

## Calendar No. 645

109TH CONGRESS  
2D SESSION**S. 1848****[Report No. 109–351]**

To promote remediation of inactive and abandoned mines, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 6, 2005

Mr. SALAZAR (for himself, Mr. ALLARD, Mr. REID, Mr. ISAKSON, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

SEPTEMBER 27, 2006

Reported by Mr. INHOFE, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

**A BILL**

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cleanup of Inactive  
5 and Abandoned Mines Act”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) the Federal Government and State govern-  
4 ments encouraged hard rock mining in the United  
5 States through a wide variety of laws, policies, and  
6 actions;

7 (2) the mining activities that took place dis-  
8 turbed public and private land, and those disturb-  
9 ances led to considerable environmental pollution;

10 (3) many areas in which hard rock mining took  
11 place in the United States are now inactive and  
12 abandoned mine sites;

13 (4) many inactive and abandoned mine sites  
14 pollute the environment today and will continue to  
15 do so indefinitely unless remediated;

16 (5) adits and other tunnels will continue to  
17 drain pollutants to surface and ground water  
18 through gravity flow;

19 (6) surface runoff will continue to pick up pol-  
20 lutants as the runoff moves over disturbed ground  
21 and transports pollutants to surface waters;

22 (7) tailings and other materials left exposed to  
23 the elements will continue to blow in the wind and  
24 pollute the atmosphere and soils;

1           (8) many of the individuals and corporate own-  
 2           ers and operators of those mines, who caused this  
 3           pollution, are no longer alive or in existence;

4           (9) some of the remaining owners and operators  
 5           who remain do not have resources that are adequate  
 6           to conduct remediation properly under applicable en-  
 7           vironmental laws, for all practical purposes leaving  
 8           no one responsible for the cleanup of pollution from  
 9           those sites;

10          (10) inactive and abandoned mine sites are lo-  
 11          cated in areas of known economic mineralization;

12          (11) modern mining activities often take place  
 13          on or in the vicinity of the area in which historic  
 14          hard rock mining activities took place;

15          (12) from time to time, individuals and compa-  
 16          nies are willing to remediate historic mine sites for  
 17          the public good as Good Samaritans, despite the fact  
 18          that these individuals and companies are not legally  
 19          required to remediate the mine sites;

20          (13) Good Samaritan remediation activities  
 21          may—

22                 (A) vary in size and complexity;

23                 (B) reflect the myriad ways that mine res-  
 24                 idue may be cleaned up; and

25                 (C) include, among other activities—

- 1 (i) the relocation or management of
- 2 tailings or other waste piles;
- 3 (ii) passive or active water treatment;
- 4 (iii) runoff or run-on controls; and
- 5 (iv) the use or reprocessing of, or re-
- 6 moval of materials from, mine residue;

7 (14) the potential environmental liabilities that  
 8 may attach to those Good Samaritans as a result of  
 9 the remediation can dissuade those Good Samaritans  
 10 from acting for the public good;

11 (15) it is in the interest of the United States,  
 12 the States, and local communities to remediate his-  
 13 toric mine sites, in appropriate circumstances and to  
 14 the maximum extent practicable, so that the environ-  
 15 mental impacts of the sites are lessened into the fu-  
 16 ture; and

17 (16) if appropriate protections are provided for  
 18 Good Samaritans, Good Samaritans will have a  
 19 greater incentive to remediate those sites for the  
 20 public good.

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

22 (1) to encourage partial or complete remedi-  
 23 ation of inactive and abandoned mining sites for the  
 24 public good by persons who are not otherwise legally  
 25 responsible for the remediation;

1           (2) to provide appropriate protections for Good  
2 Samaritans under applicable environmental laws;

3           ~~(3)~~ to ensure that remediation performed by  
4 Good Samaritans creates actual and significant envi-  
5 ronmental benefits;

6           (4) to ensure that remediation by Good Samari-  
7 tans is carried out—

8                 (A) with the approval and agreement, and  
9                 in the discretion, of affected Federal, State, and  
10                local authorities and with review by the public;  
11                and

12               (B) in a manner that is beneficial to the  
13                environment and all affected communities;

14           ~~(5)~~ to create an efficient permit process under  
15           which the cost and complexity of obtaining a permit  
16           are commensurate with the scope of remediation  
17           work to be completed and the environmental benefits  
18           from the work;

19           (6) to avoid permitting for ongoing, for-profit  
20           businesses that specialize in multiple Good Samari-  
21           tan projects that are designed to be permitted out-  
22           side otherwise applicable Federal, State, and local  
23           environmental laws; and

24           ~~(7)~~ to ensure that the protections for Good Sa-  
25           maritans provided in this Act are interpreted in ac-

1 cordance with the purposes of this Act and to en-  
 2 hance the public good.

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

5 (a) DEFINITIONS.—In this section:

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

9 (2) COOPERATING AGENCY.—The term “cooper-  
 10 ating agency” means any Federal, State, or local  
 11 agency or other person (other than the Adminis-  
 12 trator) that—

13 (A) is authorized under Federal or State  
 14 law, or local ordinance, to participate in issuing  
 15 a permit under this section; and

16 (B) elects to participate in the process of  
 17 issuing the permit.

18 (3) ENVIRONMENTAL LAW.—The term “envi-  
 19 ronmental law” includes—

20 (A) the Toxic Substances Control Act (15  
 21 U.S.C. 2601 et seq.);

22 (B) the Federal Water Pollution Control  
 23 Act (33 U.S.C. 1251 et seq.);

24 (C) the Safe Drinking Water Act (42  
 25 U.S.C. 300f et seq.);

1           ~~(D) the National Environmental Policy Act~~  
 2           ~~of 1969 (42 U.S.C. 4321 et seq.);~~

3           ~~(E) the Solid Waste Disposal Act (42~~  
 4           ~~U.S.C. 6901 et seq.);~~

5           ~~(F) the Clean Air Act (42 U.S.C. 7401 et~~  
 6           ~~seq.);~~

7           ~~(G) the Uranium Mill Tailings Radiation~~  
 8           ~~Control Act of 1978 (42 U.S.C. 7901 et seq.);~~

9           ~~(H) the Comprehensive Environmental Re-~~  
 10          ~~sponse, Compensation, and Liability Act of~~  
 11          ~~1980 (42 U.S.C. 9601 et seq.);~~

12          ~~(I) applicable environmental laws of a~~  
 13          ~~State; and~~

14          ~~(J) applicable environmental ordinances of~~  
 15          ~~a political subdivision of a State.~~

16          ~~(4) GOOD SAMARITAN.—The term “Good Sa-~~  
 17          ~~maritan” means a person that—~~

18                 ~~(A) is unrelated, by operation or ownership~~  
 19                 ~~(except solely through succession to title), to~~  
 20                 ~~the historic mine residue to be remediated~~  
 21                 ~~under this section;~~

22                 ~~(B) had no role in the creation of the his-~~  
 23                 ~~toric mine residue;~~

1           (C) had no significant role in the environ-  
 2           mental pollution caused by the historic mine  
 3           residue; and

4           (D) is not liable under any Federal, State,  
 5           or local law for the remediation of the historic  
 6           mine residue.

7           (5) HISTORIC MINE RESIDUE.—

8           (A) IN GENERAL.—The term “historic  
 9           mine residue” means mine residue or conditions  
 10          at an inactive or abandoned mine site that pol-  
 11          lute the environment.

12          (B) INCLUSIONS.—The term “historic  
 13          mine residue” may include, among other mate-  
 14          rials—

15               (i) ores;

16               (ii) minerals;

17               (iii) equipment (or materials in equip-  
 18          ment);

19               (iv) wastes from extractions,  
 20          beneficiation, or other processing; and

21               (v) acidic or otherwise polluted flows  
 22          in surface or ground water.

