

109TH CONGRESS
2D SESSION

H. R. 5404

To authorize the Administrator of the Environmental Protection Agency to advance cooperative conservation efforts, to reduce barriers to the formation and use of partnerships to enable Federal environmental stewardship agencies to meet the conservation goals and obligations of the agencies, to promote remediation of inactive and abandoned mines, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2006

Mr. DUNCAN (by request) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the Administrator of the Environmental Protection Agency to advance cooperative conservation efforts, to reduce barriers to the formation and use of partnerships to enable Federal environmental stewardship agencies to meet the conservation goals and obligations of the agencies, to promote remediation of inactive and abandoned mines, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Good Samaritan Clean
3 Watershed Act”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—Congress finds that—

6 (1) advancing cooperative conservation requires
7 greater use of restoration, enhancement, and other
8 management actions and effective use of regulatory
9 protections;

10 (2) to achieve the objectives described in para-
11 graph (1), the Federal Government must tap the in-
12 genuity, imagination, and innovative spirit of citi-
13 zens at the local level;

14 (3) to carry out paragraph (2), it is necessary
15 to engage the collaborative participation of citizens,
16 nongovernmental organizations, and governmental
17 agencies in conservation and environmental steward-
18 ship actions and decisions;

19 (4) cooperative conservation yields measurable
20 benefits to the environment and natural resources,
21 emphasizes collaborative problem solving and alter-
22 natives to traditional forms of dispute resolution,
23 and respects property rights, contracts, compacts,
24 and other legally-recognized interests in land and
25 other natural resources;

1 (5) it is the intent of Congress to recognize the
2 importance of enhancing means available to citizens,
3 landowners, non-governmental entities, States,
4 tribes, and Federal agencies to achieve improve-
5 ments to the environment and natural resources
6 through cooperative conservation;

7 (6) environmental progress can be accelerated
8 through cooperative conservation, which encourages
9 citizens and government at all levels to achieve envi-
10 ronmental results through cooperation over con-
11 frontation;

12 (7) historic hardrock mining practices in the
13 United States occurred under a wide variety of Fed-
14 eral and State laws, policies, and actions;

15 (8) mining operations produce metals and min-
16 erals with important social benefits and values;

17 (9) many areas in which historic mining took
18 place in the United States are now inactive and
19 abandoned mine sites;

20 (10) many of those mine sites have polluted the
21 environment for well over a century and will con-
22 tinue to do so indefinitely unless remediated;

23 (11) unabated discharges from inactive and
24 abandoned mines will continue to pollute surface
25 water, groundwater, and soils;

1 (12) many of the streams and waterbodies im-
2 pacted by acid mine drainage are important re-
3 sources for fish and wildlife, recreation, drinking
4 water, agriculture, and other public purposes;

5 (13) many of the individuals, corporate owners,
6 and operators of those mines, which caused that pol-
7 lution, are no longer alive or in existence;

8 (14) many States, Indian tribes, conservation
9 groups, corporations, and communities are willing to
10 voluntarily remediate historic mine sites for the pub-
11 lic good as Good Samaritans, even though they are
12 not legally required to do so;

13 (15) the potential environmental liabilities that
14 may result from the remediation continue to dis-
15 suade Good Samaritans from acting for the public
16 good;

17 (16) it is in the interest of the United States,
18 the States, Indian tribes, and local communities that
19 historic mine sites are remediated so that environ-
20 mental impacts of the sites are lessened; and

21 (17) if appropriate legal protections are pro-
22 vided, Good Samaritans will have a greater incentive
23 to remediate those sites for the public good.

24 (b) PURPOSES.—The purposes of this Act are—

1 (1) to restore watersheds and improve water
2 quality impacted by historic mine sites;

3 (2) to encourage partial or complete remedi-
4 ation of inactive and abandoned mining sites for the
5 public good by persons who are not otherwise legally
6 responsible for the remediation;

7 (3) to provide appropriate legal protections for
8 Good Samaritans under applicable environmental
9 laws for work performed under this Act;

10 (4) to ensure that remediation performed by
11 Good Samaritans creates environmental benefits;

12 (5) to further innovation and cooperation
13 among government, private individuals, and corpora-
14 tions to accelerate conservation and environmental
15 restoration;

16 (6) to create an efficient process under which
17 the cost and complexity of obtaining a permit are
18 commensurate with the scope of remediation work to
19 be completed, recognizing the environmental and so-
20 cial benefits to be realized; and

21 (7) to ensure that the protections for Good Sa-
22 maritans provided in this Act are interpreted in ac-
23 cordance with the purposes of this Act and to en-
24 hance the public good.

1 **SEC. 3. REMEDIATION OF INACTIVE OR ABANDONED MINES**
2 **BY GOOD SAMARITANS.**

3 (a) DEFINITIONS.—In this section:

4 (1) ADMINISTRATOR.—The term “Adminis-
5 trator” means the Administrator of the Environ-
6 mental Protection Agency.

