To improve compliance with mine safety and health laws, empower miners to raise safety concerns, prevent future mine tragedies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GEORGE MILLER of California (for himself, Mr. RAHALL, Mr. COURTNEY, Ms. SHEA-PORTEER, Mr. HOLT, and Mr. YARMUTH) introduced the following bill; which was referred to the Committee on

A BILL

To improve compliance with mine safety and health laws, empower miners to raise safety concerns, prevent future mine tragedies, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Robert C. Byrd Mine Safety Protection Act of 2013”.

(b) TABLE OF CONTENTS.—The table of contents for 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. 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. 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. 605. Rules of application to certain mines.
Sec. 606. Double encumbrance; succession plan.
SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed as an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).

TITLE I—ADDITIONAL INSPECTION AND INVESTIGATION AUTHORITY

SEC. 101. INDEPENDENT ACCIDENT INVESTIGATIONS.

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

“(b) ACCIDENT INVESTIGATIONS.—

“(1) IN GENERAL.—For all accident investigations under this Act, the Secretary shall—

“(A) determine why the accident occurred;

“(B) determine whether there were violations of law, mandatory health and safety standards, or other requirements, and if there is evidence of conduct that may constitute a violation of Federal criminal law, the Secretary may refer such evidence to the Attorney General; and
“(C) make recommendations to avoid any
recurrance.

“(2) INDEPENDENT ACCIDENT INVESTIGA-
TIONS.—

“(A) IN GENERAL.—There shall be, in ad-
dition to an accident investigation under para-
graph (1), an independent investigation by an
independent investigation panel (referred to in
this subsection as the ‘Panel’) appointed under
subparagraph (B) for—

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

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

“(B) APPOINTMENT.—

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

“(ii) CHAIRPERSON.—The Panel shall include, and be chaired by, a representative from the Office of Mine Safety and Health Research, of the National Institute for Occupational Safety and Health (referred to in this subsection as NIOSH).

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

“(iv) COMPOSITION.—The Secretary of Health and Human Services shall appoint as members of the Panel—

“(I) 1 operator of a mine or individual representing mine operators, and

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

“(v) **STAFF AND EXPENSES.**—The Director of NIOSH shall designate NIOSH staff to facilitate the work of the Panel. The Director may accept as staff personnel on detail from other Federal agencies or re-employ annuitants. The detail of personnel under this paragraph may be on a non-reimbursable basis, and such detail shall be without interruption or loss of civil service status or privilege. The Director of NIOSH shall have the authority to procure on behalf of the Panel such materials, supplies or services, including technical experts, as requested in writing by a majority of the Panel.

“(vi) **COMPENSATION AND TRAVEL.**— All members of the Panel who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States. Each Panel member who is not an officer or employee of the United States shall be com-
pensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of duties of the Panel. The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 1 of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

“(C) DUTIES.—The Panel shall—

“(i) assess and identify any factors that caused the accident, including deficiencies in safety management systems, regulations, enforcement, industry practices or guidelines, or organizational failures;

“(ii) identify and evaluate any contributing actions or inactions of—

“(I) the operator;
“(II) any contractors or other persons engaged in mining-related functions at the site;

“(III) any State agency with oversight responsibilities;

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

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

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

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

“(iv) prepare a report that—

“(I) includes the findings regarding the causal factors described in clauses (i) and (ii);

“(II) identifies any strengths and weaknesses in the Secretary’s investigation; and

“(III) includes recommendations, including interim recommendations where appropriate, to industry, labor organizations, State and Federal
agencies, or Congress, regarding policy, regulatory, enforcement, administrative, or other changes, which in the judgment of the Panel, would prevent a recurrence at other mines; and

“(v) publish such findings and recommendations (excluding any portions which the Attorney General requests that the Secretary withhold in relation to a criminal referral) and hold public meetings to inform the mining community and families of affected miners of the Panel’s findings and recommendations.

“(D) Hearings; applicability of certain federal law.—The Panel shall have the authority to conduct public hearings or meetings, but shall not be subject to the Federal Advisory Committee Act. All public hearings of the Panel shall be subject to the requirements under section 552b of title 5, United States Code.

“(E) Memorandum of understanding.—Not later than 90 days after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2013, the Secretary of
Labor and the Secretary of Health and Human Services shall conclude and publically issue a memorandum of understanding that—

“(i) outlines administrative arrangements which will facilitate a coordination of efforts between the Secretary of Labor and the Panel, ensures that the Secretary’s investigation under paragraph (1) is not delayed or otherwise compromised by the activities of the Panel, and establishes a process to resolve any conflicts between such investigations;

“(ii) ensures that Panel members or staff will be able to participate in investigation activities (such as mine inspections and interviews) related to the Secretary of Labor’s investigation and will have full access to documents that are assembled or produced in such investigation, and ensures that the Secretary of Labor will make all of the authority available to such Secretary under this section to obtain information and witnesses which may be requested by such Panel; and
“(iii) establishes such other arrangements as are necessary to implement this paragraph.

“(F) PROCEDURES.—Not later than 90 days after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2013, the Secretary of Health and Human Services shall establish procedures to ensure the consistency and effectiveness of Panel investigations. In establishing such procedures, such Secretary shall consult with independent safety investigation agencies, sectors of the mining industry, representatives of miners, families of miners involved in fatal accidents, State mine safety agencies, and mine rescue organizations. Such procedures shall include—

“(i) authority for the Panel to use evidence, samples, interviews, data, analyses, findings, or other information gathered by the Secretary of Labor, as the Panel determines valid;

“(ii) provisions to ensure confidentiality if requested by any witness, to the extent permitted by law, and prevent con-
(iii) provisions for preservation of public access to the Panel's records through the Secretary of Health and Human Services.

“(G) SUBPOENAS; WITNESSES; CONTEMPT.—

“(i) SUBPOENA AUTHORITY.—For the purpose of making any investigation of any accident or other occurrence relating to health or safety in a coal or other mine under this paragraph, the Director of the National Institute for Occupational Safety and Health shall at the request of a majority of the Panel or upon his own initiative sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

“(ii) CONTUMACY.—In case of contumacy or refusal to obey a subpoena served
upon any person under this section, the
district court of the United States for any
district in which such person is found or
resides or transacts business, upon applica-
tion by the United States and after notice
to such person, shall have jurisdiction to
issue an order requiring such person to ap-
pear and give testimony before the Direc-
tor or Panel, or to appear and produce
documents before the Director or Panel, or
both, and any failure to obey such order of
the court may be punished by such court
as a contempt thereof.