23          (6) INACTIVE OR ABANDONED MINE SITE; MINE  
 24          SITE.—The terms “inactive or abandoned mine site”



1 and “mine site” mean the site of a mine and associ-  
2 ated facilities that—

3 ~~(A) were used for the production of a min-~~  
4 ~~eral other than coal;~~

5 ~~(B) have historic mine residue; and~~

6 ~~(C) are abandoned or inactive as of the~~  
7 ~~date on which an application is submitted for a~~  
8 ~~permit under this section.~~

9 ~~(7) INDIAN TRIBE.—The term “Indian tribe”~~  
10 ~~has the meaning given the term in section 4 of the~~  
11 ~~Indian Self-Determination and Education Assistance~~  
12 ~~Act (25 U.S.C. 450b).~~

13 ~~(8) PERSON.—The term “person” includes—~~

14 ~~(A) an individual;~~

15 ~~(B) a firm;~~

16 ~~(C) a corporation;~~

17 ~~(D) an association;~~

18 ~~(E) a partnership;~~

19 ~~(F) a consortium;~~

20 ~~(G) a joint venture;~~

21 ~~(H) a commercial entity;~~

22 ~~(I) a nonprofit organization;~~

23 ~~(J) the Federal Government;~~

24 ~~(K) a State;~~

25 ~~(L) a political subdivision of a State;~~

1                   ~~(M) an interstate entity; and~~

2                   ~~(N) a commission.~~

3                   ~~(9) STATE.—The term “State” means—~~

4                   ~~(A) a State; and~~

5                   ~~(B) an Indian tribe.~~

6                   ~~(b) PERMITS.—The Administrator may issue a per-~~  
 7 ~~mit to a Good Samaritan to carry out a project to reme-~~  
 8 ~~diate all or part of an inactive or abandoned mine site~~  
 9 ~~in accordance with this section.~~

10                  ~~(c) ELIGIBILITY FOR PERMITS.—~~

11                   ~~(1) IN GENERAL.—To be eligible for a permit~~  
 12 ~~to carry out a project to remediate an inactive or~~  
 13 ~~abandoned mine site in a State under this section—~~

14                   ~~(A) the mine site shall be located in the~~  
 15 ~~United States;~~

16                   ~~(B) the principal purpose of the project~~  
 17 ~~shall be the reduction of pollution caused by~~  
 18 ~~historic mine residue;~~

19                   ~~(C) the mine site may not be a mine site~~  
 20 ~~included on the national priorities list under~~  
 21 ~~section 105(a)(8)(B) of the Comprehensive En-~~  
 22 ~~vironmental Response, Compensation, and Li-~~  
 23 ~~ability Act of 1980 (42 U.S.C. 9605(a)(8)(B))~~  
 24 ~~except in a case in which the Administrator de-~~  
 25 ~~termines, on a case-by-case basis, that—~~

1           (i) the remediation project proposed  
2           to be carried out at the mine site is minor  
3           as compared to all remediation activity  
4           needed at the listed mine site;

5           (ii) the conduct of the proposed reme-  
6           diation project at the listed mine site will  
7           not interfere with any other remediation at  
8           the mine site that is reasonably likely to  
9           occur; and

10          (iii) except for the remediation project  
11          proposed by the Good Samaritan at the  
12          mine site under this Act, there is not likely  
13          to be remediation of the historic mine res-  
14          idue that is the subject of the project at  
15          the listed mine site in the reasonably fore-  
16          seeable future;

17          (D) the permit shall authorize only those  
18          activities that are directly required for the re-  
19          mediation of historic mine residue at the mine  
20          site;

21          (E) the person obtaining the permit shall  
22          be a Good Samaritan; and

23          (F) a State remediation program described  
24          in subsection (d) shall be in effect for remedi-  
25          ation of the mine site.

1           ~~(2) OTHER ACTIVITIES.~~—Any activity other  
 2           than the activities described in paragraph (1)(D)  
 3           conducted by the permittee or any other person at  
 4           the mine site (including, without limitation, any  
 5           mining or processing in addition to that required for  
 6           the remediation of historic mine residue for the pub-  
 7           lic good)—

8                   (A) shall not be authorized under a permit  
 9                   issued under this section; and

10                  (B) may be authorized under other appli-  
 11                  eable laws, including environmental laws.

12           ~~(d) STATE REMEDIATION PROGRAM.~~—

13           ~~(1) IN GENERAL.~~—Before a permit may be  
 14           issued to carry out a project in a State under this  
 15           section, the State shall have in effect a State reme-  
 16           diation program that meets the requirements of this  
 17           subsection.

18           ~~(2) REQUIREMENTS.~~—To meet the require-  
 19           ments of this subsection, under the State remedi-  
 20           ation program, the State shall—

21                   (A) agree to participate, as a signatory, in  
 22                   each project for a which a permit for remedi-  
 23                   ation in the State is issued under this section;

24                   (B) agree that a permittee shall comply  
 25                   with the terms and conditions of the permit in

1        lieu of compliance with applicable environ-  
 2        mental laws specifically described in the permit  
 3        in accordance with subsection (h)(1)(B);

4            (C) authorize State agencies and political  
 5        subdivisions of the State to participate in the  
 6        permit process under this section, as appro-  
 7        priate, and assist in providing the resources to  
 8        enable that participation; and

9            (D) designate a lead State agency that is  
 10       responsible to carry out permitting responsibil-  
 11       ities of the State under this section.

12        (c) APPLICATION FOR PERMITS.—To obtain a permit  
 13       to carry out a project to remediate an inactive or aban-  
 14       doned mine site under this section, an applicant shall sub-  
 15       mit to the Administrator an application, signed by the ap-  
 16       plicant, that provides—

17            (1) a description of the mine site (including the  
 18       boundaries of the mine site);

19            (2) an identification of—

20            (A) any current owner or operator of the  
 21       mine site; and

22            (B) any person with a legal right to ex-  
 23       clude other persons from the mine site or affect  
 24       activities on the mine site, with a description of  
 25       those legal rights;

1           ~~(3)~~ evidence satisfactory to the Administrator  
2           that the applicant has or will acquire all legal rights  
3           necessary to enter the mine site and to perform the  
4           remediation described in the application;

5           ~~(4)~~ a description, based on the conduct of an  
6           inquiry that is reasonable under the circumstances;  
7           of—

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

10                   (B) any relationship between those persons  
11                   and the applicant;

12           ~~(5)~~ a certification that the applicant knows of  
13           no other person that (as of the date of submission  
14           of the application)—

15                   (A) is potentially legally responsible for the  
16                   remediation of the mine site; and

17                   (B) has sufficient resources to complete  
18                   the remediation;

19           ~~(6)~~ a detailed description of the historic mine  
20           residue to be remediated;

21           ~~(7)~~ a description of the baseline conditions (as  
22           of the date of submission of the application) of the  
23           environment affected by the historic mine residue to  
24           be remediated;

25           ~~(8)~~ a description of—

1           (A) the nature and scope of the proposed  
2           remediation; and

3           (B) detailed engineering plans for the  
4           project;

5           (9) a description of the manner in which the re-  
6           mediation will assist the mine site in meeting, to the  
7           maximum extent reasonable and practicable under  
8           the circumstances, water quality standards;

9           (10) a schedule for the work to be carried out  
10          under the project;

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

13          (12) a description of financial assurances, if  
14          any, to be provided by the permittee to ensure that  
15          the permitted work, including any operation and  
16          maintenance, will be completed;

17          (13) a description of a monitoring program fol-  
18          lowing remediation (if any) that will be implemented  
19          to evaluate the effects of the remediation on the en-  
20          vironment;

21          (14) a detailed plan for the required operation  
22          and maintenance of any remediation; and

23          (15) a list of all environmental laws for which  
24          the applicant seeks the protection described in para-  
25          graphs (1) and (2) of subsection (g).

1       ~~(f) PERMIT ISSUANCE.—~~

2               ~~(1) IN GENERAL.—~~The Administrator may  
3       issue a permit under this section to carry out a  
4       project for the remediation of an inactive or aban-  
5       doned mine site in a State only if—

6               ~~(A) the Administrator determines that—~~

7                       ~~(i) the project will improve the envi-~~  
8                       ~~ronment on or in the area of the mine site~~  
9                       ~~to a significant degree, as determined by~~  
10                      ~~the Administrator;~~

11                     ~~(ii) the project will not degrade any~~  
12                     ~~aspect of the environment in any area to a~~  
13                     ~~significant degree;~~

14                     ~~(iii) the project will meet applicable~~  
15                     ~~water quality standards, to the maximum~~  
16                     ~~extent reasonable and practicable under~~  
17                     ~~the circumstances;~~

18                     ~~(iv) the permittee has the financial~~  
19                     ~~and other resources to complete, and will~~  
20                     ~~complete, the permitted work; and~~

21                     ~~(v) the project meets the requirements~~  
22                     ~~of this section;~~

23               ~~(B) the State concurs with the issuance of,~~  
24       and signs, the permit;



1           (C) if the permit provides protection for  
 2           the permittee under an environmental law of a  
 3           political subdivision of a State in accordance  
 4           with paragraphs (1) and (2) of subsection (g);  
 5           the political subdivision concurs with the  
 6           issuance of, and signs, the permit; and

7           (D) if the proposed project is to be carried  
 8           out on Federal land, each State (or political  
 9           subdivision) within which the Federal land is lo-  
 10          cated meets the requirements of subparagraphs  
 11          (B) and (C).

12          (2) DISCRETIONARY ACTIONS.—The issuance of  
 13          a permit by the Administrator, and the concurrence  
 14          of the affected State and political subdivisions of a  
 15          State to participate in the permit process, shall be  
 16          discretionary actions and shall be taken in the public  
 17          interest.

