

H.R.3778

Abandoned Mine Reclamation Program Extension and Reform Act of 2004 (Introduced in House)

HR 3778 IH

108th CONGRESS

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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.

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

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the **Abandoned Mine** Reclamation Program Extension and Reform Act of 2004'.

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

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

(1) Section 401(c) is amended by--

(A) striking paragraph (2);

(B) striking the word 'and' after the first occurrence of the word 'subsidence' in paragraph (1) and redesignating the portion of paragraph (1) following the deleted word as paragraph (2); and

(C) striking the phrase `section 402(g)(1) of this Act' in paragraph (2) and inserting in its place `section 402(g)(1) or section 403(b)(1) of this Act'.

(2) Section 401(c)(5) is amended by inserting before the semicolon `, and other audit and collection activities under sections 402(d) and 414(b) of this Act'.

(3) Section 401(c)(6) is amended by striking everything after `Department of the Interior' and inserting in its place `with public and private organizations conducted for the purposes of this title of this Act to such extent and in such amounts as are provided in appropriation Acts;'

(4) Section 401(c)(10) is amended by striking `section 411' and inserting in its place `section 415'.

(5) Section 401(c)(12) is amended by striking `section 402(h)' and inserting in its place `subsection (f) of this section'.

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

`(d) Availability of Moneys From Fund-

`(1) In general- Moneys from the fund shall be available for the purposes of this title of this Act, or for distribution under paragraph (2) of this subsection, only when appropriated therefor. Such appropriations shall be made without fiscal year limitations.

`(2) Disposition of unappropriated state-share balance- This paragraph applies to the portion of the fund that was allocated to States and Indian tribes under section 402(g)(1) of this Act and that was not appropriated as of the end of the fiscal year ending September 30, 2004.

`(A) STATES AND INDIAN TRIBES CERTIFIED AS OF SEPTEMBER 30, 2004- States and Indian tribes that have been certified under section 411 of this Act as of September 30, 2004, shall receive, subject to appropriation, the unappropriated balance of their allocation in annual payments beginning with fiscal year 2005 and ending with fiscal year 2014.

`(B) STATES AND INDIAN TRIBES NOT CERTIFIED AS OF SEPTEMBER 30, 2004- States and Indian tribes that have not been certified under section 411 of this Act as of September 30, 2004, shall receive, subject to appropriation, the unappropriated balance of their allocation as grants awarded in accordance with sections 403(b) and 405(h) of this Act.

`(C) STATES AND INDIAN TRIBES CERTIFYING AFTER SEPTEMBER 30, 2004- States and Indian tribes that are certified under section 411 of this Act after September 30, 2004, shall receive, subject to appropriation, the portion of their allocation under section 402(g)(1) of this Act that has not been previously disbursed to those States and tribes as grants under paragraph (2)(B) of this subsection. Disbursement shall be made in annual payments, beginning with the fiscal year following certification and ending with fiscal year 2014. These payments shall be made using funds appropriated for the purpose of making grants to States and Indian tribes under section 405(h).

`(D) No expenditure restrictions- Monies disbursed under paragraphs (2)(A) and (C) of this subsection may be expended without regard to any other provision of this Act: *Provided*, That, whenever a certified State or Indian tribe becomes aware of a coal mining-related problem within its borders, the State or tribe must first use those monies to promptly address that problem if the site is eligible for reclamation under section 404 of this Act and if the problem meets one of the priorities in paragraphs (1) and (2) of section 403(a) of this Act.

`(3) Reallocation of other unappropriated balances-

`(A) Rural **abandoned mine** reclamation program- That part of the fund allocated by section 402(g)(2) for the rural **abandoned mine** reclamation program under section 406 of this Act that has not been appropriated as of September 30, 2004, shall be available for appropriation for the purposes set forth in section 403(b) of this Act.

`(B) Federal share- That part of the fund allocated by section 402(g)(3) for use by the Secretary that has not been appropriated as of September 30, 2004, shall be available for appropriation for the purposes set forth in section 403(b) of this Act.

`(C) Historic production allocation- That part of the fund allocated by section 402(g)(5) for historic production supplemental grants to States and Indian tribes that has not been appropriated as of September 30, 2004, shall be available for appropriation for the purposes set forth in section 403(b) of this Act.

