

**AMENDMENT TO H.R. 2262**  
**OFFERED BY MR. UDALL OF COLORADO**

At the end of title V, insert the following (and conform the table of contents accordingly):

**1 SEC. 601. SHORT TITLE, FINDINGS, AND PURPOSE.**

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

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

6 (1) the Federal Government and State govern-  
7 ments encouraged hard rock mining in the United  
8 States through a wide variety of laws, policies, and  
9 actions;

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

12 (3) many areas in which historic mining took  
13 place in the United States are now inactive and  
14 abandoned mine sites;

15 (4) the mining activities that took place prior to  
16 the enactment of modern environmental laws often  
17 disturbed public and private land, and those disturb-  
18 ances lead to environmental pollution, including the

1 discharge of pollutants to surface water and ground-  
2 water;

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

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

9 (7) unabated discharges from inactive and  
10 abandoned mines will continue to pollute surface  
11 water, groundwater, and soils;

12 (8) many of the streams and water bodies im-  
13 pacted by acid mine drainage are important re-  
14 sources for fish and wildlife, recreation, drinking  
15 water, agriculture, and other public purposes;

16 (9) some of the remaining owners and operators  
17 of mine sites do not have resources that are ade-  
18 quate to conduct remediation properly under appli-  
19 cable environmental laws; and

20 (10) from time to time, States, individuals, and  
21 companies are willing to remediate historic mine  
22 sites for the public good as Good Samaritans, de-  
23 spite the fact that the States, individuals, and com-  
24 panies are not legally required to remediate the mine  
25 sites;

1           (11) Good Samaritan remediation activities  
2           may—

3                   (A) vary in size and complexity;

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

6                   (C) include, among other activities—

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

9                           (ii) passive or active water treatment;

10                   and

11                           (iii) runoff or run-on controls;

12           (12) the potential liabilities under the Federal  
13           Water Pollution Control Act that may attach to a  
14           Good Samaritan as a result of the remediation can  
15           dissuade potential Good Samaritans from acting for  
16           the public good;

17           (13) it is in the interest of the United States,  
18           the States, and local communities to remediate his-  
19           toric mine sites, in appropriate circumstances and to  
20           the maximum extent practicable, so that detrimental  
21           environmental impacts of the sites are lessened in  
22           the future; and

23           (14) if appropriate protections are provided for  
24           Good Samaritans, Good Samaritans will have a

1 greater incentive to remediate those sites for the  
2 public good.

3 (c) PURPOSES.—The purposes of this title are—

4 (1) to encourage partial or complete remedi-  
5 ation of inactive and abandoned mine sites for the  
6 public good by persons that are not legally respon-  
7 sible for the remediation;

8 (2) to allow a person not legally responsible for  
9 environmental conditions relating to inactive or  
10 abandoned mine sites to improve water quality af-  
11 fected by past mining activities at the site without  
12 incurring liability under the Federal Water Pollution  
13 Control Act in order to make further progress to-  
14 ward the goal of meeting water quality standards in  
15 all waters of the United States;

16 (3) to ensure that remediation performed by  
17 Good Samaritans creates actual and significant envi-  
18 ronmental benefits;

19 (4) to ensure that remediation by Good Samari-  
20 tans is carried out—

21 (A) with the approval and agreement, and  
22 in the discretion, of affected Federal, State, and  
23 tribal authorities and with review and comment  
24 by the public; and

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

3 (5) to further innovation and cooperation  
4 among the Federal Government, State governments,  
5 private individuals, and corporations to accelerate  
6 conservation and environmental restoration.

7 (d) SCOPE.—Nothing in this title is intended to—

8 (1) reduce any existing liability; or

9 (2) facilitate any mining or processing other  
10 than that required for the remediation of historic  
11 mine residue for the public good.

12 **SEC. 602. GOOD SAMARITAN DISCHARGE PERMITS.**

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

16 “(r) GOOD SAMARITAN DISCHARGE PERMITS.—

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

19 “(A) COOPERATING PERSON.—The term  
20 ‘cooperating person’ means any person includ-  
21 ing the Federal Government that—

22 “(i) meets the definition of Good Sa-  
23 maritan;

1                   “(ii) assists a Good Samaritan in the  
2                   remediation of an inactive or abandoned  
3                   mine site; and

4                   “(iii) is identified in a Good Samari-  
5                   tan discharge permit issued pursuant to  
6                   this subsection.

