

110TH CONGRESS
1ST SESSION

H. R. 4011

To facilitate the reclamation of abandoned hardrock mines, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 2007

Mr. UDALL of Colorado (for himself and Mr. PEARCE) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To facilitate the reclamation of abandoned hardrock 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, FINDINGS, AND PURPOSE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Good Samaritan Cleanup of Abandoned Hardrock Mines
6 Act of 2007”.

7 (b) **FINDINGS.**—Congress finds that—

8 (1) the Federal Government and State govern-
9 ments encouraged hard rock mining in the United

1 States through a wide variety of laws, policies, and
2 actions;

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

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

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

14 (5) many of the individual and corporate own-
15 ers and operators of the mines, whose actions caused
16 that pollution, are no longer alive or in existence;

17 (6) many of the mine sites have polluted the en-
18 vironment for more than a century and will continue
19 to do so indefinitely unless remediated;

20 (7) unabated discharges from inactive and
21 abandoned mines will continue to pollute surface
22 water, groundwater, and soils;

23 (8) many of the streams and water bodies im-
24 pacted by acid mine drainage are important re-

1 sources for fish and wildlife, recreation, drinking
2 water, agriculture, and other public purposes;

3 (9) some of the remaining owners and operators
4 of mine sites do not have resources that are ade-
5 quate to conduct remediation properly under appli-
6 cable environmental laws;

7 (10) from time to time, States, individuals, and
8 companies are willing to remediate historic mine
9 sites for the public good as Good Samaritans, de-
10 spite the fact that the States, individuals, and com-
11 panies are not legally required to remediate the mine
12 sites;

13 (11) Good Samaritan remediation activities
14 may—

15 (A) vary in size and complexity;

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

18 (C) include, among other activities—

19 (i) the removal, relocation, or manage-
20 ment of tailings or other waste piles;

21 (ii) passive or active water treatment;

22 and

23 (iii) runoff or run-on controls;

24 (12) the potential liabilities under the Federal
25 Water Pollution Control Act that may attach to a

1 Good Samaritan as a result of the remediation can
2 dissuade potential Good Samaritans from acting for
3 the public good;

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

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

14 (c) PURPOSES.—The purposes of this Act are—

15 (1) to encourage partial or complete remedi-
16 ation of inactive and abandoned mine sites for the
17 public good by persons that are not legally respon-
18 sible for the remediation;

19 (2) to allow a person not legally responsible for
20 environmental conditions relating to inactive or
21 abandoned mine sites to improve water quality af-
22 fected by past mining activities at the site without
23 incurring liability under the Federal Water Pollution
24 Control Act in order to make further progress to-

1 ward the goal of meeting water quality standards in
2 all waters of the United States;

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 tribal authorities and with review and comment
11 by the public; and

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

14 (5) to further innovation and cooperation
15 among the Federal Government, State governments,
16 private individuals, and corporations to accelerate
17 conservation and environmental restoration.

18 (d) SCOPE.—Nothing in this Act is intended to—

19 (1) reduce any existing liability; or

20 (2) facilitate any mining or processing other
21 than that required for the remediation of historic
22 mine residue for the public good.

1 **SEC. 2. GOOD SAMARITAN DISCHARGE PERMITS.**

2 Section 402 of the Federal Water Pollution Control
3 Act (33 U.S.C. 1342) is amended by adding at the end
4 the following:

5 “(r) GOOD SAMARITAN DISCHARGE PERMITS.—

6 “(1) DEFINITIONS.—In this subsection, the fol-
7 lowing definitions apply:

8 “(A) COOPERATING PERSON.—The term
9 ‘cooperating person’ means any person includ-
10 ing the Federal Government that—

11 “(i) meets the definition of Good Sa-
12 maritan;

13 “(ii) assists a Good Samaritan in the
14 remediation of an inactive or abandoned
15 mine site; and

16 “(iii) is identified in a Good Samari-
17 tan discharge permit issued pursuant to
18 this Act.

19 “(B) GOOD SAMARITAN.—The term ‘Good
20 Samaritan’ means a person that, with respect
21 to historic mine residue at an inactive or aban-
22 doned mine site—

23 “(i) had no role in the creation of the
24 historic mine residue;

25 “(ii) had no role and is not related to
26 a person who had a role in creating the en-

1 vironmental pollution caused by the his-
2 toric mine residue; and

3 “(iii) is not liable under any Federal,
4 State, tribal, or local law for the remedi-
5 ation of the historic mine residue.

