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.
(2) Applicable water quality standards.—The term “applicable water quality standards” means the water quality standards promulgated or established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(3) 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.

(4) Cooperating person.—The term “cooperating person” means any person that is named by the permittee in the permit application as a cooperating entity in an orphan mine remediation project.

(5) Eligible applicant.—The term “eligible applicant” means any person that applies for a permit under this Act.

(6) Good Samaritan.—The term “Good Samaritan” means a person that, with respect to historic mine residue—
(A) is not a past or current owner or operator of—

(i) the orphan mine site; or

(ii) a portion of the orphan mine site;

(B) had no role in the creation of the historic mine residue;

(C) had no role in creating the environmental pollution caused by the historic mine residue; and

(D) is not potentially liable under any Federal, State, tribal, or local law for the remediation, treatment, or control of—

(i) the historic mine residue; or

(ii) current or past discharge of pollution from the orphan mine site.

(7) HISTORIC MINE RESIDUE.—

(A) IN GENERAL.—The term “historic mine residue” means mine residue or any condition at an orphan mine site resulting from activities conducted prior to December 11, 1980.

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

(i) previously mined ores and minerals that directly contribute to acid mine drainage or other pollution;
(ii) equipment (including materials in equipment);

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

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

(v) any hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601));

(vi) any pollutant or contaminant (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)); and

(vii) any pollutant (as defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362)).
(8) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)).

(9) ORPHAN MINE SITE.—

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

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

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

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

(II) other than, in the case of Federal land, a Federal land management agency that has not been actively involved in mining activity on the Federal land.
(B) EXCLUSIONS.—The term “orphan mine site” does not include a mine site (including associated facilities)—

(i) in a temporary shutdown or cessation;

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

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

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

(10) PERMITTING AUTHORITY.—The term “permitting authority” means—

(A) the Administrator; or

(B) a State or Indian tribe with a Good Samaritan program approved under section 4(c).

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

(A) an individual;

(B) a firm;

(C) a corporation;
(D) an association;

(E) a partnership;

(F) a consortium;

(G) a joint venture;

(H) a commercial entity;

(I) a nonprofit organization;

(J) the Federal Government;

(K) a State (including a political subdivision of a State);

(L) an interstate entity;

(M) a commission; and

(N) an Indian tribe.

(12) RESPONSIBLE OWNER OR OPERATOR.— The term “responsible owner or operator” means a person that is—

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

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

SEC. 3. SCOPE.

Nothing in this Act (or an amendment made by this Act)—
(1) reduces any existing liability; or

(2) facilitates the conduct of any mining or processing other than the conduct of any processing of previously mined ores and minerals that is required for the remediation of historic mine residue to facilitate the cleanup of an orphan mine site for the public good.

SEC. 4. REMEDIATION OF ORPHAN MINE SITES BY GOOD SAMARITANS.

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

(b) ELIGIBILITY FOR PERMITS.—

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

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

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

(C) the person seeking the permit shall propose only those activities that are directly required for the remediation of historic mine
residue at the mine site to enhance the public
good; and

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

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

(c) STATE OR TRIBAL PROGRAM.—

(1) PROGRAM.—

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

(B) APPLICATION.—

(i) IN GENERAL.—The Governor of
any State, or the head of the governing
body of an Indian tribe, may submit to the
Administrator, at any time, an application
to administer a Good Samaritan program
for activities under the jurisdiction of the
State or Indian tribe.
(ii) REQUIREMENTS.—An application submitted under clause (i) shall include—

(I) a complete and detailed description of the permit program proposed to be administered under State or tribal law; and

(II) a statement from the State attorney general or an equivalent tribal official that the laws of the State or Indian tribe provide adequate authority to carry out the proposed program.

(iii) APPROVAL OR DISAPPROVAL.—

The Administrator shall approve an application received under clause (i) not later than 120 days after the date of receipt of the application unless the Administrator determines that the applicable State or Indian tribe does not meet the requirements described in paragraph (2), in which case the Administrator shall deny the application.