“(iii) ADDITIONAL INVESTIGATIVE AU-
THORITY.—In carrying out inspections and
investigations under this subsection, the
staff of the Director or Panel and attor-
neys representing the Director or Panel
are authorized to question any individual
privately. Under this subparagraph, any
individual who is willing to speak with or
provide a statement to the Director or
Panel’s staff or their attorneys, may do so
without the presence, involvement, or
knowledge of the operator or the operator’s
agents or attorneys. The Director or Panel shall keep the identity of an individual providing such a statement confidential to the extent permitted by law. Nothing in this paragraph prevents any individual from being represented by that individual’s personal attorney or other representative.

“(H) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection such sums as may be necessary.

“(3) POWERS AND PROCESSES.—For the purpose”.

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

SEC. 102. SUBPOENA AUTHORITY AND MINER RIGHTS DURING INSPECTIONS AND INVESTIGATIONS.

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

“(4) ADDITIONAL POWERS.—For purposes of making inspections and investigations, the Secretary
or the Secretary’s designee, may sign and issue sub-
poenas for the attendance and testimony of wit-
tnesses and the production of information, including
all relevant data, papers, books, documents, and
items of physical evidence, and administer oaths.
Witnesses summoned shall be paid the same fees
that are paid witnesses in the courts of the United
States. In carrying out inspections and investiga-
tions under this subsection, authorized representa-
tives of the Secretary and attorneys representing the
Secretary are authorized to question any individual
privately. Under this section, any individual who is
willing to speak with or provide a statement to such
authorized representatives or attorneys representing
the Secretary may do so without the presence, in-
volvement, or knowledge of the operator or the oper-
ator’s agents or attorneys. The Secretary shall keep
the identity of an individual providing such a state-
ment confidential to the extent permitted by law.
Nothing in this paragraph prevents any individual
from being represented by that individual’s personal
attorney or other representative.”.

SEC. 103. DESIGNATION OF MINER REPRESENTATIVE.

Section 103(f) (30 U.S.C. 813(f)) is amended by in-
serting before the last sentence the following: “If any
miner is entrapped, disabled, killed, or otherwise prevented as the result of an accident in such mine from designating such a representative directly, such miner’s closest relative may act on behalf of such miner in designating such a representative. If any miner is not currently working in such mine as the result of an accident in such mine, but would be currently working in such mine but for such accident, such miner may designate such a representative. A representative of miners shall have the right to participate in any accident investigation the Secretary initiates pursuant to subsection (b), including the right to participate in investigative interviews and to review all relevant papers, books, documents and records produced in connection with the accident investigation, unless the Secretary, in consultation with the Attorney General, excludes such representatives from the investigation on the grounds that inclusion would interfere with or adversely impact a criminal investigation that is pending or under consideration.”.

SEC. 104. ADDITIONAL AMENDMENTS RELATING TO INSPECTIONS AND INVESTIGATIONS.

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

(b) Review of Mine Pattern of Violations Status.—Section 103(a) is further amended by inserting be-
fore the last sentence the following: “The Secretary shall,
upon request by an operator, review with the appropriate
mine officials the Secretary’s most recent evaluation for
pattern of violations status (as provided in section 104(e))
for that mine during the course of a mine’s regular quar-
terly inspection of an underground mine or a biannual in-
spection of a surface mine, or, at the discretion of the Sec-
retary, during the pre-inspection conference.”.

(e) Injury and Illness Reporting.—Section
103(d) (30 U.S.C. 813(d)) is amended by striking the last
sentence and inserting the following: “The records to be
kept and made available by the operator of the mine shall
include man-hours worked and occupational injuries and
illnesses with respect to the miners in their employ or
under their direction or authority, and shall be maintained
separately for each mine and be reported at a frequency
determined by the Secretary, but at least annually. Inde-
pendent contractors (within the meaning of section 3(d))
shall be responsible for reporting accidents, occupational
injuries and illnesses, and man-hours worked for each
mine with respect to the miners in their employ or under
their direction or authority, and shall be reported at a frequency determined by the Secretary, but at least annually. Reports or records of operators and contractors required and submitted to the Secretary under this subsection shall be signed and certified as accurate and complete by a knowledgeable and responsible person possessing a certification, registration, qualification, or other approval, as provided for under section 118. Knowingly falsifying such records or reports shall be grounds for revoking such certification, registration, qualification, or other approval under the standards established under subsection (b)(1) of such section.”.

(d) Orders Following an Accident.—Section 103(k) (30 U.S.C. 813(k)) is amended by striking “, when present,”.

(e) Conflict of Interest in the Representation of Miners.—Section 103(a) (30 U.S.C. 813(a)) is amended by adding at the end the following: “During inspections and investigations under this section, and during any litigation under this Act, no attorney shall represent or purport to represent both the operator of a coal or other mine and any other individual, unless such individual has knowingly and voluntarily waived all actual and reasonably foreseeable conflicts of interest resulting from such representation. The Secretary is authorized to take such ac-
tions as the Secretary considers appropriate to ascertain whether such individual has knowingly and voluntarily waived all such conflicts of interest. If the Secretary finds that such an individual cannot be represented adequately by such an attorney due to such conflicts of interest, the Secretary may petition the appropriate United States District Court which shall have jurisdiction to disqualify such attorney as counsel to such individual in the matter. The Secretary may make such a motion as part of an ongoing related civil action or as a miscellaneous action.”.

TITLE II—ENHANCED ENFORCEMENT AUTHORITY

SEC. 201. TECHNICAL AMENDMENT.

Section 104(d)(1) (30 U.S.C. 814(d)(1)) is amended—

(1) in the first sentence—

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

(B) by striking “such mandatory health or safety standards” and inserting “such provisions, regulations, or mandatory health or safety standards”; and
(2) in the second sentence, by striking “any mandatory health or safety standard” and inserting “any provision of this Act, including any mandatory health or safety standard or regulation promulgated under this Act,”.

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

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

SEC. 203. INJUNCTIVE AUTHORITY.

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

SEC. 204. REVOCATION OF APPROVAL OF PLANS.

