

Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2022

Section by Section

Section 1—Short Title

Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2022

Section 2—Definitions

- Defines an *abandoned mine site* to be an abandoned or inactive hardrock mine site for which no responsible owner or operator has been identified who is potentially liable for, or has been required to perform or pay for, environmental remediation activities under applicable law.
- Defines a *Good Samaritan* to be a person who is not a past or present owner of the site, had no role in creating the historic mine residue, and is not already liable for the control, or remediation of the abandoned mine.
- Defines *responsible owner or operator* as a person who is legally responsible or liable under the Clean Water Act or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and financially able to comply with requirements of those laws.
- Defines *cooperating person* to include any person named in a Good Samaritan permit, excluding any responsible owner or operator.
- Defines *remediation* broadly to include actions taken to investigate, characterize, or cleanup, in whole or in part, a discharge, release, or threat of release of a hazardous substance, pollutant, or contaminant into the environment; plugging, opening, or otherwise altering the opening to an abandoned mine site is only allowed for projects on Federal lands.

Section 3—Scope

Specifies that nothing in the Act reduces any existing liability or releases any person from liability except in compliance with the Act. Further, nothing in the Act authorizes any mining or processing, except for reprocessing as provided by a permit.

Section 4—Pilot Project Authorization

(a) Establishment

- Establishes a pilot program of 15 Good Samaritan remediation projects over 7 years. Federal, State, Tribal and private lands are eligible with limitations.

(b) Permit Eligibility

- Eligible projects are those that, should they fail, pose a low risk to the environment (e.g., passive treatment of small quantities of water).
- Eligible projects involve activities designed to result in partial or complete remediation of the abandoned mine site.
- Requires eligible Good Samaritans to have resources to complete permitted work, address any contingencies, and possess the proper and appropriate experience and capacity to complete the project.
- Requires the EPA Administrator to deny any permit application if they identify a responsible owner or operator for the site.
- Applicants must demonstrate that the purpose of the proposed project is remediation of historic mine residue at the abandoned mine site.

(c) Application for Permits

- Requires a description of all parties.
- Requires baseline conditions to be quantified and documented.
- Requires detailed remediation plans, including information on engineering, operation and maintenance, and post-remediation monitoring, as well as reprocessing plans if proposed.
- The proposed remediation activities should be designed to improve or enhance water quality or site-specific soil quality or to otherwise protect human health the environment.
- Requires a health and safety plan, as well as a contingency plan in the event of unplanned release of mine residue.
- Applicant must provide a budget and description of financial resources to ensure completion of the project.

(d) Investigative Sampling

- Allows a Good Samaritan to initially apply for a time-limited permit to sample the environmental conditions at a site, and in the case of reprocessing to only conduct metallurgical testing.

(e) Investigative Sampling Conversion

- A Good Samaritan may apply to have an investigative sampling permit converted to a Good Samaritan permit; all application requirements and conditions apply for permit conversions.

(f) Content of Permits

- Includes permit requirements and terms and conditions, and establishes exceptions under the Clean Water Act, CERCLA, State and Tribal law.
- Notice that the Good Samaritan permit serves as an agreement for use and occupancy of Federal lands. The respective Federal land management agency retains the authority to enforce the permit terms and conditions.
- A permit may include a force majeure provision, exempting the permit holder from damage caused by unforeseeable acts of God or war.
- A permit shall include monitoring as appropriate, starting with a baseline and carried through remediation to post-remediation.
- The mining of new materials or exploration for new minerals is not authorized or covered by any waiver of liability under this Act.
- Reprocessing of materials may only be allowed if a project is on public land, the public land agency has approved reprocessing as part of remediation plan, and the proceeds are used to defray costs of remediation. Any remaining proceeds must be deposited into a Good Samaritan Mine Remediation Fund in Sec. 5.

(g) Additional Work

- Allows Good Samaritans to return to site after project completion for operations and maintenance.

(h) Timing

- Work must commence within 18 months after a permit has been granted.