`(e) Interest- The Secretary of the Interior shall notify the Secretary of the Treasury as to what portion of the fund is not, in his or her judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the fund in public debt securities with maturities determined by the Secretary of the Interior and suitable for the needs of the fund and achieving the purposes of the transfers under subsection (f). Such securities shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the fund.'

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

`(f) Transfers to Combined Benefit Fund-

`(1) Notwithstanding any other provision of law, at the beginning of each fiscal year, the Secretary shall transfer from the fund to the United **Mine** Workers of America Combined Benefit Fund (referred to as the 'Combined Fund' in this title of this Act), as established under section 9702 of the Internal Revenue Code of 1986 (26 U.S.C. 9702), an amount equal to the amount of expenditures that the trustees of the Combined Fund estimate will be debited against the unassigned beneficiaries premium account under section 9704(e) of the Internal Revenue Code of 1986 (26 U.S.C. 9704(e)) for the fiscal year of the Combined Fund in which the transfer is made: *Provided*, That the amount transferred shall not exceed the amount available under paragraph (2) of this subsection.

`(2) In making the transfers, the Secretary shall first use the interest that has been earned by and paid to the fund during the preceding year, followed by any interest earned in prior years and not previously transferred.

`(3) If, for any fiscal year, the amount transferred is more or less than the actual expenditures for the unassigned beneficiaries premium account in that year, the Secretary shall appropriately adjust the amount transferred for the next fiscal year.'

(8) Section 402(a) is amended to read as follows:

`(a) Payment; Rate- All operators of coal mining operations subject to the provisions of this Act shall pay to the Secretary of the Interior, for deposit in the fund, a reclamation fee according to the following schedule:

`(1) From October 1, 2004, through September 30, 2009--

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

`(B) 12.75 cents per ton of coal produced by underground mining; and

`(C) 8.5 cents per ton of lignite coal produced.

`(2) From October 1, 2009, through September 30, 2014--

`(A) 28 cents per ton of coal (except lignite) produced by surface mining;

`(B) 12 cents per ton of coal produced by underground mining; and

`(C) 8 cents per ton of lignite coal produced.

- `(3) From October 1, 2014, through September 30, 2018--
 - `(A) 26.25 cents per ton of coal (except lignite) produced by surface mining;
 - `(B) 11.25 cents per ton of coal produced by underground mining; and
 - `(C) 7.5 cents per ton of lignite coal produced.
- `(4) In lieu of the rates in paragraphs (1) through (3) above, the operator may pay a fee of 10 per cent of the value of the coal at the **mine**, as determined by the Secretary, for each ton of coal produced by surface or underground mining: *Provided*, That the alternate fee for lignite coal shall be 2 percent of the value of the coal at the **mine**, as determined by the Secretary.'
- (9) Section 402(b) is amended by--
 - (A) striking `Such fee' and inserting in its place `Reclamation fees'; and
 - (B) striking `2004' and all that follows and inserting in its place `2018'.
- (10) Section 402(c) is amended to read as follows:
 - `(c) Submission of Quarterly Reports-
 - `(1) All operators of surface coal mining operations shall submit a report no later than thirty days after the end of each calendar quarter. The report shall include--
 - `(A) a statement of the amount of coal produced during the calendar quarter, the method of coal removal and the type of coal;
 - `(B) an identification of the permittee and the operator of the surface coal mining operation, the owner of the coal, the preparation plant or tipple receiving the coal or the loading point for the coal, and the person purchasing the coal from the operator or permittee;
 - `(C) the number of the permit required under section 506 of this Act; and
 - `(D) the identification number issued by the **Mine** Safety and Health Administration for the operation.
 - `(2) Each quarterly report shall contain a notification of any changes in the information required by paragraph (1) of this subsection since the date of the preceding quarterly report.
 - `(3) The operator must certify, under penalty of perjury, that the information in each report is true, correct, and complete. Any person, corporate officer, agent or director who, on behalf of a coal **mine** operator, knowingly makes any false statement, representation or certification or knowingly fails to make any statement, representation or certification required in this section shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or both.
 - `(4) The information contained in the quarterly reports submitted under this subsection shall be maintained by the Secretary in a computerized database.'
 - (11) Section 402(d) is amended by--
 - (A) striking the word `Penalty' from the title and inserting in its place the word `Audits' ;
 - (B) striking paragraph (1);
 - (C) redesignating paragraph (2) as paragraph (1); and
 - (D) inserting paragraph (2) to read as follows:
 - `(2) The Secretary is authorized to audit compliance with the excise tax payment requirements of section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121) when conducting audits under this subsection.'
 - (12) Section 402(f) is amended to read as follows:
 - `(f) Cooperation From Other Agencies- All Federal and State agencies shall fully cooperate with the Secretary of the Interior in the enforcement of this section. Whenever the Secretary of the Interior believes that any person has not paid the full amount of the fee payable under section