(2) REQUIREMENTS.—A State or Indian tribe that seeks to administer a Good Samaritan program shall—
(A) designate a lead State or tribal agency that is responsible for carrying out permitting responsibilities of the State or Indian tribe under this section;

(B) possess legal authority to implement a Good Samaritan program with program elements consistent with those described in this Act, including State or tribal enforcement authorities;

(C) agree to carry out the program in accordance with this Act (except that a State or Indian tribe shall not be precluded from omitting or modifying any program element for the purpose of imposing requirements that are more protective of the environment);

(D) provide for and encourage public participation in the permitting process; and

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

(3)-states and Indian tribes without Good Samaritan programs.—In the case of a State or Indian tribe without a Good Samaritan pro-
gram approved under paragraph (1), the Administrator shall issue permits for Good Samaritan projects if—

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

(B) the State or tribal agencies and political subdivisions of the State or Indian tribe are authorized by the Administrator to participate in the permit process under this section, as appropriate, and assist in providing the resources to enable that participation;

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

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

(I) section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342);
(II) section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621); or

(ii) in the case of a State authorized to implement State law in lieu of section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342), the State agrees that a permittee shall comply with the terms and conditions of the permit in lieu of—

(I) State law; and


(d) APPLICATION FOR PERMITS.—To obtain a permit to carry out a project to remediate an orphan mine site under this section, an eligible applicant shall submit to the permitting authority an application, signed by the eligible applicant, that provides, to the extent known or reasonably discoverable by the eligible applicant on the date on which the eligible applicant submits an application for a permit—

(1) a description of the orphan mine site (including the boundaries of the orphan mine site);
(2) subject to the requirements of the permitting authority—

(A) a description of the reasonable and diligent efforts taken by the eligible applicant, under the circumstances, to identify a responsible owner or operator of the orphan mine site for which the eligible applicant seeks a permit under this subsection;

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

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

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

(C) a description of any legal right described in subparagraph (B);

(3) evidence that the eligible applicant has or will acquire all legal rights or the authority necessary to enter the mine site and perform the remediation described in the application;

(4) a statement that, despite reasonable and diligent efforts, the eligible applicant has not identified a responsible owner or operator;
(5) documentation satisfactory to the permitting authority that the mine site is an orphan mine site;

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

(7) a description of the baseline environmental conditions (as of the date of submission of the application), including potentially affected surface water quality and hydrologic conditions, affected by the historic mine residue to be remediated that includes—

(A) the nature and extent of any adverse impact on the water quality conditions of any body of water caused by the drainage of historic mine residue or other discharges from the orphan mine site; and

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

(8) a remediation plan for the orphan mine site that describes—
(A) the nature and scope of the proposed remediation, including any pollutant to be addressed by the remediation plan;

(B) each activity that the eligible applicant proposes to take that, to the maximum extent practicable under the circumstances, will assist in the attainment of each applicable water quality standard;

(C) the monitoring or other form of assessment that will be undertaken by the eligible applicant to evaluate the success of the activities described in subparagraph (A) during and after the remediation, with respect to the baseline conditions;

(D) detailed engineering plans for the project; and

(E) any proposed recycling or reprocessing of historic mine residue to be conducted by the eligible applicant (including a description of how each proposed recycling or reprocessing activity relates to the remediation of the orphan mine site);

(9) a schedule for the work to be carried out under the project, including a schedule for periodic
reporting by the eligible applicant on the remediation of the orphan mine site;

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

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

(12) a specific contingency plan designed to respond to unplanned adverse events, including the sudden release of mine water, waste rock, or other deleterious substance;

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

(14) a project budget and description of financial resources that demonstrate that the permitted work, including any operation and maintenance, will be completed;

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

(16) a description of planned post-remediation monitoring.
(e) PERMIT ISSUANCE.—

(1) IN GENERAL.—The permitting authority may issue a permit to carry out a project for the remediation of an orphan mine site only if—