6 “(C) GOOD SAMARITAN DISCHARGE PER-
7 MIT.—The term ‘Good Samaritan discharge
8 permit’ means a permit described under para-
9 graph (2).

10 “(D) HISTORIC MINE RESIDUE.—

11 “(i) IN GENERAL.—The term ‘historic
12 mine residue’ means mine residue or condi-
13 tions resulting from activities at an inac-
14 tive or abandoned mine site prior to Octo-
15 ber 18, 1972, that cause or contribute to
16 the discharge of pollutants from the inac-
17 tive or abandoned mine site or otherwise
18 pollute the environment.

19 “(ii) INCLUSIONS.—The term ‘historic
20 mine residue’ includes, among other mate-
21 rials—

22 “(I) previously mined ores and
23 minerals that contribute to acid mine
24 drainage or other pollution;

1 “(II) equipment (or materials in
2 equipment);

3 “(III) wastes or materials from
4 extractions, beneficiation, or other
5 processing; and

6 “(IV) acidic or otherwise polluted
7 flows in surface water or groundwater.

8 “(E) IDENTIFIABLE OWNER OR OPER-
9 ATOR.—The term ‘identifiable owner or oper-
10 ator’ means a person or entity that is—

11 “(i) legally responsible under section
12 301 for discharges from an inactive or
13 abandoned mine site; and

14 “(ii) financially capable of compliance
15 with the requirements of this section and
16 section 301.

17 “(F) INACTIVE OR ABANDONED MINE SITE;
18 MINE SITE.—The terms ‘inactive or abandoned
19 mine site’ and ‘mine site’ mean the site of a
20 mine and associated facilities that—

21 “(i) were used for the production of a
22 mineral other than coal;

23 “(ii) have historic mine residue; and

24 “(iii) are no longer actively mined
25 (and not in temporary shutdown)—at the

1 times at which the remediation plan is sub-
2 mitted and the Good Samaritan discharge
3 permit is issued.

4 “(G) PERMITTING AUTHORITY.—The term
5 ‘permitting authority’ means the Administrator
6 or, in the case of a State or Indian tribe with
7 an approved permitting program under this sec-
8 tion, the head of such program.

9 “(H) INDIAN TRIBE.—The term ‘Indian
10 tribe’ has the meaning given that term in sec-
11 tion 4 of the Indian Self-Determination and
12 Education Assistance Act (25 U.S.C. 450b).

13 “(I) PERSON.—The term ‘person’ in-
14 cludes—

15 “(i) an individual;

16 “(ii) a firm;

17 “(iii) a corporation;

18 “(iv) an association;

19 “(v) a partnership;

20 “(vi) a consortium;

21 “(vii) a joint venture;

22 “(viii) a commercial entity;

23 “(ix) a nonprofit organization;

24 “(x) the Federal Government;

25 “(xi) a State;

1 “(xii) a political subdivision of a
2 State;

3 “(xiii) an interstate entity;

4 “(xiv) a commission; and

5 “(xv) an Indian tribe.

6 “(2) GOOD SAMARITAN DISCHARGE PERMITS.—

7 “(A) IN GENERAL.—The permitting au-
8 thority, with the concurrence of the State in
9 which an inactive or abandoned mine site reme-
10 diation project is proposed or a Federal agency
11 or Indian tribe which owns or has jurisdiction
12 over the site on which a remediation project is
13 proposed, may issue a Good Samaritan dis-
14 charge permit to a Good Samaritan.

15 “(B) STATE OR TRIBAL PROGRAMS.—The
16 Administrator shall approve a State or Tribal
17 program for issuance of Good Samaritan dis-
18 charge permits to any State or Indian tribe,
19 if—

20 “(i) the State or Indian Tribe already
21 has authority to issue a permit under this
22 section; and

23 “(ii) the State or Indian tribe re-
24 quests such approval.