402(a) of this Act or the excise tax payable under section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121), he or she shall notify the Federal agency responsible for enforcing the provisions of section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121).'

(13) Section 402(g) is amended by--

(A) amending the subsection heading to read 'Allocation of Fee Receipts and Other Monies Prior to September 30, 2004- '

(B) in paragraph (1), striking 'Except as provided in subsection (h)' and inserting in its place 'Except as otherwise provided in this Act';

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

(i) Lands and waters which are eligible pursuant to section 404 (in the case of a State not certified under section 411). In the case of a State certified under section 411, eligible lands and waters shall be those which were mined or processed for minerals or which were affected by such mining or processing, and **abandoned** or left in an inadequate reclamation status prior to August 3, 1977; and for which there is no continuing reclamation responsibility under State or other Federal laws.;

(D) striking 'section 401(c)(2)' at the end of paragraph (2) and inserting in its place 'for the purposes of section 406';

(E) striking everything in paragraph (4) after 'subparagraph (A)' in subparagraph (B) and inserting in its place 'if the requirements of section 404(b) are met.';

(F) striking paragraph (5) in its entirety and inserting in its place 'This subsection applies only to fees and other monies payable to the fund as of September 30, 2004, and to monies appropriated from the fund as of that date. Sections 401(d) and 403(b) of this Act govern allocations and disbursements after that date.';

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

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

(14) Section 403 is amended by--

(A) amending the title to read 'FUND OBJECTIVES AND EXPENDITURES.';

(B) striking the phrase 'except as provided for under section 411' in subsection (a) and inserting in its place 'except as otherwise provided in this section, section 401(c), or section 411';

(C) striking the period at the end of subsection (a)(3) and inserting a semicolon in its place;

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

(b) Allocation of Funds After September 30, 2004-

(1) Allocations to states and tribes-

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

(i) has an approved **abandoned mine** reclamation program under section 405 of this Act that is not subject to the prohibition in paragraph (c) of that section;

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

(iii) has within its jurisdiction unreclaimed lands or waters that are eligible pursuant to section 404 and that meet one of the priorities stated in paragraphs (1) and (2) of subsection (a) of this section: *Provided, That,* when all States and Indian tribes have completed or provided for

completion of reclamation of all lands and waters meeting the priorities in paragraphs (1) and (2) of subsection (a) of this section, this criterion will no longer apply.

`(B) In making these allocations, the Secretary shall use a formula based on historical coal production prior to August 3, 1977, in those States and tribes:

Provided, That--

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

`(ii) no State or Indian tribe shall receive an allocation of less than \$2,000,000 under this paragraph; and

`(iii) no State or Indian tribe shall receive an allocation of more than 25 percent of the total monies appropriated for grants under section 405(h):

Provided further, That this restriction shall expire when fewer than eight States are eligible to receive an allocation under paragraph (1) of this subsection.

`(C) The amount dedicated by section 401(d)(2)(B) of this Act to each State or Indian tribe that is not certified under section 411 of this Act shall be reduced by the amount allocated to that State or tribe under this paragraph.

`(D) Amounts allocated to States and Indian tribes under this paragraph may be used to fund projects that protect, repair, replace, construct, or enhance facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices. In making funding decisions on these projects, the State or tribe need not consider the priorities in subsection (a) of this section. If the adverse effect on water supplies occurred both prior to and after August 3, 1977 (or other applicable date under section 404), section 404 shall not be construed to prohibit a State or Indian tribe from using funds under this paragraph if the State or Indian tribe determines that such adverse effects occurred predominantly prior to August 3, 1977 (or other applicable date under section 404).