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

11                  “(i) had no role in the creation of the  
12                  historic mine residue;

13                  “(ii) had no role and is not related to  
14                  a person who had a role in creating the en-  
15                  vironmental pollution caused by the his-  
16                  toric mine residue; and

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

20                  “(C) GOOD SAMARITAN DISCHARGE PER-  
21                  MIT.—The term ‘Good Samaritan discharge  
22                  permit’ means a permit described under para-  
23                  graph (2).

24                  “(D) HISTORIC MINE RESIDUE.—

1           “(i) IN GENERAL.—The term ‘historic  
2           mine residue’ means mine residue or condi-  
3           tions resulting from activities at an inac-  
4           tive or abandoned mine site prior to Octo-  
5           ber 18, 1972, that cause or contribute to  
6           the discharge of pollutants from the inac-  
7           tive or abandoned mine site or otherwise  
8           pollute the environment.

9           “(ii) INCLUSIONS.—The term ‘historic  
10          mine residue’ includes, among other mate-  
11          rials—

12               “(I) previously mined ores and  
13               minerals that contribute to acid mine  
14               drainage or other pollution;

15               “(II) equipment (or materials in  
16               equipment);

17               “(III) wastes or materials from  
18               extractions, beneficiation, or other  
19               processing; and

20               “(IV) acidic or otherwise polluted  
21               flows in surface water or groundwater.

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

1                   “(i) legally responsible under section  
2                   301 for discharges from an inactive or  
3                   abandoned mine site; and

4                   “(ii) financially capable of compliance  
5                   with the requirements of this section and  
6                   section 301.

7                   “(F) INACTIVE OR ABANDONED MINE SITE;  
8                   MINE SITE.—The terms ‘inactive or abandoned  
9                   mine site’ and ‘mine site’ mean the site of a  
10                  mine and associated facilities that—

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

13                  “(ii) have historic mine residue; and

14                  “(iii) are no longer actively mined  
15                  (and not in temporary shutdown)—at the  
16                  times at which the remediation plan is sub-  
17                  mitted and the Good Samaritan discharge  
18                  permit is issued.

19                  “(G) PERMITTING AUTHORITY.—The term  
20                  ‘permitting authority’ means the Administrator  
21                  or, in the case of a State or Indian tribe with  
22                  an approved permitting program under this sec-  
23                  tion, the head of such program.

24                  “(H) INDIAN TRIBE.—The term ‘Indian  
25                  tribe’ has the meaning given that term in sec-



1           tion 4 of the Indian Self-Determination and  
2           Education Assistance Act (25 U.S.C. 450b).

3           “(I) PERSON.—The term ‘person’ in-  
4           cludes—

5                   “(i) an individual;

6                   “(ii) a firm;

7                   “(iii) a corporation;

8                   “(iv) an association;

9                   “(v) a partnership;

10                  “(vi) a consortium;

11                  “(vii) a joint venture;

12                  “(viii) a commercial entity;

13                  “(ix) a nonprofit organization;

14                  “(x) the Federal Government;

15                  “(xi) a State;

16                  “(xii) a political subdivision of a  
17                  State;

18                  “(xiii) an interstate entity;

19                  “(xiv) a commission; and

20                  “(xv) an Indian tribe.

21           “(2) GOOD SAMARITAN DISCHARGE PERMITS.—

22                   “(A) IN GENERAL.—The permitting au-  
23                   thority, with the concurrence of the State in  
24                   which an inactive or abandoned mine site reme-  
25                   diation project is proposed or a Federal agency

1 or Indian tribe which owns or has jurisdiction  
2 over the site on which a remediation project is  
3 proposed, may issue a Good Samaritan dis-  
4 charge permit to a Good Samaritan.

5 “(B) STATE OR TRIBAL PROGRAMS.—The  
6 Administrator shall approve a State or Tribal  
7 program for issuance of Good Samaritan dis-  
8 charge permits to any State or Indian tribe,  
9 if—

10 “(i) the State or Indian Tribe already  
11 has authority to issue a permit under this  
12 section; and

13 “(ii) the State or Indian tribe re-  
14 quests such approval.

