

114TH CONGRESS
2D SESSION

S. _____

To promote remediation of orphan mines, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. GARDNER (for himself and Mr. BENNET) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To promote remediation of orphan 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 “Good Samaritan
5 Cleanup of Orphan Mines Act of 2016”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

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

1 (2) APPLICABLE WATER QUALITY STAND-
2 ARDS.—The term “applicable water quality stand-
3 ards” means the water quality standards promul-
4 gated or established under the Federal Water Pollu-
5 tion Control Act (33 U.S.C. 1251 et seq.).

6 (3) COOPERATING AGENCY.—The term “cooper-
7 ating agency” means any Federal, State, tribal, or
8 local agency or other person (other than the Admin-
9 istrator) that—

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

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

15 (4) COOPERATING PERSON.—The term “cooper-
16 ating person” means any person that is named by
17 the permittee in the permit application as a cooper-
18 ating entity in an orphan mine remediation project.

19 (5) ELIGIBLE APPLICANT.—The term “eligible
20 applicant” means any person that applies for a per-
21 mit under this Act.

22 (6) GOOD SAMARITAN.—The term “Good Sa-
23 maritan” means a person that, with respect to his-
24 toric mine residue—

1 (A) is not a past or current owner or oper-
2 ator of—

3 (i) the orphan mine site; or

4 (ii) a portion of the orphan mine site;

5 (B) had no role in the creation of the his-
6 toric mine residue;

7 (C) had no role in creating the environ-
8 mental pollution caused by the historic mine
9 residue; and

10 (D) is not potentially liable under any Fed-
11 eral, State, tribal, or local law for the remedi-
12 ation, treatment, or control of—

13 (i) the historic mine residue; or

14 (ii) current or past discharge of pollu-
15 tion from the orphan mine site.

16 (7) HISTORIC MINE RESIDUE.—

17 (A) IN GENERAL.—The term “historic
18 mine residue” means mine residue or any con-
19 dition at an orphan mine site resulting from ac-
20 tivities conducted prior to December 11, 1980.

21 (B) INCLUSIONS.—The term “historic
22 mine residue” includes—

23 (i) previously mined ores and minerals
24 that directly contribute to acid mine drain-
25 age or other pollution;

1 (ii) equipment (including materials in
2 equipment);

3 (iii) any waste or material resulting
4 from any extraction, beneficiation, or other
5 processing activity that occurred during
6 the active operation of an orphan mine
7 site;

8 (iv) any acidic or otherwise polluted
9 flow in surface water or groundwater that
10 originates from, or is pooled and contained
11 in, an inactive or abandoned mine site;

12 (v) any hazardous substance (as de-
13 fined in section 101 of the Comprehensive
14 Environmental Response, Compensation,
15 and Liability Act of 1980 (42 U.S.C.
16 9601));

17 (vi) any pollutant or contaminant (as
18 defined in section 101 of the Comprehen-
19 sive Environmental Response, Compensa-
20 tion, and Liability Act of 1980 (42 U.S.C.
21 9601)); and

22 (vii) any pollutant (as defined in sec-
23 tion 502 of the Federal Water Pollution
24 Control Act (33 U.S.C. 1362)).

1 (8) INDIAN TRIBE.—The term “Indian tribe”
2 has the meaning given the term in section 4 of the
3 Indian Self-Determination and Education Assistance
4 Act (25 U.S.C. 450b)).

5 (9) ORPHAN MINE SITE.—

6 (A) IN GENERAL.—The term “orphan
7 mine site” means an abandoned or inactive
8 mine site and any facility associated with an
9 abandoned or inactive mine site—

10 (i) that was used for the production of
11 a mineral other than coal; and

12 (ii) for which, despite reasonable and
13 diligent efforts under the circumstances by
14 the Good Samaritan to the satisfaction of
15 the permitting authority, no responsible
16 owner or operator has been identified—

17 (I) who is potentially liable or
18 has been required to perform or pay
19 for environmental cleanup activities
20 under applicable law; and

21 (II) other than, in the case of
22 Federal land, a Federal land manage-
23 ment agency that has not been ac-
24 tively involved in mining activity on
25 the Federal land.

1 (B) EXCLUSIONS.—The term “orphan
2 mine site” does not include a mine site (includ-
3 ing associated facilities)—

4 (i) in a temporary shutdown or ces-
5 sation;

6 (ii) included on the National Priorities
7 List developed by the President in accord-
8 ance with section 105(a)(8)(B) of the
9 Comprehensive Environmental Response,
10 Compensation, and Liability Act of 1980
11 (42 U.S.C. 9605(a)(8)(B));

12 (iii) that has a responsible owner or
13 operator; or

14 (iv) that actively mined or processed
15 minerals after December 11, 1980.

16 (10) PERMITTING AUTHORITY.—The term “per-
17 mitting authority” means—

18 (A) the Administrator; or

19 (B) a State or Indian tribe with a Good
20 Samaritan program approved under section
21 4(e).

22 (11) PERSON.—The term “person” includes—

23 (A) an individual;

24 (B) a firm;

25 (C) a corporation;

- 1 (D) an association;
- 2 (E) a partnership;
- 3 (F) a consortium;
- 4 (G) a joint venture;
- 5 (H) a commercial entity;
- 6 (I) a nonprofit organization;
- 7 (J) the Federal Government;
- 8 (K) a State (including a political subdivi-
- 9 sion of a State);
- 10 (L) an interstate entity;
- 11 (M) a commission; and
- 12 (N) an Indian tribe.