7 (2) COOPERATING PERSON.—The term “cooper-
8 ating person” means any person (other than a Fed-
9 eral agency) that—

10 (A) meets the definition of Good Samari-
11 tan;

12 (B) assists a Good Samaritan in the reme-
13 diation of an inactive or abandoned mine site;
14 and

15 (C) is identified in a permit issued pursu-
16 ant to this Act.

17 (3) COOPERATIVE CONSERVATION.—The term
18 “cooperative conservation” mean any action that—

19 (A) relates to the use, enhancement, and
20 enjoyment of natural resources or the protec-
21 tion of the environment, or both; and

22 (B) involves collaborative activity among 2
23 or more entities or individuals, including—

24 (i) Federal, State, local, and tribal
25 governments;

- 1 (ii) private for-profit and nonprofit in-
- 2 stitutions;
- 3 (iii) other nongovernmental entities;
- 4 and
- 5 (iv) individuals.

6 (4) ENVIRONMENTAL LAWS.—The term “envi-

7 ronmental laws” means—

8 (A) the Federal Water Pollution Control

9 Act (33 U.S.C. 1251 et seq.); and

10 (B) the Comprehensive Environmental Re-

11 sponse, Compensation, and Liability Act of

12 1980 (42 U.S.C. 9601 et seq.).

13 (5) FEDERAL LAND MANAGEMENT AGENCY.—

14 The term “Federal land management agency”

15 means any agency of the Federal Government au-

16 thorized by statute to exercise jurisdiction, custody,

17 or control over lands of the United States.

18 (6) FINANCIAL RESOURCES.—The term “finan-

19 cial resources” means any financial condition or in-

20 strument, including money, insurance, a guarantee,

21 a surety bond, a letter of credit, a qualification as

22 a self-insurer, or any condition or instrument as the

23 Administrator determines to be appropriate.

24 (7) GOOD SAMARITAN.—Subject to subpara-

25 graph (B), the term “Good Samaritan” means a

1 person that, with respect to an inactive or aban-
2 doned mine site—

3 (A) did not participate in any way in the
4 creation of or activities causing the historic
5 mine residue at the inactive or abandoned mine
6 site; and

7 (B) is not liable or responsible under any
8 Federal, State or tribal law for the remediation
9 of the historic mine residue. A person who has
10 an ownership interest in an inactive or aban-
11 doned mine site, or who had such an interest at
12 any time during or since the creation of the his-
13 toric mine residue at such site, is not eligible to
14 act as a Good Samaritan at such site.

15 (8) INACTIVE OR ABANDONED MINE SITE.—The
16 term “inactive or abandoned mine site” means any
17 mine site, including any mill or processing site, that
18 is not owned by any person who caused or contrib-
19 uted to the historic mine residue or any successor in
20 interest to such a person and that—

21 (A) was used for the production of a min-
22 eral-bearing ore other than coal;

23 (B) has historic mine residue, which may
24 include, among other materials from prior min-
25 ing activities—

- 1 (i) tailings or mine waste piles;
- 2 (ii) abandoned equipment (or mate-
- 3 rials in equipment); or
- 4 (iii) acidic or otherwise polluted flows
- 5 in surface or ground water;

6 (C) is no longer in operation and is not
7 subject to a temporary shutdown as of the ef-
8 fective date of this Act; and

9 (D) has no identifiable liable persons under
10 Federal, State, or tribal law (excluding the
11 owner of the mine site who did not cause or
12 contribute to the historic mine residue), based
13 on an inquiry that is reasonable under the cir-
14 cumstances.

15 (9) INDIAN COUNTRY.—The term “Indian coun-
16 try” has the meaning given the term in section 1151
17 of title 18, United States Code.

18 (10) INDIAN TRIBE.—The term “Indian tribe”
19 means any Indian tribe, band, group, or community
20 recognized by the Secretary of the Interior and exer-
21 cising governmental authority over land within the
22 limits of any Indian reservation under the jurisdic-
23 tion of the Federal Government, notwithstanding the
24 issuance of any patent, and including rights-of way
25 running through the reservation.

1 (11) PERMITTING AUTHORITY.—The term “per-
2 mitting authority” means the Administrator or, in
3 the case of a State or tribal program authorized by
4 the Administrator, the head of such program.

5 (12) PERSON.—The term “person” includes—

6 (A) an individual;

7 (B) a firm;

8 (C) a corporation;

9 (D) an association;

10 (E) a partnership;

11 (F) a consortium;

12 (G) a joint venture;

13 (H) a commercial entity;

14 (I) a nonprofit organization;

15 (J) the Federal Government;

16 (K) a State;

17 (L) a political subdivision of a State;

18 (M) an Indian tribe;

19 (N) an interstate entity; and

20 (O) a commission.