1 “(3) ELIGIBILITY FOR GOOD SAMARITAN DIS-
2 CHARGE PERMITS.—To be eligible for a Good Sa-
3 maritan discharge permit to carry out a project to
4 remediate an inactive or abandoned mine site under
5 this section—

6 “(A) the mine site shall be located in the
7 United States;

8 “(B) the purpose of the project shall be
9 the reduction of pollution caused by historic
10 mine residue;

11 “(C) the mine site may not be a mine site
12 included on the national priorities list under
13 section 105(a)(8)(B) of the Comprehensive En-
14 vironmental Response, Compensation, and Li-
15 ability Act of 1980 (42 U.S.C. 9605(a)(8)(B))
16 or where there is an ongoing or planned re-
17 moval under such Act;

18 “(D) the permit shall authorize only those
19 activities that are required for the remediation
20 of historic mine residue at the mine site; and

21 “(E) the person obtaining the permit shall
22 be a Good Samaritan.

23 “(4) PERMIT PROCESS.—

24 “(A) SCOPE.—A Good Samaritan may
25 apply for a Good Samaritan discharge permit

1 for remediation activities at inactive or aban-
2 doned mine sites from which there is or may be
3 a discharge of pollutants to waters of the
4 United States.

5 “(B) REMEDIATION PLAN.—A Good Sa-
6 maritan seeking a Good Samaritan discharge
7 permit shall submit an application for the per-
8 mit that includes a remediation plan that—

9 “(i) identifies the Good Samaritan
10 and any cooperating person with respect to
11 the plan;

12 “(ii) identifies the inactive or aban-
13 doned mine site addressed by the plan, in-
14 cluding such documentation as the permit-
15 ting authority finds sufficient to dem-
16 onstrate that the site is eligible under this
17 Act;

18 “(iii) identifies the waters of the
19 United States affected by past mining ac-
20 tivities at or immediately downstream from
21 the inactive or abandoned mine site;

22 “(iv) describes the baseline condition
23 of the waters at the time of the permit ap-
24 plication (including the nature and extent
25 of any adverse impact on water quality

1 caused by drainage from the abandoned or
2 inactive mine site and, as applicable, the
3 levels of any pollutant causing the impact);

4 “(v) describes the conditions at the in-
5 active or abandoned mine site that are
6 causing adverse water quality impacts to
7 the extent such conditions are known to
8 the Good Samaritan at the time of the ap-
9 plication;

10 “(vi) describes the applicant’s reason-
11 able efforts to identify identifiable owners
12 or operators;

13 “(vii) describes the remediation goals
14 and objectives, including the pollutant or
15 pollutants to be addressed by the plan, in-
16 cluding actions taken that will result in at-
17 tainment of the applicable water quality
18 standards to the maximum extent reason-
19 able and practicable under the cir-
20 cumstances;

21 “(viii) describes the practices, includ-
22 ing a schedule and estimated completion
23 date for implementing the practices, that
24 are proposed to meet the goals and objec-
25 tives under clause (vii), including—

1 “(I) in the case of a new remedi-
2 ation project, the preliminary system
3 design and construction, operation,
4 and maintenance plans; and

5 “(II) in the case of an existing
6 remediation project, available system
7 design and construction, operation,
8 and maintenance plans and any
9 planned improvements to the projects;

10 “(ix) describes any proposed recycling
11 or reprocessing of historic mine residue at
12 the site subject to paragraph (8)(E), and
13 how such activities relate to the remedi-
14 ation;

15 “(x) explains how the practices de-
16 scribed in clause (viii) are expected to
17 achieve goals and objectives under clause
18 (vii);

19 “(xi) describes the monitoring or
20 other forms of assessment that will be un-
21 dertaken to evaluate the success of the
22 practices during and after implementation,
23 relative to baseline conditions;

24 “(xii) describes contingency plans, in-
25 cluding the practices to be implemented to

1 achieve the remediation goals and objec-
2 tives described in clause (vii), for respond-
3 ing to unplanned adverse events;

4 “(xiii) provides a schedule for periodic
5 reporting on progress in implementing the
6 plan;

7 “(xiv) provides a budget for the plan
8 and identifies the funding sources that will
9 support the implementation of the plan, in-
10 cluding practices described in clauses (viii),
11 (xi), and (xii);

12 “(xv) describes the applicant’s legal
13 authority to enter and conduct activities at
14 the inactive or abandoned mine site ad-
15 dressed by the plan;

16 “(xvi) describes any public outreach
17 activities and contains any other additional
18 information requested by the Adminis-
19 trator to clarify the plan and the activities
20 covered by the plan; and

21 “(xvii) is signed and certified by the
22 applicant (in a manner consistent with reg-
23 ulations in section 122.22 of title 40, Code
24 of Federal Regulations, in effect on Octo-
25 ber 1, 2007).