13 (12) RESPONSIBLE OWNER OR OPERATOR.—

14 The term “responsible owner or operator” means a
15 person that is—

16 (A) legally responsible under section 301 of
17 the Federal Water Pollution Control Act (33
18 U.S.C. 1311) for a discharge that originates
19 from an orphan mine site; and

20 (B) financially capable of complying with
21 each requirement described in that section of
22 that Act.

23 **SEC. 3. SCOPE.**

24 Nothing in this Act (or an amendment made by this
25 Act)—

1 (1) reduces any existing liability; or

2 (2) facilitates the conduct of any mining or
3 processing other than the conduct of any processing
4 of previously mined ores and minerals that is re-
5 quired for the remediation of historic mine residue
6 to facilitate the cleanup of an orphan mine site for
7 the public good.

8 **SEC. 4. REMEDIATION OF ORPHAN MINE SITES BY GOOD**
9 **SAMARITANS.**

10 (a) PERMITS.—The permitting authority may issue
11 a permit to a Good Samaritan to carry out a project to
12 remediate historic mine residue at all or part of an orphan
13 mine site in accordance with this section.

14 (b) ELIGIBILITY FOR PERMITS.—

15 (1) IN GENERAL.—To be eligible for a permit
16 to carry out a project to remediate an orphan mine
17 site under this section—

18 (A) the mine site shall be located in the
19 United States;

20 (B) the purpose of the project shall be the
21 reduction of pollution caused by historic mine
22 residue to enhance the public good;

23 (C) the person seeking the permit shall
24 propose only those activities that are directly
25 required for the remediation of historic mine

1 residue at the mine site to enhance the public
2 good; and

3 (D) the person obtaining the permit shall
4 be a Good Samaritan.

5 (2) OTHER ACTIVITIES.—Any activity other
6 than the activities described in paragraph (1)(C)
7 conducted by the permittee or any other person at
8 the orphan mine site shall not be authorized under
9 a permit issued under this section.

10 (c) STATE OR TRIBAL PROGRAM.—

11 (1) PROGRAM.—

12 (A) IN GENERAL.—Before a permit may be
13 issued by a State or Indian tribe to carry out
14 a project under this Act, the State or Indian
15 tribe shall have in effect a voluntary Good Sa-
16 maritan program approved by the Adminis-
17 trator.

18 (B) APPLICATION.—

19 (i) IN GENERAL.—The Governor of
20 any State, or the head of the governing
21 body of an Indian tribe, may submit to the
22 Administrator, at any time, an application
23 to administer a Good Samaritan program
24 for activities under the jurisdiction of the
25 State or Indian tribe.

1 (ii) REQUIREMENTS.—An application
2 submitted under clause (i) shall include—

3 (I) a complete and detailed de-
4 scription of the permit program pro-
5 posed to be administered under State
6 or tribal law; and

7 (II) a statement from the State
8 attorney general or an equivalent trib-
9 al official that the laws of the State or
10 Indian tribe provide adequate author-
11 ity to carry out the proposed program.

12 (iii) APPROVAL OR DISAPPROVAL.—
13 The Administrator shall approve an appli-
14 cation received under clause (i) not later
15 than 120 days after the date of receipt of
16 the application unless the Administrator
17 determines that the applicable State or In-
18 dian tribe does not meet the requirements
19 described in paragraph (2), in which case
20 the Administrator shall deny the applica-
21 tion.

22 (2) REQUIREMENTS.—A State or Indian tribe
23 that seeks to administer a Good Samaritan program
24 shall—

1 (A) designate a lead State or tribal agency
2 that is responsible for carrying out permitting
3 responsibilities of the State or Indian tribe
4 under this section;

5 (B) possess legal authority to implement a
6 Good Samaritan program with program ele-
7 ments consistent with those described in this
8 Act, including State or tribal enforcement au-
9 thorities;

10 (C) agree to carry out the program in ac-
11 cordance with this Act (except that a State or
12 Indian tribe shall not be precluded from omit-
13 ting or modifying any program element for the
14 purpose of imposing requirements that are
15 more protective of the environment);

16 (D) provide for and encourage public par-
17 ticipation in the permitting process; and

18 (E) review permit applications for each
19 project for which a State or tribal permit for
20 remediation in the State or relevant area under
21 the jurisdiction of the Indian tribe is issued
22 under this section.

23 (3) STATES AND INDIAN TRIBES WITHOUT
24 GOOD SAMARITAN PROGRAMS.—In the case of a
25 State or Indian tribe without a Good Samaritan pro-

1 gram approved under paragraph (1), the Adminis-
2 trator shall issue permits for Good Samaritan
3 projects if—

4 (A) the State or Indian tribe designates a
5 lead State or tribal agency that is responsible to
6 carry out permitting responsibilities of the
7 State or Indian tribe under this section;

8 (B) the State or tribal agencies and polit-
9 ical subdivisions of the State or Indian tribe are
10 authorized by the Administrator to participate
11 in the permit process under this section, as ap-
12 propriate, and assist in providing the resources
13 to enable that participation;

14 (C) the State or Indian tribe reviews and
15 concurs in the issuance of permits for each
16 project for which a permit for remediation in
17 the State or on that tribal land is issued under
18 this section; and

19 (D)(i) the State or Indian tribe agrees that
20 a permittee shall comply with the terms and
21 conditions of the permit in lieu of compliance
22 with—

23 (I) section 402 of the Federal Water
24 Pollution Control Act (33 U.S.C. 1342);
25 and

1 (II) section 121 of the Comprehensive
2 Environmental Response, Compensation,
3 and Liability Act of 1980 (42 U.S.C.
4 9621); or

5 (ii) in the case of a State authorized to im-
6 plement State law in lieu of section 402 of the
7 Federal Water Pollution Control Act (33 U.S.C.
8 1342), the State agrees that a permittee shall
9 comply with the terms and conditions of the
10 permit in lieu of—

11 (I) State law; and

12 (II) section 121 of the Comprehensive
13 Environmental Response, Compensation,
14 and Liability Act of 1980 (42 U.S.C.
15 9621).