(A) the permitting authority determines that—

(i) the project will improve the environment on or in the area of the orphan mine site to the maximum extent practicable under the circumstances, as determined by the permitting authority;

(ii) to the maximum extent practicable under the circumstances, the project will meet all applicable water quality standards;

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

(iv) the permittee has—

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

(II) demonstrated that the permittee will complete the permitted work; and
(III) the financial and other re-
resources to address any contingencies
identified in the permit application de-
scribed in subsection (d); and

(v) the project meets the requirements
of this Act;

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

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

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

(2) DISCRETIONARY ACTION.—The issuance of
a permit by the permitting authority and the concur-
rence of the affected State or Indian tribe (and any
political subdivision of the State or Indian tribe) to
participate in the permit process shall be discretionary actions taken in the public interest.

(3) Compliance with Applicable Law.—

(A) In General.—A permit issued under this subsection shall authorize the permittee and any cooperating person to carry out the activities described in the permit.

(B) Compliance with Permit.—Compliance with the permit by the permittee and any cooperating person constitutes compliance with applicable law, with respect only to the remediation of historic mine residue authorized by the permit.

(4) Deadline.—

(A) In General.—The permitting authority shall issue or deny a permit for the remediation of a mine site not later than—

(i) the date that is 180 days after the date of receipt by the permitting authority of an application for the permit that, as determined by the permitting authority, is complete; or

(ii) such later date as may be determined by the permitting authority with the agreement of the applicant.
(B) CONSTRUCTIVE DENIAL.—If the permitting authority fails to issue or deny the permit in accordance with subparagraph (A), the application shall be considered to be denied by the permitting authority.

(f) EFFECT OF PERMITS.—

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

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

(B) authorizes enforcement under this section;

(C)(i) provides to the permittee, in carrying out the activities authorized under the permit, protection from actions taken, obligations, and liabilities arising under—

(I) sections 402 and 505 of the Federal Water Pollution Control Act (33 U.S.C. 1342, 1365); and

(II) sections 107 and 310 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607, 9659); or
(ii) in the case of a State authorized to implement State law in lieu of section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342), provides to the permittee, in carrying out the activities authorized under the permit, protection from actions taken, obligations, and liabilities arising under—

(I) the authorized State program; and

(II) sections 107 and 310 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607, 9659); and

(D) allows the permittee to sell or use materials recovered during the implementation of the plan only if the proceeds from the sale or use of the materials are used to defray the costs of—

(i) remediation of the orphan site addressed in the permit; or

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

(2) CROSS-COMPLIANCE.—

(A) IN GENERAL.—A permittee shall comply with the terms and conditions of a permit
issued under this section in lieu of compliance with—

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


(B) State authorized to implement state law.—In the case of a State authorized to implement State law in lieu of section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342), the permittee shall comply with the terms and conditions of permit issued under this section in lieu of—

(i) the authorized State program; and


(C) Activities not relating to remediation.—Any activity not relating to the remediation of historic mine residue for the public good, as authorized by the permit issued under
subsection (e) and as determined by the permitting authority, is subject to liability and enforcement under all applicable law, including—

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

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

(3) Termination of Permit.—A permit issued under subsection (e) shall terminate at the completion of the project in accordance with subsection (t).

(g) Content of Permits.—

(1) In General.—A permit issued under subsection (e) shall contain—

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

(B)(i) a provision that states that the permittee is responsible for securing, for all activities authorized under the permit, all authorizations, licenses, and permits that are required under applicable law other than—

(I) section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342); and
(II) section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621); or

(ii) in the case of a State authorized to implement State law in lieu of section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342), a provision that states that the permittee is responsible for securing, for all activities authorized under the permit, all authorizations, licenses, and permits that are required under applicable law except—

(I) the authorized State program; and

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

(C) any other terms and conditions that are determined to be appropriate by the permitting authority.

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

(3) TIMING.—Work authorized under a permit—
(A) shall commence not later than the date that is 18 months after the date of issuance of the permit; and

(B) shall continue until completed, with temporary suspensions permitted during adverse weather or other conditions specified in the permit.