18          (3) FUNCTIONAL EQUIVALENCY.—No action of  
 19          the Administrator or any other person pursuant to  
 20          this section shall constitute a major Federal action  
 21          significantly affecting the quality of the human envi-  
 22          ronment under the National Environmental Policy  
 23          Act (42 U.S.C. 4321 et seq.).

24          (4) DEADLINE.—

1           (A) IN GENERAL.—The Administrator  
2           shall issue or deny a permit for the remediation  
3           of a mine site not later than—

4                   (i) the date that is 180 days after the  
5                   date of receipt by the Administrator of an  
6                   application for the permit that, as deter-  
7                   mined by the Administrator, is complete;  
8                   or

9                   (ii) such later date as may be deter-  
10                  mined by the Administrator with the  
11                  agreement of the applicant.

12           (B) CONSTRUCTIVE DENIAL.—If the Ad-  
13           ministrator fails to issue or deny the permit in  
14           accordance with subparagraph (A), the applica-  
15           tion shall be considered to be denied by the Ad-  
16           ministrator.

17           (5) REVIEW FOR CERTAIN PROJECTS.—A  
18           project that, as determined by the Administrator,  
19           would be less complex, or pose less risk, than other  
20           projects under review by the Administrator for a  
21           permit under this section, may be reviewed, at the  
22           discretion of the Administrator, under a more simple  
23           and rapid review process under this subsection.

24           (g) EFFECT OF PERMITS.—

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; and

8                   ~~(C)~~ provides to the permittee, in carrying  
 9           out the activities authorized under the permit,  
 10          protection from actions taken, obligations, and  
 11          liabilities arising under the environmental laws  
 12          specified in the permit.

13          ~~(2) CROSS-COMPLIANCE.~~—A permittee shall  
 14          comply with the terms and conditions of a permit  
 15          issued under this section in lieu of compliance with  
 16          the environmental laws specified in the permit with  
 17          respect to the work authorized under the permit.

18          ~~(h) CONTENT OF PERMITS.~~—

19               ~~(1) IN GENERAL.~~—A permit issued under this  
 20           section shall contain—

21                   ~~(A)~~ a detailed description of the engineer-  
 22           ing and other work that is authorized under the  
 23           permit;

24                   ~~(B)~~ a specific list of environmental laws, or  
 25           selected provisions of environmental laws, with

1 respect to which compliance with the permit will  
 2 operate in lieu of compliance with the laws;

3 ~~(C)~~ a provision that states that the per-  
 4 mittee is responsible for securing, for all activi-  
 5 ties authorized under the permit, all authoriza-  
 6 tions, licenses, and permits that are required  
 7 under applicable law, other than the environ-  
 8 mental laws described in subsection (g)(2); and

9 ~~(D)~~ any other terms and conditions that  
 10 are determined to be appropriate by the Admin-  
 11 istrator.

12 ~~(2) INVESTIGATIVE SAMPLING.—~~

13 ~~(A) IN GENERAL.—~~A permit may identify  
 14 an appropriate program of investigative sam-  
 15 pling to be completed prior to remediation, as  
 16 determined by the Administrator upon applica-  
 17 tion.

18 ~~(B) OPTION TO DECLINE REMEDIATION.—~~  
 19 In the event that investigative sampling is au-  
 20 thorized, the permit may allow the permittee to  
 21 decline to undertake remediation based upon  
 22 sampling results.

23 ~~(C) PERMIT MODIFICATION.—~~Based upon  
 24 sampling results, a permittee may apply for a

1 permit modification using the permit proce-  
2 dures in this Act.

3 ~~(3) TIMING.~~—Work authorized under a permit  
4 shall—

5 (A) commence not later than the date that  
6 is 18 months after the date of issuance of the  
7 permit; and

8 (B) continue until completed, with tem-  
9 porary suspensions permitted during adverse  
10 weather or other conditions specified in the per-  
11 mit.

12 ~~(4) SIGNATURE BY PERMITTEE.~~—The signature  
13 of the permittee on the permit shall be considered to  
14 be an acknowledgment by the permittee that the  
15 permittee accepts the terms and conditions of the  
16 permit.

17 ~~(5) TRANSFER OF PERMITS.~~—A permit may be  
18 transferred to another person only if—

19 (A) the Administrator determines that the  
20 transferee will satisfy all of the requirements of  
21 the permit;

22 (B) the transferee signs the permit; and

23 (C) the Administrator includes in the  
24 transferred permit any additional conditions  
25 necessary to meet the goals of this section.

1           (6) ~~TERMINATION OF PERMIT.~~—The authority  
 2       to carry out work under a permit issued under this  
 3       section shall terminate if the work does not com-  
 4       mence by the date that is 18 months after the date  
 5       of issuance of the permit.

6           (i) ~~ROLE OF ADMINISTRATOR.~~—In carrying out this  
 7       section, the Administrator shall—

8               (1) consult with prospective applicants;

9               (2) accept permit applications under this sec-  
 10      tion;

11              (3) convene, coordinate, and lead the applica-  
 12      tion review process;

13              (4) maintain all records relating to the permit  
 14      and the permit process;

15              (5) provide an opportunity for cooperating  
 16      agencies and the public to participate in the permit  
 17      process;

18              (6) issue the permit under this section, if ap-  
 19      propriate; and

20              (7) enforce and otherwise carry out this section.

21           (j) ~~COOPERATING AGENCIES.~~—If the Administrator  
 22       learns that an application for the remediation of a mine  
 23       site under this section will be submitted to the Adminis-  
 24       trator, the Administrator shall (as soon as practicable)  
 25       provide a notice of the application to—

1           (1) the lead State agency designated under sub-  
2           section (d)(2)(D);

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

5           (3) each Federal and State agency that may  
6           have an interest in the application.

7           (k) PUBLIC PARTICIPATION.—

8           (1) POTENTIAL SUBMISSION OF APPLICA-  
9           TIONS.—If the Administrator learns that an applica-  
10          tion for the remediation of a mine site under this  
11          section will be submitted to the Administrator, the  
12          Administrator shall (as soon as practicable) provide  
13          to the public a notice that describes—

14                (A) the location of the mine site;

15                (B) the scope and nature of the proposed  
16          remediation; and

17                (C) the name of the Good Samaritan that  
18          will be carrying out the proposed remediation.

19          (2) RECEIPT OF APPLICATION.—If the Admin-  
20          istrator receives an application for the remediation  
21          of a mine site under this section, the Administrator  
22          shall (as soon as practicable) provide to the public  
23          a notice that provides the information described in  
24          paragraph (1).

25          (3) HEARING.—

1           (A) IN GENERAL.—Not later than 45 days  
 2           after the date of receipt of a complete applica-  
 3           tion for the remediation of a mine site under  
 4           this section, the Administrator shall hold a  
 5           hearing in the vicinity of the mine site to be re-  
 6           mediated.

7           (B) COMMENTS.—At the hearing, the Ad-  
 8           ministrator shall provide the applicant, the pub-  
 9           lic, and cooperating agencies with the oppor-  
 10          tunity to comment on the application.

11          (4) NOTICE OF PENDING ISSUANCE.—Not less  
 12          than 14 days before the date of issuance of a permit  
 13          for the remediation of a mine site under this section,  
 14          the Administrator shall provide to the public and  
 15          each cooperating agency notice of the pending  
 16          issuance of the permit.

17          (5) PUBLIC RECORDS.—All records relating to  
 18          the permit and the permit process shall be consid-  
 19          ered to be public records, except to the extent the  
 20          records are subject to a legal privilege.

21          (4) MONITORING.—

22          (1) IN GENERAL.—The permittee shall take  
 23          such actions as the Administrator determines are  
 24          necessary to ensure appropriate baseline and post-re-



mediation monitoring of the environment under paragraphs (7) and (13) of subsection (c).

(2) ADMINISTRATION.—When selecting the type and frequency of the monitoring requirements to be included in a permit, if any, the Administrator shall—

(A) balance the need for monitored information against the cost of the monitoring, based on the circumstances relating to the remediation; and

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

(3) MULTIPARTY MONITORING.—The Administrator may approve in a permit the conduct of monitoring by multiple parties if, as determined by the Administrator, the multiparty monitoring will effectively accomplish the goals of this section.

(m) ENFORCEMENT.—

(1) CIVIL PENALTY.—Any person who violates a permit issued under this section shall be subject to a civil penalty of up to \$10,000 for each day of the violation.

(2) INJUNCTIONS.—

(A) IN GENERAL.—A court may issue an injunction—

1 (i) mandating that a person comply  
 2 with a permit or take action to abate a  
 3 permit violation; or

4 (ii) prohibiting a person from vio-  
 5 lating a permit.

6 (B) MINIMUM REQUIREMENT.—In the  
 7 event of a permit violation, and absent extraor-  
 8 dinary circumstances, the court shall, at a min-  
 9 imum, require—

10 (i) the permittee to repair the damage  
 11 to any part of the environment that is  
 12 caused by an action of the permittee in vio-  
 13 lation of the permit; and

14 (ii) the environment to be restored to  
 15 the condition of the environment prior to  
 16 the action of the permittee in violation of  
 17 the permit.

