

109TH CONGRESS
1ST SESSION

S. 1848

To promote remediation of inactive and abandoned mines, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 6, 2005

Mr. SALAZAR (for himself and Mr. ALLARD) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To promote remediation of inactive and abandoned 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 “Cleanup of Inactive
5 and Abandoned Mines Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) the Federal Government and State govern-
9 ments encouraged hard rock mining in the United

1 States through a wide variety of laws, policies, and
2 actions;

3 (2) the mining activities that took place dis-
4 turbed public and private land, and those disturb-
5 ances led to considerable environmental pollution;

6 (3) many areas in which hard rock mining took
7 place in the United States are now inactive and
8 abandoned mine sites;

9 (4) many inactive and abandoned mine sites
10 pollute the environment today and will continue to
11 do so indefinitely unless remediated;

12 (5) adits and other tunnels will continue to
13 drain pollutants to surface and ground water
14 through gravity flow;

15 (6) surface runoff will continue to pick up pol-
16 lutants as the runoff moves over disturbed ground
17 and transports pollutants to surface waters;

18 (7) tailings and other materials left exposed to
19 the elements will continue to blow in the wind and
20 pollute the atmosphere and soils;

21 (8) many of the individuals and corporate own-
22 ers and operators of those mines, who caused this
23 pollution, are no longer alive or in existence;

24 (9) some of the remaining owners and operators
25 who remain do not have resources that are adequate

1 to conduct remediation properly under applicable en-
2 vironmental laws, for all practical purposes leaving
3 no one responsible for the cleanup of pollution from
4 those sites;

5 (10) inactive and abandoned mine sites are lo-
6 cated in areas of known economic mineralization;

7 (11) modern mining activities often take place
8 on or in the vicinity of the area in which historic
9 hard rock mining activities took place;

10 (12) from time to time, individuals and compa-
11 nies are willing to remediate historic mine sites for
12 the public good as Good Samaritans, despite the fact
13 that these individuals and companies are not legally
14 required to remediate the mine sites;

15 (13) Good Samaritan remediation activities
16 may—

17 (A) vary in size and complexity;

18 (B) reflect the myriad ways that mine res-
19 idue may be cleaned up; and

20 (C) include, among other activities—

21 (i) the relocation or management of
22 tailings or other waste piles;

23 (ii) passive or active water treatment;

24 (iii) runoff or run-on controls; and

1 (iv) the use or reprocessing of, or re-
2 moval of materials from, mine residue;

3 (14) the potential environmental liabilities that
4 may attach to those Good Samaritans as a result of
5 the remediation can dissuade those Good Samaritans
6 from acting for the public good;

7 (15) it is in the interest of the United States,
8 the States, and local communities to remediate his-
9 toric mine sites, in appropriate circumstances and to
10 the maximum extent practicable, so that the environ-
11 mental impacts of the sites are lessened into the fu-
12 ture; and

13 (16) if appropriate protections are provided for
14 Good Samaritans, Good Samaritans will have a
15 greater incentive to remediate those sites for the
16 public good.

17 (b) PURPOSES.—The purposes of this Act are—

18 (1) to encourage partial or complete remedi-
19 ation of inactive and abandoned mining sites for the
20 public good by persons who are not otherwise legally
21 responsible for the remediation;

22 (2) to provide appropriate protections for Good
23 Samaritans under applicable environmental laws;

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

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

6 (A) with the approval and agreement, and
7 in the discretion, of affected Federal, State, and
8 local authorities and with review by the public;
9 and

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

12 (5) to create an efficient permit process under
13 which the cost and complexity of obtaining a permit
14 are commensurate with the scope of remediation
15 work to be completed and the environmental benefits
16 from the work;

17 (6) to avoid permitting for ongoing, for-profit
18 businesses that specialize in multiple Good Samari-
19 tan projects that are designed to be permitted out-
20 side otherwise applicable Federal, State, and local
21 environmental laws; and

22 (7) to ensure that the protections for Good Sa-
23 maritans provided in this Act are interpreted in ac-
24 cordance with the purposes of this Act and to en-
25 hance the public good.