(4) Signature by Permittee.—The signature of the permittee on the permit shall be considered to be an acknowledgment by the permittee that the permittee accepts the terms and conditions of the permit.

(5) Transfer of Permits.—A permit may be transferred to another person only if—

(A) the permitting authority determines that the transferee qualifies as a Good Samaritan;

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

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

(6) Termination of Permit.—The authority to carry out work under a permit issued under this section shall terminate if the work does not com-
mence by the date that is 18 months after the date
of issuance of the permit.

(7) OTHER DEVELOPMENT.—

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

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

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

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

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

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

(1) consult with prospective applicants;

(2) accept permit applications under this section;

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

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

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

(A) a public comment period; and

(B) a public hearing, if requested;

(6) issue the permit under this section, if appropriate; and

(7) enforce and otherwise carry out this section.

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

(1) IN GENERAL.—If the permitting authority learns that an application for the remediation of an orphan mine site under this section will be submitted to the permitting authority, the permitting authority
shall (as soon as practicable) provide a notice of the application to—

(A) the lead State or tribal agency designated under subsection (c)(2)(A);

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

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

(2) Copy of Application.—As soon as practicable after the date on which the permitting authority receives an application, the notice described in paragraph (1) shall be supplemented with a copy of the application.

(j) Public Notice of Receipt of Applications.—

(1) In General.—On receipt of a complete application for the remediation of an orphan mine site under this Act, the permitting authority shall, not later than 30 days after receipt of the application, provide to the public a notice that—

(A) describes—

(i) the location of the orphan mine site;

(ii) the scope and nature of the proposed remediation; and
(iii) the name of the Good Samaritan applying for a permit to carry out the proposed remediation; and

(B) provides to the public a means of viewing or obtaining the application, including, at the minimum, posting the application on the website of the permitting authority.

(2) HEARING.—

(A) IN GENERAL.—Before the date of permit issuance, if requested, the permitting authority shall hold a public hearing in the vicinity of the orphan mine site to be remediated.

(B) NOTICE.—Not later than 30 days before the date of the hearing, the permitting authority shall provide the public with notice of the hearing and a draft permit.

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

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

(ii) to submit written comments to the permitting authority during the 30-day period following the date of the hearing.

(k) MONITORING.—
(1) IN GENERAL.—The permittee shall take such actions as the permitting authority determines are necessary to ensure appropriate baseline monitoring, monitoring during the remediation project, and post-remediation monitoring of the environment under paragraphs (6), (7), (8), and (16) of subsection (d).

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

(1) FAILURE TO COMPLY.—

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

(2) STATE AUTHORIZED TO IMPLEMENT STATE LAW.—In the case of a State authorized to implement State law in lieu the Federal Water Pollution
Control Act (33 U.S.C. 1251 et seq.), if the permittee or any cooperating person fails to comply with any condition or limitation of the permit, the permittee or cooperating person shall be subject to liability under—

(A) the authorized State program; and

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

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

(m) ENFORCEMENT.—

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

(2) INJUNCTIONS.—

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

(i) mandating that a person comply with a permit or take action to abate a permit violation;
(ii) prohibiting a person from violating a permit; or

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

(B) Minimum Requirement.—In the event of a permit violation or negligent action by a permittee or any cooperating person, and absent extraordinary circumstances, the court shall, at a minimum, require—

(i) the permittee to repair the damage to any part of the environment that is caused by an action of the permittee in violation of the permit; and

(ii) the environment to be restored to a condition that is, at a minimum, as good as the condition of the environment prior to the action of the permittee in violation of the permit, as determined by the permitting authority.

(3) Agencies.—Any permitting authority that signs a permit issued under this section may enforce the permit through appropriate administrative or judicial proceedings.
(n) **Grant Eligibility.**—A remediation project conducted pursuant to this section shall be eligible for funding pursuant to section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329).