1 “(C) INVESTIGATIVE SAMPLING.—

2 “(i) IN GENERAL.—A permit may
3 identify a program of investigative sam-
4 pling to be completed prior to remediation
5 if the permitting authority, upon applica-
6 tion, determines the program to be appro-
7 priate. Any such program shall use test
8 methods identified in part 136 of title 40,
9 Code of Federal Regulations, in effect on
10 October 1, 2007. All samples collected dur-
11 ing any such program shall be representa-
12 tive of the discharge from the abandoned
13 or inactive mine site, and records of all
14 sampling events shall be retained for not
15 less than 3 years.

16 “(ii) INITIAL PLAN.—If the Good Sa-
17 maritan proposes to conduct investigative
18 sampling, the initial remediation plan shall
19 provide the information required by sub-
20 paragraphs (B)(iv), (v), and (vii) through
21 (xiv) to the extent known, to be supple-
22 mented by the results of investigative sam-
23 pling prior to the implementation of reme-
24 diation.

1 “(iii) PERMIT MODIFICATION.—Based
2 upon investigative sampling results, a per-
3 mit may be modified pursuant to the per-
4 mit procedures in this section.

5 “(iv) OPTION TO DECLINE REMEDI-
6 ATION.—In the event that investigative
7 sampling is authorized, the permit may
8 allow the permittee to decline to undertake
9 remediation based on the results of inves-
10 tigative sampling.

11 “(D) REVIEW OF APPLICATION.—

12 “(i) INITIAL REVIEW.—The permit-
13 ting authority shall—

14 “(I) review each application for a
15 Good Samaritan discharge permit;

16 “(II) provide to the public notice
17 of and reasonable opportunity to com-
18 ment on the application;

19 “(III) in cases where the Admin-
20 istrator is the permitting authority,
21 provide a copy of the application to
22 each affected State, tribe, or other
23 Federal agency;

1 “(IV) provide an opportunity for
2 a public hearing on the application;
3 and

4 “(V) determine whether the ap-
5 plication meets the requirements of
6 subparagraph (B).

7 “(ii) REQUIREMENTS NOT MET.—If
8 the permitting authority determines that
9 an application does not meet the require-
10 ments of subparagraph (B), the permitting
11 authority shall—

12 “(I) notify the applicant that the
13 application is disapproved and explain
14 the reasons for the disapproval; and

15 “(II) allow the applicant to sub-
16 mit a revised application.

17 “(iii) REQUIREMENTS MET.—If the
18 permitting authority determines that an
19 application meets the requirements of sub-
20 paragraph (B), the permitting authority
21 shall notify the applicant that the applica-
22 tion is accepted.

23 “(E) PERMIT ISSUANCE.—

24 “(i) NOTICE AND COMMENT.—After
25 notice and opportunity for public comment

1 on a Good Samaritan discharge permit
2 proposed to be issued, including any addi-
3 tional requirements that the permitting au-
4 thority determines would facilitate imple-
5 mentation of this subsection, the permit-
6 ting authority may issue such permit to
7 the applicant if—

8 “(I) the permitting authority de-
9 termines that—

10 “(aa) relative to the re-
11 sources available to the Good Sa-
12 maritan for the proposed remedi-
13 ation activity, the Good Samari-
14 tan has made a reasonable effort
15 to identify persons under sub-
16 paragraph (B)(vi);

17 “(bb) no identifiable owner
18 or operator exists, except a per-
19 mit can be issued for an inactive
20 or abandoned mine site located
21 on Federal land or land owned by
22 a State or political subdivision of
23 the State if the only identifiable
24 owner or operator is the Federal
25 Government (with respect to a

1 site on Federal land) or such
2 State or political subdivision;

3 “(cc) the remediation plan
4 demonstrates with reasonable
5 certainty that its implementation
6 will not result in water quality
7 that is worse than the baseline
8 condition of the waters described
9 in subparagraph (B)(iv) and
10 there is a reasonable basis to
11 conclude, taking into consider-
12 ation the resources identified by
13 the Good Samaritan for the pro-
14 posed remediation activity pursu-
15 ant to subparagraph (B)(xiv),
16 that such implementation will im-
17 prove water quality so as to re-
18 sult as closely as possible in the
19 attainment of applicable water
20 quality standards as is reason-
21 able and practicable under the
22 circumstances;