1 **SEC. 3. REMEDIATION OF INACTIVE OR ABANDONED MINES**
2 **BY GOOD SAMARITANS.**

3 (a) DEFINITIONS.—In this section:

4 (1) ADMINISTRATOR.—The term “Adminis-
5 trator” means the Administrator of the Environ-
6 mental Protection Agency.

7 (2) COOPERATING AGENCY.—The term “cooper-
8 ating agency” means any Federal, State, or local
9 agency or other person (other than the Adminis-
10 trator) that—

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

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

16 (3) ENVIRONMENTAL LAW.—The term “envi-
17 ronmental law” includes—

18 (A) the Toxic Substances Control Act (15
19 U.S.C. 2601 et seq.);

20 (B) the Federal Water Pollution Control
21 Act (33 U.S.C. 1251 et seq.);

22 (C) the Safe Drinking Water Act (42
23 U.S.C. 300f et seq.);

24 (D) the National Environmental Policy Act
25 of 1969 (42 U.S.C. 4321 et seq.);

1 (E) the Solid Waste Disposal Act (42
2 U.S.C. 6901 et seq.);

3 (F) the Clean Air Act (42 U.S.C. 7401 et
4 seq.);

5 (G) the Uranium Mill Tailings Radiation
6 Control Act of 1978 (42 U.S.C. 7901 et seq.);

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

10 (I) applicable environmental laws of a
11 State; and

12 (J) applicable environmental ordinances of
13 a political subdivision of a State.

14 (4) GOOD SAMARITAN.—The term “Good Sa-
15 maritan” means a person that—

16 (A) is unrelated, by operation or ownership
17 (except solely through succession to title), to
18 the historic mine residue to be remediated
19 under this section;

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

22 (C) had no significant role in the environ-
23 mental pollution caused by the historic mine
24 residue; and

1 (D) is not liable under any Federal, State,
 2 or local law for the remediation of the historic
 3 mine residue.

4 (5) HISTORIC MINE RESIDUE.—

5 (A) IN GENERAL.—The term “historic
 6 mine residue” means mine residue or conditions
 7 at an inactive or abandoned mine site that pol-
 8 lute the environment.

9 (B) INCLUSIONS.—The term “historic
 10 mine residue” may include, among other mate-
 11 rials—

12 (i) ores;

13 (ii) minerals;

14 (iii) equipment (or materials in equip-
 15 ment);

16 (iv) wastes from extractions,
 17 beneficiation, or other processing; and

18 (v) acidic or otherwise polluted flows
 19 in surface or ground water.

20 (6) INACTIVE OR ABANDONED MINE SITE; MINE
 21 SITE.—The terms “inactive or abandoned mine site”
 22 and “mine site” mean the site of a mine and associ-
 23 ated facilities that—

24 (A) were used for the production of a min-
 25 eral other than coal;

1 (B) have historic mine residue; and

2 (C) are abandoned or inactive as of the
3 date on which an application is submitted for a
4 permit under this section.

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

9 (8) PERSON.—The term “person” includes—

10 (A) an individual;

11 (B) a firm;

12 (C) a corporation;

13 (D) an association;

14 (E) a partnership;

15 (F) a consortium;

16 (G) a joint venture;

17 (H) a commercial entity;

18 (I) a nonprofit organization;

19 (J) the Federal Government;

20 (K) a State;

21 (L) a political subdivision of a State;

22 (M) an interstate entity; and

23 (N) a commission.

24 (9) STATE.—The term “State” means—

25 (A) a State; and

1 (B) an Indian tribe.

2 (b) PERMITS.—The Administrator may issue a per-
3 mit to a Good Samaritan to carry out a project to reme-
4 diate all or part of an inactive or abandoned mine site
5 in accordance with this section.