21 (13) PUBLIC TRUSTEE FOR NATURAL RE-
22 SOURCES.—The term “public trustee for natural re-
23 sources” means any public entity designated by the
24 President in the National Contingency Plan pub-
25 lished under section 105 of the Comprehensive Envi-

1 ronmental Response, Compensation, and Liability
2 Act of 1980 (42 U.S.C. 9605), to act on behalf of
3 the public as trustee for natural resources.

4 (14) REMEDIATION.—The term “remediation”
5 means the cleanup of historic mine residue at an in-
6 active or abandoned mine site and shall not be con-
7 strued to have the meaning set forth for that term
8 under any other environmental statute or program.

9 (15) STATE.—The term “State” means any of
10 the several States of the United States, the District
11 of Columbia, the Commonwealth of Puerto Rico,
12 Guam, American Samoa, the United States Virgin
13 Islands, the Commonwealth of the Northern Mari-
14 anas, and any other territory or possession over
15 which the United States has jurisdiction.

16 (b) PERMITS.—The Administrator, or a State or In-
17 dian tribe with an approved remediation program under
18 subsection (e), may issue a permit to a Good Samaritan
19 to carry out a project to remediate all or part of an inac-
20 tive or abandoned mine site in accordance with the re-
21 quirements of this section.

22 (c) ELIGIBILITY FOR PERMITS.—To be eligible for a
23 permit to carry out a project to remediate an inactive or
24 abandoned mine site in a State or area of Indian country
25 under this section—

1 (1) the mine site shall be located in the United
2 States;

3 (2) the purpose of the project shall be to miti-
4 gate the effects of historic mine residue to improve
5 the environment;

6 (3) the mine site may not be a mine site in-
7 cluded on the National Priorities List developed by
8 the President in accordance with section
9 105(a)(8)(B) of the Comprehensive Environmental
10 Response, Compensation, and Liability Act of 1980
11 (42 U.S.C. 9605(a)(8)(B)) or a site at which the
12 Environmental Protection Agency or another Fed-
13 eral, State, or tribal agency is investigating, plan-
14 ning to conduct, or is taking an environmental en-
15 forcement or response action, except where the Per-
16 mitting Authority determines, on a case-by-case
17 basis, and after consultation with any other inter-
18 ested agency, that—

19 (A) the proposed remediation project at
20 the listed mine site is not inconsistent with and
21 will not otherwise interfere with any other
22 planned remediation at the mine site that is
23 reasonably likely to occur; and

1 (B) the remediation project proposed by
2 the Good Samaritan at the mine site will accel-
3 erate environmental improvements;

4 (4) the permit shall authorize activities to reme-
5 diate historic mine residue at the inactive or aban-
6 doned mine site or to mitigate the impacts of the
7 historic mine residue outside of the mine site; and

8 (5) the person obtaining the permit shall be a
9 Good Samaritan.

10 (d) OTHER ACTIVITIES.—Any activities not described
11 in the permit application and those activities not directly
12 relating to the remediation of historic mine residue at or
13 from the site shall not be authorized under a permit under
14 this section. No new mining shall be authorized under this
15 section.

16 (e) STATE OR TRIBAL REMEDIATION PROGRAM.—

17 (1) IN GENERAL.—Before a permit may be
18 issued by a State or Indian tribe to carry out a
19 project under this Act, the State or Indian tribe
20 shall have in effect a voluntary Good Samaritan per-
21 mit program approved by the Administrator. The
22 Governor of any State or the head of an Indian
23 tribe's governing body may submit to the Adminis-
24 trator an application to administer a Good Samari-
25 tan permit program for activities within its jurisdic-

1 tion at any time. An application under this section
2 shall include a full and complete description of the
3 permit program it proposes to administer under
4 State or tribal law. The application must also in-
5 clude a statement from the State attorney general
6 or, for an Indian tribe, the equivalent official author-
7 ized to represent the tribe in court pertaining to the
8 Good Samaritan permit program application that
9 the laws of the State or Indian tribe provide ade-
10 quate authority to carry out the described program.
11 The Administrator shall approve such application
12 within 120 days unless he or she determines that the
13 requirements for a Good Samaritan permit program
14 are not met.