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

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

22 “(B) the purpose of the project shall be  
23 the reduction of pollution caused by historic  
24 mine residue;

1           “(C) the mine site may not be a mine site  
2 included on the national priorities list under  
3 section 105(a)(8)(B) of the Comprehensive En-  
4 vironmental Response, Compensation, and Li-  
5 ability Act of 1980 (42 U.S.C. 9605(a)(8)(B))  
6 or where there is an ongoing or planned re-  
7 moval under such Act;

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

11           “(E) the person obtaining the permit shall  
12 be a Good Samaritan.

13           “(4) PERMIT PROCESS.—

14           “(A) SCOPE.—A Good Samaritan may  
15 apply for a Good Samaritan discharge permit  
16 for remediation activities at inactive or aban-  
17 doned mine sites from which there is or may be  
18 a discharge of pollutants to waters of the  
19 United States.

20           “(B) REMEDIATION PLAN.—A Good Sa-  
21 maritan seeking a Good Samaritan discharge  
22 permit shall submit an application for the per-  
23 mit that includes a remediation plan that—

1                   “(i) identifies the Good Samaritan  
2                   and any cooperating person with respect to  
3                   the plan;

4                   “(ii) identifies the inactive or aban-  
5                   doned mine site addressed by the plan, in-  
6                   cluding such documentation as the permit-  
7                   ting authority finds sufficient to dem-  
8                   onstrate that the site is eligible under this  
9                   section;

10                  “(iii) identifies the waters of the  
11                  United States affected by past mining ac-  
12                  tivities at or immediately downstream from  
13                  the inactive or abandoned mine site;

14                  “(iv) describes the baseline condition  
15                  of the waters at the time of the permit ap-  
16                  plication (including the nature and extent  
17                  of any adverse impact on water quality  
18                  caused by drainage from the abandoned or  
19                  inactive mine site and, as applicable, the  
20                  levels of any pollutant causing the impact);

21                  “(v) describes the conditions at the in-  
22                  active or abandoned mine site that are  
23                  causing adverse water quality impacts to  
24                  the extent such conditions are known to

1 the Good Samaritan at the time of the ap-  
2 plication;

3 “(vi) describes the applicant’s reason-  
4 able efforts to identify identifiable owners  
5 or operators;

6 “(vii) describes the remediation goals  
7 and objectives, including the pollutant or  
8 pollutants to be addressed by the plan, in-  
9 cluding actions taken that will result in at-  
10 tainment of the applicable water quality  
11 standards to the maximum extent reason-  
12 able and practicable under the cir-  
13 cumstances;

14 “(viii) describes the practices, includ-  
15 ing a schedule and estimated completion  
16 date for implementing the practices, that  
17 are proposed to meet the goals and objec-  
18 tives under clause (vii), including—

19 “(I) in the case of a new remedi-  
20 ation project, the preliminary system  
21 design and construction, operation,  
22 and maintenance plans; and

23 “(II) in the case of an existing  
24 remediation project, available system  
25 design and construction, operation,

1 and maintenance plans and any  
2 planned improvements to the projects;

3 “(ix) describes any proposed recycling  
4 or reprocessing of historic mine residue at  
5 the site subject to paragraph (8)(E), and  
6 how such activities relate to the remedi-  
7 ation;

8 “(x) explains how the practices de-  
9 scribed in clause (viii) are expected to  
10 achieve goals and objectives under clause  
11 (vii);

12 “(xi) describes the monitoring or  
13 other forms of assessment that will be un-  
14 dertaken to evaluate the success of the  
15 practices during and after implementation,  
16 relative to baseline conditions;

17 “(xii) describes contingency plans, in-  
18 cluding the practices to be implemented to  
19 achieve the remediation goals and objec-  
20 tives described in clause (vii), for respond-  
21 ing to unplanned adverse events;

22 “(xiii) provides a schedule for periodic  
23 reporting on progress in implementing the  
24 plan;

1           “(xiv) provides a budget for the plan  
2           and identifies the funding sources that will  
3           support the implementation of the plan, in-  
4           cluding practices described in clauses (viii),  
5           (xi), and (xii);

6           “(xv) describes the applicant’s legal  
7           authority to enter and conduct activities at  
8           the inactive or abandoned mine site ad-  
9           dressed by the plan;

10          “(xvi) describes any public outreach  
11          activities and contains any other additional  
12          information requested by the Adminis-  
13          trator to clarify the plan and the activities  
14          covered by the plan; and

15          “(xvii) is signed and certified by the  
16          applicant (in a manner consistent with reg-  
17          ulations in section 122.22 of title 40, Code  
18          of Federal Regulations, in effect on Octo-  
19          ber 1, 2007).