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

(1) by redesignating subsection (d) as subsection (e); and
by inserting after subsection (e) the following:

“(d) REVOCATION OF APPROVAL OF PLANS.—

“(1) REVOCATION.—If the Secretary finds that any program or plan of an operator, or part thereof, that was approved by the Secretary under this Act is based on inaccurate information or that circumstances that existed when such plan was approved have materially changed and that continued operation of such mine under such plan constitutes a hazard to the safety or health of miners, the Secretary shall revoke the approval of such program or plan.

“(2) WITHDRAWAL ORDERS.—Upon revocation of the approval of a program or plan under subsection (a), the Secretary may immediately issue an order requiring the operator to cause all persons, except those persons referred to in section 104(c), to be withdrawn from such mine or an area of such mine, and to be prohibited from entering such mine or such area, until the operator has submitted and the Secretary has approved a new plan.”.
SEC. 205. CHALLENGING A DECISION TO APPROVE, MODIFY, OR REVOKE A COAL OR OTHER MINE PLAN.

Section 105(e) (as redesignated by section 204(1)) (30 U.S.C. 815(e)) is amended by adding at the end the following: “In any proceeding in which a party challenges the Secretary’s decision whether to approve, modify, or revoke a coal or other mine plan under this Act, the Commission shall affirm the Secretary’s decision unless the challenging party establishes that such decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”.

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

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

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

(2) as appropriate, recommendations for improving timeliness of plan review and for achieving prompt decisions.
TITLE III—PENALTIES

SEC. 301. CIVIL PENALTIES.

(a) TARGETED PENALTIES.—Section 110(b) (30 U.S.C. 820(b)) is amended by adding at the end the following:

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

“(A) any change to a ventilation system or ventilation control in a coal or other mine, where such ventilation system or control is required by a ventilation plan, safety standard, or order, and such change is made without prior approval of the Secretary and diminishes the level of protection below the minimum requirements of the approved ventilation plan or applicable safety standard or order;

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

“(C) a violation of the statutory prohibition on providing advance notice of an inspection; or

“(D) a violation of a mandatory health and safety standard requiring examinations of work areas in an underground coal mine.”.
(b) Increased Civil Penalties During Pattern of Violations Status.—Section 110(b) (30 U.S.C. 820(b)) is further amended by adding at the end the following:

“(3) Notwithstanding any other provision of this Act, an operator of a coal or other mine that is in pattern of violations status under section 104(e) shall be assessed an increased civil penalty for any violation of this Act, including any mandatory health or safety standard or regulation promulgated under this Act. Such increased penalty shall be twice the amount that would otherwise be assessed for the violation under this Act, including the regulations promulgated under this Act, subject to the maximum civil penalty established for the violation under this Act.”.

(c) Civil Penalty for Retaliation.—Section 110(a) (30 U.S.C. 820(a)) is further amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following:

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

(d) Technical Correction.—Section 110(a)(1)
(30 U.S.C. 820(a)(1)) is amended by inserting “including
any regulation promulgated under this Act,” after “this
Act,”.

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

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

“(c) Civil and Criminal Liability of Officers, Di-
rectors, and Agents.—

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

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

SEC. 303. CRIMINAL PENALTIES.

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

(1) by inserting the following new heading:

“(d) CRIMINAL PENALTIES.—”;

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

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

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

“(B) violates or fails or refuses to comply
with any order issued under section 104 or sec-
tion 107, or any order incorporated in a final
decision issued under this Act (except an order
incorporated in a decision under subsection (a)(1) or section 105(e),
shall, upon conviction, be fined not more than $250,000, or imprisoned for not more than 1 year, or both, except that if the operator commits the violation after having been previously convicted of a violation under this paragraph and if, the operator knows or has reason to know that such subsequent violation has the potential to expose a miner to risk of serious injury, serious illness, or death, the operator shall, upon conviction, be fined not more than $1,000,000, or imprisoned for not more than 5 years, or both.”;

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

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

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

“(B) violates a mandatory health or safety standard, or
“(C) violates or fails or refuses to comply
with an order issued under section 104 or 107,
or any order incorporated in a final decision
issued under this Act (except an order incor-
porated in a decision under subsection (a)(1) or
section 105(e)),
and thereby recklessly exposes a miner to significant
risk of serious injury, serious illness, or death, shall,
upon conviction, be fined not more than $1,000,000
or imprisoned for not more than 5 years, or both,
except that if the operator commits the violation
after having been previously convicted of a violation
under this paragraph, the operator shall, upon con-
viction, be fined not more than $2,000,000, or im-
prisoned for not more than 10 years, or both.”; and

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

“(3) CRIMINAL PENALTIES FOR RETALIA-
tion.—Whoever knowingly—

“(A) with the intent to retaliate, interferes
with the lawful employment or livelihood of a
person, or the spouse, sibling, child, or parent
of a person, because any of them provides infor-
mation to an authorized representative of the
Secretary, to a State or local mine safety or health officer or official, or to other law enforcement officer, in reasonable belief that the information is true and related to an apparent health or safety violation, or to an apparent unhealthful or unsafe condition, policy, or practice under this Act, or

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

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

(b) ADVANCE NOTICE OF INSPECTIONS.—

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

“(e) Whoever knowingly, with intent to give advance notice of an inspection conducted or to be conducted under this Act, and thereby to impede, interfere with, or frustrate such inspection, engages in, or directs another person to engage in, conduct that a reasonable person would expect to result in such advance notice, shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both, except that a miner (other
than a director, officer or agent of the operator involved) who commits the offense at the direction of a superior shall be fined under title 18, or imprisoned not more than 1 year, or both, unless the miner commits a second or subsequent offense under this subsection (without regard to whether the offense was committed at the direction of a superior) in which case the miner shall be fined for such second and subsequent offense under title 18, United States Code, or imprisoned for not more than 5 years, or both.”.

(2) Posting of advance notice penalties.—Section 109 (30 U.S.C. 819) is amended by adding at the end the following:

“(e) Posting of advance notice penalties.—Each operator of a coal or other mine shall post, on the bulletin board described in subsection (a) and in a conspicuous place near each staffed entrance onto the mine property, a notice stating, in a form and manner to be prescribed by the Secretary—

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

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

SEC. 304. COMMISSION REVIEW OF PENALTY ASSESSMENTS.

