

**SUBSTITUTE FOR THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 4320  
OFFERED BY MR. GEORGE MILLER OF  
CALIFORNIA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Robert C. Byrd Mine Safety Protection Act of 2014”.

4 (b) TABLE OF CONTENTS.—The table of contents for  
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. References.

**TITLE I—ADDITIONAL INSPECTION AND INVESTIGATION  
AUTHORITY**

- Sec. 101. Independent accident investigations.
- Sec. 102. Subpoena authority and miner rights during inspections and investigations.
- Sec. 103. Designation of miner representative.
- Sec. 104. Additional amendments relating to inspections and investigations.

**TITLE II—ENHANCED ENFORCEMENT AUTHORITY**

- Sec. 201. Technical amendment.
- Sec. 202. Procedures and criteria for determining a pattern of violations.
- Sec. 203. Injunctive authority.
- Sec. 204. Revocation of approval of plans.
- Sec. 205. Challenging a decision to approve, modify, or revoke a coal or other mine plan.
- Sec. 206. GAO Study on MSHA Mine Plan Approval.

**TITLE III—PENALTIES**

- Sec. 301. Civil penalties.
- Sec. 302. Civil and criminal liability of officers, directors, and agents.
- Sec. 303. Criminal penalties.

- Sec. 304. Commission review of penalty assessments.
- Sec. 305. Delinquent payments and prejudgment interest.

TITLE IV—MINERS' RIGHTS AND PROTECTIONS

- Sec. 401. Protection from retaliation.
- Sec. 402. Protection from loss of pay.
- Sec. 403. Underground coal miner employment standard for mines placed in pattern of violations status.

TITLE V—MODERNIZING HEALTH AND SAFETY STANDARDS

- Sec. 501. Pre-shift review of mine conditions.
- Sec. 502. Rock dust standards.
- Sec. 503. Atmospheric monitoring systems.
- Sec. 504. Technology related to respirable dust.
- Sec. 505. Refresher training on miners' rights and responsibilities.
- Sec. 506. Authority to mandate additional training.
- Sec. 507. Brookwood-Sago Mine Safety Grants.
- Sec. 508. Certification of personnel.
- Sec. 509. Electronic records requirement.

TITLE VI—ADDITIONAL MINE SAFETY PROVISIONS

- Sec. 601. Definitions.
- Sec. 602. Assistance to States.
- Sec. 603. Black lung medical reports.
- Sec. 604. Authorization of cooperative agreements by NIOSH Office of Mine Safety and Health.
- Sec. 605. Rules of application to certain mines.
- Sec. 606. Double encumbrance; succession plan.

1 **SEC. 2. REFERENCES.**

2       Except as otherwise expressly provided, whenever in  
3 this Act an amendment is expressed as an amendment to  
4 a section or other provision, the reference shall be consid-  
5 ered to be made to a section or other provision of the Fed-  
6 eral Mine Safety and Health Act of 1977 (30 U.S.C. 801  
7 et seq.).

1 **TITLE I—ADDITIONAL INSPEC-**  
2 **TION AND INVESTIGATION**  
3 **AUTHORITY**

4 **SEC. 101. INDEPENDENT ACCIDENT INVESTIGATIONS.**

5 (a) IN GENERAL.—Section 103(b) (30 U.S.C.  
6 813(b)) is amended by striking “(b) For the purpose” and  
7 inserting the following:

8 “(b) ACCIDENT INVESTIGATIONS.—

9 “(1) IN GENERAL.—For all accident investiga-  
10 tions under this Act, the Secretary shall—

11 “(A) determine why the accident occurred;

12 “(B) determine whether there were viola-  
13 tions of law, mandatory health and safety  
14 standards, or other requirements, and if there  
15 is evidence of conduct that may constitute a  
16 violation of Federal criminal law, the Secretary  
17 may refer such evidence to the Attorney Gen-  
18 eral; and

19 “(C) make recommendations to avoid any  
20 recurrence.

21 “(2) INDEPENDENT ACCIDENT INVESTIGA-  
22 TIONS.—

23 “(A) IN GENERAL.—There shall be, in ad-  
24 dition to an accident investigation under para-  
25 graph (1), an independent investigation by an

1 independent investigation panel (referred to in  
2 this subsection as the ‘Panel’) appointed under  
3 subparagraph (B) for—

4 “(i) any accident involving 3 or more  
5 deaths; or

6 “(ii) any accident that is of such se-  
7 verity or scale for potential or actual harm  
8 that, in the opinion of the Secretary of  
9 Health and Human Services, the accident  
10 merits an independent investigation.

11 “(B) APPOINTMENT.—

12 “(i) IN GENERAL.—As soon as prac-  
13 ticable after an accident described in sub-  
14 paragraph (A), the Secretary of Health  
15 and Human Services shall appoint 5 mem-  
16 bers for the Panel required under this  
17 paragraph from among individuals who  
18 have expertise in accident investigations,  
19 mine engineering, or mine safety and  
20 health that is relevant to the particular in-  
21 vestigation.

22 “(ii) CHAIRPERSON.—The Panel shall  
23 include, and be chaired by, a representative  
24 from the Office of Mine Safety and Health  
25 Research, of the National Institute for Oc-

1 occupational Safety and Health (referred to  
2 in this subsection as NIOSH).

3 “(iii) CONFLICTS OF INTEREST.—  
4 Panel members, and staff and consultants  
5 assisting the Panel with an investigation,  
6 shall be free from conflicts of interest with  
7 regard to the investigation, and be subject  
8 to the same standards of ethical conduct  
9 for persons employed by the Secretary.

10 “(iv) COMPOSITION.—The Secretary  
11 of Health and Human Services shall ap-  
12 point as members of the Panel—

13 “(I) 1 operator of a mine or indi-  
14 vidual representing mine operators,  
15 and

16 “(II) 1 representative of a labor  
17 organization that represents miners,  
18 and may not appoint more than 1 of either  
19 such individuals as members of the Panel.

20 “(v) STAFF AND EXPENSES.—The Di-  
21 rector of NIOSH shall designate NIOSH  
22 staff to facilitate the work of the Panel.  
23 The Director may accept as staff personnel  
24 on detail from other Federal agencies or  
25 re-employ annuitants. The detail of per-

1           sonnel under this paragraph may be on a  
2           non-reimbursable basis, and such detail  
3           shall be without interruption or loss of civil  
4           service status or privilege. The Director of  
5           NIOSH shall have the authority to procure  
6           on behalf of the Panel such materials, sup-  
7           plies or services, including technical ex-  
8           perts, as requested in writing by a majority  
9           of the Panel.

10                   “(vi) COMPENSATION AND TRAVEL.—  
11           All members of the Panel who are officers  
12           or employees of the United States shall  
13           serve without compensation in addition to  
14           that received for their services as officers  
15           or employees of the United States. Each  
16           Panel member who is not an officer or em-  
17           ployee of the United States shall be com-  
18           pensated at a rate equal to the daily equiv-  
19           alent of the annual rate of basic pay pre-  
20           scribed for level IV of the Executive Sched-  
21           ule under section 5315 of title 5, United  
22           States Code, for each day (including travel  
23           time) during which such member is en-  
24           gaged in the performance of duties of the  
25           Panel. The members of the Panel shall be

1 allowed travel expenses, including per diem  
2 in lieu of subsistence, at rates authorized  
3 for employees of agencies under subchapter  
4 1 of chapter 57 of title 5, United States  
5 Code, while away from their homes or reg-  
6 ular places of business in the performance  
7 of services for the Panel.

8 “(C) DUTIES.—The Panel shall—

9 “(i) assess and identify any factors  
10 that caused the accident, including defi-  
11 ciencies in safety management systems,  
12 regulations, enforcement, industry prac-  
13 tices or guidelines, or organizational fail-  
14 ures;

15 “(ii) identify and evaluate any con-  
16 tributing actions or inactions of—

17 “(I) the operator;

18 “(II) any contractors or other  
19 persons engaged in mining-related  
20 functions at the site;

21 “(III) any State agency with  
22 oversight responsibilities;

23 “(IV) any agency or office within  
24 the Department of Labor;

1                   “(V) the Federal Mine Safety  
2                   and Health Review Commission; or

3                   “(VI) any other person or entity  
4                   (including equipment manufacturers);

5                   “(iii) review the determinations and  
6                   recommendations by the Secretary under  
7                   paragraph (1);

8                   “(iv) prepare a report that—

9                   “(I) includes the findings regard-  
10                  ing the causal factors described in  
11                  clauses (i) and (ii);

12                  “(II) identifies any strengths and  
13                  weaknesses in the Secretary’s inves-  
14                  tigation; and

15                  “(III) includes recommendations,  
16                  including interim recommendations  
17                  where appropriate, to industry, labor  
18                  organizations, State and Federal  
19                  agencies, or Congress, regarding pol-  
20                  icy, regulatory, enforcement, adminis-  
21                  trative, or other changes, which in the  
22                  judgment of the Panel, would prevent  
23                  a recurrence at other mines; and

24                  “(v) publish such findings and rec-  
25                  ommendations (excluding any portions

1           which the Attorney General requests that  
2           the Secretary withhold in relation to a  
3           criminal referral) and hold public meetings  
4           to inform the mining community and fami-  
5           lies of affected miners of the Panel’s find-  
6           ings and recommendations.

7           “(D) HEARINGS; APPLICABILITY OF CER-  
8           TAIN FEDERAL LAW.—The Panel shall have the  
9           authority to conduct public hearings or meet-  
10          ings, but shall not be subject to the Federal Ad-  
11          visory Committee Act. All public hearings of the  
12          Panel shall be subject to the requirements  
13          under section 552b of title 5, United States  
14          Code.

15          “(E) MEMORANDUM OF UNDER-  
16          STANDING.—Not later than 90 days after the  
17          date of enactment of the Robert C. Byrd Mine  
18          Safety Protection Act of 2014, the Secretary of  
19          Labor and the Secretary of Health and Human  
20          Services shall conclude and publically issue a  
21          memorandum of understanding that—

22                  “(i) outlines administrative arrange-  
23                  ments which will facilitate a coordination  
24                  of efforts between the Secretary of Labor  
25                  and the Panel, ensures that the Secretary’s

1 investigation under paragraph (1) is not  
2 delayed or otherwise compromised by the  
3 activities of the Panel, and establishes a  
4 process to resolve any conflicts between  
5 such investigations;

6 “(ii) ensures that Panel members or  
7 staff will be able to participate in inves-  
8 tigation activities (such as mine inspections  
9 and interviews) related to the Secretary of  
10 Labor’s investigation and will have full ac-  
11 cess to documents that are assembled or  
12 produced in such investigation, and en-  
13 sures that the Secretary of Labor will  
14 make all of the authority available to such  
15 Secretary under this section to obtain in-  
16 formation and witnesses which may be re-  
17 quested by such Panel; and

18 “(iii) establishes such other arrange-  
19 ments as are necessary to implement this  
20 paragraph.