23 “(dd) the permit applicant
24 has provided adequate evidence
25 of financial resources that will

1 allow the applicant to complete
2 the permitted work; and

3 “(ee) the project meets the
4 requirements of this section;

5 “(II) any Federal, State, and
6 tribal land management agency with
7 jurisdiction over inactive or aban-
8 doned mine sites to be subject to the
9 proposed permit or public trustee for
10 natural resources affected by historic
11 mine residue associated with such
12 mine site does not object to the
13 issuance of the permit; and

14 “(III) in cases where the Admin-
15 istrator is the permitting authority,
16 the affected State or tribe concurs
17 with the issuance of the permit.

18 “(F) TIMING.—The permitting authority
19 shall seek to issue or deny a permit for the re-
20 mediation of a mine site not later than the date
21 that is 180 days after the date of receipt by the
22 permitting authority of an application for the
23 permit that, as determined by the permitting
24 authority, is complete.

25 “(G) MODIFICATION.—

1 “(i) APPROVAL AND DISAPPROVAL
2 PROCESS.—After receipt of a written re-
3 quest by a permittee the permitting au-
4 thority shall approve or disapprove a modi-
5 fication of a permit.

6 “(ii) PERMIT MODIFICATION.—A per-
7 mit modification approved by the permit-
8 ting authority under this subsection shall
9 be—

10 “(I) by agreement of the per-
11 mittee and the permitting authority,
12 and, in cases where the Administrator
13 is the permitting authority, the af-
14 fected State or tribe;

15 “(II) after providing the public
16 notice of, and opportunity for com-
17 ment and a hearing on, a proposed
18 modification of a Good Samaritan dis-
19 charge permit;

20 “(III) in accordance with the
21 standards in subparagraph
22 (E)(i)(I)(c); and

23 “(IV) immediately reflected in,
24 and applicable to, the Good Samaritan
25 discharge permit.

1 “(5) CONTENTS OF PERMIT.—

2 “(A) IN GENERAL.—A Good Samaritan
3 discharge permit—

4 “(i) shall include a remediation plan
5 approved by the permitting authority and
6 any additional requirements that the per-
7 mitting authority establishes under para-
8 graph (10); and

9 “(ii) shall provide for compliance with
10 and implementation of the remediation
11 plan and any other requirements described
12 under clause (i).

13 “(B) REVIEW.—A permit shall establish a
14 schedule for review, by the permitting author-
15 ity, of compliance with the conditions and limi-
16 tations of the permit.

17 “(C) EFFECT OF COMPLIANCE.—Compli-
18 ance with a Good Samaritan discharge permit
19 shall constitute compliance with section 301.
20 Neither the holder of such a permit nor a co-
21 operating person identified in such a permit
22 shall be responsible for implementing any reme-
23 diation activities other than those specified in
24 the remediation plan included in the permit.

1 This subparagraph shall not be affected by the
2 termination of such a permit.

3 “(6) FAILURE TO COMPLY.—Failure of a Good
4 Samaritan, while operating under an approved Good
5 Samaritan discharge permit, to comply with any
6 condition or limit of the permit shall be considered
7 a violation subject to enforcement pursuant to sec-
8 tions 309 and 505.

9 “(7) TERMINATION.—

10 “(A) IN GENERAL.—The permitting au-
11 thority shall terminate a Good Samaritan dis-
12 charge permit if—

13 “(i) the Good Samaritan successfully
14 completes the implementation of the reme-
15 diation plan; or

16 “(ii) the discharges covered by the
17 permit—

18 “(I) become subject to a permit
19 issued under the other subsections of
20 this section for development that is
21 not part of the implementation of the
22 remediation plan; and

23 “(II) the Good Samaritan seek-
24 ing termination of coverage, and any
25 person cooperating with the Good Sa-

1 maritan with respect to the plan, is
2 not a participant in the development.