16 (d) APPLICATION FOR PERMITS.—To obtain a permit
17 to carry out a project to remediate an orphan mine site
18 under this section, an eligible applicant shall submit to
19 the permitting authority an application, signed by the eli-
20 gible applicant, that provides, to the extent known or rea-
21 sonably discoverable by the eligible applicant on the date
22 on which the eligible applicant submits an application for
23 a permit—

24 (1) a description of the orphan mine site (in-
25 cluding the boundaries of the orphan mine site);

1 (2) subject to the requirements of the permit-
2 ting authority—

3 (A) a description of the reasonable and
4 diligent efforts taken by the eligible applicant,
5 under the circumstances, to identify a respon-
6 sible owner or operator of the orphan mine site
7 for which the eligible applicant seeks a permit
8 under this subsection;

9 (B) the identification of any person with a
10 legal right—

11 (i) to exclude other persons from the
12 orphan mine site; or

13 (ii) to affect activities on the orphan
14 mine site; and

15 (C) a description of any legal right de-
16 scribed in subparagraph (B);

17 (3) evidence that the eligible applicant has or
18 will acquire all legal rights or the authority nec-
19 essary to enter the mine site and perform the reme-
20 diation described in the application;

21 (4) a statement that, despite reasonable and
22 diligent efforts, the eligible applicant has not identi-
23 fied a responsible owner or operator;

1 (5) documentation satisfactory to the permit-
2 ting authority that the mine site is an orphan mine
3 site;

4 (6) a detailed description of the historic mine
5 residue to be remediated;

6 (7) a description of the baseline environmental
7 conditions (as of the date of submission of the appli-
8 cation), including potentially affected surface water
9 quality and hydrologic conditions, affected by the
10 historic mine residue to be remediated that in-
11 cludes—

12 (A) the nature and extent of any adverse
13 impact on the water quality conditions of any
14 body of water caused by the drainage of historic
15 mine residue or other discharges from the or-
16 phan mine site; and

17 (B) the level of any pollutant in any body
18 of water caused by drainage of historic mine
19 residue or other discharge from the orphan
20 mine site that has resulted in an adverse impact
21 described in subparagraph (A);

22 (8) a remediation plan for the orphan mine site
23 that describes—

1 (A) the nature and scope of the proposed
2 remediation, including any pollutant to be ad-
3 dressed by the remediation plan;

4 (B) each activity that the eligible applicant
5 proposes to take that, to the maximum extent
6 practicable under the circumstances, will assist
7 in the attainment of each applicable water qual-
8 ity standard;

9 (C) the monitoring or other form of assess-
10 ment that will be undertaken by the eligible ap-
11 plicant to evaluate the success of the activities
12 described in subparagraph (A) during and after
13 the remediation, with respect to the baseline
14 conditions;

15 (D) detailed engineering plans for the
16 project; and

17 (E) any proposed recycling or reprocessing
18 of historic mine residue to be conducted by the
19 eligible applicant (including a description of
20 how each proposed recycling or reprocessing ac-
21 tivity relates to the remediation of the orphan
22 mine site);

23 (9) a schedule for the work to be carried out
24 under the project, including a schedule for periodic

1 reporting by the eligible applicant on the remedi-
2 ation of the orphan mine site;

3 (10) in the case of a remediation activity that
4 requires plugging, opening, or otherwise altering the
5 portal or adit of an orphan mine, an evaluation of
6 orphan mine site conditions, including an assessment
7 of any pooled water or hydraulic pressure in the or-
8 phan mine;

9 (11) a health and safety plan that is specifically
10 designed for mining remediation work;

11 (12) a specific contingency plan designed to re-
12 spond to unplanned adverse events, including the
13 sudden release of mine water, waste rock, or other
14 deleterious substance;

15 (13) a budget for the work to be carried out
16 under the project that includes a description of each
17 funding source;

18 (14) a project budget and description of finan-
19 cial resources that demonstrate that the permitted
20 work, including any operation and maintenance, will
21 be completed;

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

24 (16) a description of planned post-remediation
25 monitoring.

1 (e) PERMIT ISSUANCE.—

2 (1) IN GENERAL.—The permitting authority
3 may issue a permit to carry out a project for the re-
4 mediation of an orphan mine site only if—

5 (A) the permitting authority determines
6 that—

7 (i) the project will improve the envi-
8 ronment on or in the area of the orphan
9 mine site to the maximum extent prac-
10 ticable under the circumstances, as deter-
11 mined by the permitting authority;

12 (ii) to the maximum extent practicable
13 under the circumstances, the project will
14 meet all applicable water quality stand-
15 ards;

16 (iii) activities will not result in water
17 quality that is worse than the baseline
18 water conditions;

19 (iv) the permittee has—

20 (I) provided adequate evidence of
21 the financial and other resources to
22 complete the permitted work;

23 (II) demonstrated that the per-
24 mittee will complete the permitted
25 work; and

1 (III) the financial and other re-
2 sources to address any contingencies
3 identified in the permit application de-
4 scribed in subsection (d); and
5 (v) the project meets the requirements
6 of this Act;

7 (B) with respect to a State or Indian tribe
8 without a Good Samaritan program approved
9 under subsection (c), the State or Indian tribe
10 reviews and concurs with the issuance of the
11 permit;

12 (C) in the case of a proposed project to be
13 carried out on Federal land, each State or In-
14 dian tribe (or political subdivision of the State
15 or Indian tribe) in which the Federal land is lo-
16 cated meets the requirements described in sub-
17 paragraph (B); and

18 (D) the Federal, State, or tribal land man-
19 agement agency with jurisdiction over an or-
20 phan mine site that is the subject of a permit
21 application consents to the issuance of a permit.