21 “(F) PROCEDURES.—Not later than 90  
22 days after the date of enactment of the Robert  
23 C. Byrd Mine Safety Protection Act of 2014,  
24 the Secretary of Health and Human Services  
25 shall establish procedures to ensure the consist-

1           ency and effectiveness of Panel investigations.  
2           In establishing such procedures, such Secretary  
3           shall consult with independent safety investiga-  
4           tion agencies, sectors of the mining industry,  
5           representatives of miners, families of miners in-  
6           volved in fatal accidents, State mine safety  
7           agencies, and mine rescue organizations. Such  
8           procedures shall include—

9                   “(i) authority for the Panel to use evi-  
10                   dence, samples, interviews, data, analyses,  
11                   findings, or other information gathered by  
12                   the Secretary of Labor, as the Panel deter-  
13                   mines valid;

14                   “(ii) provisions to ensure confiden-  
15                   tiality if requested by any witness, to the  
16                   extent permitted by law, and prevent con-  
17                   flicts of interest in witness representation;  
18                   and

19                   “(iii) provisions for preservation of  
20                   public access to the Panel’s records  
21                   through the Secretary of Health and  
22                   Human Services.

23                   “(G) SUBPOENAS; WITNESSES; CON-  
24                   TEMPT.—

1           “(i) SUBPOENA AUTHORITY.—For the  
2           purpose of making any investigation of any  
3           accident or other occurrence relating to  
4           health or safety in a coal or other mine  
5           under this paragraph, the Director of the  
6           National Institute for Occupational Safety  
7           and Health shall at the request of a major-  
8           ity of the Panel or upon his own initiative  
9           sign and issue subpoenas for the attend-  
10          ance and testimony of witnesses and the  
11          production of relevant papers, books, and  
12          documents, and administer oaths. Wit-  
13          nesses summoned shall be paid the same  
14          fees and mileage that are paid witnesses in  
15          the courts of the United States.

16          “(ii) CONTUMACY.—In case of contu-  
17          macy or refusal to obey a subpoena served  
18          upon any person under this section, the  
19          district court of the United States for any  
20          district in which such person is found or  
21          resides or transacts business, upon applica-  
22          tion by the United States and after notice  
23          to such person, shall have jurisdiction to  
24          issue an order requiring such person to ap-  
25          pear and give testimony before the Direc-

1 tor or Panel, or to appear and produce  
2 documents before the Director or Panel, or  
3 both, and any failure to obey such order of  
4 the court may be punished by such court  
5 as a contempt thereof.

6 “(iii) ADDITIONAL INVESTIGATIVE AU-  
7 THORITY.—In carrying out inspections and  
8 investigations under this subsection, the  
9 staff of the Director or Panel and attor-  
10 neys representing the Director or Panel  
11 are authorized to question any individual  
12 privately. Under this subparagraph, any  
13 individual who is willing to speak with or  
14 provide a statement to the Director or  
15 Panel’s staff or their attorneys, may do so  
16 without the presence, involvement, or  
17 knowledge of the operator or the operator’s  
18 agents or attorneys. The Director or Panel  
19 shall keep the identity of an individual pro-  
20 viding such a statement confidential to the  
21 extent permitted by law. Nothing in this  
22 paragraph prevents any individual from  
23 being represented by that individual’s per-  
24 sonal attorney or other representative.

1           “(H) AUTHORIZATION OF APPROPRIA-  
2           TIONS.—There is authorized to be appropriated  
3           to carry out this subsection such sums as may  
4           be necessary.

5           “(3) POWERS AND PROCESSES.—For the pur-  
6           pose”.

7           (b) REPORTING REQUIREMENTS.—Section 511(a)  
8           (30 U.S.C. 958(a)) is amended by inserting after “501,”  
9           the following: “the status of implementation of rec-  
10          ommendations from each independent investigation panel  
11          under section 103(b) received in the preceding 5 years”.

12       **SEC. 102. SUBPOENA AUTHORITY AND MINER RIGHTS DUR-**  
13                               **ING INSPECTIONS AND INVESTIGATIONS.**

14          Section 103(b) (as amended by section 101) (30  
15          U.S.C. 813(b)) is further amended by adding at the end  
16          the following:

17               “(4) ADDITIONAL POWERS.—For purposes of  
18               making inspections and investigations, the Secretary  
19               or the Secretary’s designee, may sign and issue sub-  
20               poenas for the attendance and testimony of wit-  
21               nesses and the production of information, including  
22               all relevant data, papers, books, documents, and  
23               items of physical evidence, and administer oaths.  
24               Witnesses summoned shall be paid the same fees  
25               that are paid witnesses in the courts of the United

1 States. In carrying out inspections and investiga-  
2 tions under this subsection, authorized representa-  
3 tives of the Secretary and attorneys representing the  
4 Secretary are authorized to question any individual  
5 privately. Under this section, any individual who is  
6 willing to speak with or provide a statement to such  
7 authorized representatives or attorneys representing  
8 the Secretary may do so without the presence, in-  
9 volvement, or knowledge of the operator or the oper-  
10 ator's agents or attorneys. The Secretary shall keep  
11 the identity of an individual providing such a state-  
12 ment confidential to the extent permitted by law.  
13 Nothing in this paragraph prevents any individual  
14 from being represented by that individual's personal  
15 attorney or other representative.”.

16 **SEC. 103. DESIGNATION OF MINER REPRESENTATIVE.**

17 Section 103(f) (30 U.S.C. 813(f)) is amended by in-  
18 serting before the last sentence the following: “If any  
19 miner is entrapped, disabled, killed, or otherwise prevented  
20 as the result of an accident in such mine from designating  
21 such a representative directly, such miner's closest relative  
22 may act on behalf of such miner in designating such a  
23 representative. If any miner is not currently working in  
24 such mine as the result of an accident in such mine, but  
25 would be currently working in such mine but for such acci-

1 dent, such miner may designate such a representative. A  
2 representative of miners shall have the right to participate  
3 in any accident investigation the Secretary initiates pursu-  
4 ant to subsection (b), including the right to participate  
5 in investigative interviews and to review all relevant pa-  
6 pers, books, documents and records produced in connec-  
7 tion with the accident investigation, unless the Secretary,  
8 in consultation with the Attorney General, excludes such  
9 representatives from the investigation on the grounds that  
10 inclusion would interfere with or adversely impact a crimi-  
11 nal investigation that is pending or under consideration.”.

12 **SEC. 104. ADDITIONAL AMENDMENTS RELATING TO IN-**  
13 **SPECTIONS AND INVESTIGATIONS.**

14 (a) HOURS OF INSPECTIONS.—Section 103(a) (30  
15 U.S.C. 813(a)) is amended by inserting after the third  
16 sentence the following: “Such inspections shall be con-  
17 ducted during the various shifts and days of the week dur-  
18 ing which miners are normally present in the mine to en-  
19 sure that the protections of this Act are afforded to all  
20 miners working all shifts.”.

21 (b) REVIEW OF MINE PATTERN OF VIOLATIONS STA-  
22 TUS.—Section 103(a) is further amended by inserting be-  
23 fore the last sentence the following: “The Secretary shall,  
24 upon request by an operator, review with the appropriate  
25 mine officials the Secretary’s most recent evaluation for

1 pattern of violations status (as provided in section 104(e))  
2 for that mine during the course of a mine's regular quar-  
3 terly inspection of an underground mine or a biannual in-  
4 spection of a surface mine, or, at the discretion of the Sec-  
5 retary, during the pre-inspection conference.”.

6 (c) INJURY AND ILLNESS REPORTING.—Section  
7 103(d) (30 U.S.C. 813(d)) is amended by striking the last  
8 sentence and inserting the following: “The records to be  
9 kept and made available by the operator of the mine shall  
10 include man-hours worked and occupational injuries and  
11 illnesses with respect to the miners in their employ or  
12 under their direction or authority, and shall be maintained  
13 separately for each mine and be reported at a frequency  
14 determined by the Secretary, but at least annually. Inde-  
15 pendent contractors (within the meaning of section 3(d))  
16 shall be responsible for reporting accidents, occupational  
17 injuries and illnesses, and man-hours worked for each  
18 mine with respect to the miners in their employ or under  
19 their direction or authority, and shall be reported at a fre-  
20 quency determined by the Secretary, but at least annually.  
21 Reports or records of operators and contractors required  
22 and submitted to the Secretary under this subsection shall  
23 be signed and certified as accurate and complete by a  
24 knowledgeable and responsible person possessing a certifi-  
25 cation, registration, qualification, or other approval, as

1 provided for under section 118. Knowingly falsifying such  
2 records or reports shall be grounds for revoking such cer-  
3 tification, registration, qualification, or other approval  
4 under the standards established under subsection (b)(1)  
5 of such section.”.

6 (d) ORDERS FOLLOWING AN ACCIDENT.—Section  
7 103(k) (30 U.S.C. 813(k)) is amended by striking “, when  
8 present,”.

9 (e) CONFLICT OF INTEREST IN THE REPRESENTA-  
10 TION OF MINERS.—Section 103(a) (30 U.S.C. 813(a)) is  
11 amended by adding at the end the following: “During in-  
12 spections and investigations under this section, and during  
13 any litigation under this Act, no attorney shall represent  
14 or purport to represent both the operator of a coal or other  
15 mine and any other individual, unless such individual has  
16 knowingly and voluntarily waived all actual and reasonably  
17 foreseeable conflicts of interest resulting from such rep-  
18 resentation. The Secretary is authorized to take such ac-  
19 tions as the Secretary considers appropriate to ascertain  
20 whether such individual has knowingly and voluntarily  
21 waived all such conflicts of interest. If the Secretary finds  
22 that such an individual cannot be represented adequately  
23 by such an attorney due to such conflicts of interest, the  
24 Secretary may petition the appropriate United States Dis-  
25 trict Court which shall have jurisdiction to disqualify such

1 attorney as counsel to such individual in the matter. The  
2 Secretary may make such a motion as part of an ongoing  
3 related civil action or as a miscellaneous action.”.

4 **TITLE II—ENHANCED**  
5 **ENFORCEMENT AUTHORITY**

6 **SEC. 201. TECHNICAL AMENDMENT.**

7 Section 104(d)(1) (30 U.S.C. 814(d)(1)) is amend-  
8 ed—

9 (1) in the first sentence—

10 (A) by striking “any mandatory health or  
11 safety standard” and inserting “any provision  
12 of this Act, including any mandatory health or  
13 safety standard or regulation promulgated  
14 under this Act”; and

15 (B) by striking “such mandatory health or  
16 safety standards” and inserting “such provi-  
17 sions, regulations, or mandatory health or safe-  
18 ty standards”; and

19 (2) in the second sentence, by striking “any  
20 mandatory health or safety standard” and inserting  
21 “any provision of this Act, including any mandatory  
22 health or safety standard or regulation promulgated  
23 under this Act,”.