20          “(C) INVESTIGATIVE SAMPLING.—

21                 “(i) IN GENERAL.—A permit may  
22                 identify a program of investigative sam-  
23                 pling to be completed prior to remediation  
24                 if the permitting authority, upon applica-  
25                 tion, determines the program to be appro-

1            appropriate. Any such program shall use test  
2            methods identified in part 136 of title 40,  
3            Code of Federal Regulations, in effect on  
4            October 1, 2007. All samples collected dur-  
5            ing any such program shall be representa-  
6            tive of the discharge from the abandoned  
7            or inactive mine site, and records of all  
8            sampling events shall be retained for not  
9            less than 3 years.

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

19            “(iii) PERMIT MODIFICATION.—Based  
20            upon investigative sampling results, a per-  
21            mit may be modified pursuant to the per-  
22            mit procedures in this section.

23            “(iv) OPTION TO DECLINE REMEDI-  
24            ATION.—In the event that investigative  
25            sampling is authorized, the permit may



1 allow the permittee to decline to undertake  
2 remediation based on the results of inves-  
3 tigative sampling.

4 “(D) REVIEW OF APPLICATION.—

5 “(i) INITIAL REVIEW.—The permit-  
6 ting authority shall—

7 “(I) review each application for a  
8 Good Samaritan discharge permit;

9 “(II) provide to the public notice  
10 of and reasonable opportunity to com-  
11 ment on the application;

12 “(III) in cases where the Admin-  
13 istrator is the permitting authority,  
14 provide a copy of the application to  
15 each affected State, tribe, or other  
16 Federal agency;

17 “(IV) provide an opportunity for  
18 a public hearing on the application;  
19 and

20 “(V) determine whether the ap-  
21 plication meets the requirements of  
22 subparagraph (B).

23 “(ii) REQUIREMENTS NOT MET.—If  
24 the permitting authority determines that  
25 an application does not meet the require-

1                   ments of subparagraph (B), the permitting  
2                   authority shall—

3                   “(I) notify the applicant that the  
4                   application is disapproved and explain  
5                   the reasons for the disapproval; and

6                   “(II) allow the applicant to sub-  
7                   mit a revised application.

8                   “(iii) REQUIREMENTS MET.—If the  
9                   permitting authority determines that an  
10                  application meets the requirements of sub-  
11                  paragraph (B), the permitting authority  
12                  shall notify the applicant that the applica-  
13                  tion is accepted.

14                  “(E) PERMIT ISSUANCE.—

15                  “(i) NOTICE AND COMMENT.—After  
16                  notice and opportunity for public comment  
17                  on a Good Samaritan discharge permit  
18                  proposed to be issued, including any addi-  
19                  tional requirements that the permitting au-  
20                  thority determines would facilitate imple-  
21                  mentation of this subsection, the permit-  
22                  ting authority may issue such permit to  
23                  the applicant if—

24                  “(I) the permitting authority de-  
25                  termines that—

1           “(aa) relative to the re-  
2           sources available to the Good Sa-  
3           maritan for the proposed remedi-  
4           ation activity, the Good Samari-  
5           tan has made a reasonable effort  
6           to identify persons under sub-  
7           paragraph (B)(vi);

8           “(bb) no identifiable owner  
9           or operator exists, except a per-  
10          mit can be issued for an inactive  
11          or abandoned mine site located  
12          on Federal land or land owned by  
13          a State or political subdivision of  
14          the State if the only identifiable  
15          owner or operator is the Federal  
16          Government (with respect to a  
17          site on Federal land) or such  
18          State or political subdivision; and

19          “(cc) the remediation plan  
20          demonstrates with reasonable  
21          certainty that its implementation  
22          will not result in water quality  
23          that is worse than the baseline  
24          condition of the waters described  
25          in subparagraph (B)(iv) and

1           there is a reasonable basis to  
2           conclude, taking into consider-  
3           ation the resources identified by  
4           the Good Samaritan for the pro-  
5           posed remediation activity pursu-  
6           ant to subparagraph (B)(xiv),  
7           that such implementation will im-  
8           prove water quality so as to re-  
9           sult as closely as possible in the  
10          attainment of applicable water  
11          quality standards as is reason-  
12          able and practicable under the  
13          circumstances;

14                 “(dd) the permit applicant  
15                 has provided adequate evidence  
16                 of financial resources that will  
17                 allow the applicant to complete  
18                 the permitted work; and

19                 “(ee) the project meets the  
20                 requirements of this section; and

21                 “(II) any Federal, State, and  
22                 tribal land management agency with  
23                 jurisdiction over inactive or aban-  
24                 doned mine sites to be subject to the  
25                 proposed permit or public trustee for

1 natural resources affected by historic  
2 mine residue associated with such  
3 mine site does not object to the  
4 issuance of the permit.

