

Summary of Major Fiscal Provisions of H.R. 6111

Tax Relief and Health Care Act of 2006

Division C, Title II, Subtitle A

Surface Mining Control and Reclamation Act Amendments of 2006

Reclamation fee rates [section 202(a) and (b)]

- Amends section 402(a) of SMCRA to reduce reclamation fees by 20% in two steps:

Through Sept. 30, 2007:

Surface:	35 cents per ton
Underground:	15 cents per ton
Lignite:	10 cents per ton

FY 2008-2012:

Surface:	31.5 cents per ton
Underground:	13.5 cents per ton
Lignite:	9 cents per ton

FY 2013-2021:

Surface:	28 cents per ton
Underground:	12 cents per ton
Lignite:	8 cents per ton

- Amends section 402(b) of SMCRA to—
 - ✓ Extend statutory fee rates through September 30, 2021.

- ✓ Eliminate the requirement that the Secretary establish fee rates thereafter based upon amounts transferred to the UMWA Combined Benefit Fund (CBF).

Allocation of AML fund revenues [sections 201(a), 202(c), and 206]

- State/Tribal share. Beginning with FY 2008, certified states and Indian tribes will no longer be entitled to receive grants from their state-share or tribal-share allocations (50% of fees collected within their jurisdiction). *Section 401(f)(3)(B) of SMCRA*.

Amounts allocated to certified states and tribes under section 402(g)(1) of SMCRA will be transferred to the historical production allocation on an annual basis to the extent that those states and tribes receive in-lieu payments from the Treasury (through the Secretary of the Interior) under sections 402(i) and 411(h)(2) of SMCRA. *Section 411(h)(4) of SMCRA*.

- Rural Abandoned Mine Program (RAMP) share. Eliminates the RAMP allocation for future revenues. *Sections 401(c) and 402(g)(2) of SMCRA*.
- Historical production share. Increases historical production allocation by the amount of the former RAMP allocation. *Section 402(g)(5) of SMCRA*.
- Secretary's discretionary share. Amount remains unchanged, but new language specifies that minimum-program grant make-up funds must come from this allocation. *Section 402(g)(3)(E) and (8) of SMCRA*.

Minimum program grant funding [section 202(c)]

- Requires minimum annual \$3 million grant funding for each state and Indian tribe with an approved AML reclamation plan, eligible lands and waters, and priority 1 or 2 sites. *Section 402(g)(8)(A) of SMCRA*.

Previously, this section of SMCRA provided for a minimum \$2 million annual allocation for those states and tribes, while Congress historically established a \$1.5 million grant funding minimum as part of the appropriations process.

- The minimum grant funding guarantee applies to Tennessee and Missouri regardless of program status or other provisions (“notwithstanding any other provision of law”). *Section 402(g)(8)(B) of SMCRA.*
- Make-up funds for the minimum program grant guarantee (the amount in excess of what those states and tribes would receive in the absence of this guarantee) must be taken from the Secretary’s discretionary share. *Section 402(g)(3)(E) and (8) of SMCRA.*
- The minimum program grant funding guarantee will be phased in over four years. States and tribes will receive grants at 50% of that level for the first two years and at 75 % of that level for the next two years. *Section 401(f)(5) of SMCRA.*

Disposition of existing balance of RAMP allocation [section 202(d)]

- Makes that portion of the unappropriated balance allocated before the date of enactment of the bill available for transfer to the three UMWA retiree benefit plans. *Section 402(h)(4)(B) of SMCRA.*
- However, there will be little money available because H.R. 2361 transferred the unappropriated balance as of Sept. 30, 2005 to the Secretary’s discretionary share.