1 **SEC. 202. PROCEDURES AND CRITERIA FOR DETERMINING**  
2 **A PATTERN OF VIOLATIONS.**

3 Part 104 of chapter I of title 30, Code of Federal  
4 Regulations, as revised by the Federal Mine Safety and  
5 Health Administration and published at 78 Federal Reg-  
6 ister 5073 (January 23, 2013) shall have the force and  
7 effect of law and shall remain in effect subject to an Act  
8 of Congress.

9 **SEC. 203. INJUNCTIVE AUTHORITY.**

10 Section 108(a)(2) (30 U.S.C. 818(a)(2)) is amended  
11 by striking “a pattern of violation of” and all that follows  
12 and inserting “a course of conduct that in the judgment  
13 of the Secretary constitutes a continuing hazard to the  
14 health or safety of miners, including violations of this Act  
15 or of mandatory health and safety standards or regula-  
16 tions under this Act.”.

17 **SEC. 204. REVOCATION OF APPROVAL OF PLANS.**

18 Section 105 (30 U.S.C. 815) is amended—

19 (1) by redesignating subsection (d) as sub-  
20 section (e); and

21 (2) by inserting after subsection (c) the fol-  
22 lowing:

23 “(d) **REVOCATION OF APPROVAL OF PLANS.—**

24 “(1) **REVOCATION.—**If the Secretary finds that  
25 any program or plan of an operator, or part thereof,  
26 that was approved by the Secretary under this Act

1 is based on inaccurate information or that cir-  
2 cumstances that existed when such plan was ap-  
3 proved have materially changed and that continued  
4 operation of such mine under such plan constitutes  
5 a hazard to the safety or health of miners, the Sec-  
6 retary shall revoke the approval of such program or  
7 plan.

8 “(2) WITHDRAWAL ORDERS.—Upon revocation  
9 of the approval of a program or plan under sub-  
10 section (a), the Secretary may immediately issue an  
11 order requiring the operator to cause all persons, ex-  
12 cept those persons referred to in section 104(e), to  
13 be withdrawn from such mine or an area of such  
14 mine, and to be prohibited from entering such mine  
15 or such area, until the operator has submitted and  
16 the Secretary has approved a new plan.”.

17 **SEC. 205. CHALLENGING A DECISION TO APPROVE, MOD-**  
18 **IFY, OR REVOKE A COAL OR OTHER MINE**  
19 **PLAN.**

20 Section 105(e) (as redesignated by section 204(1))  
21 (30 U.S.C. 815(e)) is amended by adding at the end the  
22 following: “In any proceeding in which a party challenges  
23 the Secretary’s decision whether to approve, modify, or re-  
24 voke a coal or other mine plan under this Act, the Com-  
25 mission shall affirm the Secretary’s decision unless the

1 challenging party establishes that such decision was arbi-  
2 trary, capricious, an abuse of discretion, or otherwise not  
3 in accordance with law.”.

4 **SEC. 206. GAO STUDY ON MSHA MINE PLAN APPROVAL.**

5 Not later than 1 year after the date of enactment  
6 of this Act, the Comptroller General shall provide a report  
7 to Congress on the timeliness of the Mine Safety and  
8 Health Administration’s approval of underground coal  
9 mines’ required plans and plan amendments, including—

10 (1) factors that contribute to any delays in the  
11 approval of these plans; and

12 (2) as appropriate, recommendations for im-  
13 proving timeliness of plan review and for achieving  
14 prompt decisions.

15 **TITLE III—PENALTIES**

16 **SEC. 301. CIVIL PENALTIES.**

17 (a) **TARGETED PENALTIES.**—Section 110(b) (30  
18 U.S.C. 820(b)) is amended by adding at the end the fol-  
19 lowing:

20 “(3) A civil penalty of not more than \$220,000  
21 may be assessed for—

22 “(A) any change to a ventilation system or  
23 ventilation control in a coal or other mine,  
24 where such ventilation system or control is re-  
25 quired by a ventilation plan, safety standard, or

1 order, and such change is made without prior  
2 approval of the Secretary and diminishes the  
3 level of protection below the minimum require-  
4 ments of the approved ventilation plan or appli-  
5 cable safety standard or order;

6 “(B) a violation of a mandatory health and  
7 safety standard requiring rock dusting in a coal  
8 mine;

9 “(C) a violation of the statutory prohibi-  
10 tion on providing advance notice of an inspec-  
11 tion; or

12 “(D) a violation of a mandatory health and  
13 safety standard requiring examinations of work  
14 areas in an underground coal mine.”.

15 (b) INCREASED CIVIL PENALTIES DURING PATTERN  
16 OF VIOLATIONS STATUS.—Section 110(b) (30 U.S.C.  
17 820(b)) is further amended by adding at the end the fol-  
18 lowing:

19 “(3) Notwithstanding any other provision of this Act,  
20 an operator of a coal or other mine that is in pattern of  
21 violations status under section 104(e) shall be assessed an  
22 increased civil penalty for any violation of this Act, includ-  
23 ing any mandatory health or safety standard or regulation  
24 promulgated under this Act. Such increased penalty shall  
25 be twice the amount that would otherwise be assessed for

1 the violation under this Act, including the regulations pro-  
2 mulgated under this Act, subject to the maximum civil  
3 penalty established for the violation under this Act.”.

4 (c) CIVIL PENALTY FOR RETALIATION.—Section  
5 110(a) (30 U.S.C. 820(a)) is further amended—

6 (1) by redesignating paragraph (4) as para-  
7 graph (5); and

8 (2) by inserting after paragraph (3) the fol-  
9 lowing:

10 “(4) If any person violates section 105(c), the Sec-  
11 retary shall propose, and the Commission shall assess, a  
12 civil penalty of not less than \$10,000 or more than  
13 \$100,000 for the first occurrence of such violation, and  
14 not less than \$20,000 or more than \$200,000 for any sub-  
15 sequent violation, during any 3-year period.”.

16 (d) TECHNICAL CORRECTION.—Section 110(a)(1)  
17 (30 U.S.C. 820(a)(1)) is amended by inserting “including  
18 any regulation promulgated under this Act,” after “this  
19 Act,”.

20 **SEC. 302. CIVIL AND CRIMINAL LIABILITY OF OFFICERS, DI-**  
21 **RECTORS, AND AGENTS.**

22 Section 110(c) (30 U.S.C. 820(c)) is amended to read  
23 as follows:

24 “(c) CIVIL AND CRIMINAL LIABILITY OF OFFICERS,  
25 DIRECTORS, AND AGENTS.—

1           “(1) CIVIL PENALTIES.—Whenever an operator  
2           engages in conduct for which the operator is subject  
3           to civil penalties under this section, any director, of-  
4           ficer, or agent of such operator who knowingly au-  
5           thorizes, orders, or carries out such conduct, or who  
6           knowingly authorizes, orders, or carries out any pol-  
7           icy or practice that results in such conduct and hav-  
8           ing reason to believe it would so result, shall be sub-  
9           ject to the same civil penalties under this section as  
10          if it were an operator engaging in such conduct.

11          “(2) CRIMINAL PENALTIES.—Whenever an op-  
12          erator engages in conduct for which the operator is  
13          subject to criminal penalties under subsection (d),  
14          any director, officer, or agent of such operator who  
15          knowingly authorizes, orders, or carries out such  
16          conduct, or who knowingly authorizes, orders, or  
17          carries out a policy or practice that results in such  
18          conduct, and knowing that it will so result, shall be  
19          subject to the same penalties under paragraphs (1)  
20          or (2) of subsection (d) as if such person were an  
21          operator engaging in such conduct.”.

22 **SEC. 303. CRIMINAL PENALTIES.**

23          (a) IN GENERAL.—Section 110 (30 U.S.C. 820) is  
24          amended by striking subsection (d) and—

25                  (1) by inserting the following new heading:

1 “(d) CRIMINAL PENALTIES.—”;

2 (2) by inserting after the heading (as added by  
3 paragraph (1) of this subsection), the following new  
4 paragraph:

5 “(1) IN GENERAL.—Whoever, being an oper-  
6 ator, knowingly—

7 “(A) violates a mandatory health or safety  
8 standard, or

9 “(B) violates or fails or refuses to comply  
10 with any order issued under section 104 or sec-  
11 tion 107, or any order incorporated in a final  
12 decision issued under this Act (except an order  
13 incorporated in a decision under subsection  
14 (a)(1) or section 105(e)),

15 shall, upon conviction, be fined not more than  
16 \$250,000, or imprisoned for not more than 1 year,  
17 or both, except that if the operator commits the vio-  
18 lation after having been previously convicted of a  
19 violation under this paragraph and if, the operator  
20 knows or has reason to know that such subsequent  
21 violation has the potential to expose a miner to risk  
22 of serious injury, serious illness, or death, the oper-  
23 ator shall, upon conviction, be fined not more than  
24 \$1,000,000, or imprisoned for not more than 5  
25 years, or both.”;

1           (3) by inserting after paragraph (1) (as added  
2           by paragraph (2) of this subsection), the following  
3           new paragraph:

4           “(2) SIGNIFICANT RISK OF SERIOUS INJURY,  
5           SERIOUS ILLNESS, OR DEATH.—Whoever, being an  
6           operator, knowingly—

7           “(A) tampers with or disables a required  
8           safety device (except with express authorization  
9           from the Secretary),

10          “(B) violates a mandatory health or safety  
11          standard, or

12          “(C) violates or fails or refuses to comply  
13          with an order issued under section 104 or 107,  
14          or any order incorporated in a final decision  
15          issued under this Act (except an order incor-  
16          porated in a decision under subsection (a)(1) or  
17          section 105(c)),

18          and thereby recklessly exposes a miner to significant  
19          risk of serious injury, serious illness, or death, shall,  
20          upon conviction, be fined not more than \$1,000,000  
21          or imprisoned for not more than 5 years, or both,  
22          except that if the operator commits the violation  
23          after having been previously convicted of a violation  
24          under this paragraph, the operator shall, upon con-

1       viction, be fined not more than \$2,000,000, or im-  
2       prisoned for not more than 10 years, or both.”; and

3           (4) by inserting after paragraph (2) (as added  
4       by paragraph (3) of this subsection), the following  
5       new paragraph:

6           “(3) CRIMINAL PENALTIES FOR RETALIA-  
7       TION.—Whoever knowingly—

8           “(A) with the intent to retaliate, interferes  
9       with the lawful employment or livelihood of a  
10      person, or the spouse, sibling, child, or parent  
11      of a person, because any of them provides infor-  
12      mation to an authorized representative of the  
13      Secretary, to a State or local mine safety or  
14      health officer or official, or to other law en-  
15      forcement officer, in reasonable belief that the  
16      information is true and related to an apparent  
17      health or safety violation, or to an apparent  
18      unhealthful or unsafe condition, policy, or prac-  
19      tice under this Act, or

20           “(B) interferes, or threatens to interfere,  
21      with the lawful employment or livelihood of a  
22      person, or the spouse, sibling, child, or parent  
23      of a person, with the intent to prevent any of  
24      them from so providing such information,

1 shall be fined under title 18 or imprisoned for not  
2 more than 5 years, or both.”.