18 (3) AGENCIES.—Any government agency that  
 19 signs a permit issued under this section may enforce  
 20 the permit through appropriate administrative or ju-  
 21 dicial proceedings.

22 (n) JUDICIAL REVIEW.—A court may set aside or  
 23 modify an action of the Administrator in issuing a permit  
 24 under this section, or an action of a State or political sub-

1 division of a State in signing a permit, only on clear and  
 2 convincing evidence of an abuse of discretion.

3 ~~(c) SAVINGS PROVISIONS.—~~

4 ~~(1) EMERGENCY AUTHORITY.—~~Nothing in this  
 5 section affects the authority of a Federal, State, or  
 6 local agency to carry out any emergency authority,  
 7 including an emergency authority provided under  
 8 any environmental law listed in a permit.

9 ~~(2) LIABILITY.—~~Except to the extent that a  
 10 permit provides protection under an environmental  
 11 law specified in a permit in accordance with sub-  
 12 section ~~(g)(1)(C)~~, nothing in this section or a permit  
 13 issued under this section limits the liability of any  
 14 person (including a permittee) under any other pro-  
 15 vision of law.

16 ~~(p) REGULATIONS.—~~

17 ~~(1) IN GENERAL.—~~The Administrator may pro-  
 18 mulgate such regulations as are necessary to carry  
 19 out this section.

20 ~~(2) EFFECTIVENESS.—~~This section shall be ef-  
 21 fective regardless of whether regulations are promul-  
 22 gated by the Administrator under paragraph (1).

23 **SECTION 1. SHORT TITLE.**

24 *This Act may be cited as the “Cleanup of Inactive and*  
 25 *Abandoned Mines Act”.*

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) *FINDINGS.*—Congress finds that—

3 (1) *the Federal Government and State govern-*  
4 *ments encouraged hard rock mining in the United*  
5 *States through a wide variety of laws, policies, and*  
6 *actions;*

7 (2) *mining operations produce metals and min-*  
8 *erals with important social benefits and values;*

9 (3) *many areas in which historic mining took*  
10 *place in the United States are now inactive and*  
11 *abandoned mine sites;*

12 (4) *the mining activities that took place prior to*  
13 *the enactment of modern environmental laws often*  
14 *disturbed public and private land, and those disturb-*  
15 *ances lead to environmental pollution, including the*  
16 *discharge of pollutants to surface water and ground-*  
17 *water;*

18 (5) *many of the individuals and corporate own-*  
19 *ers and operators of those mines, the actions of which*  
20 *caused that pollution, are no longer alive or in exist-*  
21 *ence;*

22 (6) *many of those mine sites have polluted the*  
23 *environment for more than a century and will con-*  
24 *tinue to do so indefinitely unless remediated;*

1           (7) unabated discharges from inactive and aban-  
 2           doned mines will continue to pollute surface water,  
 3           groundwater, and soils;

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

8           (9) because some of the remaining owners and  
 9           operators of mine sites do not have resources that are  
 10          adequate to conduct remediation properly under ap-  
 11          plicable environmental laws, for all practical pur-  
 12          poses, no person is responsible for the cleanup of pol-  
 13          lution from those sites;

14          (10) from time to time, individuals and compa-  
 15          nies are willing to remediate historic mine sites for  
 16          the public good as Good Samaritans, despite the fact  
 17          that those individuals and companies are not legally  
 18          required to remediate the mine sites;

19          (11) Good Samaritan remediation activities  
 20          may—

21                 (A) vary in size and complexity;

22                 (B) reflect the myriad methods in which  
 23          mine residue may be cleaned up; and

24                 (C) include, among other activities—

1                   (i) *the relocation or management of*  
2                   *tailings or other waste piles;*

3                   (ii) *passive or active water treatment;*

4                   (iii) *runoff or run-on controls; and*

5                   (iv) *the use or reprocessing of, or re-*  
6                   *moval of materials from, mine residue;*

7                   (12) *the potential environmental liabilities that*  
8                   *may attach to Good Samaritans as a result of the re-*  
9                   *mediation can dissuade potential Good Samaritans*  
10                  *from acting for the public good;*

11                  (13) *it is in the interest of the United States, the*  
12                  *States, and local communities to remediate historic*  
13                  *mine sites, in appropriate circumstances and to the*  
14                  *maximum extent practicable, so that detrimental en-*  
15                  *vironmental impacts of the sites are lessened in the*  
16                  *future; and*

17                  (14) *if appropriate protections are provided for*  
18                  *Good Samaritans, Good Samaritans will have a*  
19                  *greater incentive to remediate those sites for the pub-*  
20                  *lic good.*

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

22                   (1) *to encourage partial or complete remediation*  
23                   *of inactive and abandoned mine sites for the public*  
24                   *good by persons that are not otherwise legally respon-*  
25                   *sible for the remediation;*

1           (2) to provide appropriate protections for Good  
2       Samaritans under applicable environmental laws;

3           (3) to ensure that remediation performed by  
4       Good Samaritans creates actual and significant envi-  
5       ronmental benefits;

6           (4) to ensure that remediation by Good Samari-  
7       tans is carried out—

8                 (A) with the approval and agreement, and  
9                 in the discretion, of affected Federal, State, and  
10                local authorities and with review by the public;  
11                and

12               (B) in a manner that is beneficial to the en-  
13               vironment and all affected communities;

14           (5) to create an efficient permit process under  
15       which the cost and complexity of obtaining a permit  
16       are commensurate with the scope of remediation work  
17       to be completed and the environmental benefits from  
18       the work;

19           (6) to avoid permitting for ongoing, for-profit  
20       businesses that specialize in multiple Good Samari-  
21       tan projects that are designed to be permitted outside  
22       otherwise applicable Federal, State, and local envi-  
23       ronmental laws;

24           (7) to ensure that the protections for Good Sa-  
25       maritans provided in this Act are interpreted in ac-

cordance with the purposes of this Act and to enhance the public good; and

(8) to further innovation and cooperation among the Federal Government, State governments, private individuals, and corporations to accelerate conservation and environmental restoration.

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

(a) *DEFINITIONS.*—In this section:

(1) *ADMINISTRATOR.*—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) *COOPERATING AGENCY.*—The term “cooperating agency” means any Federal, State, tribal, or local agency or other person (other than the Administrator) that—

(A) is authorized under Federal or State law, tribal, or local ordinance, to participate in issuing a permit under this section; and

(B) elects to participate in the process of issuing the permit.

(3) *ENVIRONMENTAL LAW.*—The term “environmental law” includes—

(A) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);



1                   (B) *the Federal Water Pollution Control Act*  
 2                   (33 U.S.C. 1251 *et seq.*);

3                   (C) *the Solid Waste Disposal Act* (42 U.S.C.  
 4                   6901 *et seq.*);

5                   (D) *the Comprehensive Environmental Re-*  
 6                   *sponse, Compensation, and Liability Act of 1980*  
 7                   (42 U.S.C. 9601 *et seq.*);

8                   (E) *applicable environmental laws of a*  
 9                   *State or Indian tribe; and*

10                  (F) *applicable environmental ordinances of*  
 11                  *a political subdivision of a State or Indian tribe.*

12                  (4) *GOOD SAMARITAN.*—*The term “Good Samar-*  
 13                  *itan” means a person that, with respect to historic*  
 14                  *mine residue—*

15                       (A) *had no role in the creation of the his-*  
 16                       *toric mine residue;*

17                       (B) *had no role in creating the environ-*  
 18                       *mental pollution caused by the historic mine res-*  
 19                       *idue; and*

20                       (C) *is not liable under any Federal, State,*  
 21                       *tribal, or local law for the remediation of the his-*  
 22                       *toric mine residue.*

23                  (5) *HISTORIC MINE RESIDUE.*—

24                       (A) *IN GENERAL.*—*The term “historic mine*  
 25                       *residue” means mine residue or conditions at an*

1           *inactive or abandoned mine site that pollute the*  
 2           *environment.*

3                   (B) *INCLUSIONS.*—*The term “historic mine*  
 4           *residue” includes, among other materials—*

5                           (i) *previously mined ores and minerals*  
 6                           *that directly contribute to acid mine drain-*  
 7                           *age or other pollution;*

8                           (ii) *equipment (or materials in equip-*  
 9                           *ment);*

10                          (iii) *wastes or materials from extrac-*  
 11                          *tions, beneficiation, or other processing; and*

12                          (iv) *acidic or otherwise polluted flows*  
 13                          *in surface water or groundwater.*

14                   (6) *INACTIVE OR ABANDONED MINE SITE; MINE*  
 15           *SITE.*—*The terms “inactive or abandoned mine site”*  
 16           *and “mine site” mean the site of a mine and associ-*  
 17           *ated facilities that—*

