

The RECLAIM Act

Section-by-Section Summary

The RECLAIM Act of 2016 would accelerate the release of \$1 billion from the remaining, unappropriated balance in the Abandoned Mine Reclamation Fund to revitalize coal communities impacted by abandoned mine lands and the recent decrease in coal mining. This legislation will enable States and Indian tribes to facilitate sustainable economic development in economically distressed communities.

Section 1 – Short Title

Section 2 – Economic Revitalization for Coal Country

Section 2 provides for the addition of Section 416: Abandoned Mine Land Economic Revitalization to Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Section 416 is summarized below:

Section (a): In General – provides the Secretary of Interior with \$200 million annually from Fiscal Year 2017 to 2021 “for the purpose of promoting economic revitalization, diversification, and development in economically distressed communities through the reclamation and restoration of land and water resources adversely affected by coal mining.”

Section (b): Use of Funds – specifies that the funding will be distributed to States and Indian tribes to carry out reclamation projects that will create favorable conditions for economic development in the surrounding area.

Eligible project applicants include State, local, county, or tribal entities. Project related activities may be sub-contracted out to nongovernmental organizations. These projects must be conducted in areas that have been adversely affected by a reduction in coal mining related activity over the last 5 years and/or in communities that have traditionally relied on coal mining for a substantial portion of their economy. These areas must have been degraded by the adverse affects of coal mining practices, including sites that have been previously remediated or are adjacent to a site that has been previously remediated or will be remediated under this section, if those sites have a nexus to economic or community development projects.

Each project applicant must engage in appropriate project planning and can collaborate with outside persons or organizations if necessary. States and Indian tribes are directed to work with project applicants to determine how to best demonstrate the role of the project in the area’s economic development strategy.

Section (c): Distribution of Funds – distributes funds to States and Indian tribes:

Uncertified States and Indian Tribes

\$195 million will be distributed to uncertified States and tribes with approved AML programs each year from Fiscal Year 2017 to 2021.

- Fiscal Years 2017 and 2018 – funding is allocated based on the amount of coal historically produced in each State
- Fiscal Year 2019 through 2021 – if a State or tribe has fully committed the funding it received in FY17 and FY18 to projects, it will receive the same amount it received in FY17 and FY18 for each of FY19-21 (if it fully utilizes its allocation in each year). It will also have an opportunity to apply for additional funding through the reallocation process explained below. This process will award additional funding to States and tribes based on their unmet reclamation needs and coal mining employment losses. If a State or tribe has not fully committed the funding it received in the previous fiscal year, then it will receive either the amount it has committed to projects in that previous year, or the amount it received in FY17 (whichever amount is lesser).

- Fiscal Year 2022 – each State or Indian tribe that has committed the full amount of its FY21 allocation to projects is eligible for a reallocation or “bonus payment” in FY22. These payments will be awarded from the pot of funds that remain uncommitted from all previous fiscal years. The reallocation process is described below.

Reallocation of Uncommitted Funds

This section is intended to incentivize States and tribes to execute project agreements and use the funding they are granted under this section in a timely manner. It will also ensure that taxpayer dollars allocated under this section are used for their intended purpose and not wasted by States and tribes who choose not to use them. By reallocating unused funds to States and tribes, the program is offering them the opportunity of a bonus payment (if funds are available) as a reward for using their funds for eligible projects. This process will allow for the efficient reclamation of as much abandoned mine land as possible during the life of the program. The reallocation process is summarized here:

- Fiscal Year 2019 through 2021 – States and tribes will lose any funding that they have not committed to projects from their FY17 and FY18 allocation. The Secretary will redistribute unused funding to States and Tribes that have fully utilized their funding allocations in each of FY19-21 through an application process. For eligible States and tribes, this section essentially provides them with an opportunity to apply for “bonus payments” on top of the direct allocation they receive from the Secretary. In order to remain eligible for bonus payments, a State or tribe must commit its full allocation from the previous year to projects.
- Fiscal Year 2022 – the Secretary will award “bonus payments” to States and tribes that have committed all of the funding allotted to them in FY21 for projects, provided that funds are available. Funds will be available for these bonus payments if there are funds that remain uncommitted from previous fiscal years.
- Amount of Reallocation – the amount to be reallocated to States and Indian tribes will be based on the amount of unmet reclamation needs in their inventory, and the proportion of recent coal mining employment loss incurred in the State or tribe, based on MSHA coal employment data.

Additional Funding to Certain State and Indian Tribes

An additional \$5 million will be available each year to certified states or tribes and minimum program states, to be distributed by the Secretary through a grant application process.

Section (d): Resolution of Secretary’s Concerns and Congressional Notification – requires the Secretary to engage with the relevant State or Indian tribe if it determines that a selected project does not meet the criteria specified in the bill. This process will take place before a project is rejected by the Secretary and is intended to assist States and tribes in making their preferred projects eligible for the program. This process can take no longer than 30 days from the moment problems are identified with the project in question. If a project must be rejected, the Secretary will provide Congress with an explanation for the rejection.

Section (e): Acid Mine Drainage Treatment – authorizes funds to be used for the treatment of acid mine drainage problems. If a State or tribe can demonstrate that its current acid mine drainage funding allocation is insufficient, it may use funding from this program to remedy existing acid mine drainage problems. As with any other project funded through this program, if a State or tribe executes a project agreement to use funding provided under this section for acid mine drainage work, then it will be considered “committed” for purposes of reallocation.

Section (f): Project Planning and Administration – allows States and tribes to designate up to 10 percent of their distribution for project planning and administrative purposes. During project planning, the State or Indian tribe should identify eligible projects, update the inventory of abandoned mine sites, develop project designs, prepare cost estimates and engage in other similar activities necessary to facilitate the reclamation of these lands.

Section (g): Report to Congress - requires each participating State and Indian tribe to report to Congress and to the Secretary about the projects they have undertaken and the resulting economic and community benefits.

Section (h): Committed Defined – defines the term “committed” in this bill to mean that the State or Indian tribe receiving funds has executed a project agreement with an applicant for project funds.

Section 3 - Technical and Conforming Amendments

This section makes several conforming and technical amendments to title IV of SMCRA, including adding references to the new authority in several sections and updating the inventory language in section 403(c) to achieve a more accurate inventory of existing AML problems.