3 (b) ADVANCE NOTICE OF INSPECTIONS.—

4 (1) IN GENERAL.—Section 110(e) (30 U.S.C.  
5 820(e)) is amended to read as follows:

6 “(e) Whoever knowingly, with intent to give advance  
7 notice of an inspection conducted or to be conducted under  
8 this Act, and thereby to impede, interfere with, or frus-  
9 trate such inspection, engages in, or directs another per-  
10 son to engage in, conduct that a reasonable person would  
11 expect to result in such advance notice, shall be fined  
12 under title 18, United States Code, or imprisoned for not  
13 more than 5 years, or both, except that a miner (other  
14 than a director, officer or agent of the operator involved)  
15 who commits the offense at the direction of a superior  
16 shall be fined under title 18, or imprisoned not more than  
17 1 year, or both, unless the miner commits a second or  
18 subsequent offense under this subsection (without regard  
19 to whether the offense was committed at the direction of  
20 a superior) in which case the miner shall be fined for such  
21 second and subsequent offense under title 18, United  
22 States Code, or imprisoned for not more than 5 years, or  
23 both.”.

1           (2) POSTING OF ADVANCE NOTICE PEN-  
2           ALTIES.—Section 109 (30 U.S.C. 819) is amended  
3           by adding at the end the following:

4           “(e) POSTING OF ADVANCE NOTICE PENALTIES.—  
5           Each operator of a coal or other mine shall post, on the  
6           bulletin board described in subsection (a) and in a con-  
7           spicuous place near each staffed entrance onto the mine  
8           property, a notice stating, in a form and manner to be  
9           prescribed by the Secretary—

10           “(1) that it is unlawful pursuant to section  
11           110(e) for any person, with the intent to impede,  
12           interfere with, or frustrate an inspection conducted  
13           or to be conducted under this Act, to engage in, or  
14           direct another person to engage in, any conduct that  
15           a reasonable person would expect to result in ad-  
16           vance notice of such inspection; and

17           “(2) the maximum penalties for a violation  
18           under such subsection.”.

19           **SEC. 304. COMMISSION REVIEW OF PENALTY ASSESS-**  
20           **MENTS.**

21           Section 110(i) (30 U.S.C. 820(i)) is amended by  
22           striking “In assessing civil monetary penalties, the Com-  
23           mission shall consider” and inserting the following: “In  
24           any review of a citation and proposed penalty assessment  
25           contested by an operator, the Commission shall assess not

1 less than the penalty derived by using the same method-  
2 ology (including any point system) prescribed in regula-  
3 tions under this Act, so as to ensure consistency in oper-  
4 ator penalty assessments, except that the Commission may  
5 assess a penalty for less than the amount that would result  
6 from the utilization of such methodology if the Commis-  
7 sion finds that there are extraordinary circumstances. If  
8 there is no such methodology prescribed for a citation or  
9 there are such extraordinary circumstances, the Commis-  
10 sion shall assess the penalty by considering”.

11 **SEC. 305. DELINQUENT PAYMENTS AND PREJUDGMENT IN-**  
12 **TEREST.**

13 (a) PRE-FINAL ORDER INTEREST.—Section 110(j)  
14 (30 U.S.C. 820(j)) is amended by striking the second and  
15 third sentences and inserting the following: “Pre-final  
16 order interest on such penalties shall begin to accrue on  
17 the date the operator contests a citation issued under this  
18 Act, including any mandatory health or safety standard  
19 or regulation promulgated under this Act, and shall end  
20 upon the issuance of the final order. Such pre-final order  
21 interest shall be calculated at the current underpayment  
22 rate determined by the Secretary of the Treasury pursu-  
23 ant to section 6621 of the Internal Revenue Code of 1986,  
24 and shall be compounded daily. Post-final order interest  
25 shall begin to accrue 30 days after the date a final order

1 of the Commission or the court is issued, and shall be  
2 charged at the rate of 8 percent per annum.”.

3 (b) ENSURING PAYMENT OF PENALTIES.—

4 (1) AMENDMENTS.—Section 110 (30 U.S.C.  
5 820) is further amended—

6 (A) by redesignating subsection (l) as sub-  
7 section (m); and

8 (B) by inserting after subsection (k) the  
9 following:

10 “(l) ENSURING PAYMENT OF PENALTIES.—

11 “(1) DELINQUENT PAYMENT LETTER.—If the  
12 operator of a coal or other mine fails to pay any civil  
13 penalty assessment that has become a final order of  
14 the Commission or a court within 45 days after such  
15 assessment became a final order, the Secretary shall  
16 send the operator a letter advising the operator of  
17 the consequences under this subsection of such fail-  
18 ure to pay. The letter shall also advise the operator  
19 of the opportunity to enter into or modify a payment  
20 plan with the Secretary based upon a demonstrated  
21 inability to pay, the procedure for entering into such  
22 plan, and the consequences of not entering into or  
23 not complying with such plan.

24 “(2) WITHDRAWAL ORDERS FOLLOWING FAIL-  
25 URE TO PAY.—If an operator that receives a letter

1 under paragraph (1) has not paid the assessment by  
2 the date that is 180 days after such assessment be-  
3 came a final order and has not entered into a pay-  
4 ment plan with the Secretary, the Secretary shall  
5 issue an order requiring such operator to cause all  
6 persons, except those referred to in section 104(c),  
7 to be withdrawn from, and to be prohibited from en-  
8 tering, the mine that is covered by the final order  
9 described in paragraph (1), until the operator pays  
10 such assessment in full (including interest and ad-  
11 ministrative costs) or enters into a payment plan  
12 with the Secretary. If such operator enters into a  
13 payment plan with the Secretary and at any time  
14 fails to comply with the terms specified in such pay-  
15 ment plan, the Secretary shall issue an order requir-  
16 ing such operator to cause all persons, except those  
17 referred to in section 104(c), to be withdrawn from  
18 the mine that is covered by such final order, and to  
19 be prohibited from entering such mine, until the op-  
20 erator rectifies the noncompliance with the payment  
21 plan in the manner specified in such payment  
22 plan.”.

23 (2) APPLICABILITY AND EFFECTIVE DATE.—  
24 The amendments made by paragraph (1) shall apply  
25 to all unpaid civil penalty assessments under the

1 Federal Mine Safety and Health Act of 1977 (30  
2 U.S.C. 801 et seq.), except that, for any unpaid civil  
3 penalty assessment that became a final order of the  
4 Commission or a court before the date of enactment  
5 of this Act, the time periods under section 110(n) of  
6 the Federal Mine Safety and Health Act of 1977 (as  
7 amended) (30 U.S.C. 820(n)) shall be calculated as  
8 beginning on the date of enactment of this Act in-  
9 stead of on the date of the final order.

## 10 **TITLE IV—MINERS’ RIGHTS AND** 11 **PROTECTIONS**

### 12 **SEC. 401. PROTECTION FROM RETALIATION.**

13 Section 105(c) (30 U.S.C. 815(c)) is amended to read  
14 as follows:

15 “(c) PROTECTION FROM RETALIATION.—

16 “(1) RETALIATION PROHIBITED.—

17 “(A) RETALIATION FOR COMPLAINT OR  
18 TESTIMONY.—No person shall discharge or in  
19 any manner discriminate against or cause to be  
20 discharged or cause discrimination against or  
21 otherwise interfere with the exercise of the stat-  
22 utory rights of any miner or other employee of  
23 an operator, representative of miners, or appli-  
24 cant for employment (including the spouse, sib-  
25 ling, child, or parent of such miner or employee,

1           if such individual is employed or is applying for  
2           employment at a mine under the control of the  
3           operator), because—

4                   “(i) such miner or other employee,  
5                   representative, or applicant for employ-  
6                   ment—

7                           “(I) has filed or made a com-  
8                           plaint, or is about to file or make a  
9                           complaint, including a complaint noti-  
10                           fying the operator or the operator’s  
11                           agent, or the representative of the  
12                           miners at the coal or other mine of an  
13                           alleged danger or safety or health vio-  
14                           lation in a coal or other mine;

15                           “(II) instituted or caused to be  
16                           instituted, or is about to institute or  
17                           cause to be instituted, any proceeding  
18                           under or related to this Act or has  
19                           testified or is about to testify in any  
20                           such proceeding or because of the ex-  
21                           ercise by such miner or other em-  
22                           ployee, representative, or applicant for  
23                           employment on behalf of him or her-  
24                           self or others of any right afforded by

1 this Act, or has reported any injury or  
2 illness to an operator or agent;

3 “(III) has testified or is about to  
4 testify before Congress or any Federal  
5 or State proceeding related to safety  
6 or health in a coal or other mine; or

7 “(IV) refused to violate any pro-  
8 vision of this Act, including any man-  
9 datory health and safety standard or  
10 regulation;

11 “(ii) such miner is the subject of med-  
12 ical evaluations and potential transfer  
13 under a standard published pursuant to  
14 section 101; or

15 “(iii) where the discharge, discrimina-  
16 tion or other retaliation was based on a  
17 suspicion or belief that such miner or other  
18 employee, representative, or applicant en-  
19 gaged in or is about to engage in any of  
20 the activities described in clause (i).

21 “(B) RETALIATION FOR REFUSAL TO PER-  
22 FORM DUTIES.—

23 “(i) IN GENERAL.—No person shall  
24 discharge or in any manner discriminate  
25 against a miner or other employee of an

1 operator for refusing to perform the min-  
2 er's or other employee's duties if the miner  
3 or other employee has a good-faith and  
4 reasonable belief that performing such du-  
5 ties would pose a safety or health hazard  
6 to the miner or other employee or to any  
7 other miner or employee.

8 “(ii) STANDARD.—For purposes of  
9 clause (i), the circumstances causing the  
10 miner's or other employee's good-faith be-  
11 lief that performing such duties would pose  
12 a safety or health hazard shall be of such  
13 a nature that a reasonable person, under  
14 the circumstances confronting the miner or  
15 other employee, would conclude that there  
16 is such a hazard. In order to qualify for  
17 protection under this paragraph, the miner  
18 or other employee, when practicable, shall  
19 have communicated or attempted to com-  
20 municate the safety or health concern to  
21 the operator and have not received from  
22 the operator a response reasonably cal-  
23 culated to allay such concern.

24 “(2) COMPLAINT.—Any miner or other em-  
25 ployee or representative of miners or applicant for

1 employment who believes that he or she has been  
2 discharged, disciplined, or otherwise discriminated  
3 against by any person in violation of paragraph (1)  
4 may file a complaint with the Secretary alleging  
5 such discrimination not later than 180 days after  
6 the later of—

7 “(A) the last date on which an alleged vio-  
8 lation of paragraph (1) occurs; or

9 “(B) the date on which the miner or other  
10 employee or representative knows or should rea-  
11 sonably have known that such alleged violation  
12 occurred.