5 “(III) in cases where the Admin-  
6 istrator is the permitting authority,  
7 the affected State or tribe concurs  
8 with the issuance of the permit.

9 “(F) TIMING.—The permitting authority  
10 shall seek to issue or deny a permit for the re-  
11 mediation of a mine site not later than the date  
12 that is 180 days after the date of receipt by the  
13 permitting authority of an application for the  
14 permit that, as determined by the permitting  
15 authority, is complete.

16 “(G) MODIFICATION.—

17 “(i) APPROVAL AND DISAPPROVAL  
18 PROCESS.—After receipt of a written re-  
19 quest by a permittee the permitting au-  
20 thority shall approve or disapprove a modi-  
21 fication of a permit.

22 “(ii) PERMIT MODIFICATION.—A per-  
23 mit modification approved by the permit-  
24 ting authority under this subsection shall  
25 be

1                   “(I) by agreement of the per-  
2                   mittee and the permitting authority,  
3                   and, in cases where the Administrator  
4                   is the permitting authority, the af-  
5                   fected State or tribe;

6                   “(II) after providing the public  
7                   notice of, and opportunity for com-  
8                   ment and a hearing on, a proposed  
9                   modification of a Good Samaritan dis-  
10                  charge permit;

11                  “(III) in accordance with the  
12                  standards in subparagraph  
13                  (E)(i)(I)(c); and

14                  “(IV) immediately reflected in,  
15                  and applicable to, the Good Samaritan  
16                  discharge permit.

17                  “(5) CONTENTS OF PERMIT.—

18                  “(A) IN GENERAL.—A Good Samaritan  
19                  discharge permit—

20                  “(i) shall include a remediation plan  
21                  approved by the permitting authority and  
22                  any additional requirements that the per-  
23                  mitting authority establishes under para-  
24                  graph (10); and

1                   “(ii) shall provide for compliance with  
2                   and implementation of the remediation  
3                   plan and any other requirements described  
4                   under clause (i).

5                   “(B) REVIEW.—A permit shall establish a  
6                   schedule for review, by the permitting author-  
7                   ity, of compliance with the conditions and limi-  
8                   tations of the permit.

9                   “(C) EFFECT OF COMPLIANCE.—Compli-  
10                  ance with a Good Samaritan discharge permit  
11                  shall constitute compliance with section 301.  
12                  Neither the holder of such a permit nor a co-  
13                  operating person identified in such a permit  
14                  shall be responsible for implementing any reme-  
15                  diation activities other than those specified in  
16                  the remediation plan included in the permit.  
17                  This subparagraph shall not be affected by the  
18                  termination of such a permit.

19                  “(6) FAILURE TO COMPLY.—Failure of a Good  
20                  Samaritan, while operating under an approved Good  
21                  Samaritan discharge permit, to comply with any  
22                  condition or limit of the permit shall be considered  
23                  a violation subject to enforcement pursuant to sec-  
24                  tions 309 and 505.

25                  “(7) TERMINATION.—

1           “(A) IN GENERAL.—The permitting au-  
2           thority shall terminate a Good Samaritan dis-  
3           charge permit if—

4                 “(i) the Good Samaritan successfully  
5                 completes the implementation of the reme-  
6                 diation plan; or

7                 “(ii) the discharges covered by the  
8                 permit—

9                         “(I) become subject to a permit  
10                        issued under the other subsections of  
11                        this section for development that is  
12                        not part of the implementation of the  
13                        remediation plan; and

14                       “(II) the Good Samaritan seek-  
15                        ing termination of coverage, and any  
16                        person cooperating with the Good Sa-  
17                        maritan with respect to the plan, is  
18                        not a participant in the development.