(o) **Citizen Civil Actions.**—Under discussion

(p) **Judicial Review.**—Pursuant to the judicial review provisions of section 706 of title 5, United States Code, a court may set aside or modify an action of the Administrator or permitting authority in issuing or denying a permit under this section, or an action of a State or Indian tribe (including a political subdivision of the State or Indian tribe) in signing a permit.

(q) **Transfer of Permitting Authority.**—

(1) **In General.**—Subject to paragraph (2), not later than 120 days after the date on which a State or Indian tribe has submitted an application to administer a Good Samaritan program, the Administrator shall suspend the issuance of permits under this Act for remediation activities in that State or relevant area under the jurisdiction of an Indian tribe unless the Administrator determines that the Good Samaritan program of the State or Indian tribe does not satisfy the requirements of this Act.
(2) **EXTENSION.**—The period before which the Administrator will suspend permitting activity under this subsection may be extended by mutual agreement of the Administrator and the applicable State or Indian tribe.

(r) **NOTIFICATION OF ADMINISTRATOR.**—

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

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

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

(2) **Objection to Issuance.**—

(A) **IN GENERAL.**—No permit shall be issued by a State or Indian tribe referred to in paragraph (1) if the Administrator, by not later than the date that is 90 days after the date of submission of the proposed permit notification, objects in writing to the issuance of the permit on the basis that the permit would not be in accordance with this Act.
(B) Statement of reasons for objection.—An objection by the Administrator described in subparagraph (A) shall include a statement of the reasons for the objection.

(3) Issuance or denial of permits.—

(A) In general.—In any case in which the Administrator objects to the issuance of a permit under paragraph (2), the permitting authority, in consultation with the Good Samaritan, may resubmit an amended permit.

(B) Failure to resubmit application.—If a State or Indian tribe, in consultation with the Good Samaritan, does not resubmit a permit revised to meet the objections of the Administrator by the date that is 30 days after the date of the issuance of an objection under subparagraph (A), the Administrator shall deny the permit in accordance with this Act.

(s) Withdrawal of approval of State or Tribal Program and return of State or Tribal Program to Administrator.—

(1) In general.—Each State or tribal Good Samaritan program approved under this Act shall be administered in accordance with this Act.
(2) **States and Indian tribes without Good Samaritan programs.**—In the case of a State or Indian tribe without a Good Samaritan program approved under subsection (c)(1), the Administrator may issue permits under subsection (c)(3).

(3) **Notification and withdrawal.**—

(A) **In general.**—Subject to subparagraph (B), if the Administrator determines, after a public hearing, that a State or Indian tribe is not administering a program approved under this Act in accordance with this Act, the Administrator shall—

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

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

(B) **Notification of reasons for withdrawal.**—The Administrator shall not withdraw approval of a program under subparagraph (A) until the Administrator notifies the State or Indian tribe, and makes available to
the public, in writing, the reasons for the with-
drawal.

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

(t) EMERGENCY AUTHORITY AND LIABILITY.—

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

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

(u) TERMINATION OF AUTHORITY.—

(1) TERMINATION.—

(A) IN GENERAL.—Except as provided in
subparagraph (B), the authority to issue per-
mits pursuant to this Act shall terminate on
September 30, 2026.
(B) EXCEPTION.—Notwithstanding subparagraph (A), a permitting authority may issue a permit pursuant to this Act after September 30, 2026, if the application for the permit—

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

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

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

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

(B) this Act.

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

(A) the date that is 10 years after the date of enactment of this Act; and
(B) the date that is 6 years after the date of issuance of the applicable permit.

(4) Termination of Permit.—A permitting authority shall terminate a permit issued under subsection (e) on the date on which a project is completed in accordance with paragraph (3).

(5) No Enforcement Liability.—

(A) Discharges.—The permittee of a permit, or a cooperating person, shall not be subject to enforcement under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) for liability for any past, present, or future discharges at or from the orphan mining site that is the subject of the permit.

(B) Other Parties.—Subparagraph (A) does not limit the liability of any person that is not described in that subparagraph.