13 “(3) INVESTIGATION AND HEARING.—

14 “(A) COMMENCEMENT OF INVESTIGATION  
15 AND INITIAL DETERMINATION.—Upon receipt  
16 of such complaint, the Secretary shall forward  
17 a copy of the complaint to the respondent, and  
18 shall commence an investigation within 15 days  
19 of the Secretary’s receipt of the complaint, and,  
20 as soon as practicable after commencing such  
21 investigation, make the determination required  
22 under subparagraph (B) regarding the rein-  
23 statement of the miner or other employee.

24 “(B) REINSTATEMENT.—If the Secretary  
25 finds that such complaint was not frivolously

1 brought, the Commission, on an expedited basis  
2 upon application of the Secretary, shall order  
3 the immediate reinstatement of the miner or  
4 other employee until there has been a final  
5 Commission order disposing of the underlying  
6 complaint of the miner or other employee. If ei-  
7 ther the Secretary or the miner or other em-  
8 ployee pursues the underlying complaint, such  
9 reinstatement shall remain in effect until the  
10 Commission has disposed of such complaint on  
11 the merits, regardless of whether the Secretary  
12 pursues such complaint by filing a complaint  
13 under subparagraph (D) or the miner or other  
14 employee pursues such complaint by filing an  
15 action under paragraph (4). If neither the Sec-  
16 retary nor the miner or other employee pursues  
17 the underlying complaint within the periods  
18 specified in paragraph (4), such reinstatement  
19 shall remain in effect until such time as the  
20 Commission may, upon motion of the operator  
21 and after providing notice and an opportunity  
22 to be heard to the parties, vacate such com-  
23 plaint for failure to prosecute.

1           “(C) INVESTIGATION.—Such investigation  
2 shall include interviewing the complainant  
3 and—

4           “(i) providing the respondent an op-  
5 portunity to submit to the Secretary a  
6 written response to the complaint and to  
7 present statements from witnesses or pro-  
8 vide evidence; and

9           “(ii) providing the complainant an op-  
10 portunity to receive any statements or evi-  
11 dence provided to the Secretary and to  
12 provide additional information or evidence,  
13 or to rebut any statements or evidence.

14           “(D) ACTION BY THE SECRETARY.—If,  
15 upon such investigation, the Secretary deter-  
16 mines that the provisions of this subsection  
17 have been violated, the Secretary shall imme-  
18 diately file a complaint with the Commission,  
19 with service upon the alleged violator and the  
20 miner or other employee, representative of min-  
21 ers, or applicant for employment alleging such  
22 discrimination or interference and propose an  
23 order granting appropriate relief.

24           “(E) ACTION OF THE COMMISSION.—The  
25 Commission shall afford an opportunity for a

1 hearing on the record (in accordance with sec-  
2 tion 554 of title 5, United States Code, but  
3 without regard to subsection (a)(3) of such sec-  
4 tion) and thereafter shall issue an order, based  
5 upon findings of fact, affirming, modifying, or  
6 vacating the Secretary's proposed order, or di-  
7 recting other appropriate relief. Such order  
8 shall become final 30 days after its issuance.  
9 The complaining miner or other employee, rep-  
10 resentative, or applicant for employment may  
11 present additional evidence on his or her own  
12 behalf during any hearing held pursuant to this  
13 paragraph.

14 “(F) RELIEF.—The Commission shall have  
15 authority in such proceedings to require a per-  
16 son committing a violation of this subsection to  
17 take such affirmative action to abate the viola-  
18 tion and prescribe a remedy as the Commission  
19 considers appropriate, including—

20 “(i) the rehiring or reinstatement of  
21 the miner or other employee with back pay  
22 and interest and without loss of position or  
23 seniority, and restoration of the terms,  
24 rights, conditions, and privileges associated  
25 with the complainant's employment;

1           “(ii) any other compensatory and con-  
2           sequential damages sufficient to make the  
3           complainant whole, and exemplary dam-  
4           ages where appropriate; and

5           “(iii) expungement of all warnings,  
6           reprimands, or derogatory references that  
7           have been placed in paper or electronic  
8           records or databases of any type relating  
9           to the actions by the complainant that  
10          gave rise to the unfavorable personnel ac-  
11          tion, and, at the complainant’s direction,  
12          transmission of a copy of the decision on  
13          the complaint to any person whom the  
14          complainant reasonably believes may have  
15          received such unfavorable information.

16          “(4) NOTICE TO AND ACTION OF COMPLAIN-  
17          ANT.—

18                 “(A) NOTICE TO COMPLAINANT.—Not  
19                 later than 90 days of the receipt of a complaint  
20                 filed under paragraph (2), the Secretary shall  
21                 notify, in writing, the miner or other employee,  
22                 applicant for employment, or representative of  
23                 miners of his determination whether a violation  
24                 has occurred.

1           “(B) ACTION OF COMPLAINANT.—If the  
2           Secretary, upon investigation, determines that  
3           the provisions of this subsection have not been  
4           violated, the complainant shall have the right,  
5           within 30 days after receiving notice of the Sec-  
6           retary’s determination, to file an action in his  
7           or her own behalf before the Commission,  
8           charging discrimination or interference in viola-  
9           tion of paragraph (1).

10           “(C) HEARING AND DECISION.—The Com-  
11           mission shall afford an opportunity for a hear-  
12           ing on the record (in accordance with section  
13           554 of title 5, United States Code, but without  
14           regard to subsection (a)(3) of such section),  
15           and thereafter shall issue an order, based upon  
16           findings of fact, dismissing or sustaining the  
17           complainant’s charges and, if the charges are  
18           sustained, granting such relief as it deems ap-  
19           propriate as described in paragraph (3)(F).  
20           Such order shall become final 30 days after its  
21           issuance.

22           “(5) BURDEN OF PROOF.—In adjudicating a  
23           complaint pursuant to this subsection, the Commis-  
24           sion may determine that a violation of paragraph (1)  
25           has occurred only if the complainant demonstrates

1       that any conduct described in paragraph (1) with re-  
2       spect to the complainant was a contributing factor  
3       in the adverse action alleged in the complaint. A de-  
4       cision or order that is favorable to the complainant  
5       shall not be issued pursuant to this subsection if the  
6       respondent demonstrates by clear and convincing  
7       evidence that the respondent would have taken the  
8       same adverse action in the absence of such conduct.

9               “(6) ATTORNEYS’ FEES.—Whenever an order is  
10       issued sustaining the complainant’s charges under  
11       this subsection, a sum equal to the aggregate  
12       amount of all costs and expenses, including attor-  
13       ney’s fees, as determined by the Commission to have  
14       been reasonably incurred by the complainant for, or  
15       in connection with, the institution and prosecution of  
16       such proceedings shall be assessed against the per-  
17       son committing such violation. The Commission  
18       shall determine whether such costs and expenses  
19       were reasonably incurred by the complainant without  
20       reference to whether the Secretary also participated  
21       in the proceeding.

22               “(7) EXPEDITED PROCEEDINGS; JUDICIAL RE-  
23       VIEW.—Proceedings under this subsection shall be  
24       expedited by the Secretary and the Commission. Any  
25       order issued by the Commission under this sub-

1 section shall be subject to judicial review in accord-  
2 ance with section 106. Violations by any person of  
3 paragraph (1) shall be subject to the provisions of  
4 sections 108 and 110(a)(4).

5 “(8) PROCEDURAL RIGHTS.—The rights and  
6 remedies provided for in this subsection may not be  
7 waived by any agreement, policy, form, or condition  
8 of employment, including by any pre-dispute arbitra-  
9 tion agreement or collective bargaining agreement.

10 “(9) SAVINGS.—Nothing in this subsection shall  
11 be construed to diminish the rights, privileges, or  
12 remedies of any miner or employee who exercises  
13 rights under any Federal or State law or common  
14 law, or under any collective bargaining agreement.”.

15 **SEC. 402. PROTECTION FROM LOSS OF PAY.**

16 Section 111 (30 U.S.C. 821) is amended to read as  
17 follows:

18 **“SEC. 111. ENTITLEMENT OF MINERS.**

19 “(a) PROTECTION FROM LOSS OF PAY.—

20 “(1) WITHDRAWAL ORDERS.—If a coal or other  
21 mine or area of such mine is closed by an order  
22 issued under section 103, 104, 107, 108, or 110, all  
23 miners working during the shift when such order  
24 was issued who are idled by such order shall be enti-  
25 tled, regardless of the result of any review of such

1 order, to full compensation by the operator at their  
2 regular rates of pay for the period they are idled,  
3 but for not more than the balance of such shift. If  
4 such order is not terminated prior to the next work-  
5 ing shift, all miners on that shift who are idled by  
6 such order shall be entitled to full compensation by  
7 the operator at their regular rates of pay for the pe-  
8 riod they are idled, for not more than one half of  
9 such shift, or four hours, whichever is greater. If a  
10 coal or other mine or area of such mine is closed by  
11 an order issued under section 104, 107 (in connec-  
12 tion with a citation), 108, or 110, all miners who are  
13 idled by such order shall be entitled, regardless of  
14 the result of any review of such order, to full com-  
15 pensation by the operator at their regular rates of  
16 pay and in accordance with their regular schedules  
17 of pay for the entire period for which they are idled,  
18 not to exceed 60 days.

19 “(2) CLOSURE IN ADVANCE OF ORDER.—If the  
20 Secretary finds that such mine or such area of a  
21 mine was closed by the operator in anticipation of  
22 the issuance of such an order, all miners who are  
23 idled by such closure shall be entitled to full com-  
24 pensation by the operator at their regular rates of  
25 pay and in accordance with their regular schedules

1 of pay, from the time of such closure until such time  
2 as the Secretary authorizes reopening of such mine  
3 or such area of the mine, not to exceed 60 days, ex-  
4 cept where an operator promptly withdraws miners  
5 upon discovery of a hazard, and notifies the Sec-  
6 retary where required, and within the prescribed  
7 time period.

8 “(3) REFUSAL TO COMPLY.—Whenever an op-  
9 erator violates or fails or refuses to comply with any  
10 order issued under section 103, 104, 107, 108, or  
11 110, all miners employed at the affected mine who  
12 would have been withdrawn from, or prevented from  
13 entering, such mine or area thereof as a result of  
14 such order shall be entitled to full compensation by  
15 the operator at their regular rates of pay, in addi-  
16 tion to pay received for work performed after such  
17 order was issued, for the period beginning when  
18 such order was issued and ending when such order  
19 is complied with, vacated, or terminated.

20 “(b) ENFORCEMENT.—

21 “(1) COMMISSION ORDERS.—The Commission  
22 shall have authority to order compensation due  
23 under this section upon the filing of a complaint by  
24 a miner or his representative and after opportunity  
25 for hearing on the record subject to section 554 of

1 title 5, United States Code. Whenever the Commis-  
2 sion issues an order sustaining the complaint under  
3 this subsection in whole or in part, the Commission  
4 shall award the complainant reasonable attorneys'  
5 fees and costs.