15 (2) REQUIREMENTS.—To meet the require-
16 ments of this subsection, under the State or tribal
17 Good Samaritan permit program, a State (or Indian
18 tribe) shall—

19 (A) agree to participate in each project for
20 which a State (or tribal) permit for remediation
21 in the State or relevant area of Indian country
22 is issued under this section;

23 (B) designate a lead State (or tribal) agen-
24 cy that is responsible for carrying out permit-

1 ting responsibilities of the State (or Indian
2 tribe) under this section;

3 (C) provide an opportunity for judicial re-
4 view in State Court (or the body that exercises
5 judicial functions of an Indian tribe) of the
6 final approval or denial of permits by the State
7 (or Indian tribe) that is sufficient to provide
8 for, encourage, and assist public participation
9 in the permitting process; and

10 (D) possess legal authority to implement a
11 Good Samaritan permit program with program
12 elements consistent with those described in this
13 Act, including State (or tribal) enforcement au-
14 thorities analogous to those in subsection (p). A
15 State's (or Indian tribe's) Good Samaritan per-
16 mit program shall be administered in conform-
17 ance with the requirements and procedures in
18 this Act, including any regulations promulgated
19 under subsection (t), except that a State (or In-
20 dian tribe) is not precluded from omitting or
21 modifying any program element to impose more
22 stringent requirements.

23 (f) APPLICATION FOR A PERMIT.—To obtain a per-
24 mit to carry out a project to remediate an inactive or
25 abandoned mine site under this section, an applicant shall

1 submit to the Permitting Authority an application, signed
2 by the applicant, that provides—

3 (1) a description of the project site (including
4 the boundaries of the project site and degraded wa-
5 ters);

6 (2) an identification of—

7 (A) any current owner or operator of the
8 mine site;

9 (B) any person with a legal right to ex-
10 clude other persons from the mine site or affect
11 activities on the mine site, with a description of
12 those legal rights; and

13 (C) for sites on federally managed lands,
14 the Federal land management agency;

15 (3) evidence satisfactory to the Permitting Au-
16 thority that the applicant has acquired or is contrac-
17 tually authorized to acquire all legal rights necessary
18 to enter the mine site and to perform the remedi-
19 ation described in the application;

20 (4) evidence satisfactory to the Permitting Au-
21 thority that it will have access to the mine site to
22 oversee the remediation;

23 (5) a description, based on the conduct of an
24 inquiry that is reasonable under the circumstances,
25 of—

1 (A) all persons that may be legally respon-
2 sible for the remediation of the mine site; and

3 (B) any relationship between those persons
4 and the applicant;

5 (6) a certification that—

6 (A) the applicant knows of no other person
7 that (as of the date of submission of the appli-
8 cation) is potentially legally responsible for the
9 remediation of the mine site (excluding the
10 owner of the mine site who did not cause or
11 contribute to the historic mine residue); and

12 (B) the applicant meets the definition of a
13 Good Samaritan under this Act;

14 (7) a description of any contractual ties or
15 other legal relationship between the applicant and all
16 persons with responsibility for compliance with any
17 environmental laws at the mine and all sources of
18 revenues for the proposed remediation;

19 (8) a description of the historic mine residue to
20 be remediated;

21 (9) a general description of the baseline condi-
22 tions (meaning conditions as of the date of submis-
23 sion of the application) of the environment affected
24 by the historic mine residue to be remediated, in-

cluding, if available, any sampling data or information regarding the extent of contamination;

(10) a description of—

(A) the nature and scope of the proposed remediation, including any proposed recycling or incidental reprocessing of historic mine residue at the site and how it relates to the remediation;

(B) engineering plans for the project; and

(C) the remediation alternatives, if any, considered in developing the proposed remediation plan;

(11) a description of the manner in which the remediation will mitigate the drainage from the mine site to improve water quality;

(12) a schedule for the work to be carried out under the project, including an end date by which the applicant plans to complete the work;

(13) a budget for the work to be carried out under the project;

(14) evidence satisfactory to the Permitting Authority that the permittee has sufficient financial resources to ensure that the permitted work, including any operation and maintenance, if any, will be completed;

1 (15) a description of a monitoring program fol-
2 lowing remediation, if any, that will be implemented
3 to evaluate the effects of the remediation on the en-
4 vironment;

5 (16) a plan for the operation and maintenance,
6 if any, of any remediation;

7 (17) a description of how any hazardous waste
8 listed or identified under the Solid Waste Disposal
9 Act (42 U.S.C. 6901 et seq.) at the site will be dis-
10 posed of;

11 (18) a description of institutional controls, if
12 any, that will be instituted for the site;

13 (19) a description of the capacity (including
14 technical and administrative) of the permittee to
15 carry out the terms of the permit and the remedi-
16 ation plan;

17 (20) a description of the history of environ-
18 mental compliance of the permittee, including any
19 noncompliance for a period of time not less than 5
20 years prior to the application; and

21 (21) an identification of any cooperating per-
22 sons and description of activities by such persons.