Section 110(i) (30 U.S.C. 820(i)) is amended by striking “In assessing civil monetary penalties, the Commission shall consider” and inserting the following: “In any review of a citation and proposed penalty assessment contested by an operator, the Commission shall assess not less than the penalty derived by using the same methodology (including any point system) prescribed in regulations under this Act, so as to ensure consistency in operator penalty assessments, except that the Commission may assess a penalty for less than the amount that would result from the utilization of such methodology if the Commission finds that there are extraordinary circumstances. If there is no such methodology prescribed for a citation or there are such extraordinary circumstances, the Commission shall assess the penalty by considering”.

SEC. 305. DELINQUENT PAYMENTS AND PREJUDGMENT INTEREST.

(a) PRE-FINAL ORDER INTEREST.—Section 110(j) (30 U.S.C. 820(j)) is amended by striking the second and
third sentences and inserting the following: “Pre-final
order interest on such penalties shall begin to accrue on
the date the operator contests a citation issued under this
Act, including any mandatory health or safety standard
or regulation promulgated under this Act, and shall end
upon the issuance of the final order. Such pre-final order
interest shall be calculated at the current underpayment
rate determined by the Secretary of the Treasury pursu-
ant to section 6621 of the Internal Revenue Code of 1986,
and shall be compounded daily. Post-final order interest
shall begin to accrue 30 days after the date a final order
of the Commission or the court is issued, and shall be
charged at the rate of 8 percent per annum.”.

(b) ENSURING PAYMENT OF PENALTIES.—

(1) Amendments.—Section 110 (30 U.S.C.
820) is further amended—

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

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

“(l) ENSURING PAYMENT OF PENALTIES.—

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

“(2) WITHDRAWAL ORDERS FOLLOWING FAILURE TO PAY.—If an operator that receives a letter under paragraph (1) has not paid the assessment by the date that is 180 days after such assessment became a final order and has not entered into a payment plan with the Secretary, the Secretary shall issue an order requiring such operator to cause all persons, except those referred to in section 104(c), to be withdrawn from, and to be prohibited from entering, the mine that is covered by the final order described in paragraph (1), until the operator pays such assessment in full (including interest and administrative costs) or enters into a payment plan with the Secretary. If such operator enters into a payment plan with the Secretary and at any time fails to comply with the terms specified in such pay-
ment plan, the Secretary shall issue an order requir-
ing such operator to cause all persons, except those
referred to in section 104(c), to be withdrawn from
the mine that is covered by such final order, and to
be prohibited from entering such mine, until the op-
erator rectifies the noncompliance with the payment
plan in the manner specified in such payment plan.”.

(2) APPLICABILITY AND EFFECTIVE DATE.—
The amendments made by paragraph (1) shall apply
to all unpaid civil penalty assessments under the
Federal Mine Safety and Health Act of 1977 (30
U.S.C. 801 et seq.), except that, for any unpaid civil
penalty assessment that became a final order of the
Commission or a court before the date of enactment
of this Act, the time periods under section 110(n) of
the Federal Mine Safety and Health Act of 1977 (as
amended) (30 U.S.C. 820(n)) shall be calculated as
beginning on the date of enactment of this Act in-
stead of on the date of the final order.

TITLE IV—MINERS’ RIGHTS AND
PROTECTIONS

SEC. 401. PROTECTION FROM RETALIATION.

Section 105(c) (30 U.S.C. 815(c)) is amended to read
as follows:
“(c) Protection From Retaliation.—

“(1) Retaliation prohibited.—

“(A) Retaliation for complaint or testimony.—No person shall discharge or in any manner discriminate against or cause to be discharged or cause discrimination against or otherwise interfere with the exercise of the statutory rights of any miner or other employee of an operator, representative of miners, or applicant for employment (including the spouse, sibling, child, or parent of such miner or employee, if such individual is employed or is applying for employment at a mine under the control of the operator), because—

“(i) such miner or other employee, representative, or applicant for employment—

“(I) has filed or made a complaint, or is about to file or make a complaint, including a complaint notifying the operator or the operator’s agent, or the representative of the miners at the coal or other mine of an alleged danger or safety or health violation in a coal or other mine;
“(II) instituted or caused to be instituted, or is about to institute or cause to be instituted, any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such miner or other employee, representative, or applicant for employment on behalf of him or herself or others of any right afforded by this Act, or has reported any injury or illness to an operator or agent;

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

“(IV) refused to violate any provision of this Act, including any mandatory health and safety standard or regulation;

“(ii) such miner is the subject of medical evaluations and potential transfer under a standard published pursuant to section 101; or
“(iii) where the discharge, discrimination or other retaliation was based on a suspicion or belief that such miner or other employee, representative, or applicant engaged in or is about to engage in any of the activities described in clause (i).

“(B) RETALIATION FOR REFUSAL TO PERFORM DUTIES.—

“(i) IN GENERAL.—No person shall discharge or in any manner discriminate against a miner or other employee of an operator for refusing to perform the miner’s or other employee’s duties if the miner or other employee has a good-faith and reasonable belief that performing such duties would pose a safety or health hazard to the miner or other employee or to any other miner or employee.

“(ii) STANDARD.—For purposes of clause (i), the circumstances causing the miner’s or other employee’s good-faith belief that performing such duties would pose a safety or health hazard shall be of such a nature that a reasonable person, under the circumstances confronting the miner or
other employee, would conclude that there is such a hazard. In order to qualify for protection under this paragraph, the miner or other employee, when practicable, shall have communicated or attempted to communicate the safety or health concern to the operator and have not received from the operator a response reasonably calculated to allay such concern.

“(2) COMPLAINT.—Any miner or other employee or representative of miners or applicant for employment who believes that he or she has been discharged, disciplined, or otherwise discriminated against by any person in violation of paragraph (1) may file a complaint with the Secretary alleging such discrimination not later than 180 days after the later of—

“(A) the last date on which an alleged violation of paragraph (1) occurs; or

“(B) the date on which the miner or other employee or representative knows or should reasonably have known that such alleged violation occurred.

“(3) INVESTIGATION AND HEARING.—
“(A) Commencement of investigation and initial determination.—Upon receipt of such complaint, the Secretary shall forward a copy of the complaint to the respondent, and shall commence an investigation within 15 days of the Secretary’s receipt of the complaint, and, as soon as practicable after commencing such investigation, make the determination required under subparagraph (B) regarding the reinstatement of the miner or other employee.