Disposition of existing balance of State-share allocations [sections 202(d) and 206]

- Requires payment to states and tribes of an amount equal to the unappropriated balance of all state-share and tribal-share allocations made before October 1, 2007. Payments must be made in seven equal annual installments, beginning with FY 2008, except that payments for the first 3 years are reduced to 25%, 50%, and 75%, respectively of the amount that would otherwise be transferred. States and tribes will receive the difference in two separate annual payments beginning with FY 2018. *Section 411(h)(1) of SMCRA.*
- Funds for these payments plus transfers to the three UMWA retiree benefit plans will come from unappropriated funds in the Treasury, not the AML fund. *Section 402(i)(2) of SMCRA.*
- The amount paid by the Treasury for this purpose is subject to a \$490 million annual cap on all Treasury payments to states, tribes, and the three UMWA retiree benefit plans

under this legislation. If demands on the Treasury for these purposes exceed that amount, payments must be made on a proportionate basis, using a uniform percentage. *Section 402(i)(3) of SMCRA.*

- The Secretary of the Treasury must transfer these funds to the Secretary of the Interior for distribution to states and Indian tribes. *Section 402(i)(2) of SMCRA.*
- Disbursements must be made without regard to any limitation under section 401(d) of SMCRA and concurrently with payments to states under that section. *Section 411(h)(3)(A) of SMCRA.*
- Certified states and tribes must spend these funds in accordance with legislative or tribal council direction, with priority given to addressing the impacts of mineral development. *Section 411(h)(1)(D)(i) of SMCRA.*
- Noncertified States and tribes must use their payments for the purposes of section 403 of SMCRA. *Section 411(h)(1)(D)(ii) of SMCRA.*
- Each year, an amount equal to in-lieu payments from the Treasury (through the Secretary of the Interior) to states and tribes under this provision must be transferred from the state-share and tribal-share allocations to the historical production allocation. *Section 411(h)(1)(A)(ii) and (h)(4) of SMCRA.*

Mandatory distribution of reclamation fee collections [section 201(a)]

- Beginning with FY 2008, requires annual distribution (mandatory spending not subject to appropriation) to noncertified states and tribes of an amount equal to (1) the amount of AML fund revenues for the preceding fiscal year (excluding interest and donations) that were assigned to all state-share, tribal-share, or historical production allocations, plus (2) the amount needed for minimum-program make-up grants under section 402(g)(8) for the current year. *Section 401(d)(3), (f)(1), and (f)(2) of SMCRA.*
- The legislation provides for a 4-year buildup to the full distribution level. Distributions will be 50% of the amount otherwise required in FY 2008 and 2009 and 75% of the amount otherwise required in FY 2010 and 2011. *Section 401(f)(5) of SMCRA.*

- Certified states and Indian tribes are not entitled to this mandatory distribution because they have never been eligible for grants under the historical production allocation (see section 402(g)(5) of SMCRA) and because this legislation further specifies that they are not eligible to receive grants from their state or tribal share allocations. See section 401(f)(3)(B) of SMCRA.
- Because certified states and Indian tribes also are no longer eligible to receive grants under section 402(g)(1) (state and tribal share allocations), that amount is not included in the distribution formula. However, beginning with FY 2008, certified states and tribes will receive annual payments from the Treasury in lieu of the amount of fee revenues for that year that would otherwise have been allocated to them as state or tribal share in the absence of new section 401(f)(3)(B) of SMCRA. *Section 411(h)(2) of SMCRA.*

For the first 3 years, payments from the Treasury to certified states and tribes for this purpose will be reduced to 25%, 50%, and 75%, respectively of the amount that the states and tribes would otherwise receive under this provision. States and tribes will receive the difference in two separate annual payments beginning with FY 2018. *Section 411(h)(3)(B) and (C) of SMCRA.*

An amount of fee revenues equal to the annual Treasury payments to certified states and tribes under this provision must be reallocated to the historical production allocation. *Section 411(h)(4) of SMCRA.*

The mandatory annual distribution to noncertified states and tribes includes an amount equal to the amount of fee revenues for the prior year that are reassigned to the historical production allocation from what would have been the state-share or tribal-share allocation for that year for certified states and tribes in the absence of new section 401(f)(3)(B) of SMCRA. *Section 401(f)(3) of SMCRA.*

- In short, the mandatory annual distribution to noncertified states and tribes includes the following components:
 - ✓ State/tribal share allocation for noncertified states and tribes for the preceding fiscal year.
 - ✓ Historical production allocation for the preceding fiscal year.