22 (2) DISCRETIONARY ACTION.—The issuance of
23 a permit by the permitting authority and the concur-
24 rence of the affected State or Indian tribe (and any
25 political subdivision of the State or Indian tribe) to

1 participate in the permit process shall be discre-
2 tionary actions taken in the public interest.

3 (3) COMPLIANCE WITH APPLICABLE LAW.—

4 (A) IN GENERAL.—A permit issued under
5 this subsection shall authorize the permittee
6 and any cooperating person to carry out the ac-
7 tivities described in the permit.

8 (B) COMPLIANCE WITH PERMIT.—Compli-
9 ance with the permit by the permittee and any
10 cooperating person constitutes compliance with
11 applicable law, with respect only to the remedi-
12 ation of historic mine residue authorized by the
13 permit.

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
21 determined 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 per-
2 mitting authority fails to issue or deny the per-
3 mit in accordance with subparagraph (A), the
4 application shall be considered to be denied by
5 the permitting authority.

6 (f) EFFECT OF PERMITS.—

7 (1) IN GENERAL.—A permit issued under this
8 section to carry out a project for the remediation of
9 an orphan mine site—

10 (A) authorizes the permittee to carry out
11 the activities described in the permit;

12 (B) authorizes enforcement under this sec-
13 tion;

14 (C)(i) provides to the permittee, in car-
15 rying out the activities authorized under the
16 permit, protection from actions taken, obliga-
17 tions, and liabilities arising under—

18 (I) sections 402 and 505 of the Fed-
19 eral Water Pollution Control Act (33
20 U.S.C. 1342, 1365); and

21 (II) sections 107 and 310 of the Com-
22 prehensive Environmental Response, Com-
23 pensation, and Liability Act of 1980 (42
24 U.S.C. 9607, 9659); or

1 (ii) in the case of a State authorized to im-
2 plement State law in lieu of section 402 of the
3 Federal Water Pollution Control Act (33 U.S.C.
4 1342), provides to the permittee, in carrying
5 out the activities authorized under the permit,
6 protection from actions taken, obligations, and
7 liabilities arising under—

8 (I) the authorized State program; and

9 (II) sections 107 and 310 of the Com-
10 prehensive Environmental Response, Com-
11 pensation, and Liability Act of 1980 (42
12 U.S.C. 9607, 9659); and

13 (D) allows the permittee to sell or use ma-
14 terials recovered during the implementation of
15 the plan only if the proceeds from the sale or
16 use of the materials are used to defray the costs
17 of—

18 (i) remediation of the orphan site ad-
19 dressed in the permit; or

20 (ii) voluntary remediation of another
21 orphan mine site addressed in a permit
22 issued by the same permitting agency.

23 (2) CROSS-COMPLIANCE.—

24 (A) IN GENERAL.—A permittee shall com-
25 ply with the terms and conditions of a permit

1 issued under this section in lieu of compliance
2 with—

3 (i) section 402 of the Federal Water
4 Pollution Control Act (33 U.S.C. 1342);
5 and

6 (ii) section 121 of the Comprehensive
7 Environmental Response, Compensation,
8 and Liability Act of 1980 (42 U.S.C.
9 9621).

10 (B) STATE AUTHORIZED TO IMPLEMENT
11 STATE LAW.—In the case of a State authorized
12 to implement State law in lieu of section 402 of
13 the Federal Water Pollution Control Act (33
14 U.S.C. 1342), the permittee shall comply with
15 the terms and conditions of permit issued under
16 this section in lieu of—

17 (i) the authorized State program; and

18 (ii) section 121 of the Comprehensive
19 Environmental Response, Compensation,
20 and Liability Act of 1980 (42 U.S.C.
21 9621).

22 (C) ACTIVITIES NOT RELATING TO REME-
23 DIATION.—Any activity not relating to the re-
24 mediation of historic mine residue for the public
25 good, as authorized by the permit issued under

1 subsection (e) and as determined by the permit-
2 ting authority, is subject to liability and en-
3 forcement under all applicable law, including—

4 (i) the Federal Water Pollution Con-
5 trol Act (33 U.S.C. 1251 et seq.); and

6 (ii) the Comprehensive Environmental
7 Response, Compensation, and Liability Act
8 of 1980 (42 U.S.C. 9601 et seq.).

9 (3) TERMINATION OF PERMIT.—A permit
10 issued under subsection (e) shall terminate at the
11 completion of the project in accordance with sub-
12 section (t).