3 “(B) UNFORESEEN CIRCUMSTANCES.—If
4 an event or condition is encountered that re-
5 duces the significantly feasibility or significantly
6 increases the cost of completing the remediation
7 project, was not contemplated or designed for
8 by the remediation plan, and is beyond the con-
9 trol of the Good Samaritan—

10 “(i) the permitting authority shall
11 seek to modify the permit, with the agree-
12 ment of the permittee, to reflect the en-
13 countered event or condition; except that

14 “(ii) if the permittee does not agree to
15 a modification of the permit, and the per-
16 mitting authority determines that remedi-
17 ation activities under the permit have not
18 resulted in surface water quality condi-
19 tions, taken as a whole, that are worse
20 than the baseline condition of the waters
21 described in paragraph (4)(B)(iv), the per-
22 mitting authority shall terminate the per-
23 mit.

24 “(C) NO ENFORCEMENT LIABILITY.—

1 “(i) REMAINING DISCHARGES.—Sub-
2 ject to clause (ii), if a permit is terminated
3 under subparagraph (A) or (B), the Good
4 Samaritan to whom the permit was issued,
5 or a cooperating person with respect to the
6 plan, shall not be subject to enforcement
7 under any provision of this Act for any dis-
8 charges from the inactive or abandoned
9 mine site described in the permit.

10 “(ii) OTHER PARTIES.—This subpara-
11 graph does not limit the liability of any
12 person, other than the Good Samaritan to
13 whom the permit was issued or a cooper-
14 ating person.

15 “(8) LIMITATIONS.—

16 “(A) EMERGENCY POWERS.—Nothing in
17 this subsection limits the authority of the Ad-
18 ministrators under section 504.

19 “(B) PRIOR VIOLATIONS.—

20 “(i) ACTIONS AND RELIEF.—Issuance
21 of a permit under this subsection does not
22 preclude any action under section 309 or
23 505, or affect the relief available in such
24 an action, with respect to a violation, by
25 any person, of this section or section

1 301(a) that occurred prior to issuance of
2 such a permit.

3 “(ii) EXCEPTIONS.—If a permit cov-
4 ers remediation activities implemented by
5 the permit holder prior to the issuance of
6 the permit, clause (i) shall not apply to an
7 action that is based on conditions resulting
8 from those remediation activities. In addi-
9 tion, the holder of a permit issued under
10 this subsection shall not be subject to an
11 action under section 309 or 505 for any
12 violations by any other party.

13 “(C) OBLIGATION OF STATES AND INDIAN
14 TRIBES.—Except as expressly provided, nothing
15 in this subsection limits any obligation of a
16 State or Indian tribe under section 303.

17 “(D) OTHER DEVELOPMENT.—Any devel-
18 opment of an inactive or abandoned mine site
19 (including mineral exploration, processing,
20 beneficiation, or mining), including development
21 by a Good Samaritan or any cooperating person
22 with respect to the plan, not specifically de-
23 scribed in a permit issued by the permitting au-
24 thority under this subsection shall be subject to
25 this Act (other than this subsection). The com-

1 mingling of any other discharges or waters with
2 the discharges or waters subject to the Good
3 Samaritan discharge permit cannot limit or re-
4 duce the liability of persons associated with the
5 other waters or discharges.

6 “(E) RECOVERABLE VALUE.—A Good Sa-
7 maritan to whom a permit is issued may sell or
8 use materials recovered during the implementa-
9 tion of the plan, but the proceeds of any such
10 sale must be used to defray the costs of remedi-
11 ation of the site addressed in the permit or the
12 costs of voluntary remediation of any other in-
13 active or abandoned mine site covered by a per-
14 mit issued under this section.

15 “(F) STATE CERTIFICATION.—In so far as
16 this subsection may relate to water quality
17 standards, section 401 certification shall not
18 apply to permits under this section; except that,
19 in any case in which section 401 certification
20 would otherwise be required, no permit shall be
21 issued under this subsection without the con-
22 currence of the State in which the discharge is
23 located or the Indian tribe which owns or has
24 jurisdiction over the site on which a remediation
25 project is proposed.

1 “(G) STATE AND TRIBAL RECLAMATION
2 PROGRAMS.—No State, Indian tribe, or other
3 person shall be required to obtain a Good Sa-
4 maritan discharge permit pursuant to this sub-
5 section for any discharges, including any dis-
6 charges associated with the remediation of an
7 inactive or abandoned mine site when con-
8 ducting reclamation work under a State or trib-
9 al abandoned mine reclamation plan approved
10 under title IV of the Surface Mining Control
11 and Reclamation Act of 1977 (30 U.S.C. 1231
12 et seq.)