23 (g) PERMIT ISSUANCE.—

24 (1) IN GENERAL.—The Permitting Authority
25 may issue a permit under this section to carry out

1 a project for the remediation of an inactive or aban-
2 doned mine site eligible for a permit under this Act
3 in a State or area of Indian country only if—

4 (A) the Permitting Authority determines
5 that—

6 (i) the project will result in improve-
7 ment to the environment, including water
8 quality, in the area of, or downstream
9 from, the mine site;

10 (ii) the permit applicant will minimize
11 any short-term environmental impacts
12 from the remediation, to the maximum ex-
13 tent practicable;

14 (iii) the permit applicant has provided
15 adequate evidence of financial resources
16 that will allow the applicant to complete
17 the permitted work; and

18 (iv) the project meets the require-
19 ments of this section; and

20 (B) any Federal, State, and tribal land
21 management agency with jurisdiction over inac-
22 tive or abandoned mine sites to be subject to
23 the proposed permit or public trustee for nat-
24 ural resources affected by historic mine residue

1 associated with such mine site does not object
2 to the issuance of the permit.

3 (2) CONSTRUCTION OF THE NATIONAL ENVI-
4 RONMENTAL POLICY ACT OF 1969.—No action of the
5 Administrator taken pursuant to this section shall
6 be required to comply with section 102 of the Na-
7 tional Environmental Policy Act (42 U.S.C. 4332).

8 (3) DEADLINE.—

9 (A) IN GENERAL.—The Permitting Au-
10 thority shall issue or deny a permit for the re-
11 mediation of a mine site not later than—

12 (i) the date that is 180 days after the
13 date of receipt by the Permitting Authority
14 of an application for the permit that, as
15 determined by the Permitting Authority, is
16 complete; or

17 (ii) such later date as may be deter-
18 mined by the Permitting Authority with
19 the agreement of the applicant.

20 (B) CONSTRUCTIVE DENIAL.—If the Per-
21 mitting Authority fails to issue or deny the per-
22 mit in accordance with subparagraph (A), the
23 application shall be considered to be denied by
24 the Permitting Authority.

25 (h) EFFECT OF A PERMIT.—

1 (1) IN GENERAL.—A permit issued under this
2 section to carry out a project for the remediation of
3 an inactive or abandoned mine site—

4 (A) authorizes the permittee to carry out
5 the activities described in the permit;

6 (B) authorizes enforcement under this sec-
7 tion;

8 (C) provides that the permittee (and any
9 cooperating persons), in carrying out the activi-
10 ties undertaken pursuant to the permit, shall be
11 deemed in compliance with environmental laws,
12 and shall not be liable under such laws for the
13 activities undertaken pursuant to the permit,
14 subject to the exception of the emergency au-
15 thorities outlined in subsection (r)(1); and

16 (D) precludes imposition of any costs or
17 damages under environmental laws on the per-
18 mittee (and any cooperating persons) related in
19 any way to the activities undertaken pursuant
20 to the permit, except where the permittee's (and
21 any cooperating person's) actions exacerbate
22 the pollution from historic residue as a result of
23 gross negligence or intentional misconduct. For
24 the purpose of this subsection, reckless, willful,

1 or wanton conduct shall constitute gross neg-
2 ligence.

3 (2) LIMITATION OF LIABILITY.—The liability
4 protection afforded under this subsection—

5 (A) shall apply only to activities under-
6 taken pursuant to a permit issued under this
7 Act; and

8 (B) shall be null and void ab initio and
9 without effect if information supplied to the
10 Permitting Authority is subsequently deter-
11 mined to contain a dishonest, fraudulent, or
12 materially misleading statement or omission.

13 (3) COMPLIANCE.—A permittee shall comply
14 with the terms and conditions of a permit issued
15 under this section.

16 (i) PERMIT CONDITIONS.—

17 (1) IN GENERAL.—A permit issued under this
18 section shall contain—

19 (A) a description of the engineering and
20 other work that is authorized under the permit;

21 (B) a provision that states that the per-
22 mittee is responsible for securing, for all activi-
23 ties authorized under the permit, all authoriza-
24 tions, licenses, and permits that are required

1 under applicable law (excluding environmental
2 laws);

3 (C) the duration of the permit and proce-
4 dures for reissuing and renewing the permit;

5 (D) a schedule for the work to be carried
6 out under the project, including an end date by
7 which the applicant plans to complete the work;

8 (E) a right of entry to the premises for the
9 Permitting Authority to inspect and collect such
10 information as reasonably necessary to carry
11 out the purposes of this Act;

12 (F) a requirement for permittee to estab-
13 lish and maintain records, conduct monitoring
14 (if the Permitting Authority determines that
15 any such monitoring is appropriate), and pro-
16 vide such other information as may be reason-
17 ably necessary to ensure the project will result
18 in improvement to the environment including
19 water quality;

20 (G) a description of the engineering and
21 other work to be performed by each cooperating
22 person, if any; and

23 (H) any other terms and conditions that
24 are determined to be appropriate by the Permit-
25 ting Authority.

1 (2) INVESTIGATIVE SAMPLING.—

2 (A) IN GENERAL.—A permit may identify
3 an appropriate program of investigative sam-
4 pling to be completed prior to remediation, as
5 determined by the Permitting Authority upon
6 application.

