

111TH CONGRESS
1ST SESSION

H. R. 3203

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

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2009

Mr. LAMBORN (for himself and Mr. BISHOP of Utah) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure and Natural 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 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”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

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

5 (2) mining operations produce metals and min-
6 erals with important social benefits and values;

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

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

16 (5) many of the individuals and corporate own-
17 ers and operators of those mines, the actions of
18 which caused that pollution, are no longer alive or
19 in existence;

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

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

1 (8) 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 (9) because some of the remaining owners and
6 operators of mine sites do not have resources that
7 are adequate to conduct remediation properly under
8 applicable environmental laws, for all practical pur-
9 poses, no person is responsible for the cleanup of
10 pollution from those sites;

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

16 (11) Good Samaritan remediation activities
17 may—

18 (A) vary in size and complexity;

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

21 (C) include, among other activities—

22 (i) the relocation or management of
23 tailings or other waste piles;

24 (ii) passive or active water treatment;

25 (iii) runoff or run-on controls; and

1 (iv) the use or reprocessing of, or re-
2 moval of materials from, mine residue;

3 (12) the potential environmental liabilities that
4 may attach to Good Samaritans as a result of the
5 remediation can dissuade potential Good Samaritans
6 from acting for the public good;

7 (13) it is in the interest of the United States,
8 the States, and local communities to remediate his-
9 toric mine sites, in appropriate circumstances and to
10 the maximum extent practicable, so that detrimental
11 environmental impacts of the sites are lessened in
12 the future; and

13 (14) if appropriate protections are provided for
14 Good Samaritans, Good Samaritans will have a
15 greater incentive to remediate those sites for the
16 public good.

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

18 (1) to encourage partial or complete remedi-
19 ation of inactive and abandoned mine sites for the
20 public good by persons that are not otherwise legally
21 responsible for the remediation;

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

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

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

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

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

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

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

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

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

1 (C) the Solid Waste Disposal Act (42
2 U.S.C. 6901 et seq.);

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

6 (E) applicable environmental laws of a
7 State or Indian tribe; and

8 (F) applicable environmental ordinances of
9 a political subdivision of a State or Indian tribe.

10 (4) GOOD SAMARITAN.—The term “Good Sa-
11 maritan” means a person that, with respect to his-
12 toric mine residue—

13 (A) had no role in the creation of the his-
14 toric mine residue;

15 (B) had no role in creating the environ-
16 mental pollution caused by the historic mine
17 residue; and

18 (C) is not liable under any Federal, State,
19 tribal, or local law for the remediation of the
20 historic mine residue.

21 (5) HISTORIC MINE RESIDUE.—

22 (A) IN GENERAL.—The term “historic
23 mine residue” means mine residue or conditions
24 at an inactive or abandoned mine site that pol-
25 lute the environment.

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

(i) previously mined ores and minerals that directly contribute to acid mine drainage or other pollution;

(ii) equipment (or materials in equipment);

(iii) wastes or materials from extractions, beneficiation, or other processing; and

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

(6) INACTIVE OR ABANDONED MINE SITE; MINE SITE.—The terms “inactive or abandoned mine site” and “mine site” mean the site of a mine and associated facilities that—

(A) were used for the production of a mineral other than coal;

(B) have historic mine residue; and

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

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

1 Indian Self-Determination and Education Assistance
2 Act (25 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
2 a permit to a Good Samaritan to carry out a project to
3 remediate all or part of an inactive or abandoned mine
4 site in accordance with this section.

5 (c) ELIGIBILITY FOR PERMITS.—

6 (1) IN GENERAL.—To be eligible for a permit
7 to carry out a project to remediate an inactive or
8 abandoned 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
13 historic mine residue;

14 (C) the mine site may not be a mine site
15 included on the national priorities list under
16 section 105(a)(8)(B) of the Comprehensive En-
17 vironmental Response, Compensation, and Li-
18 ability 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 re-
21 mediation of historic mine residue at the mine
22 site;

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

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

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

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

13 (B) may be authorized under other appli-
14 cable 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
25 any State, or the head of the governing

