remining is forfeited, funds available under
21 this title of this Act may be used if the amount of
22 such bond or deposit is not sufficient to provide for
23 adequate reclamation or abatement. If conditions
24 warrant, the Secretary, State, or Indian tribe shall

1 immediately exercise the appropriate authority under
2 section 410 of this Act.

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

5 “(1) Sites of surface coal mining operations
6 conducted after August 3, 1977, and lands and wa-
7 ters affected by such operations are also eligible for
8 reclamation or drainage abatement expenditures
9 under this title of this Act if they were left in an in-
10 adequate reclamation status and if the Secretary or
11 the State, with the concurrence of the Secretary,
12 makes either of the following findings:

13 “(A) A finding that the surface coal min-
14 ing operation occurred during the period begin-
15 ning on August 3, 1977, and ending on or be-
16 fore the effective date of the State regulatory
17 program approved by the Secretary pursuant to
18 section 503 of this Act for the State in which
19 the site is located, and that any funds for rec-
20 lamation or abatement which are available pur-
21 suant to a bond or other form of financial guar-
22 antee or from any other source are not suffi-
23 cient to provide for adequate reclamation or
24 abatement at the site.

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

12 “(2) All sites referred to in paragraph (1) with-
13 in any State shall be reclaimed before the State or
14 the Secretary may make the certification referred to
15 in section 411 of this Act.

16 “(3) Amounts collected from assessment of civil
17 penalties under section 518 of this Act are author-
18 ized to be appropriated for the purposes of this sub-
19 section.”.

20 (15) Section 405 is amended by—

21 (A) in subsection (d), striking “sections
22 402 and 410” and inserting in its place “sec-
23 tions 402, 414, and 415”;

1 (B) in subsection (f), striking paragraph
2 (5) in its entirety and redesignating paragraphs
3 (6) and (7) as paragraphs (5) and (6);

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

7 (D) in subsection (g), striking the colon
8 after “include” and inserting “subsection (f)
9 of” before “this section”; and

10 (E) amending subsection (h) to read as fol-
11 lows:

12 “(h) GRANT OF FUNDS.—

13 “(1) IN GENERAL.—Upon approval of the State
14 Reclamation Plan under this section and of the sur-
15 face coal mining regulatory program pursuant to
16 section 503 of this Act, the Secretary shall grant, on
17 an annual basis, funds to the State to implement the
18 State reclamation program as approved by the Sec-
19 retary.

20 “(2) APPLICATION PROCESSING DEADLINE.—

21 Within 60 days of receipt of a complete abandoned
22 mine reclamation fund grant application from any
23 eligible State, the Secretary shall grant to that State
24 any and all funds available for such purposes in the
25 applicable appropriations Act.

1 “(3) DISPOSITION OF UNEXPENDED FUNDS.—
2 Except as provided in paragraph (5), any funds not
3 expended within 3 years after the date of any grant
4 award shall be available for reallocation or expendi-
5 ture by the Secretary for any purpose under section
6 403(b) of this Act.

7 “(4) SOURCE OF FUNDS.—In awarding grants
8 to States and Indian tribes that were not certified
9 under section 411 as of September 30, 2005, the
10 Secretary shall exhaust the funds dedicated to those
11 States and tribes in section 401(d)(2)(B) before
12 awarding any funds allocated to those States and
13 tribes under section 403(b)(1).

14 “(5) STATE SET-ASIDE.—Any State with an
15 abandoned mine reclamation program approved
16 under subsection (d) may retain, without regard to
17 the 3-year limitation referred to in paragraph (3),
18 up to 10 percent of the total amount of the grants
19 awarded annually to the State under paragraph (1),
20 excluding grants made under the authority of section
21 403(b)(2), if those amounts are deposited into either
22 of the following:

23 “(A) A special trust fund established under
24 State law that may earn interest and from
25 which the State may make expenditures solely

1 to achieve the priorities stated in section 403(a)
2 after the State is no longer eligible to receive an
3 allocation under section 403(b)(1) of this Act.

4 “(B) An acid mine drainage abatement
5 and treatment fund established under State law
6 and from which the State may make expendi-
7 tures solely for abatement of the causes of acid
8 mine drainage and treatment of the effects of
9 that drainage in a comprehensive manner with-
10 in qualified hydrologic units affected by coal
11 mining practices. Any interest earned by this
12 fund shall be expended for the purposes of this
13 paragraph.