13 (g) CONTENT OF PERMITS.—

14 (1) IN GENERAL.—A permit issued under sub-
15 section (e) shall contain—

16 (A) the information described in subsection
17 (d);

18 (B)(i) a provision that states that the per-
19 mittee is responsible for securing, for all activi-
20 ties authorized under the permit, all authoriza-
21 tions, licenses, and permits that are required
22 under applicable law other than—

23 (I) section 402 of the Federal Water
24 Pollution Control Act (33 U.S.C. 1342);
25 and

1 (II) section 121 of the Comprehensive
2 Environmental Response, Compensation,
3 and Liability Act of 1980 (42 U.S.C.
4 9621); or

5 (ii) in the case of a State authorized to im-
6 plement State law in lieu of section 402 of the
7 Federal Water Pollution Control Act (33 U.S.C.
8 1342), 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 except—

13 (I) the authorized State program; and

14 (II) section 121 of the Comprehensive
15 Environmental Response, Compensation,
16 and Liability Act of 1980 (42 U.S.C.
17 9621); and

18 (C) any other terms and conditions that
19 are determined to be appropriate by the permit-
20 ting authority.

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

24 (3) TIMING.—Work authorized under a per-
25 mit—

1 (A) shall commence not later than the date
2 that is 18 months after the date of issuance of
3 the permit; and

4 (B) shall continue until completed, with
5 temporary suspensions permitted during ad-
6 verse weather or other conditions specified in
7 the permit.

8 (4) SIGNATURE BY PERMITTEE.—The signature
9 of the permittee on the permit shall be considered to
10 be an acknowledgment by the permittee that the
11 permittee accepts the terms and conditions of the
12 permit.

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

15 (A) the permitting authority determines
16 that the transferee qualifies as a Good Samari-
17 tan;

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

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

23 (6) TERMINATION OF PERMIT.—The authority
24 to carry out work under a permit issued under this
25 section shall terminate if the work does not com-

1 mence by the date that is 18 months after the date
2 of issuance of the permit.

3 (7) OTHER DEVELOPMENT.—

4 (A) IN GENERAL.—Any activity relating to
5 mineral exploration, processing, beneficiation,
6 or mining, including development by a per-
7 mittee or any cooperating person, not author-
8 ized in a permit issued by the permitting au-
9 thority shall be subject to all applicable law.

10 (B) NO AUTHORIZATION OR WAIVER.—Ex-
11 cept as provided in subsection (f)(1)(D), no
12 mineral exploration, processing, beneficiation, or
13 mining shall be—

14 (i) authorized by a permit issued
15 under this Act; or

16 (ii) covered by any waiver of liability
17 from applicable law.

18 (C) CONNECTION WITH OTHER ACTIVI-
19 TIES.—The commingling or association of any
20 other discharge, water, or pollutant or any ac-
21 tivity, project, or operation with any aspect of
22 the project subject to a permit issued under
23 subsection (e) shall not limit or reduce the li-
24 ability of any person associated with the other

1 discharge, water, or pollutant or activity,
2 project, or operation.

3 (h) **ROLE OF PERMITTING AUTHORITY.**—In carrying
4 out this section, the permitting authority shall—

5 (1) consult with prospective applicants;

6 (2) accept permit applications under this sec-
7 tion;

8 (3) convene, coordinate, and lead the applica-
9 tion review process;

10 (4) maintain all records relating to the permit
11 and the permit process;

12 (5) provide an opportunity for cooperating
13 agencies and the public to participate in the permit
14 process, including—

15 (A) a public comment period; and

16 (B) a public hearing, if requested;

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

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

20 (i) **COOPERATING AGENCIES AND STATE, LOCAL,
21 AND TRIBAL COMMUNITIES.**—

22 (1) **IN GENERAL.**—If the permitting authority
23 learns that an application for the remediation of an
24 orphan mine site under this section will be submitted
25 to the permitting authority, the permitting authority

1 shall (as soon as practicable) provide a notice of the
2 application to—

3 (A) the lead State or tribal agency des-
4 igned under subsection (c)(2)(A);

5 (B) each local government located within a
6 radius of 75 miles of the mine site; and

7 (C) each Federal, State, and tribal agency
8 that may have an interest in the application.

9 (2) COPY OF APPLICATION.—As soon as prac-
10 ticable after the date on which the permitting au-
11 thority receives an application, the notice described
12 in paragraph (1) shall be supplemented with a copy
13 of the application.

14 (j) PUBLIC NOTICE OF RECEIPT OF APPLICA-
15 TIONS.—

16 (1) IN GENERAL.—On receipt of a complete ap-
17 plication for the remediation of an orphan mine site
18 under this Act, the permitting authority shall, not
19 later than 30 days after receipt of the application,
20 provide to the public a notice that—

21 (A) describes—

22 (i) the location of the orphan mine
23 site;

24 (ii) the scope and nature of the pro-
25 posed remediation; and

1 (iii) the name of the Good Samaritan
2 applying for a permit to carry out the pro-
3 posed remediation; and

4 (B) provides to the public a means of view-
5 ing or obtaining the application, including, at
6 the minimum, posting the application on the
7 website of the permitting authority.

8 (2) HEARING.—

9 (A) IN GENERAL.—Before the date of per-
10 mit issuance, if requested, the permitting au-
11 thority shall hold a public hearing in the vicin-
12 ity of the orphan mine site to be remediated.

13 (B) NOTICE.—Not later than 30 days be-
14 fore the date of the hearing, the permitting au-
15 thority shall provide the public with notice of
16 the hearing and a draft permit.

17 (C) COMMENTS.—The permitting authority
18 shall provide the applicant and the public with
19 the opportunity—

20 (i) to comment on the draft permit at
21 the public hearing; and

22 (ii) to submit written comments to the
23 permitting authority during the 30-day pe-
24 riod following the date of the hearing.