13 “(9) LIABILITY OF OTHER PARTIES.—Nothing
14 in this subsection, including any result caused by
15 any action taken by the Good Samaritan to whom a
16 permit is issued or a cooperating person, limits the
17 liability of any person other than the Good Samari-
18 tan or a cooperating person, under this Act or any
19 other law.

20 “(10) REGULATIONS.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), not later than one year after
23 the date of enactment of this subsection, the
24 Administrator, in consultation with Secretary of
25 the Interior and the Secretary of Agriculture

1 and State, tribal, and local officials and after
2 providing the public with notice of, and oppor-
3 tunity for comment and a hearing on, regula-
4 tions proposed to be promulgated, shall promul-
5 gate regulations establishing generally applica-
6 ble requirements for—

7 “(i) remediation plans described in
8 paragraph (4)(B); and

9 “(ii) as considered to be necessary by
10 the Administrator, other paragraphs of
11 this subsection.

12 “(B) SPECIFIC REQUIREMENTS BEFORE
13 PROMULGATION OF REGULATIONS.—Before pro-
14 mulgation of regulations pursuant to subpara-
15 graph (A), the permitting authority may estab-
16 lish, on a case-by-case basis, after notice and
17 opportunity for public comment, specific re-
18 quirements that the permitting authority deter-
19 mines would facilitate implementation of this
20 subsection in an individual permit issued to the
21 Good Samaritan.

22 “(11) FUNDING.—

23 “(A) ELIGIBILITY FOR SECTION 319
24 GRANTS.—Implementation of a remediation
25 plan under a permit issued under this sub-

1 section shall be eligible for grants under section
2 319(h).

3 “(B) OTHER GRANT FOR IMPLEMENTA-
4 TION OF REMEDIATION PLANS.—Subject to the
5 availability of appropriated funds, the Adminis-
6 trator also may make a grant, without regard
7 to any requirements in section 319(h) con-
8 cerning the availability of State or other match-
9 ing funds, to any Good Samaritan for imple-
10 mentation of a remediation plan under a permit
11 issued under this subsection.

12 “(12) REPORT.—

13 “(A) IN GENERAL.—Not later than 1 year
14 before the date of the termination of the per-
15 mitting authority specified in paragraph (13),
16 the Administrator shall submit a report to Con-
17 gress on the activities authorized by this sub-
18 section.

19 “(B) CONTENTS.—The report required
20 under subparagraph (A), at a minimum, shall—

21 “(i) identify each permit, and associ-
22 ated Good Samaritan, issued under this
23 subsection;

24 “(ii) identify the inactive or aban-
25 doned mine site addressed by each permit

1 (including the water bodies and baseline
2 water quality of the water bodies affected
3 by the site);

4 “(iii) summarize the remediation plan
5 associated with each permit issued under
6 this subsection, including—

7 “(I) the goals and objectives of
8 the plan;

9 “(II) the plan budget; and

10 “(III) the practices to be em-
11 ployed according to the plan to re-
12 duce, control, mitigate, or eliminate
13 adverse water quality impacts;

14 “(iv) identify the status of the imple-
15 mentation of each remediation plan associ-
16 ated with each permit issued under this
17 subsection (including specific progress that
18 permitted remediation activities have made
19 toward achieving the goals and objectives
20 of the remediation plan);

21 “(v) identify and describe any enforce-
22 ment action taken by the Administrator or
23 applicable state or Indian tribe or any civil
24 action brought by a citizen concerning a

1 permit issued under this section (including
2 the disposition of the legal action); and

3 “(vi) include any recommendations
4 that may be proposed by the Administrator
5 for any modifications to existing law, in-
6 cluding this subsection, or the regulations
7 promulgated under paragraph (10) to im-
8 plement this subsection, that would facili-
9 tate the improvement of water quality
10 through the remediation of inactive or
11 abandoned mine sites.

12 “(13) TERMINATION OF PERMITTING AUTHOR-
13 ITY.—The authority granted to the permitting au-
14 thority under this subsection to issue a Good Samar-
15 itan discharge permit terminates on the date that is
16 10 years after the date of enactment of this sub-
17 section.

18 “(14) SEVERABILITY.—If any provision of this
19 subsection, or the application of any provision of this
20 subsection to any person or circumstance, is held in-
21 valid, the application of such provision to other per-
22 sons or circumstances, and the remainder of this
23 Act, shall not be affected thereby.”.

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