1 body of an Indian tribe, may submit to the
2 Administrator, at any time, an application
3 to administer a Good Samaritan program
4 for activities under the jurisdiction of the
5 State 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
22 determines that the applicable State or In-
23 dian tribe does not meet the requirements
24 described 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
9 this 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,
17 of 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
24 Act, including State or tribal enforcement au-
25 thorities;

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
6 more 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
10 GOOD SAMARITAN PROGRAMS.—In the case of a
11 State or Indian tribe without a Good Samaritan pro-
12 gram approved under subsection (d), the Adminis-
13 trator shall issue permits for Good Samaritan
14 projects if the 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 environ-
23 mental laws specifically described in the permit
24 in accordance with subsection (h)(1)(B);

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

7 (D) designates a lead State or tribal agen-
8 cy that is responsible to carry out permitting
9 responsibilities of the State or Indian tribe
10 under this section.

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

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

18 (2) an identification of—

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

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

1 (3) evidence satisfactory to the permitting au-
2 thority that the applicant has or will acquire all legal
3 rights necessary to enter the mine site and to per-
4 form the 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) prior owners and operators of the site
9 (including the current location or business oper-
10 ations of those owners and operators);

11 (B) the mining activities that occurred at
12 the site; and

13 (C) any relationship between those persons
14 and the applicant;

15 (5) a certification that the applicant knows of
16 no other person that (as of the date of submission
17 of the application)—

18 (A) is responsible for the remediation of
19 the mine site; and

20 (B) has sufficient resources to complete
21 the remediation;

22 (6) a detailed description of the historic mine
23 residue to be remediated;

24 (7) a description of the baseline conditions (as
25 of the date of submission of the application) of the

1 environment affected by the historic mine residue to
2 be remediated;

3 (8) a description of—

4 (A) the nature and scope of the proposed
5 remediation; and

6 (B) detailed engineering plans for the
7 project;

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

12 (10) an identification, based on an inquiry that
13 is reasonable under the circumstances, of any sig-
14 nificant adverse effects on the environment that
15 could reasonably be likely to occur if the permittee
16 fails to properly implement the proposed remediation
17 in accordance with the engineering plans;

18 (11) a schedule for the work to be carried out
19 under the project;

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

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

1 (14) 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 (15) a detailed plan for the required operation
6 and maintenance of any remediation; and

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

10 (f) PERMIT ISSUANCE.—

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

15 (A) the permitting authority determines
16 that—

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

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

1 (iii) the permittee has the financial
2 and other resources to complete, and will
3 complete, the permitted work;

4 (iv) the permittee has the financial
5 and other resources to address any contin-
6 gencies identified in the permit application
7 pursuant to subsection (e)(10) (except that
8 the permitting authority may waive the re-
9 quirements of this clause with respect to a
10 project that has a budget of less than
11 \$300,000); and

12 (v) the project meets the requirements
13 of this section;

14 (B) with respect to a State or Indian tribe
15 without a Good Samaritan program approved
16 under subsection (d), the State or Indian tribe
17 concurs with the issuance of, and signs, the
18 permit;

19 (C) if the permit provides protection for
20 the permittee under an environmental law of a
21 political subdivision of a State or Indian tribe
22 in accordance with paragraphs (1) and (2) of
23 subsection (g), the political subdivision concurs
24 with the issuance of, and signs, the permit; and

1 (D) if the proposed project is to be carried
2 out on Federal land, each State or Indian tribe
3 (or political subdivision of the State or Indian
4 tribe) within which the Federal land is located
5 meets the requirements of subparagraphs (B)
6 and (C).

7 (2) DISCRETIONARY ACTIONS.—The issuance of
8 a permit by the permitting authority, and the con-
9 currence of the affected State or Indian tribe (and
10 political subdivisions of the State or Indian tribe) to
11 participate in the permit process, shall be discre-
12 tionary actions and shall be taken in the public in-
13 terest.

14 (3) COMPLIANCE WITH NEPA.—No action of a
15 permitting authority or any other person under this
16 section shall be required to comply with section 102
17 of the National Environmental Policy Act of 1969
18 (42 U.S.C. 4332).