“(B) Reinstatement.—If the Secretary finds that such complaint was not frivolously brought, the Commission, on an expedited basis upon application of the Secretary, shall order the immediate reinstatement of the miner or other employee until there has been a final Commission order disposing of the underlying complaint of the miner or other employee. If either the Secretary or the miner or other employee pursues the underlying complaint, such reinstatement shall remain in effect until the Commission has disposed of such complaint on the merits, regardless of whether the Secretary pursues such complaint by filing a complaint under subparagraph (D) or the miner or other
employee pursues such complaint by filing an action under paragraph (4). If neither the Secretary nor the miner or other employee pursues the underlying complaint within the periods specified in paragraph (4), such reinstatement shall remain in effect until such time as the Commission may, upon motion of the operator and after providing notice and an opportunity to be heard to the parties, vacate such complaint for failure to prosecute.

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

“(i) providing the respondent an opportunity to submit to the Secretary a written response to the complaint and to present statements from witnesses or provide evidence; and

“(ii) providing the complainant an opportunity to receive any statements or evidence provided to the Secretary and to provide additional information or evidence, or to rebut any statements or evidence.

“(D) ACTION BY THE SECRETARY.—If, upon such investigation, the Secretary deter-
mines that the provisions of this subsection have been violated, the Secretary shall immediately file a complaint with the Commission, with service upon the alleged violator and the miner or other employee, representative of miners, or applicant for employment alleging such discrimination or interference and propose an order granting appropriate relief.

“(E) ACTION OF THE COMMISSION.—The Commission shall afford an opportunity for a hearing on the record (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section) and thereafter shall issue an order, based upon findings of fact, affirming, modifying, or vacating the Secretary’s proposed order, or directing other appropriate relief. Such order shall become final 30 days after its issuance. The complaining miner or other employee, representative, or applicant for employment may present additional evidence on his or her own behalf during any hearing held pursuant to this paragraph.

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

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

“(ii) any other compensatory and consequential damages sufficient to make the complainant whole, and exemplary damages where appropriate; and

“(iii) expungement of all warnings, reprimands, or derogatory references that have been placed in paper or electronic records or databases of any type relating to the actions by the complainant that gave rise to the unfavorable personnel action, and, at the complainant’s direction, transmission of a copy of the decision on the complaint to any person whom the complainant reasonably believes may have received such unfavorable information.
“(4) NOTICE TO AND ACTION OF COMPLAINANT.—

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

“(B) ACTION OF COMPLAINANT.—If the Secretary, upon investigation, determines that the provisions of this subsection have not been violated, the complainant shall have the right, within 30 days after receiving notice of the Secretary’s determination, to file an action in his or her own behalf before the Commission, charging discrimination or interference in violation of paragraph (1).

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

“(5) BURDEN OF PROOF.—In adjudicating a 
complaint pursuant to this subsection, the Commis-
ion may determine that a violation of paragraph (1) 
has occurred only if the complainant demonstrates 
that any conduct described in paragraph (1) with re-
spect to the complainant was a contributing factor 
in the adverse action alleged in the complaint. A de-
cision or order that is favorable to the complainant 
shall not be issued pursuant to this subsection if the 
respondent demonstrates by clear and convincing 
evidence that the respondent would have taken the 
same adverse action in the absence of such conduct.

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

“(7) Expedited proceedings; judicial review.—Proceedings under this subsection shall be expedited by the Secretary and the Commission. Any order issued by the Commission under this subsection shall be subject to judicial review in accordance with section 106. Violations by any person of paragraph (1) shall be subject to the provisions of sections 108 and 110(a)(4).

“(8) Procedural rights.—The rights and remedies provided for in this subsection may not be waived by any agreement, policy, form, or condition of employment, including by any pre-dispute arbitration agreement or collective bargaining agreement.

“(9) Savings.—Nothing in this subsection shall be construed to diminish the rights, privileges, or remedies of any miner or employee who exercises rights under any Federal or State law or common law, or under any collective bargaining agreement.”.
SEC. 402. PROTECTION FROM LOSS OF PAY.

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

“SEC. 111. ENTITLEMENT OF MINERS.

“(a) PROTECTION FROM LOSS OF PAY.—

“(1) WITHDRAWAL ORDERS.—If a coal or other mine or area of such mine is closed by an order issued under section 103, 104, 107, 108, or 110, all miners working during the shift when such order was issued who are idled by such order shall be entitled, regardless of the result of any review of such order, to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than the balance of such shift. If such order is not terminated prior to the next working shift, all miners on that shift who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, for not more than one half of such shift, or four hours, whichever is greater. If a coal or other mine or area of such mine is closed by an order issued under section 104, 107 (in connection with a citation), 108, or 110, all miners who are idled by such order shall be entitled, regardless of the result of any review of such order, to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than the balance of such shift. If such order is not terminated prior to the next working shift, all miners on that shift who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, for not more than one half of such shift, or four hours, whichever is greater. If a coal or other mine or area of such mine is closed by an order issued under section 104, 107 (in connection with a citation), 108, or 110, all miners who are idled by such order shall be entitled, regardless of the result of any review of such order, to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than the balance of such shift. If such order is not terminated prior to the next working shift, all miners on that shift who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, for not more than one half of such shift, or four hours, whichever is greater. If a coal or other mine or area of such mine is closed by an order issued under section 104, 107 (in connection with a citation), 108, or 110, all miners who are idled by such order shall be entitled, regardless of the result of any review of such order, to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than the balance of such shift. If such order is not terminated prior to the next working shift, all miners on that shift who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, for not more than one half of such shift, or four hours, whichever is greater.
pay and in accordance with their regular schedules
of pay for the entire period for which they are idled,
not to exceed 60 days.

“(2) Closure in advance of order.—If the
Secretary finds that such mine or such area of a
mine was closed by the operator in anticipation of
the issuance of such an order, all miners who are
idled by such closure shall be entitled to full com-
pensation by the operator at their regular rates of
pay and in accordance with their regular schedules
of pay, from the time of such closure until such time
as the Secretary authorizes reopening of such mine
or such area of the mine, not to exceed 60 days, ex-
cept where an operator promptly withdraws miners
upon discovery of a hazard, and notifies the Sec-
retary where required, and within the prescribed
time period.