6 “(2) FAILURE TO PAY COMPENSATION DUE.—  
7 Consistent with the authority of the Secretary to  
8 order miners withdrawn from a mine under this Act,  
9 the Secretary shall order a mine that has been sub-  
10 ject to a withdrawal order under section 103, 104,  
11 107, 108, or 110, and has reopened, to be closed  
12 again if compensation in accordance with the provi-  
13 sions of this section is not paid by the end of the  
14 next regularly scheduled payroll period following the  
15 lifting of a withdrawal order.

16 “(c) EXPEDITED REVIEW.—If an order is issued  
17 which results in payments to miners under subsection (a),  
18 the operators shall have the right to an expedited review  
19 before the Commission using timelines and procedures es-  
20 tablished pursuant to section 316(b)(2)(G)(ii).”.

1 **SEC. 403. UNDERGROUND COAL MINER EMPLOYMENT**  
2 **STANDARD FOR MINES PLACED IN PATTERN**  
3 **OF VIOLATIONS STATUS.**

4 The Federal Mine Safety and Health Act of 1977 is  
5 further amended by adding at the end of title I the fol-  
6 lowing:

7 **“SEC. 117. UNDERGROUND COAL MINER EMPLOYMENT**  
8 **STANDARD FOR MINES PLACED IN PATTERN**  
9 **OF VIOLATIONS STATUS.**

10 “(a) IN GENERAL.—For purposes of ensuring min-  
11 ers’ health and safety and miners’ right to raise concerns  
12 thereof, when an underground coal mine is placed in pat-  
13 tern of violations status pursuant to section 104(e), and  
14 for 3 years after such placement, the operator of such  
15 mine may not discharge or constructively discharge a  
16 miner who is paid on an hourly basis and employed at  
17 such underground coal mine without reasonable job-re-  
18 lated grounds based on a failure to satisfactorily perform  
19 job duties, including compliance with this Act and with  
20 mandatory health and safety standards or other regula-  
21 tions issued under this Act, or other legitimate business  
22 reason, where the miner has completed the employer’s pro-  
23 bationary period, not to exceed 6 months.

24 “(b) CAUSE OF ACTION.—A miner aggrieved by a  
25 violation of subsection (a) may file a complaint in Federal

1 district court in the district where the mine is located  
2 within 1 year of such violation.

3 “(c) REMEDIES.—In an action under subsection (b),  
4 for any prevailing miner the court shall take affirmative  
5 action to further the purposes of the Act, which may in-  
6 clude reinstatement with backpay and compensatory dam-  
7 ages. Reasonable attorneys’ fees and costs shall be award-  
8 ed to any prevailing miner under this section.

9 “(d) PRE-DISPUTE WAIVER PROHIBITED.—A min-  
10 er’s right to a cause of action under this section may not  
11 be waived with respect to disputes that have not arisen  
12 as of the time of the waiver.

13 “(e) CONSTRUCTION.—Nothing in this section shall  
14 be construed to limit the availability of rights and rem-  
15 edies of miners under any other State or Federal law or  
16 a collective bargaining agreement.”.

17 **TITLE V—MODERNIZING**  
18 **HEALTH AND SAFETY STAND-**  
19 **ARDS**

20 **SEC. 501. PRE-SHIFT REVIEW OF MINE CONDITIONS.**

21 Section 303(d) (30 U.S.C. 863(d)) is amended by  
22 adding at the end the following:

23 “(3)(A) Not later than 30 days after the issuance of  
24 the interim final rules promulgated under subparagraph  
25 (B), each operator of an underground coal mine shall im-

1 plement a communication program at the underground  
2 coal mine to ensure that each miner is orally briefed on  
3 and made aware of, prior to traveling to or arriving at  
4 the miner’s work area and commencing the miner’s as-  
5 signed tasks—

6 “(i) any conditions that are hazardous, or that  
7 violate a mandatory health or safety standard or a  
8 plan approved under this Act, where the miner is ex-  
9 pected to work or travel; and

10 “(ii) the general conditions of that miner’s as-  
11 signed working section or other area where the  
12 miner is expected to work or travel.

13 “(B) Not later than 180 days after the date of enact-  
14 ment of the Robert C. Byrd Mine Safety Protection Act  
15 of 2014, the Secretary shall promulgate interim final rules  
16 implementing the requirements of subparagraph (A). The  
17 Secretary shall issue a final rule not later than 2 years  
18 after such date.”.

19 **SEC. 502. ROCK DUST STANDARDS.**

20 (a) STANDARDS.—Section 304(d) (30 U.S.C. 864(d))  
21 is amended—

22 (1) by striking “Where rock” and inserting the  
23 following: “ROCK DUST.—

24 “(1) IN GENERAL.—Where rock”;

1           (2) by striking “65 per centum” and all that  
2 follows and inserting “80 percent. Where methane is  
3 present in any ventilating current, the percentage of  
4 incombustible content of such combined dusts shall  
5 be increased 0.4 percent for each 0.1 percent of  
6 methane.”; and

7           (3) by adding at the end the following:

8           “(2) METHODS OF MEASUREMENT.—

9           “(A) IN GENERAL.—Each operator of an  
10 underground coal mine shall take accurate and  
11 representative samples which shall measure the  
12 total incombustible content of combined coal  
13 dust, rock dust, and other dust in such mine to  
14 ensure that the coal dust is kept below explosive  
15 levels through the appropriate application of  
16 rock dust.

17           “(B) DIRECT READING MONITORS.—In  
18 order to ensure timely assessment and compli-  
19 ance, the Secretary shall, not later than 180  
20 days after the date of enactment of the Robert  
21 C. Byrd Mine Safety Protection Act of 2014,  
22 require operators to measure total incombustible  
23 content (or an equivalent measure of  
24 explosibility) in samples of combined coal dust,  
25 rock dust, and other dust, using direct reading

1 monitors that the Secretary has approved for  
2 use in an underground coal mine, such as coal  
3 dust explosibility monitors.

4 “(C) REGULATIONS.—The Secretary shall,  
5 not later than 180 days after the date of enact-  
6 ment of the Robert C. Byrd Mine Safety Pro-  
7 tection Act of 2014, promulgate an interim  
8 final rule that prescribes methods for operator  
9 sampling of total incombustible content (or an  
10 equivalent measure of explosibility) in samples  
11 of combined coal dust, rock dust, and other  
12 dust using direct reading monitors and includes  
13 requirements for locations, methods, and inter-  
14 vals for mandatory operator sampling.

15 “(D) RECOMMENDATIONS.—Not later than  
16 1 year after the date of enactment of the Rob-  
17 ert C. Byrd Mine Safety Protection Act of  
18 2014, the Secretary of Health and Human  
19 Services shall, based upon the latest research,  
20 recommend to the Secretary of Labor any revi-  
21 sions to the mandatory operator sampling loca-  
22 tions, methods, and intervals included in the in-  
23 terim final rule described in subparagraph (B)  
24 that may be warranted in light of such re-  
25 search.

1           “(3) LIMITATION.—Until a final rule is issued  
2           by the Secretary under section 502(b)(2) of the Rob-  
3           ert C. Byrd Mine Safety Protection Act of 2014, any  
4           measurement taken by a direct reading monitor de-  
5           scribed in paragraph (2) shall not be admissible to  
6           establish a violation in an enforcement action under  
7           this Act.

8           “(4) REPORT AND RULEMAKING AUTHORITY.—

9           “(A) REPORT.—Not later than 2 years  
10          after the date of enactment of the Robert C.  
11          Byrd Mine Safety Protection Act of 2014, the  
12          Secretary of Health and Human Services, in  
13          consultation with the Secretary of Labor, shall  
14          prepare and submit, to the Committee on Edu-  
15          cation and the Workforce of the House of Rep-  
16          resentatives and the Committee on Health,  
17          Education, Labor, and Pensions of the Senate,  
18          a report—

19                 “(i) regarding whether any direct  
20                 reading monitor described in paragraph  
21                 (2)(B) is sufficiently reliable and accurate  
22                 for the enforcement of the mandatory  
23                 health or safety standards by the Secretary  
24                 of Labor under such Act, and whether ad-  
25                 ditional improvement to such direct read-

1           ing monitor, or additional verification re-  
2           garding reliability and accuracy, would be  
3           needed for enforcement purposes; and

4                   “(ii) identifying any limitations or im-  
5           pediments for such use in underground  
6           coal mines.

7                   “(B) AUTHORITY.—If the Secretary deter-  
8           mines that such direct reading monitor is suffi-  
9           ciently reliable and accurate for the enforce-  
10          ment of mandatory health and safety standards  
11          under this Act following such report or any up-  
12          date thereto, the Secretary shall promulgate a  
13          final rule authorizing the use of such direct  
14          reading monitor for purposes of compliance and  
15          enforcement, in addition to other methods for  
16          determining total incombustible content. Such  
17          rule shall specify mandatory operator sampling  
18          locations, methods, and intervals.”.

19          (b) ROCK DUST RECORDKEEPING.—Section 304 is  
20          further amended—

21                   (1) by redesignating subsection (e) as sub-  
22          section (f) and inserting after subsection (d) the fol-  
23          lowing:

1 “(e) ROCK DUST RECORDKEEPING.—Each coal mine  
2 shall be required to maintain and continuously update a  
3 record of the amount of rock dust purchased.”; and

4 (2) in subsection (f) (as so redesignated), by  
5 striking “Subsection (b) through (d)” and inserting  
6 “Subsection (b) through (e)”.

7 **SEC. 503. ATMOSPHERIC MONITORING SYSTEMS.**

8 Section 317 (30 U.S.C. 877) is amended by adding  
9 at the end the following:

10 “(u) ATMOSPHERIC MONITORING SYSTEMS.—

11 “(1) REGULATIONS REQUIRED.—Not later than  
12 1 year after the date of enactment of the Robert C.  
13 Byrd Mine Safety Protection Act of 2013, the Sec-  
14 retary shall, following consultation with the National  
15 Institute for Occupational Safety and Health, pro-  
16 mulgate regulations requiring that each operator of  
17 an underground coal mine install atmospheric moni-  
18 toring systems that—

19 “(A) protect miners where the miners nor-  
20 mally work and travel;

21 “(B) will assist in mine emergency re-  
22 sponse and the conduct of accident investiga-  
23 tions;

24 “(C) provide real-time information regard-  
25 ing methane, oxygen, and carbon monoxide lev-

1           els, and airflow direction, as appropriate, with  
2           sensing, annunciating, and recording capabili-  
3           ties; and

4           “(D) can, to the maximum extent prac-  
5           ticable, withstand explosions and fires.

6           “(2) CONTENT OF REGULATIONS.—The Sec-  
7           retary shall evaluate and, as appropriate, require—

8           “(A) the installation of atmospheric moni-  
9           toring and recording devices on mining equip-  
10          ment;

11          “(B) the implementation of redundant sys-  
12          tems, such as the bundle tubing system, that  
13          can continuously monitor the mine atmosphere  
14          following incidents such as fires, explosions, en-  
15          trapments, and inundations; and

16          “(C) the implementation of other tech-  
17          nologies available to conduct continuous atmos-  
18          pheric monitoring.”.