19 (4) DEADLINE.—

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

23 (i) the date that is 180 days after the
24 date of receipt by the permitting authority
25 of an application for the permit that, as

1 determined by the permitting authority, is
2 complete; or

3 (ii) such later date as may be deter-
4 mined by the permitting authority with the
5 agreement of the applicant.

6 (B) CONSTRUCTIVE DENIAL.—If the per-
7 mitting authority fails to issue or deny the per-
8 mit in accordance with subparagraph (A), the
9 application shall be considered to be denied by
10 the permitting authority.

11 (5) REVIEW FOR CERTAIN PROJECTS.—A
12 project that, as determined by the permitting au-
13 thority, would be less complex, or pose less risk,
14 than other projects under review by the permitting
15 authority for a permit under this section, may be re-
16 viewed, at the discretion of the permitting authority,
17 under a more simple and rapid review process (in-
18 cluding the conduct of a public hearing upon request
19 by an interested person) under this subsection.

20 (g) EFFECT OF PERMITS.—

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

24 (A) authorizes the permittee to carry out
25 the activities described in the permit;

1 (B) authorizes enforcement under this sec-
2 tion; and

3 (C) provides to the permittee, in carrying
4 out the activities authorized under the permit,
5 protection from actions taken, obligations, and
6 liabilities arising under the environmental laws
7 specified in the permit.

8 (2) CROSS-COMPLIANCE.—A permittee shall
9 comply with the terms and conditions of a permit
10 issued under this section in lieu of compliance with
11 the environmental laws specified in the permit with
12 respect to the work authorized under the permit.

13 (3) OFF-SITE DISPOSAL.—A permit issued pur-
14 suant to this Act shall not relieve the permittee of
15 the obligation to comply with any applicable provi-
16 sion of the Toxic Substances Control Act (15 U.S.C.
17 2601 et seq.) or the Solid Waste Disposal Act (42
18 U.S.C. 6901 et seq.) relating to the off-site disposal
19 of any waste or material removed from the applica-
20 ble inactive or abandoned mine site.

21 (h) CONTENT OF PERMITS.—

22 (1) IN GENERAL.—A permit issued under this
23 section shall contain—

1 (A) a detailed description of the engineer-
2 ing and other work that is authorized under the
3 permit;

4 (B) a specific list of environmental laws, or
5 selected provisions of environmental laws, with
6 respect to which compliance with the permit will
7 operate in lieu of compliance with the laws;

8 (C) a provision that states that the per-
9 mittee is responsible for securing, for all activi-
10 ties authorized under the permit, all authoriza-
11 tions, licenses, and permits that are required
12 under applicable law, other than the environ-
13 mental laws described in subsection (g)(2); and

14 (D) any other terms and conditions that
15 are determined to be appropriate by the permit-
16 ting authority.

17 (2) FORCE MAJEURE.—A permit issued under
18 this section may include, at the request of the Good
19 Samaritan, a force majeure provision.

20 (3) INVESTIGATIVE SAMPLING.—

21 (A) IN GENERAL.—A permit may identify
22 an appropriate program of investigative sam-
23 pling to be completed prior to remediation, as
24 determined by the permitting authority upon
25 application.

1 (B) OPTION TO DECLINE REMEDIATION.—

2 In the event that investigative sampling is au-
3 thorized, the permit may allow the permittee to
4 decline to undertake remediation based upon
5 sampling results.

6 (C) PERMIT MODIFICATION.—Based upon
7 sampling results, a permittee may apply for a
8 permit modification using the permit proce-
9 dures in this Act.

10 (4) TIMING.—Work authorized under a per-
11 mit—

12 (A) shall commence not later than the date
13 that is 18 months after the date of issuance of
14 the permit; and

15 (B) shall continue until completed, with
16 temporary suspensions permitted during ad-
17 verse weather or other conditions specified in
18 the permit.

19 (5) SIGNATURE BY PERMITTEE.—The signature
20 of the permittee on the permit shall be considered to
21 be an acknowledgment by the permittee that the
22 permittee accepts the terms and conditions of the
23 permit.

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

1 (A) the permitting authority determines
2 that the transferee qualifies as a Good Samari-
3 tan;

4 (B) the transferee signs, and agrees to be
5 bound by the terms of, the permit; and

6 (C) the permitting authority includes in
7 the transferred permit any additional conditions
8 necessary to meet the goals of this section.