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

“(b) Enforcement.—

“(1) Commission orders.—The Commission 
shall have authority to order compensation due 
under this section upon the filing of a complaint by 
a miner or his representative and after opportunity 
for hearing on the record subject to section 554 of 
title 5, United States Code. Whenever the Commiss-
ion issues an order sustaining the complaint under 
this subsection in whole or in part, the Commission 
shall award the complainant reasonable attorneys’ 
fees and costs.

“(2) Failure to pay compensation due.—
Consistent with the authority of the Secretary to 
order miners withdrawn from a mine under this Act, 
the Secretary shall order a mine that has been sub-
ject to a withdrawal order under section 103, 104, 
107, 108, or 110, and has reopened, to be closed 
again if compensation in accordance with the provi-
sions of this section is not paid by the end of the 
next regularly scheduled payroll period following the 
lifting of a withdrawal order.
“(c) EXPEDITED REVIEW.—If an order is issued which results in payments to miners under subsection (a), the operators shall have the right to an expedited review before the Commission using timelines and procedures established pursuant to section 316(b)(2)(G)(ii).”.

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

The Federal Mine Safety and Health Act of 1977 is further amended by adding at the end of title I the following:

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

“(a) IN GENERAL.—For purposes of ensuring miners’ health and safety and miners’ right to raise concerns thereof, when an underground coal mine is placed in pattern of violations status pursuant to section 104(e), and for 3 years after such placement, the operator of such mine may not discharge or constructively discharge a miner who is paid on an hourly basis and employed at such underground coal mine without reasonable job-related grounds based on a failure to satisfactorily perform job duties, including compliance with this Act and with mandatory health and safety standards or other regula-
tions issued under this Act, or other legitimate business reason, where the miner has completed the employer’s probationary period, not to exceed 6 months.

“(b) CAUSE OF ACTION.—A miner aggrieved by a violation of subsection (a) may file a complaint in Federal district court in the district where the mine is located within 1 year of such violation.

“(c) REMEDIES.—In an action under subsection (b), for any prevailing miner the court shall take affirmative action to further the purposes of the Act, which may include reinstatement with backpay and compensatory damages. Reasonable attorneys’ fees and costs shall be awarded to any prevailing miner under this section.

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

“(e) CONSTRUCTION.—Nothing in this section shall be construed to limit the availability of rights and remedies of miners under any other State or Federal law or a collective bargaining agreement.”.
TITLE V—MODERNIZING
HEALTH AND SAFETY STANDARDS

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

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

“(3)(A) Not later than 30 days after the issuance of the interim final rules promulgated under subparagraph (B), each operator of an underground coal mine shall implement a communication program at the underground coal mine to ensure that each miner is orally briefed on and made aware of, prior to traveling to or arriving at the miner’s work area and commencing the miner’s assigned tasks—

“(i) any conditions that are hazardous, or that violate a mandatory health or safety standard or a plan approved under this Act, where the miner is expected to work or travel; and

“(ii) the general conditions of that miner’s assigned working section or other area where the miner is expected to work or travel.

“(B) Not later than 180 days after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2013, the Secretary shall promulgate interim final rules implementing the requirements of subparagraph (A). The
Secretary shall issue a final rule not later than 2 years after such date.”.

SEC. 502. ROCK DUST STANDARDS.

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

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

“(1) IN GENERAL.—Where rock”;

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

(3) by adding at the end the following:

“(2) METHODS OF MEASUREMENT.—

“(A) IN GENERAL.—Each operator of an underground coal mine shall take accurate and representative samples which shall measure the total incombustible content of combined coal dust, rock dust, and other dust in such mine to ensure that the coal dust is kept below explosive levels through the appropriate application of rock dust.
“(B) DIRECT READING MONITORS.—In order to ensure timely assessment and compliance, the Secretary shall, not later than 180 days after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2013, require operators to measure total incombustible content (or an equivalent measure of explosibility) in samples of combined coal dust, rock dust, and other dust, using direct reading monitors that the Secretary has approved for use in an underground coal mine, such as coal dust explosibility monitors.

“(C) REGULATIONS.—The Secretary shall, not later than 180 days after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2013, promulgate an interim final rule that prescribes methods for operator sampling of total incombustible content (or an equivalent measure of explosibility) in samples of combined coal dust, rock dust, and other dust using direct reading monitors and includes requirements for locations, methods, and intervals for mandatory operator sampling.

“(D) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of the Rob-
ert C. Byrd Mine Safety Protection Act of 2013, the Secretary of Health and Human Services shall, based upon the latest research, recommend to the Secretary of Labor any revisions to the mandatory operator sampling locations, methods, and intervals included in the interim final rule described in subparagraph (B) that may be warranted in light of such research.

“(3) LIMITATION.—Until a final rule is issued by the Secretary under section 502(b)(2) of the Robert C. Byrd Mine Safety Protection Act of 2013, any measurement taken by a direct reading monitor described in paragraph (2) shall not be admissible to establish a violation in an enforcement action under this Act.

“(4) REPORT AND RULEMAKING AUTHORITY.—

“(A) REPORT.—Not later than 2 years after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2013, the Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall prepare and submit, to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health,
Education, Labor, and Pensions of the Senate,
a report—

“(i) regarding whether any direct
reading monitor described in paragraph
(2)(B) is sufficiently reliable and accurate
for the enforcement of the mandatory
health or safety standards by the Secretary
of Labor under such Act, and whether ad-
ditional improvement to such direct read-
ing monitor, or additional verification re-
garding reliability and accuracy, would be
needed for enforcement purposes; and

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

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

(b) ROCK DUST RECORD KEEPING.—Section 304 is further amended—

(1) by redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following:

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

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

SEC. 503. ATMOSPHERIC MONITORING SYSTEMS.

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

“(u) ATMOSPHERIC MONITORING SYSTEMS.—

“(1) REGULATIONS REQUIRED.—Not later than 1 year after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2013, the Secretary shall, following consultation with the National Institute for Occupational Safety and Health, promulgate regulations requiring that each operator of an underground coal mine install atmospheric monitoring systems that—
“(A) protect miners where the miners normally work and travel;

“(B) will assist in mine emergency response and the conduct of accident investigations;

“(C) provide real-time information regarding methane, oxygen, and carbon monoxide levels, and airflow direction, as appropriate, with sensing, annunciating, and recording capabilities; and

“(D) can, to the maximum extent practicable, withstand explosions and fires.