(i) Transfer of Permits

- Good Samaritan permits may only be transferred to entities who qualify as Good Samaritans and the transferee shall be bound by the terms of the permit and any other conditions deemed necessary.

(j) Role of Administrator and Public Land Management Agencies

- The EPA must lead the application review process, maintain records and coordinate the environmental review and public comment process for non-public land projects.
- For projects on public land, the respective federal land management agency leads the environmental review and public comment process and enforces permits in coordination with the EPA.

(k) State, Local, and Tribal Governments

- Within 14 days of receiving a permit application, the EPA must provide notice to respective government entities.

(l) Environmental Review and Public Comment

- Public comment and environmental review are required before issuing a permit.
- All projects are subject to the National Environmental Policy Act, with the EPA the lead agency for projects that are on State, Private, or Tribal lands. On public land, the respective federal land manager is the lead agency.
- A single environmental assessment (EA) may be prepared to cover the issuance of the Good Samaritan permit, the activities it authorizes, and any applicable permits required by the federal land managers. A single decision document may be issued.
- A Good Samaritan permit may only be issued if there is a finding of no significant impact supported by the EA.

(m) Permit Grant

- A permit may only be granted if the applications, and the project is expected to improve, or reduces further threats to, soil and water quality or safety conditions. Prior to issuing the permit, the applicant is required to have the resources to carry out the project, and the relevant heads of agencies and local governments have had opportunity for input.

(n) Effect of Permits

- The Good Samaritans, recipients of investigative sampling permits, and cooperating persons (i.e., project partners) receive exemptions to the Clean Water Act and CERCLA to the extent that they are in compliance with a Good Samaritan permit.
- A Good Samaritan, recipient of an investigative sampling permit, or cooperating person that is conducting remediation in compliance with the Good Samaritan permit is not subject to enforcement, civil or criminal penalties, citizen suits or any other liability under the Clean Water Act and CERCLA. Responsible owners and operators are not discharged of liabilities and sites with Responsible owners or operators are not eligible for Good Samaritan projects.
- Any new mining, exploration, or other activities not authorized in a Good Samaritan permit are not exempt, and are subject to all laws, including Clean Water Act and CERCLA.
- A conditional safe harbor is given to permittees that correct permit violations and noncompliance within a reasonable amount of time, as long as the noncompliance did not result in a measurable adverse impact on water quality or other environmental conditions, or such conditions have been returned to pre-existing

conditions. A permittee who fails to meet these conditions could be subject to enforcement and liability under the Clean Water Act and CERCLA.

(o) Public Notification of Adverse Event

- Any unplanned or previously unknown release of historic mine residue must be reported pursuant to applicable law, including CERCLA, the Emergency Planning and Community Right-to-Know Act, and the Clean Water Act.

(p) Grant Eligibility

- Good Samaritan projects are eligible for Clean Water Act Section 319 nonpoint source and CERCLA 104 (k) Brownfields grants.

(q) Emergency Authority and Liability

- No liability is limited for any person except as provided in the Act.
- Nothing in the Act affects Federal, State, Tribal or local agency to carry out emergency authorities.

(r) Termination of Authority

- The Good Samaritan pilot program expires after seven years.
- A Good Samaritan permit terminates upon inspection and notice from the EPA that the work has been completed in accordance with the permit.
- Authorizes the extension of a Good Samaritan permit up to 180 days at the discretion of the EPA Administrator.
- Allows Good Samaritans or recipients of investigative sampling permits to seek to modify or terminate the permit due to unforeseen circumstances.

(s) Regulations

- Requires EPA to promulgate regulations to establish requirements for remediation plans.

Section 5—Special Accounts

Establishes a remediation fund that the EPA and federal land management agencies can use to carry out the Act. The fund includes proceeds from reprocessing, as well as appropriations, donations, financial assurances and other specified sources.

Section 6—Report to Congress

Within eight years the EPA must submit a report evaluating the pilot program.