9 (7) TERMINATION OF PERMIT.—The authority
10 to carry out work under a permit issued under this
11 section shall terminate if the work does not com-
12 mence by the date that is 18 months after the date
13 of issuance of the permit.

14 (i) ROLE OF PERMITTING AUTHORITY.—In carrying
15 out this section, the permitting authority shall—

16 (1) consult with prospective applicants;

17 (2) accept permit applications under this sec-
18 tion;

19 (3) convene, coordinate, and lead the applica-
20 tion review process;

21 (4) maintain all records relating to the permit
22 and the permit process;

23 (5) provide an opportunity for cooperating
24 agencies and the public to participate in the permit
25 process;

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

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

4 (j) COOPERATING AGENCIES.—If the permitting au-
5 thority learns that an application for the remediation of
6 a mine site under this section will be submitted to the per-
7 mitting authority, the permitting authority shall (as soon
8 as practicable) provide a notice of the application to—

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

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

13 (3) each Federal, State, and tribal agency that
14 may have an interest in the application.

15 (k) STATE, LOCAL AND TRIBAL COMMUNITIES.—

16 (1) IN GENERAL.—If the permitting authority
17 receives an application for the remediation of a mine
18 site under this section, the permitting authority
19 shall, as soon as practicable, provide notice of the
20 application to—

21 (A) any lead State or tribal agency des-
22 ignated under subsection (d)(2)(B), if the Ad-
23 ministrator is the permitting authority;

24 (B) each local government located within a
25 radius of 75 miles of the project site; and

1 (C) each Federal, State, and tribal agency
2 that the permitting authority determines may
3 have an interest in the application.

4 (2) COPY OF APPLICATION.—The notice shall
5 include a copy of the application.

6 (I) PUBLIC NOTICE OF RECEIPT OF APPLICA-
7 TIONS.—

8 (1) IN GENERAL.—On receipt of a complete ap-
9 plication for the remediation of an inactive or aban-
10 doned mine site under this Act, the permitting au-
11 thority shall, not later than 30 days after receipt of
12 the application, provide to the public a notice that—

13 (A) describes—

14 (i) the location of the mine site;

15 (ii) the scope and nature of the pro-
16 posed remediation; and

17 (iii) the name of the Good Samaritan
18 applying for a permit to carry out the pro-
19 posed remediation; and

20 (B) provides to the public a means of view-
21 ing or obtaining the application.

22 (2) HEARING.—

23 (A) IN GENERAL.—Before the date of per-
24 mit issuance, the permitting authority shall

1 hold a public hearing in the vicinity of the mine
2 site to be remediated.

3 (B) NOTICE.—Not later than 30 days be-
4 fore the date of the hearing, the permitting au-
5 thority shall provide the public with notice of
6 the hearing and a draft permit.

7 (C) COMMENTS.—The permitting authority
8 shall provide the applicant and the public with
9 the opportunity—

10 (i) to comment on the draft permit at
11 the public hearing; and

12 (ii) to submit written comments to the
13 permitting authority during the 30-day pe-
14 riod following the date of 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 appropriate baseline moni-
19 toring, monitoring during the remediation project,
20 and post-remediation monitoring of the environment
21 under paragraphs (7) and (13) of subsection (e).

22 (2) ADMINISTRATION.—When selecting the type
23 and frequency of the monitoring requirements to be
24 included in a permit, if any, the permitting authority
25 shall—

1 (A) balance the need for 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 (3) MULTIPARTY MONITORING.—The permit-
8 ting authority may approve in a permit the conduct
9 of monitoring by multiple parties if, as determined
10 by the permitting authority, the multiparty moni-
11 toring will effectively accomplish the goals of this
12 section.

13 (n) ENFORCEMENT.—

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

18 (2) INJUNCTIONS.—

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

21 (i) mandating that a person comply
22 with a permit or take action to abate a
23 permit violation;

24 (ii) prohibiting a person from vio-
25 lating a permit; or

1 (iii) prohibiting additional activities
2 under a permit (except activities carried
3 out pursuant to subparagraph (B)).