6 (c) ELIGIBILITY FOR PERMITS.—

7 (1) IN GENERAL.—To be eligible for a permit
8 to carry out a project to remediate an inactive or
9 abandoned mine site in a State under this section—

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

12 (B) the principal purpose of the project
13 shall be the reduction of pollution caused by
14 historic mine residue;

15 (C) the mine site may not be a mine site
16 included on the national priorities list under
17 section 105(a)(8)(B) of the Comprehensive En-
18 vironmental Response, Compensation, and Li-
19 ability Act of 1980 (42 U.S.C. 9605(a)(8)(B))
20 except in a case in which the Administrator de-
21 termines, on a case-by-case basis, that—

22 (i) the remediation project proposed
23 to be carried out at the mine site is minor
24 as compared to all remediation activity
25 needed at the listed mine site;

1 (ii) the conduct of the proposed reme-
2 diation project at the listed mine site will
3 not interfere with any other remediation at
4 the mine site that is reasonably likely to
5 occur; and

6 (iii) except for the remediation project
7 proposed by the Good Samaritan at the
8 mine site under this Act, there is not likely
9 to be remediation of the historic mine res-
10 idue that is the subject of the project at
11 the listed mine site in the reasonably fore-
12 seeable future;

13 (D) the permit shall authorize only those
14 activities that are directly required for the re-
15 mediation of historic mine residue at the mine
16 site;

17 (E) the person obtaining the permit shall
18 be a Good Samaritan; and

19 (F) a State remediation program described
20 in subsection (d) shall be in effect for remedi-
21 ation of the mine site.

22 (2) OTHER ACTIVITIES.—Any activity other
23 than the activities described in paragraph (1)(D)
24 conducted by the permittee or any other person at
25 the mine site (including, without limitation, any

1 mining or processing in addition to that required for
2 the remediation of historic mine residue for the pub-
3 lic good)—

4 (A) shall not be authorized under a permit
5 issued under this section; and

6 (B) may be authorized under other appli-
7 cable laws, including environmental laws.

8 (d) STATE REMEDIATION PROGRAM.—

9 (1) IN GENERAL.—Before a permit may be
10 issued to carry out a project in a State under this
11 section, the State shall have in effect a State reme-
12 diation program that meets the requirements of this
13 subsection.

14 (2) REQUIREMENTS.—To meet the require-
15 ments of this subsection, under the State remedi-
16 ation program, the State shall—

17 (A) agree to participate, as a signatory, in
18 each project for a which a permit for remedi-
19 ation in the State is issued under this section;

20 (B) agree that a permittee shall comply
21 with the terms and conditions of the permit in
22 lieu of compliance with applicable environ-
23 mental laws specifically described in the permit
24 in accordance with subsection (h)(1)(B);

1 (C) authorize State agencies and political
2 subdivisions of the State to participate in the
3 permit process under this section, as appro-
4 priate, and assist in providing the resources to
5 enable that participation; and

6 (D) designate a lead State agency that is
7 responsible to carry out permitting responsibil-
8 ities of the State under this section.

9 (e) APPLICATION FOR PERMITS.—To obtain a permit
10 to carry out a project to remediate an inactive or aban-
11 doned mine site under this section, an applicant shall sub-
12 mit to the Administrator an application, signed by the ap-
13 plicant, that provides—

14 (1) a description of the mine site (including the
15 boundaries of the mine site);

16 (2) an identification of—

17 (A) any current owner or operator of the
18 mine site; and

19 (B) any person with a legal right to ex-
20 clude other persons from the mine site or affect
21 activities on the mine site, with a description of
22 those legal rights;

23 (3) evidence satisfactory to the Administrator
24 that the applicant has or will acquire all legal rights

1 necessary to enter the mine site and to perform the
2 remediation described in the application;

3 (4) a description, based on the conduct of an
4 inquiry that is reasonable under the circumstances,
5 of—

6 (A) all persons that may be legally respon-
7 sible for the remediation of the mine site; and

8 (B) any relationship between those persons
9 and the applicant;

10 (5) a certification that the applicant knows of
11 no other person that (as of the date of submission
12 of the application)—

