

108TH CONGRESS
2D SESSION

S. 2049

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 SENATE OF THE UNITED STATES

FEBRUARY 3, 2004

Mr. SPECTER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural 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,*

3 **SECTION 101. SHORT TITLE.**

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

1 **SEC. 102. AMENDMENTS TO THE SURFACE MINING CON-**
2 **TROL 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 Moneys 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 moneys 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 tipple 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 title to read as follows:

18 “(g) ALLOCATION OF FEE RECEIPTS AND OTHER
19 MONIES PRIOR TO SEPTEMBER 30, 2004.”.

20 (B) striking “Except as provided in sub-
21 section (h)” in paragraph (g)(1) and inserting
22 in its place “Except as otherwise provided in
23 this Act”;

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

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

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

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

21 (F) striking paragraph (5) in its entirety
22 and inserting in its place “This subsection ap-
23 plies only to fees and other monies payable to
24 the fund as of September 30, 2004, and to
25 monies appropriated from the fund as of that

1 date. Sections 401(d) and 403(b) of this Act
 2 govern allocations and disbursements after that
 3 date.”;

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

6 (H) striking paragraph (h) in its entirety.

7 (14) Section 403 is amended by—

8 (A) amending the title to read “**FUND OB-**
 9 **JECTIVES AND EXPENDITURES.**”;

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

15 (C) striking the period at the end of sub-
 16 section (a)(3) and inserting a semicolon in its
 17 place;

18 (D) amending subsection (b) to read as
 19 follows:

20 “(b) ALLOCATION OF FUNDS AFTER SEPTEMBER 30,
 21 2004.—

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

23 “(A) At the beginning of each fiscal year,
 24 or as soon thereafter as practicable, the Sec-
 25 retary shall allocate the monies appropriated

1 from the fund for that year for grants to States
2 and Indian tribes under section 405(h) of this
3 Act. An allocation shall be made to each State
4 and tribe that is eligible to receive a payment
5 under section 401(d)(2)(C) of this Act and to
6 each State and tribe that—

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

11 “(ii) is not certified under section 411
12 of this Act; and

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

24 “(B) In making these allocations, the Sec-
25 retary shall use a formula based on historical

1 coal production prior to August 3, 1977, in
2 those States and tribes: *Provided*, That—

3 “(i) donations received under section
4 401(b)(3) shall be allocated in accordance
5 with any stipulations by the donor;

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

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

17 “(C) The amount dedicated by section
18 401(d)(2)(B) of this Act to each State or In-
19 dian tribe that is not certified under section
20 411 of this Act shall be reduced by the amount
21 allocated to that State or tribe under this para-
22 graph.

23 “(D) Amounts allocated to States and In-
24 dian tribes under this paragraph may be used
25 to fund projects that protect, repair, replace,

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

17 “(2) FEDERAL EXPENDITURES.—To the extent
18 authorized by annual appropriations, the Secretary
19 may expend monies from the fund for any of the fol-
20 lowing purposes—

21 “(A) providing assistance to small opera-
22 tors under section 507(c) of this Act, either di-
23 rectly or through grants to the States, subject
24 to the limitation contained in section 401(c)(11)
25 of this Act;

1 “(B) conducting emergency reclamation
2 activities and projects under section 410 of this
3 Act, either directly or through grants to the
4 States and Indian tribes;

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

12 “(D) the administration of this title of this
13 Act by the Secretary;

14 “(E) making supplemental grants to
15 States and Indian tribes for the purposes of
16 this title of this Act;

17 “(F) implementation of section 401(c)(6)
18 of this Act; and

19 “(G) conducting other activities consistent
20 with this title of this Act”;

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

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

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

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

5 “(a) IN GENERAL.—

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

18 “(2) Surface coal mining operations on lands el-
19 igible for remining shall not affect the eligibility of
20 such lands for reclamation and restoration under
21 this title of this Act after the release of the bond or
22 deposit for any such operation as provided under
23 section 519 of this Act. In the event the bond or de-
24 posit for a surface coal mining operation on lands el-
25 igible for remining is forfeited, funds available under

1 this title of this Act may be used if the amount of
2 such bond or deposit is not sufficient to provide for
3 adequate reclamation or abatement. If conditions
4 warrant, the Secretary, State, or Indian tribe shall
5 immediately exercise the appropriate authority under
6 section 410 of this Act.

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

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

17 “(A) A finding that the surface coal min-
18 ing operation occurred during the period begin-
19 ning on August 3, 1977, and ending on or be-
20 fore the effective date of the State regulatory
21 program approved by the Secretary pursuant to
22 section 503 of this Act for the State in which
23 the site is located, and that any funds for rec-
24 lamation or abatement which are available pur-
25 suant to a bond or other form of financial guar-

1 antee or from any other source are not suffi-
2 cient to provide for adequate reclamation or
3 abatement at the site.

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

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

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

23 (16) Section 405 is amended by—

1 (A) in subsection (d), striking “sections
2 402 and 410” and inserting in its place “sec-
3 tions 402, 414, and 415”;

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

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

10 (D) in subsection (g), striking the colon
11 after “include” and inserting “subsection (f)
12 of” before “this section”; and

13 (E) amending subsection (h) to read as fol-
14 lows:

15 “(h) GRANT OF FUNDS.—

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

23 “(2) APPLICATION PROCESSING DEADLINE.—
24 Within 60 days of receipt of a complete abandoned
25 mine reclamation fund grant application from any

1 eligible State, the Secretary shall grant to that State
2 any and all funds available for such purposes in the
3 applicable appropriations Act.

4 “(3) DISPOSITION OF UNEXPENDED FUNDS.—
5 Except as provided in paragraph (5), any funds not
6 expended within 3 years after the date of any grant
7 award shall be available for reallocation or expendi-
8 ture by the Secretary for any purpose under section
9 403(b) of this Act.

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

17 “(5) STATE SET-ASIDE.—Any State with an
18 abandoned mine reclamation program approved
19 under subsection (d) may retain, without regard to
20 the 3-year limitation referred to in paragraph (3),
21 up to 10 percent of the total amount of the grants
22 awarded annually to the State under paragraph (1),
23 excluding grants made under the authority of section
24 403(b)(2), if those amounts are deposited into ei-
25 ther—

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

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

24 “(i) meet the eligibility requirements
25 of section 404 and at least one of the pri-

1 orities in paragraphs (1), (2), and (3) of
2 section 403(a); and

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

9 (17) Section 406 is amended by—

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

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

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

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

24 (19) 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 (20) 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 (21) 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 (22) 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 (23) Section 413(e) is amended by striking the
16 comma after the word “agencies”.

17 (24) 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 (25) 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 (26) Section 510 is amended by—

17 (A) inserting a sentence at the end of sub-
18 section (c) to read as follows:

19 “In applying the prohibitions of this subsection after Octo-
20 ber 24, 1992, the regulatory authority shall not include
21 any violation resulting from an unanticipated event or con-
22 dition at a surface coal mining operation on lands eligible
23 for remining under a permit held by the person making
24 the application.”; and

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

1 (27) Section 515(b)(22)(B) is amended to read
2 as follows:

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

9 (28) Section 701 is amended by—

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

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

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

○