7 (B) OPTION TO DECLINE REMEDIATION.—

8 In the event that investigative sampling is au-
9 thorized, the permit may allow the permittee to
10 decline to undertake remediation based upon
11 sampling results.

12 (C) PERMIT MODIFICATION.—Based upon
13 sampling results, a permittee may apply for a
14 permit modification using the permit proce-
15 dures in this Act.

16 (3) TIMING.—Work authorized under a permit
17 shall—

18 (A) commence not later than the date that
19 is 1 year after the date of issuance of the per-
20 mit; and

21 (B) continue until completed, with tem-
22 porary suspensions permitted during adverse
23 weather or other circumstances approved by the
24 Permitting Authority.

1 (4) SIGNATURE BY PERMITTEE.—The signature
2 of the permittee on the permit shall be considered to
3 be an acknowledgment by the permittee that the
4 permittee accepts the terms and conditions of the
5 permit.

6 (5) TRANSFER OF PERMITS.—A permit may be
7 transferred to another person only if—

8 (A) the Permitting Authority determines
9 that the transferee will satisfy all of the re-
10 quirements of the permit;

11 (B) the transferee meets all of the require-
12 ments of this Act;

13 (C) the transferee signs and accepts all of
14 the requirements of the permit;

15 (D) the Permitting Authority includes in
16 the transferred permit any additional or modi-
17 fied conditions determined to be appropriate by
18 the Permitting Authority to meet the goals of
19 this section; and

20 (E) the Federal, State, or tribal land man-
21 agement agency with jurisdiction over the inac-
22 tive or abandoned mine site to be subject to the
23 permit or public trustee for natural resources
24 affected by historic mine residue associated

1 with such mine site does not object to the
2 transfer.

3 (6) MODIFICATION OR TERMINATION OF PER-
4 MIT.—

5 (A) IN GENERAL.—The authority to carry
6 out work under a permit issued under this sec-
7 tion shall terminate if the work does not com-
8 mence by the date that is 1 year after the date
9 of issuance of the permit or if the work is dis-
10 continued or is not completed by the end date
11 specified in the permit or any other grounds
12 identified by the Permitting Authority, unless
13 the Permitting Authority has allowed an exten-
14 sion through modification, reissuance, or re-
15 newal of the permit.

16 (B) MODIFICATION, REISSUANCE, OR TER-
17 MINATION OF PERMIT.—The Permitting Au-
18 thority may modify, reissue, or terminate a per-
19 mit for cause, including misrepresentation or a
20 violation of a permit. Permit modification or
21 reissuance shall be in accordance with the pro-
22 cedures specified in this Act for permit issuance
23 unless otherwise specified in regulations pro-
24 mulgated by the Administrator.

1 (j) ROLE OF THE PERMITTING AUTHORITY.—In car-
2 rying out this section, the Permitting Authority shall—

3 (1) consult with prospective applicants;

4 (2) accept permit applications under this sec-
5 tion;

6 (3) convene, coordinate, and lead the applica-
7 tion review process;

8 (4) maintain all records relating to the permit
9 and the permit process;

10 (5) provide an opportunity for cooperating per-
11 sons and the public to participate in the permit
12 process;

13 (6) issue permits under this section, when ap-
14 propriate;

15 (7) enforce and otherwise carry out this section;
16 and

17 (8) consult with the Federal land management
18 agency and any public trustee for natural resources
19 prior to issuance of the permit for sites on federally
20 managed lands.

21 (k) STATE, LOCAL AND TRIBAL COMMUNITIES.—If
22 the Permitting Authority receives an application for the
23 remediation of a mine site under this section, the Permit-
24 ting Authority shall, as soon as practicable, provide notice
25 of the application to—

1 (1) any lead State or tribal agency designated
2 under subsection (e)(2)(B) when the Administrator
3 is the Permitting Authority;

4 (2) each local government located within a ra-
5 dius of 20 miles of the project site; and

6 (3) each Federal, State, and tribal agency that
7 the Permitting Authority determines may have an
8 interest in the application.

9 Such notice shall include a copy of the application.

10 (l) PUBLIC NOTICE OF RECEIPT OF APPLICA-
11 TIONS.—

12 (1) Upon receipt of a complete application for
13 the remediation of an inactive or abandoned mine
14 site under this Act, the Permitting Authority shall,
15 not later than 30 days after receipt of an applica-
16 tion, provide to the public a notice that includes the
17 application and describes—

18 (A) the location of the mine site;

19 (B) the scope and nature of the proposed
20 remediation; and

21 (C) the name of the Good Samaritan ap-
22 plying for a permit to carry out the proposed
23 remediation.