25 (k) MONITORING.—

1 (1) IN GENERAL.—The permittee shall take
2 such actions as the permitting authority determines
3 are necessary to ensure appropriate baseline moni-
4 toring, monitoring during the remediation project,
5 and post-remediation monitoring of the environment
6 under paragraphs (6), (7), (8), and (16) of sub-
7 section (d).

8 (2) MULTIPARTY MONITORING.—The permit-
9 ting authority may approve in a permit the conduct
10 of monitoring by multiple cooperating persons if, as
11 determined by the permitting authority, the
12 multiparty monitoring will effectively accomplish the
13 goals of this section.

14 (1) FAILURE TO COMPLY.—

15 (1) IN GENERAL.—If a permittee or any cooper-
16 ating person fails to comply with any condition or
17 limitation of the permit, the permittee or cooper-
18 ating person shall be subject to liability under the
19 Federal Water Pollution Control Act (33 U.S.C.
20 1251 et seq.) and the Comprehensive Environmental
21 Response, Compensation, and Liability Act of 1980
22 (42 U.S.C. 9601 et seq.).

23 (2) STATE AUTHORIZED TO IMPLEMENT STATE
24 LAW.—In the case of a State authorized to imple-
25 ment State law in lieu the Federal Water Pollution

1 Control Act (33 U.S.C. 1251 et seq.), if the per-
2 mittee or any cooperating person fails to comply
3 with any condition or limitation of the permit, the
4 permittee or cooperating person shall be subject to
5 liability under—

6 (A) the authorized State program; and

7 (B) the Comprehensive Environmental Re-
8 sponse, Compensation, and Liability Act of
9 1980 (42 U.S.C. 9601 et seq.).

10 (3) EXCEPTION.—This subsection shall not
11 apply to a permittee that fails to comply with any
12 condition or limitation of the permit if that failure
13 to comply results in only a de minimus adverse im-
14 pact on water quality.

15 (m) ENFORCEMENT.—

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

20 (2) INJUNCTIONS.—

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

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

1 (ii) prohibiting a person from vio-
2 lating a permit; or

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

6 (B) MINIMUM REQUIREMENT.—In the
7 event of a permit violation or negligent action
8 by a permittee or any cooperating person, and
9 absent extraordinary circumstances, the court
10 shall, at a minimum, require—

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

15 (ii) the environment to be restored to
16 a condition that is, at a minimum, as good
17 as the condition of the environment prior
18 to the action of the permittee in violation
19 of the permit, as determined by the per-
20 mitting authority.

21 (3) AGENCIES.—Any permitting authority that
22 signs a permit issued under this section may enforce
23 the permit through appropriate administrative or ju-
24 dicial proceedings.

1 (n) GRANT ELIGIBILITY.—A remediation project con-
2 ducted pursuant to this section shall be eligible for funding
3 pursuant to section 319 of the Federal Water Pollution
4 Control Act (33 U.S.C. 1329).

5 **[(o) CITIZEN CIVIL ACTIONS.—Under discussion]**

6 (p) JUDICIAL REVIEW.—Pursuant to the judicial re-
7 view provisions of section 706 of title 5, United States
8 Code, a court may set aside or modify an action of the
9 Administrator or permitting authority in issuing or deny-
10 ing a permit under this section, or an action of a State
11 or Indian tribe (including a political subdivision of the
12 State or Indian tribe) in signing a permit.

13 (q) TRANSFER OF PERMITTING AUTHORITY.—

14 (1) IN GENERAL.—Subject to paragraph (2),
15 not later than 120 days after the date on which a
16 State or Indian tribe has submitted an application
17 to administer a Good Samaritan program, the Ad-
18 ministrator shall suspend the issuance of permits
19 under this Act for remediation activities in that
20 State or relevant area under the jurisdiction of an
21 Indian tribe unless the Administrator determines
22 that the Good Samaritan program of the State or
23 Indian tribe does not satisfy the requirements of this
24 Act.

1 (2) EXTENSION.—The period before which the
2 Administrator will suspend permitting activity under
3 this subsection may be extended by mutual agree-
4 ment of the Administrator and the applicable State
5 or Indian tribe.

6 (f) NOTIFICATION OF ADMINISTRATOR.—

7 (1) IN GENERAL.—Each State or Indian tribe
8 authorized to administer a Good Samaritan program
9 shall—

10 (A) submit to the Administrator a copy of
11 each permit application received by the State or
12 Indian tribe; and

13 (B) provide notice to the Administrator of
14 each permit proposed to be issued by the State
15 or Indian tribe (including any proposed permit
16 modifications, transfers, or terminations).

17 (2) OBJECTION TO ISSUANCE.—

18 (A) IN GENERAL.—No permit shall be
19 issued by a State or Indian tribe referred to in
20 paragraph (1) if the Administrator, by not later
21 than the date that is 90 days after the date of
22 submission of the proposed permit notification,
23 objects in writing to the issuance of the permit
24 on the basis that the permit would not be in ac-
25 cordance with this Act.

1 (B) STATEMENT OF REASONS FOR OBJEC-
2 TION.—An objection by the Administrator de-
3 scribed in subparagraph (A) shall include a
4 statement of the reasons for the objection.

5 (3) ISSUANCE OR DENIAL OF PERMITS.—

6 (A) IN GENERAL.—In any case in which
7 the Administrator objects to the issuance of a
8 permit under paragraph (2), the permitting au-
9 thority, in consultation with the Good Samari-
10 tan, may resubmit an amended permit.