18                           (A) *were used for the production of a min-*  
 19                           *eral other than coal;*

20                           (B) *have historic mine residue; and*

21                           (C) *are abandoned or inactive as of the date*  
 22                           *on which an application is submitted for a per-*  
 23                           *mit under this section.*

24                   (7) *INDIAN TRIBE.*—*The term “Indian tribe” has*  
 25           *the meaning given the term in section 4 of the Indian*

1       *Self-Determination and Education Assistance Act (25*  
 2       *U.S.C. 450b).*

3               (8) *PERMITTING AUTHORITY.*—*The term “per-*  
 4       *mitting authority” means—*

5                       (A) *the Administrator; or*

6                       (B) *a State or Indian tribe with a Good*  
 7       *Samaritan program approved under subsection*  
 8       *(d).*

9               (9) *PERSON.*—*The term “person” includes—*

10                      (A) *an individual;*

11                      (B) *a firm;*

12                      (C) *a corporation;*

13                      (D) *an association;*

14                      (E) *a partnership;*

15                      (F) *a consortium;*

16                      (G) *a joint venture;*

17                      (H) *a commercial entity;*

18                      (I) *a nonprofit organization;*

19                      (J) *the Federal Government;*

20                      (K) *a State;*

21                      (L) *a political subdivision of a State;*

22                      (M) *an interstate entity;*

23                      (N) *a commission; and*

24                      (O) *an Indian tribe.*

1       (b) *PERMITS.*—*The permitting authority may issue a*  
 2 *permit to a Good Samaritan to carry out a project to reme-*  
 3 *diate all or part of an inactive or abandoned mine site in*  
 4 *accordance with this section.*

5       (c) *ELIGIBILITY FOR PERMITS.*—

6           (1) *IN GENERAL.*—*To be eligible for a permit to*  
 7 *carry out a project to remediate an inactive or aban-*  
 8 *doned mine site under this section—*

9           (A) *the mine site shall be located in the*  
 10 *United States;*

11           (B) *the principal purpose of the project*  
 12 *shall be the reduction of pollution caused by his-*  
 13 *toric mine residue;*

14           (C) *the mine site may not be a mine site in-*  
 15 *cluded on the national priorities list under sec-*  
 16 *tion 105(a)(8)(B) of the Comprehensive Environ-*  
 17 *mental Response, Compensation, and Liability*  
 18 *Act of 1980 (42 U.S.C. 9605(a)(8)(B));*

19           (D) *the permit shall authorize only those*  
 20 *activities that are directly required for the reme-*  
 21 *diation of historic mine residue at the mine site;*

22           (E) *the person obtaining the permit shall be*  
 23 *a Good Samaritan; and*

1           (F) a State or tribal program described in  
 2           paragraph (1) or (3) of subsection (d) shall be in  
 3           effect for remediation of the mine site.

4           (2) *OTHER ACTIVITIES.*—Any activity other than  
 5           the activities described in paragraph (1)(D) con-  
 6           ducted by the permittee or any other person at the  
 7           mine site (including, without limitation, any mining  
 8           or processing in addition to that required for the re-  
 9           mediation of historic mine residue for the public  
 10          good)—

11           (A) shall not be authorized under a permit  
 12           issued under this section; and

13           (B) may be authorized under other applica-  
 14           ble laws, including environmental laws.

15          (d) *STATE OR TRIBAL PROGRAM.*—

16           (1) *PROGRAM.*—

17           (A) *IN GENERAL.*—Before a permit may be  
 18           issued by a State or Indian tribe to carry out  
 19           a project under this Act, the State or Indian  
 20           tribe shall have in effect a voluntary Good Sa-  
 21           maritan program approved by the Adminis-  
 22           trator.

23           (B) *APPLICATION.*—

24           (i) *IN GENERAL.*—The Governor of any  
 25           State, or the head of the governing body of

1            *an Indian tribe, may submit to the Admin-*  
 2            *istrator, at any time, an application to ad-*  
 3            *minister a Good Samaritan program for*  
 4            *activities under the jurisdiction of the State*  
 5            *or Indian tribe.*

6            *(ii) REQUIREMENTS.—An application*  
 7            *submitted under clause (i) shall include—*

8                    *(I) a complete and detailed de-*  
 9                    *scription of the permit program pro-*  
 10                   *posed to be administered under State*  
 11                   *or tribal law; and*

12                   *(II) a statement from the State*  
 13                   *attorney general or an equivalent trib-*  
 14                   *al official that the laws of the State or*  
 15                   *Indian tribe provide adequate author-*  
 16                   *ity to carry out the proposed program.*

17            *(iii) APPROVAL OR DISAPPROVAL.—*  
 18            *The Administrator shall approve an appli-*  
 19            *cation received under clause (i) not later*  
 20            *than 120 days after the date of receipt of*  
 21            *the application unless the Administrator de-*  
 22            *termines that the applicable State or Indian*  
 23            *tribe does not meet the requirements de-*  
 24            *scribed in paragraph (2).*

1           (2) *REQUIREMENTS.*—*A State or Indian tribe*  
2           *that seeks to administer a Good Samaritan program*  
3           *shall—*

4                   (A) *agree to participate as a permit signa-*  
5                   *tory in the issuance of permits for each project*  
6                   *for which a State or tribal permit for remedi-*  
7                   *ation in the State or relevant area under the ju-*  
8                   *risdiction of the Indian tribe is issued under this*  
9                   *section;*

10                  (B) *designate a lead State or tribal agency*  
11                  *that is responsible for carrying out permitting*  
12                  *responsibilities of the State or Indian tribe*  
13                  *under this section;*

14                  (C) *provide an opportunity for judicial re-*  
15                  *view in State court, or by the tribal body that*  
16                  *exercises judicial functions of an Indian tribe, of*  
17                  *the final decision by the State or Indian tribe*  
18                  *which approves or denies a permit application*  
19                  *under this Act in accordance with the standard*  
20                  *described in subsection (p);*

21                  (D) *possess legal authority to implement a*  
22                  *Good Samaritan program with program ele-*  
23                  *ments consistent with those described in this Act,*  
24                  *including State or tribal enforcement authorities;*

1           (E) agree to carry out the program in ac-  
 2           cordance with this Act (except that a State or  
 3           Indian tribe shall not be precluded from omit-  
 4           ting or modifying any program element for the  
 5           purpose of imposing requirements that are more  
 6           protective of the environment); and

7           (F) provide for and encourage public par-  
 8           ticipation in the permitting process.

9           (3) STATES AND INDIAN TRIBES WITHOUT GOOD  
 10          SAMARITAN PROGRAMS.—In the case of a State or In-  
 11          dian tribe without a Good Samaritan program ap-  
 12          proved under subsection (d), the Administrator shall  
 13          issue permits for Good Samaritan projects if the  
 14          State or Indian tribe—

15           (A) agrees to participate as a permit signa-  
 16           tory in the issuance of permits for each project  
 17           for which a permit for remediation in the State  
 18           or on that tribal land is issued under this sec-  
 19           tion;

20           (B) agrees that a permittee shall comply  
 21           with the terms and conditions of the permit in  
 22           lieu of compliance with applicable environmental  
 23           laws specifically described in the permit in ac-  
 24           cordance with subsection (h)(1)(B);



1           (C) authorizes State or tribal agencies and  
 2           political subdivisions of the State or Indian tribe  
 3           to participate in the permit process under this  
 4           section, as appropriate, and assist in providing  
 5           the resources to enable that participation; and

6           (D) designates a lead State or tribal agency  
 7           that is responsible to carry out permitting re-  
 8           sponsibilities of the State or Indian tribe under  
 9           this section.