19   **SEC. 504. TECHNOLOGY RELATED TO RESPIRABLE DUST.**

20          Section 202(d) (30 U.S.C. 842(d)) is amended—

21          (1) by striking “of Health, Education, and Wel-  
22          fare”; and

23          (2) by striking the second sentence and insert-  
24          ing the following: “Not later than 2 years after the  
25          date of enactment of the Robert C. Byrd Mine Safe-

1 ty Protection Act of 2014, the Secretary shall pro-  
2 mulgate final regulations that require operators, be-  
3 ginning on the date such regulations are issued, to  
4 provide coal miners with the maximum feasible pro-  
5 tection from respirable dust, including coal and silica  
6 dust, that is achievable through environmental con-  
7 trols, and that meet the applicable standards.”.

8 **SEC. 505. REFRESHER TRAINING ON MINERS’ RIGHTS AND**  
9 **RESPONSIBILITIES.**

10 (a) IN GENERAL.—Section 115(a)(3) (30 U.S.C.  
11 825(a)(3)) is amended to read as follows:

12 “(3) all miners shall receive not less than 9  
13 hours of refresher training not less frequently than  
14 once every 12 months, and such training shall in-  
15 clude one hour of training on the statutory rights  
16 and responsibilities of miners and their representa-  
17 tives under this Act and other applicable Federal  
18 and State law, pursuant to a program of instruction  
19 developed by the Secretary and delivered by an em-  
20 ployee of the Administration or by a trainer ap-  
21 proved by the Administration that is a party inde-  
22 pendent from the operator;”.

23 (b) NATIONAL HAZARD REPORTING HOTLINE.—Sec-  
24 tion 115 (30 U.S.C. 825) is further amended—

1           (1) by redesignating subsections (e) through (e)  
2           as subsections (d) through (f), respectively; and

3           (2) by inserting after subsection (b) the fol-  
4           lowing:

5           “(c) Any health and safety training program of in-  
6           struction provided under this section shall include dis-  
7           tribution to miners of information regarding miners’  
8           rights under the Act, as well as a toll-free hotline tele-  
9           phone number, which the Secretary shall maintain to re-  
10          ceive complaints from miners and the public regarding  
11          hazardous conditions, discrimination, safety or health vio-  
12          lations, or other mine safety or health concerns. Informa-  
13          tion regarding the hotline shall be provided in a portable,  
14          convenient format, such as a durable wallet card, to enable  
15          miners to keep the information on their person.”.

16          (c) TIMING OF INITIAL STATUTORY RIGHTS TRAIN-  
17          ING.—Notwithstanding section 115 of the Federal Mine  
18          Safety and Health Act (as amended by subsection (a)) (30  
19          U.S.C. 825) or the health and safety training program ap-  
20          proved under such section, an operator shall ensure that  
21          all miners already employed by the operator on the date  
22          of enactment of this Act shall receive the one hour of stat-  
23          utory rights and responsibilities training described in sec-  
24          tion 115(a)(3) of such Act not later than 180 days after  
25          such date.

1 **SEC. 506. AUTHORITY TO MANDATE ADDITIONAL TRAINING.**

2 (a) IN GENERAL.—Section 115 (30 U.S.C. 825) is  
3 further amended by redesignating subsections (e) and (f)  
4 (as redesignated) as subsections (f) and (g) and inserting  
5 after subsection (d) (as redesignated) the following:

6 “(e) AUTHORITY TO MANDATE ADDITIONAL TRAIN-  
7 ING.—

8 “(1) IN GENERAL.—The Secretary is authorized  
9 to issue an order requiring that an operator of a  
10 coal or other mine provide additional training be-  
11 yond what is otherwise required by law, and speci-  
12 fying the time within which such training shall be  
13 provided, if the Secretary finds that—

14 “(A)(i) a serious or fatal accident has oc-  
15 curred at such mine;

16 “(ii) such mine has experienced accident  
17 and injury rates, citations for violations of this  
18 Act (including mandatory health or safety  
19 standards or regulations promulgated under  
20 this Act), citations for significant and substan-  
21 tial violations, or withdrawal orders issued  
22 under this Act at a rate above the average for  
23 mines of similar size and type; or

24 “(iii) an operator has a history of failing to  
25 adequately train miners as required by the Act  
26 or regulations promulgated under this Act; and

1                   “(B) additional training would benefit the  
2                   health and safety of miners at the mine.

3                   “(2) WITHDRAWAL ORDER.—If the operator  
4                   fails to provide training ordered under paragraph  
5                   (1) within the specified time, the Secretary shall  
6                   issue an order requiring such operator to cause all  
7                   affected persons, except those persons referred to in  
8                   section 104(c), to be withdrawn, and to be prohib-  
9                   ited from entering such mine, until such operator  
10                  has provided such training.”.

11                  (b) CONFORMING AMENDMENTS.—Section 104(g)(2)  
12                  (30 U.S.C. 814(g)(2)) is amended by striking “under  
13                  paragraph (1)” both places it appears and inserting  
14                  “under paragraph (1) or under section 115(e)”.

15                  **SEC. 507. BROOKWOOD-SAGO MINE SAFETY GRANTS.**

16                  Section 14(e)(2) of the Mine Improvement and New  
17                  Emergency Response Act of 2006 (30 U.S.C. 965(e)(2))  
18                  is amended by inserting before the period “, and under-  
19                  ground mine rescue training activities which simulate  
20                  mine accident conditions”.

21                  **SEC. 508. CERTIFICATION OF PERSONNEL.**

22                  (a) IN GENERAL.—Title I is further amended by add-  
23                  ing at the end the following:

1 **“SEC. 118. CERTIFICATION OF PERSONNEL.**

2       “(a) **CERTIFICATION REQUIRED.**—Any person who is  
3 authorized or designated by the operator of a coal or other  
4 mine to perform any duties or provide any training that  
5 this Act, including a mandatory health or safety standard  
6 or regulation promulgated pursuant to this Act, requires  
7 to be performed or provided by a certified, registered,  
8 qualified, or otherwise approved person, shall be permitted  
9 to perform such duties or provide such training only if  
10 such person has a current certification, registration, quali-  
11 fication, or approval to perform such duties or provide  
12 such training consistent with the requirements of this sec-  
13 tion.

14       “(b) **ESTABLISHMENT OF CERTIFICATION REQUIRE-**  
15 **MENTS AND PROCEDURES.**—

16               “(1) **IN GENERAL.**—Not later than 1 year after  
17 the date of enactment of the Robert C. Byrd Mine  
18 Safety Protection Act of 2014, the Secretary shall  
19 issue mandatory standards to establish—

20                       “(A) requirements for such certification,  
21 registration, qualification, or other approval, in-  
22 cluding the experience, examinations, and ref-  
23 erences that may be required as appropriate;

24                       “(B) time limits for such certifications and  
25 procedures for obtaining and renewing such cer-

1           tification, registration, qualification, or other  
2           approval; and

3           “(C) procedures and criteria for revoking  
4           such certification, registration, qualification, or  
5           other approval, including procedures that en-  
6           sure that the Secretary (or a State agency, as  
7           applicable) responds to requests for revocation  
8           and that the names of individuals whose certifi-  
9           cation or other approval has been revoked are  
10          provided to and maintained by the Secretary,  
11          and are made available to appropriate State  
12          agencies through an electronic database.

13          “(2) COORDINATION WITH STATES.—In devel-  
14          oping such standards, the Secretary shall consult  
15          with States that have miner certification programs  
16          to ensure effective coordination with existing State  
17          standards and requirements for certification. The  
18          standards required under paragraph (1) shall pro-  
19          vide that the certification, registration, qualification,  
20          or other approval of the State in which the coal or  
21          other mine is located satisfies the requirement of  
22          subsection (a) if the State’s program of certification,  
23          registration, qualification, or other approval is no  
24          less stringent than the standards established by the  
25          Secretary under paragraph (1).

1 “(c) OPERATOR FEES FOR CERTIFICATION.—

2 “(1) ASSESSMENT AND COLLECTION.—Begin-  
3 ning 180 days after the date of enactment of the  
4 Robert C. Byrd Mine Safety Protection Act of 2014,  
5 the Secretary shall assess and collect fees, in accord-  
6 ance with this subsection, from each operator for  
7 each person certified under this section. Fees shall  
8 be assessed and collected in amounts determined by  
9 the Secretary as necessary to fund the certification  
10 programs established under this section.

11 “(2) USE.—Amounts collected as provided in  
12 paragraph (1) shall only be available to the Sec-  
13 retary, as provided in paragraph (3), for making ex-  
14 penditures to carry out the certification programs  
15 established under this subsection.

16 “(3) AUTHORIZATION OF APPROPRIATIONS.—In  
17 addition to funds authorized to be appropriated  
18 under section 114, there is authorized to be appro-  
19 priated to the Secretary for each fiscal year in which  
20 fees are collected under paragraph (1) an amount  
21 equal to the total amount of fees collected under  
22 paragraph (1) during that fiscal year. Such amounts  
23 are authorized to remain available until expended. If  
24 on the first day of a fiscal year a regular appropria-  
25 tion to the Administration has not been enacted, the

1 Administration shall continue to collect fees (as off-  
2 setting collections) under this subsection at the rate  
3 in effect during the preceding fiscal year, until 5  
4 days after the date such regular appropriation is en-  
5 acted.

6 “(4) COLLECTING AND CREDITING OF FEES.—  
7 Fees authorized and collected under this subsection  
8 shall be deposited and credited as offsetting collec-  
9 tions to the account providing appropriations to the  
10 Mine Safety and Health Administration and shall  
11 not be collected for any fiscal year except to the ex-  
12 tent and in the amount provided in advance in ap-  
13 propriation Acts.

14 “(d) CITATION; WITHDRAWAL ORDER.—Any oper-  
15 ator who permits a person to perform any of the health  
16 or safety related functions described in subsection (a)  
17 without a current certification which meets the require-  
18 ments of this section shall be considered to have com-  
19 mitted an unwarrantable failure under section 104(d)(1),  
20 and the Secretary shall issue an order requiring that the  
21 miner be withdrawn or reassigned to duties that do not  
22 require such certification.”

23 (b) CONFORMING AMENDMENTS.—Section 318 (30  
24 U.S.C. 878) is amended—

25 (1) by striking subsections (a) and (b);

1           (2) in subsection (c), by redesignating para-  
2           graphs (1) through (3) as subparagraphs (A)  
3           through (C), respectively;

4           (3) in subsection (g), by redesignating para-  
5           graphs (1) through (4) as subparagraphs (A)  
6           through (D), respectively; and

7           (4) by redesignating subsections (c) through (j)  
8           as paragraphs (1) through (8), respectively.

