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Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024

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On December 17, 2024, President Biden signed into law the bipartisan Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024 (Public Law No. 118-155) (the "Act"). The Act is a response to ongoing environmental contamination originating from abandoned historic mine releases. Federal agencies (including the United States Department of Agriculture's Forest Service, the Department of the Interior's Bureau of Land Management and National Park Service, and the United States Environmental Protection Agency ("EPA")) have identified an estimated 140,000 abandoned hardrock mines, including features such as waste rock piles and unsecured tunnels. Of those mine remnants, about 22,500 may pose environmental concern.[1] Both cleanup funding and concerns over inheriting environmental liabilities have posed major roadblocks to cleaning up these historic mine sites.

The Act establishes a pilot program that allows for the issuance of up to 15 permits to "Good Samaritans" on non-federal and certain federal land where there is no responsible owner or operator for the remediation of abandoned hardrock mines. Public Law No.118-155, § 2(1), 4(a)(1)-(3). Generally, the EPA Administrator is primarily responsible for overseeing the program. Still, the federal land management agencies (such as the Department of the Interior and the Department of Agriculture) play a significant role when projects are proposed on land owned by the United States. These agencies collaborate with the EPA in environmental reviews, public participation, and enforcement of Good Samaritan permits on federal lands. Below we discuss the basic features of this Act.

What does the Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024 do?

A Good Samaritan permit enables the permittee and any cooperating person to undertake remediation activities covered by and in compliance with the permit. *Id.* § 4(n). By holding the Good Samaritan permit, the permittee is considered in compliance with the Federal Water Pollution Control Act (FWPCA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) during the term of the Good Samaritan Permit and beyond. Further, the permittee is exempt from obtaining other permits required under certain sections of the FWPCA and CERCLA. *Id.* § 4(n)(1)(C).

Good Samaritan permittees are protected from enforcement actions, civil or criminal penalties, citizen suits, and any liabilities for response costs,

natural resource damages, or contribution under the FWPCA and CERCLA for any activities authorized by the permit. *Id.* § 4(n)(3)(A)-(B).

What sites can be remediated under the Good Samaritan Program?

An "abandoned hardrock mine site" includes sites previously subjected to a final CERCLA response action or similar federal or state cleanup programs, including brownfields revitalization. However, the Act excludes mines that are on the National Priorities List, in temporary shutdown, undergoing planned or ongoing CERCLA actions, have a responsible owner or operator, or actively mined or processed minerals after December 11, 1980. *Id.* § 2(1)(C). A "responsible owner or operator" includes any person that is legally responsible and viable under the FWPCA, or a viable present or past owner or operator or other liable party under CERCLA. *Id*.

Why would someone want a Good Samaritan Permit?

The Act provides several significant advantages to permittees for cleanup, including as mentioned, certain FWPCA and CERCLA liability protections, compliance assurance, and investigative sampling opportunities. Additionally, under specified conditions, materials recovered during remediation on federal lands can be reprocessed, and proceeds can be used to offset remediation costs and reimburse administration expenses, with remaining proceeds contributing to the Good Samaritan Mine Remediation Fund. *Id.* § 4(f)(4)(B).

Who can be a Good Samaritan?

"Good Samaritans" can include state agencies, local governments, nonprofits, and private organizations. A "Good Samaritan" eligible for the permit cannot be a past or current owner or operator of the mine site or a portion of the mine site. It also could not have had any role in the creation of the mine contamination , and not be liable for remediation of the mine. The Good Samaritan must make a diligent and reasonable effort to identify responsible owners or operators using publicly available records. *Id.* § 2(1).

To be a "Good Samaritan" eligible for a permit, a person must make the following showings:

- The purpose of the proposed project is remediation;
- The proposed activities are designed to result in partial or complete remediation of historic mine residue;
- The proposed project poses a low risk to the environment, as determined by the EPA administrator;
- The person possesses or has the ability to secure the necessary financial resources to complete the permitted work and address any contingencies in the Good Samaritan permit application;
- The person possesses proper and appropriate experience and capacity to complete the permitted work and will complete the

permitted work;

- There is no responsible owner or operator.

Id. §§ 2(8), 4(b).

How do you apply?

Good Samaritans must apply for and receive permits from the EPA. Applicants must demonstrate capacity, financial resources, and commitment to complete the remediation. Permit applications must include detailed plans for remediation, monitoring, contingency measures, and safety protocols. Compliance with environmental assessments and public comment processes is mandated. Specific funds and financial mechanisms are established to support and ensure completion of remediation projects. *Id.* § 4(c).

When do permit terms expire?

Generally, a Good Samaritan Permit will expire upon completion of the permit terms, both when certain unforeseen circumstances occur, and under certain procedural conditions.

The protections afforded to permit holders apply during the term of the permit and after the termination of the permit. *Id.* § 4(n)(3)(C). But if the Good Samaritan fails to comply with permit terms and conditions and that failure results in harmful environmental conditions and the permit administrator determines that the conditions are worse than baseline conditions described in the permit, the permit administrator may require the Good Samaritan to undertake reasonable measures to bring the environmental conditions to baseline. If the Good Samaritan does not correct the conditions, then the liability protections will be revoked. *Id.* § 4(n)(3).

Other Considerations

The issuance of a Good Samaritan Permit will be considered a major agency action subject to the National Environmental Policy Act.

When the project involves long-term operations and maintenance on federal lands, the Good Samaritan may coordinate with the federal agency to take over and terminate the permit under an agreement with the applicable federal agency.

The Act explicitly does not reduce existing liabilities or authorize new mining activities. *Id.* § 3.

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[1] U.S. Gov't Accountability Off., GAO-20-2381, Abandoned Hardrock Mines: Information on Number of Mines, Expenditures, and Factors That Limit Efforts to Address Hazards (2020).

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