10       (e) APPLICATION FOR PERMITS.—To obtain a permit  
 11       to carry out a project to remediate an inactive or aban-  
 12       doned mine site under this section, an applicant shall sub-  
 13       mit to the permitting authority an application, signed by  
 14       the applicant, that provides—

15           (1) a description of the mine site (including the  
 16       boundaries of the mine site);

17           (2) an identification of—

18               (A) any current owner or operator of the  
 19       mine site; and

20               (B) any person with a legal right to exclude  
 21       other persons from the mine site or affect activi-  
 22       ties on the mine site, with a description of those  
 23       legal rights;

24           (3) evidence satisfactory to the permitting au-  
 25       thority that the applicant has or will acquire all legal

1        *rights necessary to enter the mine site and to perform*  
2        *the remediation described in the application;*

3            *(4) a description, based on the conduct of an in-*  
4        *quiry that is reasonable under the circumstances, of—*

5            *(A) prior owners and operators of the site*  
6            *(including the current location or business oper-*  
7        *ations of those owners and operators);*

8            *(B) the mining activities that occurred at*  
9        *the site; and*

10          *(C) any relationship between those persons*  
11        *and the applicant;*

12          *(5) a certification that the applicant knows of no*  
13        *other person that (as of the date of submission of the*  
14        *application)—*

15          *(A) is responsible for the remediation of the*  
16        *mine site; and*

17          *(B) has sufficient resources to complete the*  
18        *remediation;*

19          *(6) a detailed description of the historic mine*  
20        *residue to be remediated;*

21          *(7) a description of the baseline conditions (as of*  
22        *the date of submission of the application) of the envi-*  
23        *ronment affected by the historic mine residue to be re-*  
24        *mediated;*

25          *(8) a description of—*

1                   (A) the nature and scope of the proposed re-  
2                   mediation; and

3                   (B) detailed engineering plans for the  
4                   project;

5                   (9) a description of the manner in which the re-  
6                   mediation will assist the mine site in meeting, to the  
7                   maximum extent reasonable and practicable under  
8                   the circumstances, water quality standards;

9                   (10) an identification, based on an inquiry that  
10                  is reasonable under the circumstances, of any signifi-  
11                  cant adverse effects on the environment that could  
12                  reasonably be likely to occur if the permittee fails to  
13                  properly implement the proposed remediation in ac-  
14                  cordance with the engineering plans;

15                  (11) a schedule for the work to be carried out  
16                  under the project;

17                  (12) a budget for the work to be carried out  
18                  under the project;

19                  (13) a description of financial assurances, if  
20                  any, to be provided by the permittee to ensure that  
21                  the permitted work, including any operation and  
22                  maintenance, will be completed;

23                  (14) a description of a monitoring program fol-  
24                  lowing remediation (if any) that will be implemented

1       to evaluate the effects of the remediation on the envi-  
 2       ronment;

3               (15) a detailed plan for the required operation  
 4       and maintenance of any remediation; and

5               (16) a list of all environmental laws for which  
 6       the applicant seeks the protection described in para-  
 7       graphs (1) and (2) of subsection (g).

8       (f) *PERMIT ISSUANCE.*—

9               (1) *IN GENERAL.*—The permitting authority  
 10       may issue a permit under this section to carry out  
 11       a project for the remediation of an inactive or aban-  
 12       doned mine site only if—

13               (A) the permitting authority determines  
 14       that—

15                       (i) the project will improve the envi-  
 16                       ronment on or in the area of the mine site  
 17                       to a significant degree, as determined by the  
 18                       permitting authority;

19                       (ii) the project will meet applicable  
 20                       water quality standards, to the maximum  
 21                       extent reasonable and practicable under the  
 22                       circumstances;

23                       (iii) the permittee has the financial  
 24                       and other resources to complete, and will  
 25                       complete, the permitted work;

1                   (iv) the permittee has the financial  
 2                   and other resources to address any contin-  
 3                   gencies identified in the permit application  
 4                   pursuant to subsection (e)(10) (except that  
 5                   the permitting authority may waive the re-  
 6                   quirements of this clause with respect to a  
 7                   project that has a budget of less than  
 8                   \$300,000);

9                   (v) the project meets the requirements  
 10                  of this section;

11                (B) with respect to a State or Indian tribe  
 12                without a Good Samaritan program approved  
 13                under subsection (d), the State or Indian tribe  
 14                concurs with the issuance of, and signs, the per-  
 15                mit;

16                (C) if the permit provides protection for the  
 17                permittee under an environmental law of a po-  
 18                litical subdivision of a State or Indian tribe in  
 19                accordance with paragraphs (1) and (2) of sub-  
 20                section (g), the political subdivision concurs with  
 21                the issuance of, and signs, the permit; and

22                (D) if the proposed project is to be carried  
 23                out on Federal land, each State or Indian tribe  
 24                (or political subdivision of the State or Indian  
 25                tribe) within which the Federal land is located

1           *meets the requirements of subparagraphs (B) and*  
 2           *(C).*

3           (2) *DISCRETIONARY ACTIONS.—The issuance of a*  
 4           *permit by the permitting authority, and the concu-*  
 5           *rence of the affected State or Indian tribe (and polit-*  
 6           *ical subdivisions of the State or Indian tribe) to par-*  
 7           *ticipate in the permit process, shall be discretionary*  
 8           *actions and shall be taken in the public interest.*

9           (3) *COMPLIANCE WITH NEPA.—No action of a*  
 10          *permitting authority or any other person under this*  
 11          *section shall be required to comply with section 102*  
 12          *of the National Environmental Policy Act of 1969 (42*  
 13          *U.S.C. 4332).*

14          (4) *DEADLINE.—*

15                (A) *IN GENERAL.—The permitting author-*  
 16                *ity shall issue or deny a permit for the remedi-*  
 17                *ation of a mine site not later than—*

18                       (i) *the date that is 180 days after the*  
 19                       *date of receipt by the permitting authority*  
 20                       *of an application for the permit that, as de-*  
 21                       *termined by the permitting authority, is*  
 22                       *complete; or*

23                       (ii) *such later date as may be deter-*  
 24                       *mined by the permitting authority with the*  
 25                       *agreement of the applicant.*

1           (B) *CONSTRUCTIVE DENIAL.*—If the permit-  
 2           ting authority fails to issue or deny the permit  
 3           in accordance with subparagraph (A), the appli-  
 4           cation shall be considered to be denied by the  
 5           permitting authority.

6           (5) *REVIEW FOR CERTAIN PROJECTS.*—A project  
 7           that, as determined by the permitting authority,  
 8           would be less complex, or pose less risk, than other  
 9           projects under review by the permitting authority for  
 10          a permit under this section, may be reviewed, at the  
 11          discretion of the permitting authority, under a more  
 12          simple and rapid review process (including the con-  
 13          duct of a public hearing upon request by an interested  
 14          person) under this subsection.

15          (g) *EFFECT OF PERMITS.*—

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

19           (A) authorizes the permittee to carry out the  
 20          activities described in the permit;

21           (B) authorizes enforcement under this sec-  
 22          tion; and

23           (C) provides to the permittee, in carrying  
 24          out the activities authorized under the permit,  
 25          protection from actions taken, obligations, and

1           *liabilities arising under the environmental laws*  
 2           *specified in the permit.*

3           (2) *CROSS-COMPLIANCE.*—*A permittee shall com-*  
 4           *ply with the terms and conditions of a permit issued*  
 5           *under this section in lieu of compliance with the envi-*  
 6           *ronmental laws specified in the permit with respect to*  
 7           *the work authorized under the permit.*

8           (3) *OFF-SITE DISPOSAL.*—*A permit issued pur-*  
 9           *suant to this Act shall not relieve the permittee of the*  
 10          *obligation to comply with any applicable provision of*  
 11          *the Toxic Substances Control Act (15 U.S.C. 2601 et*  
 12          *seq.) or the Solid Waste Disposal Act (42 U.S.C. 6901*  
 13          *et seq.) relating to the off-site disposal of any waste*  
 14          *or material removed from the applicable inactive or*  
 15          *abandoned mine site.*

16          (h) *CONTENT OF PERMITS.*—

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

19                       (A) *a detailed description of the engineering*  
 20                       *and other work that is authorized under the per-*  
 21                       *mit;*

22                       (B) *a specific list of environmental laws, or*  
 23                       *selected provisions of environmental laws, with*  
 24                       *respect to which compliance with the permit will*  
 25                       *operate in lieu of compliance with the laws;*



1           (C) a provision that states that the per-  
 2           mittee is responsible for securing, for all activi-  
 3           ties authorized under the permit, all authoriza-  
 4           tions, licenses, and permits that are required  
 5           under applicable law, other than the environ-  
 6           mental laws described in subsection (g)(2); and

7           (D) any other terms and conditions that are  
 8           determined to be appropriate by the permitting  
 9           authority.

10          (2) *FORCE MAJEURE*.—A permit issued under  
 11          this section may include, at the request of the Good  
 12          Samaritan, a force majeure provision.

13          (3) *INVESTIGATIVE SAMPLING*.—

14           (A) *IN GENERAL*.—A permit may identify  
 15           an appropriate program of investigative sam-  
 16           pling to be completed prior to remediation, as  
 17           determined by the permitting authority upon ap-  
 18           plication.

19           (B) *OPTION TO DECLINE REMEDIATION*.—In  
 20           the event that investigative sampling is author-  
 21           ized, the permit may allow the permittee to de-  
 22           cline to undertake remediation based upon sam-  
 23           pling results.