- ✓ The amount reallocated to the historical production allocation from what would have been the State/tribal share allocation for certified states and tribes for the preceding fiscal year.
- ✓ The amount needed from the Secretary's discretionary share to implement the minimum program grant guarantee under section 402(g)(8) of SMCRA.
- Expenditures for federal AML projects in non-program states, the emergency reclamation program, administrative expenses, the small operator assistance program (SOAP) (however, we have not requested appropriations for SOAP since FY 2006), the Clean Streams program, and watershed cooperative agreements would remain subject to appropriation.
- Distributions will be in addition to any amounts appropriated by Congress. *Section 401(f)(5) of SMCRA.*

Transfers to UMWA retiree health benefit plans [section 202(d)]

- Requires annual transfer of all estimated AML fund interest earnings for each fiscal year to the three UMWA retiree benefit plans (the Combined Benefit Fund, the 1992 Plan, and the 1993 Plan), to the extent payments from premiums and other sources do not meet those plans' expenditure needs, subject to certain limitations. *Section 402(h) of SMCRA.*
- Makes the unappropriated balance of the RAMP allocation as of the date of enactment available for transfer to the UMWA plans, although most of this amount has already been transferred to the Secretary's discretionary share by the FY 2006 Interior appropriations law. *Section 402(h)(4)(B) of SMCRA.*
- Additional transfers to the CBF (for amounts exceeding the now-defunct \$70 million cap on annual transfers of interest from the AML fund and to cover the net deficit in CBF assets as of October 1, 2006) will begin in FY 2007, while transfers to the 1992 and 1993 plans will begin in FY 2008. Transfers to the 1992 and 1993 plans will be phased in, with transfers in FY 2008-2010 limited to 25%, 50%, and 75%, respectively, of the amounts that would otherwise be transferred. *Section 402(h)(1), (2), and (5)(C) of SMCRA.*

- The three UMWA plans are also entitled to payments from unappropriated amounts in the Treasury, subject to the overall \$490 million cap on all annual transfers from the Treasury under this legislation; i.e., all transfers to states and tribes in lieu of state and tribal share allocations and all transfers to the three UMWA plans. *Section 402(i)(1) of SMCRA.*
- Sets aside all interest earned by the AML fund before enactment of this legislation and not previously transferred to the CBF (the “stranded interest”) in a reserve fund that would be used to make payments to the three UMWA plans in the event that their needs exceed the \$490 million annual cap on all transfers from the Treasury under this legislation. The reserve may not be used to pay the CBF premium refunds to operators authorized under section 402(i)(1)(C) of SMCRA. *Section 402(h)(4)(A) of SMCRA.*
- Requires that the Secretary of the Interior consult with the trustees of the three UMWA plans at reasonable intervals and notify Congress if the reserve fund appears insufficient to cover any shortfall in transfers from the Treasury because of the cap. *Section 402(h)(4)(C) of SMCRA.*
- In general, the three UMWA plans must exhaust all available revenue sources in the following order:
 - ✓ Premiums paid by operators and other UMWA revenues.
 - ✓ Payments from other federal agencies, e.g., for the Medicare prescription drug program.
 - ✓ Estimated interest to be earned by the AML fund during the fiscal year in question.
 - ✓ Unappropriated balance of the RAMP allocation on the date of enactment.
 - ✓ Transfers from unappropriated funds in the U.S. Treasury, subject to the \$490 million cap on annual transfers to both the UMWA plans and states and tribes.
 - ✓ Reserve fund created from existing stranded interest earned by the AML fund.