11 (B) FAILURE TO RESUBMIT APPLICA-
12 TION.—If a State or Indian tribe, in consulta-
13 tion with the Good Samaritan, does not resub-
14 mit a permit revised to meet the objections of
15 the Administrator by the date that is 30 days
16 after the date of the issuance of an objection
17 under subparagraph (A), the Administrator
18 shall deny the permit in accordance with this
19 Act.

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

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

1 (2) STATES AND INDIAN TRIBES WITHOUT
2 GOOD SAMARITAN PROGRAMS.—In the case of a
3 State or Indian tribe without a Good Samaritan pro-
4 gram approved under subsection (c)(1), the Adminis-
5 trator may issue permits under subsection (c)(3).

6 (3) NOTIFICATION AND WITHDRAWAL.—

7 (A) IN GENERAL.—Subject to subpara-
8 graph (B), if the Administrator determines,
9 after a public hearing, that a State or Indian
10 tribe is not administering a program approved
11 under this Act in accordance with this Act, the
12 Administrator shall—

13 (i) notify the State or Indian tribe of
14 the determination; and

15 (ii) if appropriate corrective action is
16 not taken within a reasonable time, not to
17 exceed 90 after the date of notification
18 under clause (i), withdraw approval of the
19 program.

20 (B) NOTIFICATION OF REASONS FOR
21 WITHDRAWAL.—The Administrator shall not
22 withdraw approval of a program under subpara-
23 graph (A) until the Administrator notifies the
24 State or Indian tribe, and makes available to

1 the public, in writing, the reasons for the with-
2 drawal.

3 (C) REAPPLICATION.—A State or Indian
4 tribe for which the Administrator has with-
5 drawn approval of a Good Samaritan program
6 may reapply to administer a Good Samaritan
7 program.

8 (t) EMERGENCY AUTHORITY AND LIABILITY.—

9 (1) EMERGENCY AUTHORITY.—Nothing in this
10 section affects the authority of a Federal, State,
11 tribal, or local agency to carry out any emergency
12 authority, including an emergency authority pro-
13 vided under Federal, State, or local law.

14 (2) LIABILITY.—Except as specifically provided
15 in this Act, nothing in this Act or a permit issued
16 under this Act limits the liability of any person (in-
17 cluding a permittee or any cooperating person)
18 under any provision of law.

19 (u) TERMINATION OF AUTHORITY.—

20 (1) TERMINATION.—

21 (A) IN GENERAL.—Except as provided in
22 subparagraph (B), the authority to issue per-
23 mits pursuant to this Act shall terminate on
24 September 30, 2026.

1 (B) EXCEPTION.—Notwithstanding sub-
2 paragraph (A), a permitting authority may
3 issue a permit pursuant to this Act after Sep-
4 tember 30, 2026, if the application for the per-
5 mit—

6 (i) was submitted not later than 180
7 days before that date; and

8 (ii) was completed in accordance with
9 subsection (d) by not later than September
10 30, 2026.

11 (2) EFFECT ON CERTAIN PERMITS.—Any per-
12 mit issued pursuant to this Act before September
13 30, 2026, that is in effect on that date (including
14 any permit issued pursuant to paragraph (1)(B))
15 shall remain in effect after that date in accordance
16 with—

17 (A) the terms and conditions of the permit;

18 and

19 (B) this Act.

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

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

1 (B) the date that is 6 years after the date
2 of issuance of the applicable permit.

3 (4) TERMINATION OF PERMIT.—A permitting
4 authority shall terminate a permit issued under sub-
5 section (e) on the date on which a project is com-
6 pleted in accordance with paragraph (3).

7 (5) NO ENFORCEMENT LIABILITY.—

8 (A) DISCHARGES.—The permittee of a per-
9 mit, or a cooperating person, shall not be sub-
10 ject to enforcement under the Federal Water
11 Pollution Control Act (33 U.S.C. 1251 et seq.)
12 or the Comprehensive Environmental Response,
13 Compensation, and Liability Act of 1980 (42
14 U.S.C. 9601 et seq.) for liability for any past,
15 present, or future discharges at or from the or-
16phan mining site that is the subject of the per-
17mit.

18 (B) OTHER PARTIES.—Subparagraph (A)
19 does not limit the liability of any person that is
20 not described in that subparagraph.

21 (C) VIOLATION OF PERMIT PRIOR TO TER-
22MINATION.—The discharge of liability for a per-
23mittee of a permit, or a cooperating person,
24 under subparagraph (A) shall not apply with
25 respect to any violation of the permit that oc-

1 curs on a date that is before the date on which
2 the permit is terminated.

3 (v) REPORT TO CONGRESS.—

4 (1) PREPARATION AND SUBMISSION.—Not later
5 than January 1, 2026, the Administrator shall sub-
6 mit to the Chairpersons and Ranking Members of
7 the Committee on Environment and Public Works of
8 the Senate and the Committees on Transportation
9 and Infrastructure, Energy and Commerce, and
10 Natural Resources of the House of Representatives
11 a report evaluating the permit program under this
12 Act.