24 (2) HEARING.—

1 (A) IN GENERAL.—Prior to permit
2 issuance, the Permitting Authority shall hold a
3 public hearing in the vicinity of the mine site to
4 be remediated. The Permitting Authority shall
5 provide the public with notice of the hearing,
6 accompanied by a draft permit, at least 30 days
7 in advance of the hearing.

8 (B) COMMENTS.—The Permitting Author-
9 ity shall provide the applicant and the public
10 with the opportunity to comment on the draft
11 permit at the public hearing, and provide the
12 public with the opportunity to submit written
13 comments to the Permitting Authority for 30
14 days following the hearing.

15 (m) MONITORING.—

16 (1) IN GENERAL.—The permittee shall take
17 such actions as the Permitting Authority determines
18 are necessary to ensure, where appropriate, baseline,
19 remedial alternative, and post-remediation moni-
20 toring of the environment.

21 (2) ADMINISTRATION.—When selecting the type
22 and frequency of the monitoring requirements to be
23 included in a permit, if any, the Permitting Author-
24 ity shall—

1 (A) balance the utility of monitored infor-
2 mation against the cost of the monitoring,
3 based on the circumstances relating to the re-
4 mediation; and

5 (B) take into account the scope of the
6 project.

7 (n) INFORMATION COLLECTION.—Whenever appro-
8 prie to determine compliance with this Act, the Permit-
9 ting Authority shall—

10 (1) have right of entry to the premises to in-
11 spect and collect such information as reasonably nec-
12 essary to determine compliance; and

13 (2) require the permittee to establish and main-
14 tain records, conduct monitoring, if the Permitting
15 Authority determines that any monitoring is appro-
16 priate, and provide and produce such other informa-
17 tion as may be reasonably necessary to ensure the
18 project will result in improvement to the environ-
19 ment.

20 (o) COOPERATIVE ACTIVITIES.—The Permitting Au-
21 thority may approve in a permit the conduct of monitoring
22 or other remediation activities by cooperating persons if,
23 as determined by the Permitting Authority, the coopera-
24 tive arrangement will effectively accomplish the purposes
25 of this Act.

1 (p) ENFORCEMENT.—

2 (1) ADMINISTRATIVE ORDERS.—The Adminis-
3 trator is authorized to enforce any violation of this
4 Act, including any condition or limitation of a per-
5 mit issued under this Act, with respect to any per-
6 son by issuing an order to comply with such condi-
7 tion or limitation.

8 (2) CIVIL ACTIONS AND INJUNCTIONS.—

9 (A) IN GENERAL.—The Administrator is
10 authorized to commence a civil action for ap-
11 propriate relief, including a permanent or tem-
12 porary injunction, for any violation of this Act,
13 including any condition or limitation of a per-
14 mit issued under this Act, for which he is au-
15 thorized to issue a compliance order under this
16 section. Any action under this subsection may
17 be brought in the district court of the United
18 States for the district in which the defendant is
19 located or resides or is doing business, and such
20 court shall have jurisdiction to restrain such
21 violation and to require compliance. Notice of
22 the commencement of such action shall be given
23 immediately to the appropriate State or Indian
24 tribe.

1 (B) MINIMUM REQUIREMENT.—In the
2 event of a permit violation, and absent extraor-
3 dinary circumstances, the court shall, at a min-
4 imum, require—

5 (i) the permittee to repair the damage
6 to any part of the environment that is
7 caused by an action of the permittee in vio-
8 lation of the permit to the extent prac-
9 ticable; and

10 (ii) the environment to be restored to
11 the condition of the environment prior to
12 the action of the permittee in violation of
13 the permit to the extent practicable.

14 (3) CIVIL PENALTY.—Any person who violates
15 this Act shall be subject to a civil penalty of up to
16 \$5,000 for each day of the violation (except in cases
17 of willful or wanton conduct, which shall be \$32,500
18 per day per violation).

19 (q) JUDICIAL REVIEW.—Review of the Administra-
20 tor's action in issuing or denying any permit under this
21 Act may be had by any interested person in the Circuit
22 Court of Appeals of the United States for the Federal ju-
23 dicial district in which such person resides or transacts
24 business which is directly affected by such action upon ap-
25 plication by such person. Any such application shall be

1 made within 120 days from the date of such issuance or
2 denial, or after such date only if such application is based
3 solely on grounds which arose after such 120th day.

4 (r) SAVINGS PROVISIONS.—

5 (1) EMERGENCY AUTHORITY.—Nothing in this
6 section affects the authority of a Federal, State,
7 tribal, or local agency to carry out any emergency
8 authority, including an emergency authority under
9 the environmental laws.

10 (2) LIABILITY.—Except to the extent that a
11 permit provides protection under environmental
12 laws, nothing in this section or a permit issued
13 under this section limits the liability of any person
14 (including a permittee) under any other provision of
15 law.