24           (C) *PERMIT MODIFICATION*.—Based upon  
 25           sampling results, a permittee may apply for a

1        *permit modification using the permit procedures*  
2        *in this Act.*

3        (4) *TIMING.—Work authorized under a permit—*

4                (A) *shall commence not later than the date*  
5        *that is 18 months after the date of issuance of*  
6        *the permit; and*

7                (B) *shall continue until completed, with*  
8        *temporary suspensions permitted during adverse*  
9        *weather or other conditions specified in the per-*  
10       *mit.*

11        (5) *SIGNATURE BY PERMITTEE.—The signature*  
12       *of the permittee on the permit shall be considered to*  
13       *be an acknowledgment by the permittee that the per-*  
14       *mittee accepts the terms and conditions of the permit.*

15        (6) *TRANSFER OF PERMITS.—A permit may be*  
16       *transferred to another person only if—*

17                (A) *the permitting authority determines*  
18        *that the transferee qualifies as a Good Samari-*  
19        *tan;*

20                (B) *the transferee signs, and agrees to be*  
21        *bound by the terms of, the permit; and*

22                (C) *the permitting authority includes in the*  
23        *transferred permit any additional conditions*  
24        *necessary to meet the goals of this section.*

1           (7) *TERMINATION OF PERMIT.*—*The authority to*  
 2           *carry out work under a permit issued under this sec-*  
 3           *tion shall terminate if the work does not commence by*  
 4           *the date that is 18 months after the date of issuance*  
 5           *of the permit.*

6           (i) *ROLE OF PERMITTING AUTHORITY.*—*In carrying*  
 7           *out this section, the permitting authority shall—*

8                     (1) *consult with prospective applicants;*

9                     (2) *accept permit applications under this sec-*  
 10            *tion;*

11                    (3) *convene, coordinate, and lead the application*  
 12            *review process;*

13                    (4) *maintain all records relating to the permit*  
 14            *and the permit process;*

15                    (5) *provide an opportunity for cooperating agen-*  
 16            *cies and the public to participate in the permit proc-*  
 17            *ess;*

18                    (6) *issue the permit under this section, if appro-*  
 19            *priate; and*

20                    (7) *enforce and otherwise carry out this section.*

21           (j) *COOPERATING AGENCIES.*—*If the permitting au-*  
 22            *thority learns that an application for the remediation of*  
 23            *a mine site under this section will be submitted to the per-*  
 24            *mitting authority, the permitting authority shall (as soon*  
 25            *as practicable) provide a notice of the application to—*

1           (1) *the lead State or tribal agency designated*  
 2           *under subsection (d)(2)(B);*

3           (2) *each local government located within a ra-*  
 4           *dius of 75 miles of the mine site; and*

5           (3) *each Federal, State, and tribal agency that*  
 6           *may have an interest in the application.*

7           (k) *STATE, LOCAL AND TRIBAL COMMUNITIES.—*

8           (1) *IN GENERAL.—If the permitting authority*  
 9           *receives an application for the remediation of a mine*  
 10           *site under this section, the permitting authority shall,*  
 11           *as soon as practicable, provide notice of the applica-*  
 12           *tion to—*

13                   (A) *any lead State or tribal agency des-*  
 14                   *ignated under subsection (d)(2)(B), if the Ad-*  
 15                   *ministrator is the permitting authority;*

16                   (B) *each local government located within a*  
 17                   *radius of 75 miles of the project site; and*

18                   (C) *each Federal, State, and tribal agency*  
 19                   *that the permitting authority determines may*  
 20                   *have an interest in the application.*

21           (2) *COPY OF APPLICATION.—The notice shall in-*  
 22           *clude a copy of the application.*

23           (l) *PUBLIC NOTICE OF RECEIPT OF APPLICATIONS.—*

24                   (1) *IN GENERAL.—On receipt of a complete ap-*  
 25                   *plication for the remediation of an inactive or aban-*

1        *doned mine site under this Act, the permitting au-*  
 2        *thority shall, not later than 30 days after receipt of*  
 3        *the application, provide to the public a notice that—*

4                *(A) describes—*

5                        *(i) the location of the mine site;*

6                        *(ii) the scope and nature of the pro-*  
 7                        *posed remediation; and*

8                        *(iii) the name of the Good Samaritan*  
 9                        *applying for a permit to carry out the pro-*  
 10                        *posed remediation; and*

11                *(B) provides to the public a means of view-*  
 12                *ing or obtaining the application.*

13        *(2) HEARING.—*

14                *(A) IN GENERAL.—Before the date of permit*  
 15                *issuance, the permitting authority shall hold a*  
 16                *public hearing in the vicinity of the mine site to*  
 17                *be remediated.*

18                *(B) NOTICE.—Not later than 30 days before*  
 19                *the date of the hearing, the permitting authority*  
 20                *shall provide the public with notice of the hear-*  
 21                *ing and a draft permit.*

22                *(C) COMMENTS.—The permitting authority*  
 23                *shall provide the applicant and the public with*  
 24                *the opportunity—*

1                   (i) to comment on the draft permit at  
2                   the public hearing; and

3                   (ii) to submit written comments to the  
4                   permitting authority during the 30-day pe-  
5                   riod following the date of the hearing.

6           (m) *MONITORING.*—

7                   (1) *IN GENERAL.*—The permittee shall take such  
8                   actions as the permitting authority determines are  
9                   necessary to ensure appropriate baseline monitoring,  
10                  monitoring during the remediation project, and post-  
11                  remediation monitoring of the environment under  
12                  paragraphs (7) and (13) of subsection (e).

13                  (2) *ADMINISTRATION.*—When selecting the type  
14                  and frequency of the monitoring requirements to be  
15                  included in a permit, if any, the permitting authority  
16                  shall—

17                         (A) balance the need for monitored informa-  
18                         tion against the cost of the monitoring, based on  
19                         the circumstances relating to the remediation;  
20                         and

21                         (B) take into account the scope of the  
22                         project.

23                  (3) *MULTIPARTY MONITORING.*—The permitting  
24                  authority may approve in a permit the conduct of  
25                  monitoring by multiple parties if, as determined by

1        *the permitting authority, the multiparty monitoring*  
 2        *will effectively accomplish the goals of this section.*

3        *(n) ENFORCEMENT.—*

4            *(1) CIVIL PENALTY.—Any person who violates a*  
 5        *permit issued under this section shall be subject to a*  
 6        *civil penalty of up to \$10,000 for each day of the vio-*  
 7        *lation.*

8            *(2) INJUNCTIONS.—*

9            *(A) IN GENERAL.—A court may issue an*  
 10        *injunction—*

11            *(i) mandating that a person comply*  
 12        *with a permit or take action to abate a per-*  
 13        *mit violation;*

14            *(ii) prohibiting a person from vio-*  
 15        *lating a permit; or*

16            *(iii) prohibiting additional activities*  
 17        *under a permit (except activities carried*  
 18        *out pursuant to subparagraph (B)).*

19            *(B) MINIMUM REQUIREMENT.—In the event*  
 20        *of a permit violation, and absent extraordinary*  
 21        *circumstances, the court shall, at a minimum,*  
 22        *require—*

23            *(i) the permittee to repair the damage*  
 24        *to any part of the environment that is*

1                   *caused by an action of the permittee in vio-*  
 2                   *lation of the permit; and*

3                   *(ii) the environment to be restored to*  
 4                   *the condition of the environment prior to*  
 5                   *the action of the permittee in violation of*  
 6                   *the permit.*

7                   (3) *AGENCIES.—Any permitting authority that*  
 8                   *signs a permit issued under this section may enforce*  
 9                   *the permit through appropriate administrative or ju-*  
 10                  *dicial proceedings.*

11                  (o) *GRANT ELIGIBILITY.—A remediation project con-*  
 12                  *ducted pursuant to this section shall be eligible for funding*  
 13                  *pursuant to section 319 of the Federal Water Pollution Con-*  
 14                  *trol Act (33 U.S.C. 1329).*

15                  (p) *JUDICIAL REVIEW.—A court may set aside or mod-*  
 16                  *ify an action of the Administrator in issuing a permit*  
 17                  *under this section, or an action of a State or political sub-*  
 18                  *division in signing a permit, only on clear and convincing*  
 19                  *evidence of an abuse of discretion.*

20                  (q) *TRANSFER OF PERMITTING AUTHORITY.—*

21                   (1) *IN GENERAL.—Subject to paragraph (2), not*  
 22                   *later than 120 days after the date on which a State*  
 23                   *or Indian tribe has submitted an application to ad-*  
 24                   *minister a Good Samaritan program, the Adminis-*  
 25                   *trator shall suspend the issuance of permits under*



1        *this Act for remediation activities in that State or*  
 2        *relevant area under the jurisdiction of an Indian*  
 3        *tribe unless the Administrator determines that the*  
 4        *Good Samaritan program of the State or Indian tribe*  
 5        *does not satisfy the requirements of this Act.*

6            (2) *EXTENSION.*—*The period before which the*  
 7        *Administrator will suspend permitting activity under*  
 8        *this subsection may be extended by mutual agreement*  
 9        *of the Administrator and the applicable State or In-*  
 10       *dian tribe.*