19           “(B) UNFORESEEN CIRCUMSTANCES.—If  
20           an event or condition is encountered that re-  
21           duces the significantly feasibility or significantly  
22           increases the cost of completing the remediation  
23           project, was not contemplated or designed for  
24           by the remediation plan, and is beyond the con-  
25           trol of the Good Samaritan—



1           “(i) the permitting authority shall  
2           seek to modify the permit, with the agree-  
3           ment of the permittee, to reflect the en-  
4           countered event or condition; except that

5           “(ii) if the permittee does not agree to  
6           a modification of the permit, and the per-  
7           mitting authority determines that remedi-  
8           ation activities under the permit have not  
9           resulted in surface water quality condi-  
10          tions, taken as a whole, that are worse  
11          than the baseline condition of the waters  
12          described in paragraph (4)(B)(iv), the per-  
13          mitting authority shall terminate the per-  
14          mit.

15          “(C) NO ENFORCEMENT LIABILITY.—

16          “(i) REMAINING DISCHARGES.—Sub-  
17          ject to clause (ii), if a permit is terminated  
18          under subparagraph (A) or (B), the Good  
19          Samaritan to whom the permit was issued,  
20          or a cooperating person with respect to the  
21          plan, shall not be subject to enforcement  
22          under any provision of this Act for any dis-  
23          charges from the inactive or abandoned  
24          mine site described in the permit.

1                   “(ii) OTHER PARTIES.—This subpara-  
2                   graph does not limit the liability of any  
3                   person, other than the Good Samaritan to  
4                   whom the permit was issued or a cooper-  
5                   ating person.

6                   “(8) LIMITATIONS.—

7                   “(A) EMERGENCY POWERS.—Nothing in  
8                   this subsection limits the authority of the Ad-  
9                   ministrators under section 504.

10                  “(B) PRIOR VIOLATIONS.—

11                  “(i) ACTIONS AND RELIEF.—Except  
12                  as provided under clause (ii), issuance of a  
13                  permit under this subsection does not pre-  
14                  clude any action under section 309 or 505,  
15                  or affect the relief available in such an ac-  
16                  tion, with respect to a violation, by any  
17                  person, of this section or section 301(a)  
18                  that occurred prior to issuance of such a  
19                  permit.

20                  “(ii) EXCEPTIONS.—If a permit cov-  
21                  ers remediation activities implemented by  
22                  the permit holder prior to the issuance of  
23                  the permit, clause (i) shall not apply to an  
24                  action that is based on conditions resulting  
25                  from those remediation activities. In addi-

1           tion, the holder of a permit issued under  
2           this subsection shall not be subject to an  
3           action under section 309 or 505 for any  
4           violations by any other party.

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

9           “(D) OTHER DEVELOPMENT.—Any devel-  
10          opment of an inactive or abandoned mine site  
11          (including mineral exploration, processing,  
12          beneficiation, or mining), including development  
13          by a Good Samaritan or any cooperating person  
14          with respect to the plan, not specifically de-  
15          scribed in a permit issued by the permitting au-  
16          thority under this subsection shall be subject to  
17          this Act (other than this subsection). The com-  
18          mingling of any other discharges or waters with  
19          the discharges or waters subject to the Good  
20          Samaritan discharge permit cannot limit or re-  
21          duce the liability of persons associated with the  
22          other waters or discharges.

23          “(E) RECOVERABLE VALUE.—A Good Sa-  
24          maritan to whom a permit is issued may sell or  
25          use materials recovered during the implementa-

1           tion of the plan, but the proceeds of any such  
2           sale must be used to defray the costs of remedi-  
3           ation of the site addressed in the permit or the  
4           costs of voluntary remediation of any other in-  
5           active or abandoned mine site covered by a per-  
6           mit issued under this section.

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

18          “(G) STATE AND TRIBAL RECLAMATION  
19          PROGRAMS.—No State, Indian tribe, or other  
20          person shall be required to obtain a Good Sa-  
21          maritan discharge permit pursuant to this sub-  
22          section for any discharges, including any dis-  
23          charges associated with the remediation of an  
24          inactive or abandoned mine site when con-  
25          ducting reclamation work under a State or trib-

1 al abandoned mine reclamation plan approved  
2 under title IV of the Surface Mining Control  
3 and Reclamation Act of 1977 (30 U.S.C. 1231  
4 et seq.)

5 “(9) LIABILITY OF OTHER PARTIES.—Nothing  
6 in this subsection, including any result caused by  
7 any action taken by the Good Samaritan to whom a  
8 permit is issued or a cooperating person, limits the  
9 liability of any person other than the Good Samari-  
10 tan or a cooperating person, under this Act or any  
11 other law.