9   **SEC. 509. ELECTRONIC RECORDS REQUIREMENT.**

10       Sec. 103 is amended by adding at the end the fol-  
11       lowing:

12       “(l) Not later than 180 days after the date of enact-  
13       ment of the Robert C. Byrd Mine Safety Protection Act  
14       of 2014, the Secretary shall promulgate regulations re-  
15       quiring that mine operators retain records and data re-  
16       quired by this Act, or otherwise required by the Secretary,  
17       that are created, stored or transmitted in electronic form.  
18       Such records shall include records pertaining to miner  
19       safety and health, tracking and communications, atmos-  
20       pheric monitoring of methane, carbon monoxide, oxygen,  
21       coal dust and other mine conditions, equipment usage his-  
22       tory and operating parameters, equipment calibration and  
23       maintenance, and other information relevant to compli-  
24       ance with Federal mine health and safety laws and regula-  
25       tions. Not later than 2 years after the date of enactment

1 of the Robert C. Byrd Mine Safety Protection Act of 2014,  
2 the Secretary shall promulgate a regulation regarding the  
3 minimum necessary capabilities of equipment to retain,  
4 store, and recover data created or transmitted in electronic  
5 form.”.

6 **TITLE VI—ADDITIONAL MINE**  
7 **SAFETY PROVISIONS**

8 **SEC. 601. DEFINITIONS.**

9 (a) DEFINITION OF OPERATOR.—Section 3(d) is  
10 amended to read as follows:

11 “(d) ‘operator’ means—

12 “(1) any owner, lessee, or other person  
13 that—

14 “(A) operates or supervises a coal or  
15 other mine; or

16 “(B) controls such mine by making or  
17 having the authority to make management  
18 or operational decisions that affect, directly  
19 or indirectly, the health or safety at such  
20 mine; or

21 “(2) any independent contractor per-  
22 forming services or construction at such mine;”.

23 (b) DEFINITION OF AGENT.—Section 3(e) (30 U.S.C.  
24 802(e)) is amended by striking “the miners” and inserting  
25 “any miner”.

1 (c) DEFINITION OF IMMINENT DANGER.—Section  
2 3(j) (30 U.S.C. 802(j)) is amended—

3 (1) by striking “means the” and inserting  
4 “means—

5 “(1) the”;

6 (2) by striking the semicolon at the end and in-  
7 serting “; or”; and

8 (3) by adding at the end the following:

9 “(2) the existence of multiple conditions or  
10 practices (regardless of whether related to each  
11 other) that, when considered in the aggregate, could  
12 reasonably be expected to cause death or serious  
13 physical harm before such conditions or practices  
14 can be abated;”.

15 (d) DEFINITION OF MINER.—Section 3(g) (30 U.S.C.  
16 802(g)) is amended by inserting after “or other mine” the  
17 following: “, and includes any individual who is not cur-  
18 rently working in a coal or other mine but would be cur-  
19 rently working in such mine, but for an accident in such  
20 mine”.

21 (e) DEFINITION OF SIGNIFICANT AND SUBSTANTIAL  
22 VIOLATIONS.—Section 3 (30 U.S.C. 802) is further  
23 amended—

24 (1) in subsection (m), by striking “and” after  
25 the semicolon;

1           (2) in subsection (n), by striking the period at  
2 the end and inserting a semicolon;

3           (3) in subsection (o), by striking the period at  
4 the end and inserting “; and”; and

5           (4) by adding at the end the following:

6           “(p) ‘significant and substantial violation’  
7 means a violation of this Act, including any manda-  
8 tory health or safety standard or regulation promul-  
9 gated under this Act, that is of such nature as could  
10 significantly and substantially contribute to the  
11 cause and effect of a coal or other mine safety or  
12 health hazard as described in section 104(d).”.

13 **SEC. 602. ASSISTANCE TO STATES.**

14 Section 503 (30 U.S.C. 953(a)) is amended—

15           (1) in subsection (a)—

16                (A) in the matter preceding paragraph (1),  
17 by striking “, in coordination with the Sec-  
18 retary of Health, Education, and Welfare and  
19 the Secretary of the Interior,”;

20                (B) in paragraph (2), by striking “and”  
21 after the semicolon;

22                (C) in paragraph (3), by striking the pe-  
23 riod and inserting “; and”; and

24                (D) by adding at the end the following:

1           “(4) to assist such State in developing and im-  
2           plementing any certification program for coal or  
3           other mines required for compliance with section  
4           118.”; and

5           (2) in subsection (h), by striking “\$3,000,000  
6           for fiscal year 1970, and \$10,000,000 annually in  
7           each succeeding fiscal year” and inserting  
8           “\$20,000,000 for each fiscal year”.

9   **SEC. 603. BLACK LUNG MEDICAL REPORTS.**

10          Title IV of the Black Lung Benefits Act (30 U.S.C.  
11   901 et seq.) is amended by adding at the end the fol-  
12   lowing:

13   **“SEC. 435. MEDICAL REPORTS.**

14          “In any claim for benefits for a miner under this title,  
15   an operator that requires a miner to submit to a medical  
16   examination regarding the miner’s respiratory or pul-  
17   monary condition shall, not later than 14 days after the  
18   miner has been examined, deliver to the claimant a com-  
19   plete copy of the examining physician’s report. The exam-  
20   ining physician’s report shall be in writing and shall set  
21   out in detail the examiner’s findings, including any diag-  
22   noses and conclusions and the results of any diagnostic  
23   imaging techniques and tests that were performed on the  
24   miner.”.

1 **SEC. 604. AUTHORIZATION OF COOPERATIVE AGREEMENTS**  
2 **BY NIOSH OFFICE OF MINE SAFETY AND**  
3 **HEALTH.**

4 Section 22(h)(3) of the Occupational Safety and  
5 Health Act of 1970 (29 U.S.C. 671(h)(3)) is amended—

6 (1) in subparagraph (B), by striking “and” at  
7 the end;

8 (2) by redesignating subparagraph (C) as sub-  
9 paragraph (D); and

10 (3) by inserting after subparagraph (B) the fol-  
11 lowing:

12 “(C) enter into cooperative agreements or  
13 contracts with international institutions and  
14 private entities to improve mine safety and  
15 health through the development and evaluation  
16 of new interventions; and”.

17 **SEC. 605. RULES OF APPLICATION TO CERTAIN MINES.**

18 (a) **INAPPLICABILITY OF AMENDMENTS TO CERTAIN**  
19 **MINES.—**

20 (1) **SPECIAL RULE.—**Subject to paragraph (2),  
21 the amendments made by this Act shall not apply  
22 to—

23 (A) surface mines, except for surface facili-  
24 ties or impoundments physically connected to—

25 (i) underground coal or underground  
26 metal mines; or

1 (ii) other underground mines which  
2 are gassy mines; or

3 (B) underground mines which are not coal,  
4 metal, or gassy mines.

5 (2) EXCEPTIONS.—Notwithstanding paragraph  
6 (1), the amendments made by sections 101, 202,  
7 301(c) and (d), 303(a)(4), 304, 305(a), 401, 509,  
8 601, 602, and 603 shall apply to the mines de-  
9 scribed in subparagraphs (A) and (B) of paragraph  
10 (1).

11 (3) DEFINITION.—For purposes of this section,  
12 the term “gassy mine” means a mine, tunnel, or  
13 other underground workings in which a flammable  
14 mixture has been ignited, or has been determined by  
15 air analysis to contain 0.25 percent or more (by vol-  
16 ume) of methane in any open workings when tested  
17 at a point not less than 12 inches from the roof, face  
18 of rib.

19 (b) RULE OF CONSTRUCTION RELATING TO APPLICA-  
20 BILITY OF CERTAIN PROVISIONS TO SURFACE MINES.—  
21 Title I is further amended by adding at the end the fol-  
22 lowing:

1 **“SEC. 119. APPLICABILITY OF CERTAIN PROVISIONS TO**  
2 **CERTAIN MINES.**

3 “(a) **RULE OF CONSTRUCTION.**—Subject to sub-  
4 section (c), with respect to the mines described in sub-  
5 section (b), this Act as in effect on the date before the  
6 date of enactment of the Robert C. Byrd Mine Safety Pro-  
7 tection Act of 2013, shall continue to apply to such mines  
8 as then in effect.

9 “(b) **APPLICABLE MINES.**—

10 “(1) **IN GENERAL.**—The mines referred to in  
11 subsection (a) are—

12 “(A) surface mines, except for surface fa-  
13 cilities or impoundments physically connected  
14 to—

15 “(i) underground coal or underground  
16 metal mines; or

17 “(ii) other underground mines which  
18 are gassy mines; and

19 “(B) underground mines which are not  
20 coal, metal, or gassy mines.

21 “(2) **DEFINITION.**—As used in paragraph (1),  
22 the term ‘gassy mine’ means a mine, tunnel, or  
23 other underground workings in which a flammable  
24 mixture has been ignited, or has been determined by  
25 air analysis to contain 0.25 percent or more (by vol-  
26 ume) of methane in any open workings when tested

1 at a point not less than 12 inches from the roof, face  
2 of rib.

3 “(c) EXCEPTIONS.—Notwithstanding subsection (a),  
4 the amendments made by sections 101, 202, 301(c) and  
5 (d), 303(a)(4), 304, 305(a), 401, 509, 601, 602, and 603  
6 of the Robert C. Byrd Mine Safety Protection Act of 2013  
7 shall apply to the mines described in subsection (b).

8 “(d) SAVINGS PROVISION.—Nothing in this section  
9 shall impact the authority of the Secretary to promulgate  
10 or modify regulations pursuant to the authority under any  
11 such provisions as in effect on the date before the date  
12 of enactment of the Robert C. Byrd Mine Safety Protec-  
13 tion Act of 2013, or shall be construed to alter or modify  
14 precedent with regards to the Commission or courts.”.

15 **SEC. 606. DOUBLE ENCUMBRANCE; SUCCESSION PLAN.**

16 (a) AUTHORIZATION.—Notwithstanding any per-  
17 sonnel procedures, rules, or guidance, the Secretary of  
18 Labor is authorized to double encumber a position or uti-  
19 lize early replacement hiring for authorized representa-  
20 tives and technical specialist positions in the Mine Safety  
21 and Health Administration. The number of such positions  
22 shall be consistent with the staffing requirements set forth  
23 in the succession plan under subsection (b).

24 (b) SUCCESSION PLAN.—Not later than 90 days after  
25 the date of enactment of this Act, the Secretary of Labor

1 shall develop and provide to Congress a succession plan  
2 for the Mine Safety and Health Administration for the  
3 next five years to assure timely replacement of qualified  
4 employees critical to maintaining the agency's mission  
5 which shall—

6 (1) estimate employee turnover for each year;

7 (2) sets benchmarks for maximum allowable  
8 percentage of vacancies, and a maximum ratio of  
9 trainees to authorized representatives;

10 (3) utilizes double encumbrance or early re-  
11 placement hiring for authorized representatives and  
12 technical specialists;

13 (4) implements tracking systems to assure that  
14 staffing levels of authorized representatives and  
15 technical specialists do not fall below the minimum  
16 required to conduct necessary inspections, thor-  
17 oughly review mine plans, and conduct accident and  
18 special investigations; and

19 (5) identifies resources necessary to implement  
20 such plan. Such succession plan shall be updated bi-  
21 ennially.