14 For purposes of this paragraph, the term ‘qualified
15 hydrologic unit’ means a hydrologic unit in which
16 water quality has been significantly affected by acid
17 mine drainage from coal mining practices in a man-
18 ner that adversely impacts biological resources and
19 which contains lands and waters that—

20 “(i) meet the eligibility requirements of
21 section 404 and at least one of the priorities in
22 paragraphs (1), (2), and (3) of section 403(a);
23 and

24 “(ii) either are or are proposed to be the
25 subject of expenditures by the State from bond

1 forfeiture proceeds under section 509 of this
2 Act, or from other State sources, to abate or
3 treat acid mine drainage.

4 “(6) PRIORITY CONSIDERATION.—In awarding
5 grants under this subsection, the Secretary shall give
6 priority consideration to a State that receives an al-
7 location under section 403(b) that is determined
8 under clause (ii) or (iii) of paragraph (2) of that sec-
9 tion.”.

10 (16) Section 406 is amended by—

11 (A) striking the word “Soil” wherever it
12 appears in subsection (h) and inserting in its
13 place the words “Natural Resources”; and

14 (B) adding the following new subsection at
15 the end:

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

21 (17) In section 408(a), the last sentence is
22 amended by striking “, in accordance with this sub-
23 section, who owned the surface prior to May 2,
24 1977, and”.

25 (18) Section 409 is amended—

1 (A) in the second sentence of subsection
2 (a), by striking the second “the” before “gov-
3 erning body”;

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

8 (C) in subsection (b), by inserting “section
9 403(b)(1)” before “the provisions”; and

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

15 (19) Section 410 is amended by—

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

18 (B) inserting the title “RIGHT OF
19 ENTRY.—” at the beginning of subsection (b);
20 and

21 (C) inserting a new subsection (c) to read
22 as follows:

23 “(c) STATE ASSUMPTION OF EMERGENCY RECLAMA-
24 TION PROGRAM.—The Secretary may propose, and, after
25 opportunity for public comment, adopt, regulations to re-

1 quire that States assume responsibility for administering
2 the emergency reclamation program under this section to
3 remain eligible to receive grants under section 405(h) of
4 this Act. The regulations must establish procedures for
5 that assumption, including, at a minimum, a requirement
6 that States revise their abandoned mine reclamation plans
7 approved under section 405 of this Act to include provi-
8 sions that—

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

11 “(2) enable the State to conduct emergency rec-
12 lamation activities consistent with subsection (b) of
13 this section.”.

14 (20) Section 411 is amended to read as follows:

15 **“SEC. 411. CERTIFICATION OF COMPLETION OF COAL REC-**
16 **LAMATION.**

17 “(a) The Governor of a State, or the head of a gov-
18 erning body of an Indian tribe, with an approved aban-
19 doned mine reclamation program under section 405, may
20 certify to the Secretary that reclamation of all eligible
21 lands and waters under section 404 with the priorities
22 stated in paragraphs (1), (2), and (3) of section 403(a)
23 has been achieved. The Secretary, after notice in the Fed-
24 eral Register and opportunity for public comment, shall

1 concur with such certification if the Secretary determines
2 that such certification is correct.

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

12 (21) Section 413(d) is amended by striking
13 “(33 U.S.C.A. 1151, et seq. as amended)” and in-
14 serting in its place “(33 U.S.C. 1251 et seq.)”.

15 (22) Section 413(e) is amended by striking the
16 comma after the word “agencies”.

17 (23) Section 414 is amended to read as follows:

18 **“SEC. 414. INTERAGENCY COOPERATION.**

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

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

10 (24) Section 415 is added to read as follows:

11 **“SEC. 415. REMINING INCENTIVES.**

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

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

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

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

16 (25) Section 510 is amended by—

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

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

2 (26) Section 515(b)(22)(B) is amended to read
3 as follows:

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

10 (27) Section 701 is amended by—

11 (A) in paragraph (33), striking “section
12 510(e)” and inserting in its place “section
13 510(c)”; and

14 (B) amending paragraph (34) to read as
15 follows:

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

○