13 (A) is potentially legally responsible for the
14 remediation of the mine site; and

15 (B) has sufficient resources to complete
16 the remediation;

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

19 (7) a description of the baseline conditions (as
20 of the date of submission of the application) of the
21 environment affected by the historic mine residue to
22 be remediated;

23 (8) a description of—

24 (A) the nature and scope of the proposed
25 remediation; and

1 (B) detailed engineering plans for the
2 project;

3 (9) a description of the manner in which the re-
4 mediation will assist the mine site in meeting, to the
5 maximum extent reasonable and practicable under
6 the circumstances, water quality standards;

7 (10) a schedule for the work to be carried out
8 under the project;

9 (11) a budget for the work to be carried out
10 under the project;

11 (12) a description of financial assurances, if
12 any, to be provided by the permittee to ensure that
13 the permitted work, including any operation and
14 maintenance, will be completed;

15 (13) a description of a monitoring program fol-
16 lowing remediation (if any) that will be implemented
17 to evaluate the effects of the remediation on the en-
18 vironment;

19 (14) a detailed plan for the required operation
20 and maintenance of any remediation; and

21 (15) a list of all environmental laws for which
22 the applicant seeks the protection described in para-
23 graphs (1) and (2) of subsection (g).

24 (f) PERMIT ISSUANCE.—

1 (1) IN GENERAL.—The Administrator may
2 issue a permit under this section to carry out a
3 project for the remediation of an inactive or aban-
4 doned mine site in a State only if—

5 (A) the Administrator determines that—

6 (i) the project will improve the envi-
7 ronment on or in the area of the mine site
8 to a significant degree, as determined by
9 the Administrator;

10 (ii) the project will not degrade any
11 aspect of the environment in any area to a
12 significant degree;

13 (iii) the project will meet applicable
14 water quality standards, to the maximum
15 extent reasonable and practicable under
16 the circumstances;

17 (iv) the permittee has the financial
18 and other resources to complete, and will
19 complete, the permitted work; and

20 (v) the project meets the requirements
21 of this section;

22 (B) the State concurs with the issuance of,
23 and signs, the permit;

24 (C) if the permit provides protection for
25 the permittee under an environmental law of a

1 political subdivision of a State in accordance
2 with paragraphs (1) and (2) of subsection (g),
3 the political subdivision concurs with the
4 issuance of, and signs, the permit; and

5 (D) if the proposed project is to be carried
6 out on Federal land, each State (or political
7 subdivision) within which the Federal land is lo-
8 cated meets the requirements of subparagraphs
9 (B) and (C).

10 (2) DISCRETIONARY ACTIONS.—The issuance of
11 a permit by the Administrator, and the concurrence
12 of the affected State and political subdivisions of a
13 State to participate in the permit process, shall be
14 discretionary actions and shall be taken in the public
15 interest.

16 (3) FUNCTIONAL EQUIVALENCY.—No action of
17 the Administrator or any other person pursuant to
18 this section shall constitute a major Federal action
19 significantly affecting the quality of the human envi-
20 ronment under the National Environmental Policy
21 Act (42 U.S.C. 4321 et seq.).

22 (4) DEADLINE.—

23 (A) IN GENERAL.—The Administrator
24 shall issue or deny a permit for the remediation
25 of a mine site not later than—

1 (i) the date that is 180 days after the
2 date of receipt by the Administrator of an
3 application for the permit that, as deter-
4 mined by the Administrator, is complete;
5 or

6 (ii) such later date as may be deter-
7 mined by the Administrator with the
8 agreement of the applicant.

9 (B) CONSTRUCTIVE DENIAL.—If the Ad-
10 ministrator fails to issue or deny the permit in
11 accordance with subparagraph (A), the applica-
12 tion shall be considered to be denied by the Ad-
13 ministrator.

14 (5) REVIEW FOR CERTAIN PROJECTS.—A
15 project that, as determined by the Administrator,
16 would be less complex, or pose less risk, than other
17 projects under review by the Administrator for a
18 permit under this section, may be reviewed, at the
19 discretion of the Administrator, under a more simple
20 and rapid review process under this subsection.