11        (r) *NOTIFICATION OF ADMINISTRATOR.*—

12            (1) *IN GENERAL.*—*Each State or Indian tribe*  
 13        *authorized to administer a Good Samaritan program*  
 14        *shall—*

15            (A) *submit to the Administrator a copy of*  
 16        *each permit application received by the State or*  
 17        *Indian tribe; and*

18            (B) *provide notice to the Administrator of*  
 19        *each permit proposed to be issued by the State*  
 20        *or Indian tribe (including any proposed permit*  
 21        *modifications, transfers, or terminations).*

22        (2) *OBJECTION TO ISSUANCE.*—

23            (A) *IN GENERAL.*—*Except as provided in*  
 24        *subparagraph (C), no permit shall be issued by*  
 25        *a State or Indian tribe referred to in paragraph*

(1) *if the Administrator, by not later than the date that is 90 days after the date of submission of the proposed permit notification, objects in writing to the issuance of the permit on the basis that the permit would not be in accordance with this Act.*

(B) *STATEMENT OF REASONS FOR OBJECTION.—An objection by the Administrator described in subparagraph (A) shall include a statement of the reasons for the objection.*

(C) *WAIVER.—The Administrator may, with respect to any permit application, waive the applicability of subparagraph (A).*

(3) *ISSUANCE OR DENIAL OF PERMITS.—*

(A) *IN GENERAL.—In any case in which the Administrator objects to the issuance of a permit under paragraph (2), the Administrator, on the request of the applicable State or Indian tribe, shall hold a public hearing on the objection.*

(B) *FAILURE TO REQUEST HEARING OR RESUBMIT APPLICATION.—If a State or Indian tribe does not resubmit a permit revised to meet the objections of the Administrator by the date that is 30 days after the date of completion of a public hearing under subparagraph (A) or, if*

1        *such a public hearing is not requested before the*  
 2        *date that is 90 days after the date of issuance of*  
 3        *an objection of the Administrator to issuance of*  
 4        *the permit, the Administrator may issue or deny*  
 5        *the permit in accordance with this Act.*

6        *(s) WITHDRAWAL OF APPROVAL OF STATE OR TRIBAL*  
 7        *PROGRAM AND RETURN OF STATE OR TRIBAL PROGRAM*  
 8        *TO ADMINISTRATOR.—*

9            *(1) IN GENERAL.—Each State or tribal Good Sa-*  
 10        *maritan program approved under this Act shall be*  
 11        *administered in accordance with this Act.*

12        *(2) NOTIFICATION AND WITHDRAWAL.—*

13            *(A) IN GENERAL.—Subject to subparagraph*  
 14        *(B), if the Administrator determines, after a*  
 15        *public hearing, that a State or Indian tribe is*  
 16        *not administering a program approved under*  
 17        *this Act in accordance with this Act, the Admin-*  
 18        *istrator shall—*

19            *(i) notify the State or Indian tribe of*  
 20        *the determination; and*

21            *(ii) if appropriate corrective action is*  
 22        *not taken within a reasonable time, not to*  
 23        *exceed 90 after the date of notification*  
 24        *under clause (i), withdraw approval of the*  
 25        *program.*

1                   (B) *NOTIFICATION OF REASONS FOR WITH-*  
 2                   *DRAWAL.*—*The Administrator shall not with-*  
 3                   *draw approval of a program under subpara-*  
 4                   *graph (A) until the Administrator notifies the*  
 5                   *State or Indian tribe, and makes available to the*  
 6                   *public, in writing, the reasons for the with-*  
 7                   *drawal.*

8                   (t) *FEDERAL LAND MANAGEMENT AGENCIES.*—*A Fed-*  
 9                   *eral land management agency that provides authorization*  
 10                  *for, or participates in, a project authorized pursuant to this*  
 11                  *Act shall not be liable under environmental laws for the*  
 12                  *conduct or actions of a Good Samaritan (or any cooper-*  
 13                  *ating person).*

14                  (u) *EMERGENCY AUTHORITY AND LIABILITY.*—

15                   (1) *EMERGENCY AUTHORITY.*—*Nothing in this*  
 16                   *section affects the authority of a Federal, State, trib-*  
 17                   *al, or local agency to carry out any emergency au-*  
 18                   *thority, including an emergency authority provided*  
 19                   *under any environmental law listed in a permit.*

20                   (2) *LIABILITY.*—*Except to the extent that a per-*  
 21                   *mit provides protection under an environmental law*  
 22                   *specified in a permit in accordance with subsection*  
 23                   *(g)(1)(C), nothing in this section or a permit issued*  
 24                   *under this section limits the liability of any person*

1       *(including a permittee) under any other provision of*  
 2       *law.*

3       *(v) STATE AND TRIBAL RECLAMATION PROGRAMS.—*

4       *No State, Indian tribe, or other Good Samaritan shall be*  
 5       *required to obtain a permit pursuant to this Act to reme-*  
 6       *diate an abandoned or inactive mine site for the conduct*  
 7       *of reclamation work under a State or tribal abandoned*  
 8       *mine reclamation plan approved under title IV of the Sur-*  
 9       *face Mining Control and Reclamation Act of 1977 (30*  
 10       *U.S.C. 1231 et seq.).*

11       *(w) TERMINATION OF AUTHORITY.—*

12               *(1) TERMINATION.—*

13                       *(A) IN GENERAL.—Except as provided in*  
 14                       *subparagraph (B), the authority to issue permits*  
 15                       *pursuant to this Act shall terminate on Sep-*  
 16                       *tember 30, 2016.*

17                       *(B) EXCEPTION.—Notwithstanding sub-*  
 18                       *paragraph (A), a permitting authority may*  
 19                       *issue a permit pursuant to this Act after Sep-*  
 20                       *tember 30, 2016, if the application for the per-*  
 21                       *mit—*

22                               *(i) was submitted not later than 180*  
 23                               *days before that date; and*

1                   (ii) was completed in accordance with  
 2                   subsection (e) by not later than September  
 3                   30, 2016.

4                   (2) *EFFECT ON CERTAIN PERMITS.*—Any permit  
 5                   issued pursuant to this Act before September 30,  
 6                   2016, that is in effect on that date (including any  
 7                   permit issued pursuant to paragraph (1)(B)) shall re-  
 8                   main in effect after that date in accordance with—

9                   (A) the terms and conditions of the permit;  
 10                  and  
 11                  (B) this Act.

12                  (3) *COMPLETION OF PROJECTS.*—Each project  
 13                  authorized under a permit issued pursuant to this Act  
 14                  shall be completed by the later of—

15                  (A) the date that is 10 years after the date  
 16                  of enactment of this Act; and  
 17                  (B) the date that is 4 years after the date  
 18                  of issuance of the applicable permit.

19                  (x) *REPORT TO CONGRESS.*—

20                  (1) *PREPARATION AND SUBMISSION.*—Not later  
 21                  than January 1, 2016, the Administrator shall sub-  
 22                  mit to the Chairpersons and Ranking Members of the  
 23                  Committee on Environment and Public Works of the  
 24                  Senate and the Committees on Transportation and  
 25                  Infrastructure, Energy and Commerce, and Resources

1       *of the House of Representatives a report evaluating*  
2       *the permit program under this Act.*

3           (2) *INCLUSIONS.—The report under paragraph*  
4       *(1) shall include—*

5                   (A) *a description of—*

6                           (i) *the number, types, and objectives of*  
7                           *permits issued pursuant to this Act; and*

8                           (ii) *each site remediation project au-*  
9                           *thorized by those permits;*

10                   (B) *qualitative and quantitative data on*  
11       *the results achieved under the permits before the*  
12       *date of issuance of the report;*

13                   (C) *a description of—*

14                           (i) *any problems encountered in ad-*  
15                           *ministering this Act; and*

16                           (ii) *whether the problems have been or*  
17                           *can be remedied by administrative action*  
18                           *(including amendments to existing law);*

19                   (D) *a description of progress made in*  
20       *achieving the purposes of this Act; and*

21                   (E) *recommendations on whether the permit*  
22       *program under this Act should be continued after*  
23       *September 30, 2016, including a description of*  
24       *any modifications (including amendments to ex-*

1           *isting law) required to continue administering*  
2           *this Act.*

3       (y) *REGULATIONS.*—

4           (1) *IN GENERAL.*—*The Administrator shall pro-*  
5           *mulgate such regulations as the Administrator deter-*  
6           *mines to be necessary to carry out this section.*

7           (2) *EFFECTIVENESS.*—*This section shall be effec-*  
8           *tive regardless of whether regulations are promulgated*  
9           *by the Administrator pursuant to paragraph (1).*





Calendar No. 645

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 1848**

[Report No. 109-351]

**A BILL**

To promote remediation of inactive and abandoned  
mines, and for other purposes.

SEPTEMBER 27, 2006

Reported with an amendment