16 (3) STATE AND TRIBAL RECLAMATION PRO-
17 GRAMS.—No State, Indian tribe, or other Good Sa-
18 maritan shall be required to obtain a permit pursu-
19 ant to this Act to remediate an abandoned or inac-
20 tive mine site when conducting reclamation work
21 under a State or tribal abandoned mine reclamation
22 plan approved under title IV of the Surface Mining
23 Control and Reclamation Act of 1977 (30 U.S.C.
24 1231 et seq.). The liability protection provided under
25 subparagraphs (C) and (D) of subsection (h)(1)

1 shall apply to any persons conducting remediation of
2 an inactive and abandoned mine site pursuant to an
3 approved State or tribal abandoned mine reclama-
4 tion plan approved under title IV of the Surface
5 Mining Control and Reclamation Act of 1977 (30
6 U.S.C. 1231 et seq.).

7 (s) GRANTS ELIGIBILITY.—Remediation projects
8 conducted pursuant to this section are eligible for funding
9 pursuant to section 319 of the Federal Water Pollution
10 Control Act (33 U.S.C. 1329).

11 (t) REGULATIONS.—The Administrator may promul-
12 gate such regulations as are necessary to carry out this
13 Act.

14 (u) TRANSFER OF PERMITTING AUTHORITY.—Not
15 later than 120 days after the date on which a State or
16 Indian tribe has submitted an application to administer
17 a Good Samaritan permit program, the Administrator
18 shall suspend the issuance of permits under this Act for
19 remediation activities in that State or relevant area of In-
20 dian country unless the Administrator determines that the
21 State's or Indian tribe's Good Samaritan permit program
22 does not satisfy the requirements of this Act. The date
23 upon which the Environmental Protection Agency will sus-
24 pend permitting activity under this subsection may be ex-

1 tended by mutual agreement of the State or Indian tribe
2 and the Administrator.

3 (v) NOTIFICATION OF ADMINISTRATOR.—

4 (1) IN GENERAL.—Each State or Indian tribe
5 authorized to administer a Good Samaritan permit
6 program shall transmit to the Administrator a copy
7 of each permit application received by such State or
8 tribe and provide notice to the Administrator of
9 every action relating to the consideration of such
10 permit application, including each permit proposed
11 to be issued by such State or Indian tribe.

12 (2) OBJECTION TO ISSUANCE.—No permit shall
13 issue if the Administrator, within 90 days of the
14 date of transmittal of the proposed permit notifica-
15 tion, objects in writing to the issuance of such per-
16 mit as being outside the requirements of this Act.
17 Whenever the Administrator objects to the issuance
18 of a permit under this paragraph, such written ob-
19 jection shall contain a statement of the reasons for
20 such objection.

21 (3) WAIVER.—The Administrator may, as to
22 any permit application, waive paragraph (2) of this
23 subsection.

24 (4) ISSUANCE OR DENIAL OF PERMITS.—In any
25 case where the Administrator, pursuant to para-

1 graph (2) of this subsection, objects to the issuance
2 of a permit, on request of the State or Indian tribe,
3 a public hearing shall be held by the Administrator
4 on such objection. If the State or Indian tribe does
5 not resubmit such permit revised to meet such objec-
6 tions within 30 days after completion of the hearing,
7 or, if no hearing is requested within 90 days after
8 the date of such objection, the Administrator may
9 issue or deny the permit in accordance with the re-
10 quirements of this Act.

11 (w) WITHDRAWAL OF APPROVAL OF STATE OR TRIB-
12 AL PROGRAM AND RETURN OF STATE OR TRIBAL PRO-
13 GRAM TO ADMINISTRATOR.—

14 (1) IN GENERAL.—Any State or tribal Good
15 Samaritan permit program approved under this Act
16 shall at all times be administered in accordance with
17 this Act.

18 (2) NOTIFICATION AND WITHDRAWAL.—When-
19 ever the Administrator determines after public hear-
20 ing that a State or Indian tribe is not administering
21 a program approved under this Act in accordance
22 with this Act, the Administrator shall so notify the
23 State or Indian tribe and, if appropriate corrective
24 action is not taken within a reasonable time, not to
25 exceed 90 days, the Administrator shall withdraw

1 approval of such program. The Administrator shall
2 not withdraw approval of any such program unless
3 the Administrator shall first have notified the State
4 or Indian tribe, and made public, in writing, the rea-
5 sons for such withdrawal.

6 (x) FEDERAL LAND MANAGEMENT AGENCIES.—A
7 Federal land management agency that provides authoriza-
8 tion for, or participates in, a project authorized pursuant
9 to this Act shall not be liable under environmental laws
10 for the conduct or actions of a Good Samaritan (or any
11 cooperating person).

12 (y) SEVERABILITY.—If any provision of this Act, or
13 the application of any provision of this Act to any person
14 or circumstance, is held invalid, the application of such
15 provision to other persons or circumstances, and the re-
16 mainder of this Act, shall not be affected thereby.