12 “(10) REGULATIONS.—

13 “(A) IN GENERAL.—Except as provided in  
14 subparagraph (B), not later than one year after  
15 the date of enactment of this subsection, the  
16 Administrator, in consultation with Secretary of  
17 the Interior and the Secretary of Agriculture  
18 and State, tribal, and local officials and after  
19 providing the public with notice of, and oppor-  
20 tunity for comment and a hearing on, regula-  
21 tions proposed to be promulgated, shall promul-  
22 gate regulations establishing generally applica-  
23 ble requirements for—

24 “(i) remediation plans described in  
25 paragraph (4)(B); and

1                   “(ii) as considered to be necessary by  
2                   the Administrator, other paragraphs of  
3                   this subsection.

4                   “(B) SPECIFIC REQUIREMENTS BEFORE  
5                   PROMULGATION OF REGULATIONS.—Before pro-  
6                   mulgation of regulations pursuant to subpara-  
7                   graph (A), the permitting authority may estab-  
8                   lish, on a case-by-case basis, after notice and  
9                   opportunity for public comment, specific re-  
10                  quirements that the permitting authority deter-  
11                  mines would facilitate implementation of this  
12                  subsection in an individual permit issued to the  
13                  Good Samaritan.

14                  “(11) FUNDING.—

15                  “(A) ELIGIBILITY FOR SECTION 319  
16                  GRANTS.—Implementation of a remediation  
17                  plan under a permit issued under this sub-  
18                  section shall be eligible for grants under section  
19                  319(h).

20                  “(B) OTHER GRANT FOR IMPLEMENTA-  
21                  TION OF REMEDIATION PLANS.—Subject to the  
22                  availability of appropriated funds, the Adminis-  
23                  trator also may make a grant, without regard  
24                  to any requirements in section 319(h) con-  
25                  cerning the availability of State or other match-

1 ing funds, to any Good Samaritan for imple-  
2 mentation of a remediation plan under a permit  
3 issued under this subsection.

4 “(12) REPORT.—

5 “(A) IN GENERAL.—Not later than 1 year  
6 before the date of the termination of the per-  
7 mitting authority specified in paragraph (13),  
8 the Administrator shall submit a report to Con-  
9 gress on the activities authorized by this sub-  
10 section.

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

13 “(i) identify each permit, and associ-  
14 ated Good Samaritan, issued under this  
15 subsection;

16 “(ii) identify the inactive or aban-  
17 doned mine site addressed by each permit  
18 (including the water bodies and baseline  
19 water quality of the water bodies affected  
20 by the site);

21 “(iii) summarize the remediation plan  
22 associated with each permit issued under  
23 this subsection, including—

24 “(I) the goals and objectives of  
25 the plan;

1 “(II) the plan budget; and

2 “(III) the practices to be em-  
3 ployed according to the plan to re-  
4 duce, control, mitigate, or eliminate  
5 adverse water quality impacts;

6 “(iv) identify the status of the imple-  
7 mentation of each remediation plan associ-  
8 ated with each permit issued under this  
9 subsection (including specific progress that  
10 permitted remediation activities have made  
11 toward achieving the goals and objectives  
12 of the remediation plan);

13 “(v) identify and describe any enforce-  
14 ment action taken by the Administrator or  
15 applicable state or Indian tribe or any civil  
16 action brought by a citizen concerning a  
17 permit issued under this section (including  
18 the disposition of the legal action); and

19 “(vi) include any recommendations  
20 that may be proposed by the Administrator  
21 for any modifications to existing law, in-  
22 cluding this subsection, or the regulations  
23 promulgated under paragraph (10) to im-  
24 plement this subsection, that would facili-  
25 tate the improvement of water quality



1           through the remediation of inactive or  
2           abandoned mine sites.

3           “(13) TERMINATION OF PERMITTING AUTHOR-  
4           ITY.—The authority granted to the permitting au-  
5           thority under this subsection to issue a Good Samar-  
6           itan discharge permit terminates on the date that is  
7           10 years after the date of enactment of this sub-  
8           section.

9           “(14) SEVERABILITY.—If any provision of this  
10          subsection, or the application of any provision of this  
11          subsection to any person or circumstance, is held in-  
12          valid, the application of such provision to other per-  
13          sons or circumstances, and the remainder of this  
14          subsection, shall not be affected thereby.”.