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

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

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

16 (3) AGENCIES.—Any permitting authority that
17 signs a permit issued under this section may enforce
18 the permit through appropriate administrative or ju-
19 dicial proceedings.

20 (o) GRANT ELIGIBILITY.—A remediation project con-
21 ducted pursuant to this section shall be eligible for funding
22 pursuant to section 319 of the Federal Water Pollution
23 Control Act (33 U.S.C. 1329).

24 (p) JUDICIAL REVIEW.—A court may set aside or
25 modify an action of the Administrator in issuing a permit

1 under this section, or an action of a State or political sub-
2 division in signing a permit, only on clear and convincing
3 evidence of an abuse of discretion.

4 (q) TRANSFER OF PERMITTING AUTHORITY.—

5 (1) IN GENERAL.—Subject to paragraph (2),
6 not later than 120 days after the date on which a
7 State or Indian tribe has submitted an application
8 to administer a Good Samaritan program, the Ad-
9 ministrator shall suspend the issuance of permits
10 under this Act for remediation activities in that
11 State or relevant area under the jurisdiction of an
12 Indian tribe unless the Administrator determines
13 that the Good Samaritan program of the State or
14 Indian tribe does not satisfy the requirements of this
15 Act.

16 (2) EXTENSION.—The period before which the
17 Administrator will suspend permitting activity under
18 this subsection may be extended by mutual agree-
19 ment of the Administrator and the applicable State
20 or Indian tribe.

21 (r) NOTIFICATION OF ADMINISTRATOR.—

22 (1) IN GENERAL.—Each State or Indian tribe
23 authorized to administer a Good Samaritan program
24 shall—

1 (A) submit to the Administrator a copy of
2 each permit application received by the State or
3 Indian tribe; and

4 (B) provide notice to the Administrator of
5 each permit proposed to be issued by the State
6 or Indian tribe (including any proposed permit
7 modifications, transfers, or terminations).

8 (2) OBJECTION TO ISSUANCE.—

9 (A) IN GENERAL.—Except as provided in
10 subparagraph (C), no permit shall be issued by
11 a State or Indian tribe referred to in paragraph
12 (1) if the Administrator, by not later than the
13 date that is 90 days after the date of submis-
14 sion of the proposed permit notification, objects
15 in writing to the issuance of the permit on the
16 basis that the permit would not be in accord-
17 ance with this Act.

18 (B) STATEMENT OF REASONS FOR OBJEC-
19 TION.—An objection by the Administrator de-
20 scribed in subparagraph (A) shall include a
21 statement of the reasons for the objection.

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

25 (3) ISSUANCE OR DENIAL OF PERMITS.—

1 (A) IN GENERAL.—In any case in which
2 the Administrator objects to the issuance of a
3 permit under paragraph (2), the Administrator,
4 on the request of the applicable State or Indian
5 tribe, shall hold a public hearing on the objec-
6 tion.

7 (B) FAILURE TO REQUEST HEARING OR
8 RESUBMIT APPLICATION.—If a State or Indian
9 tribe does not resubmit a permit revised to
10 meet the objections of the Administrator by the
11 date that is 30 days after the date of comple-
12 tion of a public hearing under subparagraph
13 (A) or, if such a public hearing is not requested
14 before the date that is 90 days after the date
15 of issuance of an objection of the Administrator
16 to issuance of the permit, the Administrator
17 may issue or deny the permit in accordance
18 with this Act.

19 (s) WITHDRAWAL OF APPROVAL OF STATE OR TRIB-
20 AL PROGRAM AND RETURN OF STATE OR TRIBAL PRO-
21 GRAM TO ADMINISTRATOR.—

22 (1) IN GENERAL.—Each State or tribal Good
23 Samaritan program approved under this Act shall be
24 administered in accordance with this Act.

25 (2) NOTIFICATION AND WITHDRAWAL.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), if the Administrator determines,
3 after a public hearing, that a State or Indian
4 tribe is not administering a program approved
5 under this Act in accordance with this Act, the
6 Administrator shall—

7 (i) notify the State or Indian tribe of
8 the determination; and

9 (ii) if appropriate corrective action is
10 not taken within a reasonable time, not to
11 exceed 90 days after the date of notifica-
12 tion under clause (i), withdraw approval of
13 the program.