13 (2) INCLUSIONS.—The report under paragraph
14 (1) shall include—

15 (A) a description of—

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

18 (ii) each remediation project author-
19 ized by those permits;

20 (B) qualitative and quantitative data on
21 the results achieved under the permits before
22 the date of issuance of the report;

23 (C) a description of—

24 (i) any problems encountered in ad-
25 ministering this Act; and

1 (ii) whether the problems have been or
2 can be remedied by administrative action
3 (including amendments to existing law);

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

6 (E) recommendations on whether the per-
7 mit program under this Act should be contin-
8 ued after September 30, 2026, including a de-
9 scription of any modifications (including
10 amendments to existing law) required to con-
11 tinue administering this Act.

12 (w) REGULATIONS.—

13 (1) IN GENERAL.—Subject to paragraph (2),
14 not later than 1 year after the date of enactment of
15 this subsection, the Administrator, in consultation
16 with the Secretary of the Interior and the Secretary
17 of Agriculture, and appropriate State, tribal, and
18 local officials, shall promulgate regulations to estab-
19 lish—

20 (A) requirements for remediation plans de-
21 scribed in subsection (d); and

22 (B) any other requirement that the Admin-
23 istrator determines to be necessary.

24 (2) SPECIFIC REQUIREMENTS BEFORE PROMUL-
25 GATION OF REGULATIONS.—Before the date on

1 which the Administrator promulgates regulations
2 under paragraph (1), a permitting authority may es-
3 tablish, on a case-by-case basis, specific require-
4 ments that the permitting authority determines
5 would facilitate the implementation of this sub-
6 section with respect to a Good Samaritan permitting
7 program.

8 **SEC. 5. INVESTIGATIVE SAMPLING.**

9 (a) IN GENERAL.—A permit issued under section
10 4(e) may identify an appropriate program of investigative
11 sampling of historic mine residue to be completed prior
12 to remediation, as determined by the permitting authority
13 on submission of the application.

14 (b) APPLICATION.—If an eligible applicant proposes
15 to conduct a program of investigative sampling, the eligi-
16 ble applicant shall submit to the permitting authority a
17 plan that contains, to the extent known by the eligible ap-
18 plicant as of the date on which the eligible applicant sub-
19 mits the application—

20 (1) each description required under paragraph

21 (1) and paragraphs (2)(A) and (C) of section 4(d);

22 (2) the identification required under paragraph

23 (2)(B) of section 4(d);

24 (3) the evidence required under paragraph (3)

25 of section 4(d);

1 (4) the statement required under paragraph (4)
2 of section 4(d);

3 (5) the documentation required under para-
4 graph (5) of section 4(d);

5 (6) the evaluation required under paragraph
6 (10) of section 4(d);

7 (7) the plan required under paragraph (12) of
8 section 4(d);

9 (8) the budget required under paragraph (13)
10 of section 4(d); and

11 (9) a plan of investigative sampling.

12 (c) PERMIT CONTENTS.—If an eligible applicant sub-
13 mits an application for investigative sampling of historic
14 mine residue that only includes the requirements described
15 in subsection (b), the permitting authority may only issue
16 a permit that authorizes the eligible applicant to carry out
17 the program of investigative sampling of historic mine res-
18 idue.

19 (d) REQUIREMENTS RELATING TO SAMPLES.—In
20 conducting a program of investigative sampling of historic
21 mine residue, an eligible applicant shall—

22 (1) collect samples that are representative of
23 the conditions present at the orphan mine site that
24 is the subject of the program, as determined by the
25 permitting authority; and

1 (2) retain publically available records of all
2 sampling events for a period of not less than 3
3 years.

4 (e) OPTION TO DECLINE REMEDIATION.—An inves-
5 tigative sampling permit may allow the permittee to de-
6 cline to undertake remediation based on the results of the
7 investigative sampling program if the activities carried out
8 under the program of investigative sampling result in sur-
9 face water quality conditions that are not worse than the
10 baseline water quality conditions due to drainage of his-
11 toric mine residue or other discharges from the orphan
12 mine site.

13 (f) PERMIT MODIFICATION.—

14 (1) APPLICATION FOR PERMIT MODIFICA-
15 TION.—

16 (A) IN GENERAL.—Based on investigative
17 sampling results, a permittee shall submit an
18 application for a permit modification using the
19 permit procedures in this Act, unless the per-
20 mittee declines remediation under subsection
21 (e).

22 (B) CONTENTS.—An application for per-
23 mit modification shall include any requirement
24 described in section 4(d) that was not sub-

1 mitted with the investigative sampling applica-
2 tion under subsection (b).

3 (C) PUBLIC NOTICE AND COMMENT.—An
4 application for permit modification shall be sub-
5 ject to—

6 (i) a period of public notice and com-
7 ment; and

8 (ii) a public hearing.

9 (2) UNFORESEEN CIRCUMSTANCES.—Except as
10 provided in paragraph (3), the permitting authority,
11 in cooperation with the permittee, shall seek to mod-
12 ify a Good Samaritan permit to take into account
13 any event or condition that—

14 (A) significantly reduces the feasibility or
15 significantly increases the cost of completing
16 the remediation project that is the subject of
17 the Good Samaritan permit;

18 (B) was not—

19 (i) contemplated by the permittee; or

20 (ii) taken into account in the remedi-
21 ation plan of the permittee; and

22 (C) is beyond the control of the permittee,
23 as determined by the permitting authority.

1 (3) EXCEPTION.—Notwithstanding paragraph
2 (2), the permitting authority shall terminate the per-
3 mit if—

4 (A) the permittee does not agree to the
5 modification of a permit; or

6 (B) the permitting authority determines
7 that remediation activities conducted by the
8 permittee pursuant to the permit have resulted
9 or will result in surface water quality conditions
10 that are or will be worse than the baseline
11 water conditions.