To amend the Surface Mining Control and Reclamation Act of 1977 to authorize partnerships between States and nongovernmental entities for the purpose of reclaiming and restoring land and water resources adversely affected by coal mining activities before August 3, 1977, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2019

Mr. LAHOOD introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to authorize partnerships between States and nongovernmental entities for the purpose of reclaiming and restoring land and water resources adversely affected by coal mining activities before August 3, 1977, and for other purposes.

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

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Community Reclamation Partnerships Act”.

SEC. 2. REFERENCE.

Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a provision, the reference shall be considered to be made to a provision of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.).

SEC. 3. STATE MEMORANDA OF UNDERSTANDING FOR CERTAIN REMEDIATION.

(a) Memoranda Authorized.—Section 405 (30 U.S.C. 1235) is amended by inserting after subsection (l) the following:

“(m) State Memoranda of Understanding for Remediation of Mine Drainage.—

“(1) In general.—A State with a State program approved under subsection (d) may enter into a memorandum of understanding with relevant Federal or State agencies (or both) to remediate mine drainage on abandoned mine land and water impacted by abandoned mines within the State. The memorandum may be updated as necessary and resubmitted for approval under this subsection.

“(2) Memoranda requirements.—Such memorandum shall establish a strategy satisfactory to the State and Federal agencies that are parties to the memorandum, to address water pollution resulting from mine drainage at sites eligible for rec-
lamination and mine drainage abatement expenditures
under section 404, including specific procedures
for—

“(A) ensuring that activities carried out to
address mine drainage will result in improved
water quality;

“(B) monitoring, sampling, and the report-
ing of collected information as necessary to
achieve the condition required under subpara-
graph (A);

“(C) operation and maintenance of treat-
ment systems as necessary to achieve the condi-
tion required under subparagraph (A); and

“(D) other purposes, as considered nec-
essary by the State or Federal agencies, to
achieve the condition required under subpara-
graph (A).

“(3) PUBLIC REVIEW AND COMMENT.—

“(A) IN GENERAL.—Before submitting a
memorandum to the Secretary and the Admin-
istrator for approval, a State shall—

“(i) invite interested members of the
public to comment on the memorandum;

and
“(ii) hold at least one public meeting concerning the memorandum in a location or locations reasonably accessible to persons who may be affected by implementation of the memorandum.

“(B) NOTICE OF MEETING.—The State shall publish notice of each meeting not less than 15 days before the date of the meeting, in local newspapers of general circulation, on the Internet, and by any other means considered necessary or desirable by the Secretary and the Administrator.

“(4) SUBMISSION AND APPROVAL.—The State shall submit the memorandum to the Secretary and the Administrator of the Environmental Protection Agency for approval. The Secretary and the Administrator shall approve or disapprove the memorandum within 120 days after the date of its submission if the Secretary and Administrator find that the memorandum will facilitate additional activities under the State Reclamation Plan under subsection (e) that improve water quality.

“(5) TREATMENT AS PART OF STATE PLAN.—A memorandum of a State that is approved by the Secretary and the Administrator under this sub-
section shall be considered part of the approved
abandoned mine reclamation plan of the State.

“(n) COMMUNITY RECLAIMER PARTNERSHIPS.—

“(1) PROJECT APPROVAL.—Within 120 days
after receiving such a submission, the Secretary
shall approve a Community Reclaimer project to re-
mediate abandoned mine lands if the Secretary finds
that—

“(A) the proposed project will be con-
ducted by a Community Reclaimer as defined in
this subsection or approved subcontractors of
the Community Reclaimer;

“(B) for any proposed project that remedi-
ates mine drainage, the proposed project is con-
sistent with an approved State memorandum of
understanding under subsection (m);

“(C) the proposed project will be con-
ducted on a site or sites inventoried under sec-
tion 403(c);

“(D) the proposed project meets all sub-
mission criteria under paragraph (2);

“(E) the relevant State has entered into an
agreement with the Community Reclaimer
under which the State shall assume all respon-
sibility with respect to the project for any costs
or damages resulting from any action or inaction on the part of the Community Reclaimer in carrying out the project, except for costs or damages resulting from gross negligence or intentional misconduct by the Community Reclaimer, on behalf of—

“(i) the Community Reclaimer; and

“(ii) the owner of the proposed project site,

if such Community Reclaimer or owner, respectively, did not participate in any way in the creation of site conditions at the proposed project site or activities that caused any lands or waters to become eligible for reclamation or drainage abatement expenditures under section 404;

“(F) the State has the necessary legal authority to conduct the project and will obtain all legally required authorizations, permits, licenses, and other approvals to ensure completion of the project;

“(G) the State has sufficient financial resources to ensure completion of the project, including any necessary operation and maintenance costs (including costs associated with
emergency actions covered by a contingency plan under paragraph (2)(K)); and

“(H) the proposed project is not in a category of projects that would require a permit under title V.

“(2) PROJECT SUBMISSION.—The State shall submit a request for approval to the Secretary that shall include—

“(A) a description of the proposed project, including any engineering plans that must bear the seal of a professional engineer;

“(B) a description of the proposed project site or sites, including, if relevant, the nature and extent of pollution resulting from mine drainage;

“(C) identification of the past and current owners and operators of the proposed project site;

“(D) the agreement or contract between the relevant State and the Community Reclaimer to carry out the project;

“(E) a determination that the project will facilitate the activities of the State reclamation plan under subsection (e);
“(F) sufficient information to determine whether the Community Reclaimer has the technical capability and expertise to successfully conduct the proposed project;

“(G) a cost estimate for the project and evidence that the Community Reclaimer has sufficient financial resources to ensure the successful completion of the proposed project (including any operation or maintenance costs);

“(H) a schedule for completion of the project;

“(I) an agreement between the Community Reclaimer and the current owner of the site governing access to the site;

“(J) sufficient information to ensure that the Community Reclaimer meets the definition under paragraph (3);

“(K) a contingency plan designed to be used in response to unplanned adverse events that includes emergency actions, response, and notifications; and

“(L) a requirement that the State provide notice to adjacent and downstream landowners and the public and hold a public meeting near
the proposed project site before the project is
initiated.

“(3) COMMUNITY RECLAIMER DEFINED.—For
purposes of this section, the term ‘Community Re-
claimer’ means any person who—

“(A) seeks to voluntarily assist a State
with a reclamation project under this section;

“(B) did not participate in any way in the
creation of site conditions at the proposed
project site or activities that caused any lands
or waters to become eligible for reclamation or
drainage abatement expenditures under section
404;

“(C) is not a past or current owner or op-
erator of any site with ongoing reclamation obli-
gations; and

“(D) is not subject to outstanding viola-
tions listed pursuant to section 510(e).”.

SEC. 4. CLARIFYING STATE LIABILITY FOR MINE DRAINAGE
PROJECTS.

Section 413(d) (30 U.S.C. 1242(d)) is amended in
the second sentence by inserting “unless such control or
treatment will be conducted in accordance with a State
memorandum of understanding approved under section
405(m) of this Act” after “Control Act” the second place it appears.

SEC. 5. CONFORMING AMENDMENTS.

Section 405(f) (30 U.S.C. 1235(f)) is amended—

(1) by striking the “and” after the semicolon in paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting “; and”;

(3) by inserting at the end the following:

“(8) a list of projects proposed under subsection (n).”.

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