“(2) CONTENT OF REGULATIONS.—The Secretary shall evaluate and, as appropriate, require—

“(A) the installation of atmospheric monitoring and recording devices on mining equipment;

“(B) the implementation of redundant systems, such as the bundle tubing system, that can continuously monitor the mine atmosphere following incidents such as fires, explosions, entrapments, and inundations; and

“(C) the implementation of other technologies available to conduct continuous atmospheric monitoring.”.
SEC. 504. TECHNOLOGY RELATED TO RESPIRABLE DUST.

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

(1) by striking “of Health, Education, and Wel- 

fare”; and

(2) by striking the second sentence and insert- 

ing the following: “Not later than 2 years after the 

date of enactment of the Robert C. Byrd Mine Safe- 

ty Protection Act of 2013, the Secretary shall pro- 

mulgate final regulations that require operators, be- 

ginning on the date such regulations are issued, to 

provide coal miners with the maximum feasible pro-
tection from respirable dust, including coal and silica 

dust, that is achievable through environmental con- 

trols, and that meet the applicable standards.”.

SEC. 505. REFRESHER TRAINING ON MINERS’ RIGHTS AND 

RESPONSIBILITIES.

(a) In General.—Section 115(a)(3) (30 U.S.C. 

825(a)(3)) is amended to read as follows:

“(3) all miners shall receive not less than 9 

hours of refresher training not less frequently than 

once every 12 months, and such training shall in- 

clude one hour of training on the statutory rights 

and responsibilities of miners and their represent- 

atives under this Act and other applicable Federal 

and State law, pursuant to a program of instruction 

developed by the Secretary and delivered by an em-
ployee of the Administration or by a trainer approved by the Administration that is a party independent from the operator;”.

(b) NATIONAL HAZARD REPORTING HOTLINE.—Section 115 (30 U.S.C. 825) is further amended—

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

(2) by inserting after subsection (b) the following:

“(c) Any health and safety training program of instruction provided under this section shall include distribution to miners of information regarding miners’ rights under the Act, as well as a toll-free hotline telephone number, which the Secretary shall maintain to receive complaints from miners and the public regarding hazardous conditions, discrimination, safety or health violations, or other mine safety or health concerns. Information regarding the hotline shall be provided in a portable, convenient format, such as a durable wallet card, to enable miners to keep the information on their person.”.

(e) TIMING OF INITIAL STATUTORY RIGHTS TRAINING.—Notwithstanding section 115 of the Federal Mine Safety and Health Act (as amended by subsection (a)) (30 U.S.C. 825) or the health and safety training program approved under such section, an operator shall ensure that
all miners already employed by the operator on the date
of enactment of this Act shall receive the one hour of stat-
utory rights and responsibilities training described in sec-
tion 115(a)(3) of such Act not later than 180 days after
such date.

SEC. 506. AUTHORITY TO MANDATE ADDITIONAL TRAINING.

(a) In General.—Section 115 (30 U.S.C. 825) is
further amended by redesignating subsections (e) and (f)
as redesignated) as subsections (f) and (g) and inserting
after subsection (d) (as redesignated) the following:

“(e) Authority To Mandate Additional Training.—

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

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

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

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

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

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

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

SEC. 507. BROOKWOOD-SAGO MINE SAFETY GRANTS.

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

SEC. 508. CERTIFICATION OF PERSONNEL.

(a) In General.—Title I is further amended by adding at the end the following:

“SEC. 118. CERTIFICATION OF PERSONNEL.

“(a) Certification Required.—Any person who is authorized or designated by the operator of a coal or other mine to perform any duties or provide any training that this Act, including a mandatory health or safety standard or regulation promulgated pursuant to this Act, requires to be performed or provided by a certified, registered, qualified, or otherwise approved person, shall be permitted to perform such duties or provide such training only if such person has a current certification, registration, qualification, or approval to perform such duties or provide such training consistent with the requirements of this section.

“(b) Establishment of Certification Requirements and Procedures.—

“(1) In General.—Not later than 1 year after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2013, the Secretary shall issue mandatory standards to establish—
“(A) requirements for such certification, registration, qualification, or other approval, including the experience, examinations, and references that may be required as appropriate;

“(B) time limits for such certifications and procedures for obtaining and renewing such certification, registration, qualification, or other approval; and

“(C) procedures and criteria for revoking such certification, registration, qualification, or other approval, including procedures that ensure that the Secretary (or a State agency, as applicable) responds to requests for revocation and that the names of individuals whose certification or other approval has been revoked are provided to and maintained by the Secretary, and are made available to appropriate State agencies through an electronic database.

“(2) COORDINATION WITH STATES.—In developing such standards, the Secretary shall consult with States that have miner certification programs to ensure effective coordination with existing State standards and requirements for certification. The standards required under paragraph (1) shall provide that the certification, registration, qualification,
or other approval of the State in which the coal or
other mine is located satisfies the requirement of
subsection (a) if the State’s program of certification,
registration, qualification, or other approval is no
less stringent than the standards established by the
Secretary under paragraph (1).

“(c) OPERATOR FEES FOR CERTIFICATION.—

“(1) ASSESSMENT AND COLLECTION.—Begin-
nning 180 days after the date of enactment of the
Robert C. Byrd Mine Safety Protection Act of 2013,
the Secretary shall assess and collect fees, in accord-
ance with this subsection, from each operator for
each person certified under this section. Fees shall
be assessed and collected in amounts determined by
the Secretary as necessary to fund the certification
programs established under this section.

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

“(3) AUTHORIZATION OF APPROPRIATIONS.—In
addition to funds authorized to be appropriated
under section 114, there is authorized to be appro-
priated to the Secretary for each fiscal year in which
fees are collected under paragraph (1) an amount equal to the total amount of fees collected under paragraph (1) during that fiscal year. Such amounts are authorized to remain available until expended. If on the first day of a fiscal year a regular appropriation to the Administration has not been enacted, the Administration shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 5 days after the date such regular appropriation is enacted.

“(4) COLLECTING AND CREDITING OF FEES.—Fees authorized and collected under this subsection shall be deposited and credited as offsetting collections to the account providing appropriations to the Mine Safety and Health Administration and shall not be collected for any fiscal year except to the extent and in the amount provided in advance in appropriation Acts.

“(d) CITATION; WITHDRAWAL ORDER.—Any operator who permits a person to perform any of the health or safety related functions described in subsection (a) without a current certification which meets the requirements of this section shall be considered to have committed an unwarrantable failure under section 104(d)(1),
and the Secretary shall issue an order requiring that the
miner be withdrawn or reassigned to duties that do not
require such certification.”.