(C) Violation of Permit Prior to Termination.—The discharge of liability for a permittee of a permit, or a cooperating person, under subparagraph (A) shall not apply with respect to any violation of the permit that oc-
curs on a date that is before the date on which
the permit is terminated.

(v) Report to Congress.—

(1) Preparation and submission.—Not later
than January 1, 2026, the Administrator shall sub-
mmit to the Chairpersons and Ranking Members of
the Committee on Environment and Public Works of
the Senate and the Committees on Transportation
and Infrastructure, Energy and Commerce, and
Natural Resources of the House of Representatives
a report evaluating the permit program under this
Act.

(2) Inclusions.—The report under paragraph
(1) shall include—

(A) a description of—

(i) the number, types, and objectives
of permits issued pursuant to this Act; and
(ii) each remediation project author-
ized by those permits;

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

(C) a description of—

(i) any problems encountered in ad-
ministering this Act; and
(ii) whether the problems have been or can be remedied by administrative action (including amendments to existing law);

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

(E) recommendations on whether the permit program under this Act should be continued after September 30, 2026, including a description of any modifications (including amendments to existing law) required to continue administering this Act.

(w) REGULATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with the Secretary of the Interior and the Secretary of Agriculture, and appropriate State, tribal, and local officials, shall promulgate regulations to establish—

(A) requirements for remediation plans described in subsection (d); and

(B) any other requirement that the Administrator determines to be necessary.

(2) SPECIFIC REQUIREMENTS BEFORE PROMULGATION OF REGULATIONS.—Before the date on
which the Administrator promulgates regulations under paragraph (1), a permitting authority may establish, on a case-by-case basis, specific requirements that the permitting authority determines would facilitate the implementation of this subsection with respect to a Good Samaritan permitting program.

SEC. 5. INVESTIGATIVE SAMPLING.

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

(b) Application.—If an eligible applicant proposes to conduct a program of investigative sampling, the eligible applicant shall submit to the permitting authority a plan that contains, to the extent known by the eligible applicant as of the date on which the eligible applicant submits the application—

(1) each description required under paragraph (1) and paragraphs (2)(A) and (C) of section 4(d);

(2) the identification required under paragraph (2)(B) of section 4(d);

(3) the evidence required under paragraph (3) of section 4(d);
(4) the statement required under paragraph (4) of section 4(d);

(5) the documentation required under paragraph (5) of section 4(d);

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

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

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

(9) a plan of investigative sampling.

(c) PERMIT CONTENTS.—If an eligible applicant submits an application for investigative sampling of historic mine residue that only includes the requirements described in subsection (b), the permitting authority may only issue a permit that authorizes the eligible applicant to carry out the program of investigative sampling of historic mine residue.

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

(1) collect samples that are representative of the conditions present at the orphan mine site that is the subject of the program, as determined by the permitting authority; and
(2) retain publically available records of all sampling events for a period of not less than 3 years.

(e) OPTION TO DECLINE REMEDIATION.—An investigative sampling permit may allow the permittee to decline to undertake remediation based on the results of the investigative sampling program if the activities carried out under the program of investigative sampling result in surface water quality conditions that are not worse than the baseline water quality conditions due to drainage of historic mine residue or other discharges from the orphan mine site.

(f) PERMIT MODIFICATION.—

(1) APPLICATION FOR PERMIT MODIFICATION.—

(A) IN GENERAL.—Based on investigative sampling results, a permittee shall submit an application for a permit modification using the permit procedures in this Act, unless the permittee declines remediation under subsection (e).

(B) CONTENTS.—An application for permit modification shall include any requirement described in section 4(d) that was not sub-
mitted with the investigative sampling applica-
tion under subsection (b).

(C) Public notice and comment.—An application for permit modification shall be sub-
ject to—

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

(ii) a public hearing.

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

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

(B) was not—

(i) contemplated by the permittee; or

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

(C) is beyond the control of the permittee, as determined by the permitting authority.
(3) Exception.—Notwithstanding paragraph (2), the permitting authority shall terminate the permit if—

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

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