21 (g) EFFECT OF PERMITS.—

22 (1) IN GENERAL.—A permit issued under this
23 section to carry out a project for the remediation of
24 an inactive or abandoned mine site—

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

3 (B) authorizes enforcement under this sec-
4 tion; and

5 (C) provides to the permittee, in carrying
6 out the activities authorized under the permit,
7 protection from actions taken, obligations, and
8 liabilities arising under the environmental laws
9 specified in the permit.

10 (2) CROSS-COMPLIANCE.—A permittee shall
11 comply with the terms and conditions of a permit
12 issued under this section in lieu of compliance with
13 the environmental laws specified in the permit with
14 respect to the work authorized under the permit.

15 (h) CONTENT OF PERMITS.—

16 (1) IN GENERAL.—A permit issued under this
17 section shall contain—

18 (A) a detailed description of the engineer-
19 ing and other work that is authorized under the
20 permit;

21 (B) a specific list of environmental laws, or
22 selected provisions of environmental laws, with
23 respect to which compliance with the permit will
24 operate in lieu of compliance with the laws;

1 (C) a provision that states that the per-
2 mittee is responsible for securing, for all activi-
3 ties authorized under the permit, all authoriza-
4 tions, licenses, and permits that are required
5 under applicable law, other than the environ-
6 mental laws described in subsection (g)(2); and

7 (D) any other terms and conditions that
8 are determined to be appropriate by the Admin-
9 istrator.

10 (2) INVESTIGATIVE SAMPLING.—

11 (A) IN GENERAL.—A permit may identify
12 an appropriate program of investigative sam-
13 pling to be completed prior to remediation, as
14 determined by the Administrator upon applica-
15 tion.

16 (B) OPTION TO DECLINE REMEDIATION.—
17 In the event that investigative sampling is au-
18 thorized, the permit may allow the permittee to
19 decline to undertake remediation based upon
20 sampling results.

21 (C) PERMIT MODIFICATION.—Based upon
22 sampling results, a permittee may apply for a
23 permit modification using the permit proce-
24 dures in this Act.

1 (3) TIMING.—Work authorized under a permit
2 shall—

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

6 (B) continue until completed, with tem-
7 porary suspensions permitted during adverse
8 weather or other conditions specified in the per-
9 mit.

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

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

17 (A) the Administrator determines that the
18 transferee will satisfy all of the requirements of
19 the permit;

20 (B) the transferee signs the permit; and

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

24 (6) TERMINATION OF PERMIT.—The authority
25 to carry out work under a permit issued under this

1 section shall terminate if the work does not com-
2 mence by the date that is 18 months after the date
3 of issuance of the permit.

4 (i) ROLE OF ADMINISTRATOR.—In carrying out this
5 section, the Administrator shall—

6 (1) consult with prospective applicants;

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

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

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

13 (5) provide an opportunity for cooperating
14 agencies and the public to participate in the permit
15 process;

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

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

19 (j) COOPERATING AGENCIES.—If the Administrator
20 learns that an application for the remediation of a mine
21 site under this section will be submitted to the Adminis-
22 trator, the Administrator shall (as soon as practicable)
23 provide a notice of the application to—

24 (1) the lead State agency designated under sub-
25 section (d)(2)(D);

1 (2) each local government located within a ra-
2 dius of 20 miles of the mine site; and

3 (3) each Federal and State agency that may
4 have an interest in the application.

5 (k) PUBLIC PARTICIPATION.—

6 (1) POTENTIAL SUBMISSION OF APPLICA-
7 TIONS.—If the Administrator learns that an applica-
8 tion for the remediation of a mine site under this
9 section will be submitted to the Administrator, the
10 Administrator shall (as soon as practicable) provide
11 to the public a notice that describes—

12 (A) the location of the mine site;

13 (B) the scope and nature of the proposed
14 remediation; and

15 (C) the name of the Good Samaritan that
16 will be carrying out the proposed remediation.