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

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

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

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

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

SEC. 509. ELECTRONIC RECORDS REQUIREMENT.

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

“(l) Not later than 180 days after the date of enact-
ment of the Robert C. Byrd Mine Safety Protection Act
of 2013, the Secretary shall promulgate regulations re-
quiring that mine operators retain records and data re-
quired by this Act, or otherwise required by the Secretary,
that are created, stored or transmitted in electronic form.
Such records shall include records pertaining to miner
safety and health, tracking and communications, atmos-
pheric monitoring of methane, carbon monoxide, oxygen, coal dust and other mine conditions, equipment usage history and operating parameters, equipment calibration and maintenance, and other information relevant to compliance with Federal mine health and safety laws and regulations. Not later than 2 years after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2013, the Secretary shall promulgate a regulation regarding the minimum necessary capabilities of equipment to retain, store, and recover data created or transmitted in electronic form.”

**TITLE VI—ADDITIONAL MINE SAFETY PROVISIONS**

**SEC. 601. DEFINITIONS.**

(a) Definition of Operator.—Section 3(d) is amended to read as follows:

“(d) ‘operator’ means—

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

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

“(B) controls such mine by making or having the authority to make management or operational decisions that affect, directly
or indirectly, the health or safety at such
mine; or
“(2) any independent contractor per-
forming services or construction at such mine;”.
(b) DEFINITION OF AGENT.—Section 3(e) (30 U.S.C.
802(e)) is amended by striking “the miners” and inserting
“any miner”.
(c) DEFINITION OF IMMINENT DANGER.—Section
3(j) (30 U.S.C. 802(j)) is amended—
(1) by striking “means the” and inserting
“means—
“(1) the”; 
(2) by striking the semicolon at the end and in-
serting “; or”; and 
(3) by adding at the end the following:
“(2) the existence of multiple conditions or
practices (regardless of whether related to each
other) that, when considered in the aggregate, could
reasonably be expected to cause death or serious
physical harm before such conditions or practices
can be abated;”.
(d) DEFINITION OF MINER.—Section 3(g) (30 U.S.C.
802(g)) is amended by inserting after “or other mine” the
following: “, and includes any individual who is not cur-
rently working in a coal or other mine but would be cur-
rently working in such mine, but for an accident in such mine.”

(c) Definition of Significant and Substantial Violations.—Section 3 (30 U.S.C. 802) is further amended—

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

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

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

(4) by adding at the end the following:

“(p) ‘significant and substantial violation’ means a violation of this Act, including any mandatory health or safety standard or regulation promulgated under this Act, that is of such nature as could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard as described in section 104(d).”.

SEC. 602. ASSISTANCE TO STATES.

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

(1) in subsection (a)—

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

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

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

(D) by adding at the end the following:

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

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

SEC. 603. BLACK LUNG MEDICAL REPORTS.

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

“SEC. 435. MEDICAL REPORTS.

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

SEC. 604. AUTHORIZATION OF COOPERATIVE AGREEMENTS
BY NIOSH OFFICE OF MINE SAFETY AND HEALTH.

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

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

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

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

SEC. 605. RULES OF APPLICATION TO CERTAIN MINES.

(a) INAPPLICABILITY OF AMENDMENTS TO CERTAIN MINES.—
(1) **SPECIAL RULE.**—Subject to paragraph (2), the amendments made by this Act shall not apply to—

(A) surface mines, except for surface facilities or impoundments physically connected to—

(i) underground coal or underground metal mines; or

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

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

(2) **EXCEPTIONS.**—Notwithstanding paragraph (1), the amendments made by sections 101, 202, 301(e) and (d), 303(a)(4), 304, 305(a), 401, 509, 601, 602, and 603 shall apply to the mines described in subparagraphs (A) and (B) of paragraph (1).

(3) **DEFINITION.**—For purposes of this section, the term “gassy mine” means a mine, tunnel, or other underground workings in which a flammable mixture has been ignited, or has been determined by air analysis to contain 0.25 percent or more (by volume) of methane in any open workings when tested at a point not less than 12 inches from the roof, face of rib.
(b) Rule of Construction Relating to Applicability of Certain Provisions to Surface Mines.—

Title I is further amended by adding at the end the following:

“SEC. 119. APPLICABILITY OF CERTAIN PROVISIONS TO CERTAIN MINES.

“(a) Rule of Construction.—Subject to subsection (c), with respect to the mines described in subsection (b), this Act as in effect on the date before the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2013, shall continue to apply to such mines as then in effect.

“(b) Applicable Mines.—

“(1) In general.—The mines referred to in subsection (a) are—

“(A) surface mines, except for surface facilities or impoundments physically connected to—

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

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

“(B) underground mines which are not coal, metal, or gassy mines.
“(2) DEFINITION.—As used in paragraph (1), the term ‘gassy mine’ means a mine, tunnel, or other underground workings in which a flammable mixture has been ignited, or has been determined by air analysis to contain 0.25 percent or more (by volume) of methane in any open workings when tested at a point not less than 12 inches from the roof, face of rib.

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

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

SEC. 606. DOUBLE ENCUMBRANCE; SUCCESSION PLAN.

(a) AUTHORIZATION.—Notwithstanding any personnel procedures, rules, or guidance, the Secretary of Labor is authorized to double encumber a position or utilize early replacement hiring for authorized representa-
tives and technical specialist positions in the Mine Safety and Health Administration. The number of such positions shall be consistent with the staffing requirements set forth in the succession plan under subsection (b).

(b) SUCESSION PLAN.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall develop and provide to Congress a succession plan for the Mine Safety and Health Administration for the next five years to assure timely replacement of qualified employees critical to maintaining the agency’s mission which shall—

1. estimate employee turnover for each year;
2. sets benchmarks for maximum allowable percentage of vacancies, and a maximum ratio of trainees to authorized representatives;
3. utilizes double encumbrance or early replacement hiring for authorized representatives and technical specialists;
4. implements tracking systems to assure that staffing levels of authorized representatives and technical specialists do not fall below the minimum required to conduct necessary inspections, thoroughly review mine plans, and conduct accident and special investigations; and
(5) identifies resources necessary to implement such plan. Such succession plan shall be updated biennially.