14 (B) NOTIFICATION OF REASONS FOR
15 WITHDRAWAL.—The Administrator shall not
16 withdraw approval of a program under subpara-
17 graph (A) until the Administrator notifies the
18 State or Indian tribe, and makes available to
19 the public, in writing, the reasons for the with-
20 drawal.

21 (t) FEDERAL LAND MANAGEMENT AGENCIES.—A
22 Federal land management agency that provides authoriza-
23 tion for, or participates in, a project authorized pursuant
24 to this Act shall not be liable under environmental laws

1 for the conduct or actions of a Good Samaritan (or any
2 cooperating person).

3 (u) EMERGENCY AUTHORITY AND LIABILITY.—

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

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

17 (v) STATE AND TRIBAL RECLAMATION PROGRAMS.—

18 No State, Indian tribe, or other Good Samaritan shall be
19 required to obtain a permit pursuant to this Act to reme-
20 diate an abandoned or inactive mine site for the conduct
21 of reclamation work under a State or tribal abandoned
22 mine reclamation plan approved under title IV of the Sur-
23 face Mining Control and Reclamation Act of 1977 (30
24 U.S.C. 1231 et seq.).

25 (w) TERMINATION OF AUTHORITY.—

1 (1) TERMINATION.—

2 (A) IN GENERAL.—Except as provided in
3 subparagraph (B), the authority to issue per-
4 mits pursuant to this Act shall terminate on
5 September 30, 2019.

6 (B) EXCEPTION.—Notwithstanding sub-
7 paragraph (A), a permitting authority may
8 issue a permit pursuant to this Act after Sep-
9 tember 30, 2019, if the application for the per-
10 mit—

11 (i) was submitted not later than 180
12 days before that date; and

13 (ii) was completed in accordance with
14 subsection (e) by not later than September
15 30, 2019.

16 (2) EFFECT ON CERTAIN PERMITS.—Any per-
17 mit issued pursuant to this Act before September
18 30, 2019, that is in effect on that date (including
19 any permit issued pursuant to paragraph (1)(B))
20 shall remain in effect after that date in accordance
21 with—

22 (A) the terms and conditions of the permit;
23 and

24 (B) this Act.

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

4 (A) the date that is 10 years after the date
5 of enactment of this Act; and

6 (B) the date that is 4 years after the date
7 of issuance of the applicable permit.

8 (x) REPORT TO CONGRESS.—

9 (1) PREPARATION AND SUBMISSION.—Not later
10 than January 1, 2019, the Administrator shall sub-
11 mit to the Chairpersons and Ranking Members of
12 the Committee on Environment and Public Works of
13 the Senate and the Committees on Transportation
14 and Infrastructure, Energy and Commerce, and Re-
15 sources of the House of Representatives a report
16 evaluating the permit program under this Act.

17 (2) INCLUSIONS.—The report under paragraph
18 (1) shall include—

19 (A) a description of—

20 (i) the number, types, and objectives
21 of permits issued pursuant to this Act; and

22 (ii) each site remediation project au-
23 thorized by those permits;

1 (B) qualitative and quantitative data on
2 the results achieved under the permits before
3 the date of issuance of the report;

4 (C) a description of—

5 (i) any problems encountered in ad-
6 ministering this Act; and

7 (ii) whether the problems have been or
8 can be remedied by administrative action
9 (including amendments to existing law);

10 (D) a description of progress made in
11 achieving the purposes of this Act; and

12 (E) recommendations on whether the per-
13 mit program under this Act should be contin-
14 ued after September 30, 2019, including a de-
15 scription of any modifications (including
16 amendments to existing law) required to con-
17 tinue administering this Act.

18 (y) REGULATIONS.—

19 (1) IN GENERAL.—The Administrator shall pro-
20 mulgate such regulations as the Administrator deter-
21 mines to be necessary to carry out this section.

22 (2) EFFECTIVENESS.—This section shall be ef-
23 fective regardless of whether regulations are promul-

- 1 gated by the Administrator pursuant to paragraph
- 2 (1).

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