17 (2) RECEIPT OF APPLICATION.—If the Admin-
18 istrator receives an application for the remediation
19 of a mine site under this section, the Administrator
20 shall (as soon as practicable) provide to the public
21 a notice that provides the information described in
22 paragraph (1).

23 (3) HEARING.—

24 (A) IN GENERAL.—Not later than 45 days
25 after the date of receipt of a complete applica-

1 tion for the remediation of a mine site under
2 this section, the Administrator shall hold a
3 hearing in the vicinity of the mine site to be re-
4 mediated.

5 (B) COMMENTS.—At the hearing, the Ad-
6 ministrator shall provide the applicant, the pub-
7 lic, and cooperating agencies with the oppor-
8 tunity to comment on the application.

9 (4) NOTICE OF PENDING ISSUANCE.—Not less
10 than 14 days before the date of issuance of a permit
11 for the remediation of a mine site under this section,
12 the Administrator shall provide to the public and
13 each cooperating agency notice of the pending
14 issuance of the permit.

15 (5) PUBLIC RECORDS.—All records relating to
16 the permit and the permit process shall be consid-
17 ered to be public records, except to the extent the
18 records are subject to a legal privilege.

19 (1) MONITORING.—

20 (1) IN GENERAL.—The permittee shall take
21 such actions as the Administrator determines are
22 necessary to ensure appropriate baseline and post-re-
23 mediation monitoring of the environment under
24 paragraphs (7) and (13) of subsection (e).

1 (2) ADMINISTRATION.—When selecting the type
2 and frequency of the monitoring requirements to be
3 included in a permit, if any, the Administrator
4 shall—

5 (A) balance the need for monitored infor-
6 mation against the cost of the monitoring,
7 based on the circumstances relating to the re-
8 mediation; and

9 (B) take into account the scope of the
10 project.

11 (3) MULTIPARTY MONITORING.—The Adminis-
12 trator may approve in a permit the conduct of moni-
13 toring by multiple parties if, as determined by the
14 Administrator, the multiparty monitoring will effec-
15 tively accomplish the goals of this section.

16 (m) ENFORCEMENT.—

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

21 (2) INJUNCTIONS.—

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

1 (i) mandating that a person comply
2 with a permit or take action to abate a
3 permit violation; or

4 (ii) prohibiting a person from vio-
5 lating a permit.

6 (B) MINIMUM REQUIREMENT.—In the
7 event of a permit violation, and absent extraor-
8 dinary circumstances, the court shall, at a min-
9 imum, require—

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

14 (ii) the environment to be restored to
15 the condition of the environment prior to
16 the action of the permittee in violation of
17 the permit.

18 (3) AGENCIES.—Any government agency that
19 signs a permit issued under this section may enforce
20 the permit through appropriate administrative or ju-
21 dicial proceedings.

22 (n) JUDICIAL REVIEW.—A court may set aside or
23 modify an action of the Administrator in issuing a permit
24 under this section, or an action of a State or political sub-

1 division of a State in signing a permit, only on clear and
2 convincing evidence of an abuse of discretion.

3 (o) SAVINGS PROVISIONS.—

4 (1) EMERGENCY AUTHORITY.—Nothing in this
5 section affects the authority of a Federal, State, or
6 local agency to carry out any emergency authority,
7 including an emergency authority provided under
8 any environmental law listed in a permit.

9 (2) LIABILITY.—Except to the extent that a
10 permit provides protection under an environmental
11 law specified in a permit in accordance with sub-
12 section (g)(1)(C), nothing in this section or a permit
13 issued under this section limits the liability of any
14 person (including a permittee) under any other pro-
15 vision of law.

16 (p) REGULATIONS.—

17 (1) IN GENERAL.—The Administrator may pro-
18 mulgate such regulations as are necessary to carry
19 out this section.

20 (2) EFFECTIVENESS.—This section shall be ef-
21 fective regardless of whether regulations are promul-
22 gated by the Administrator under paragraph (1).

○