

September 12, 2017

Q&A - Addressing Activities of a Good Samaritan at Abandoned Coal Mines - CERCLA

Question: Can the approach of the 2007 and 2012 Good Samaritan memorandums also be applied to coal mines?

Answer: Yes.

EPA has evaluated this issue and has determined additional guidance is not necessary. Both the June 6, 2007, “Interim Guiding Principles for Good Samaritan Projects at Orphan Mine Sites and Transmittal of CERCLA Administrative Tools for Good Samaritans [under sections 104, 106, 107 and 122 of CERCLA],” and the December 12, 2012, “Clean Water Act Section 402 National Pollutant Discharge Elimination System (NPDES) Permit Requirements for ‘Good Samaritans’ at Orphan Mine Sites,” could be applied to Good Samaritan activities at both abandoned hard rock and coal mines. The limitation to focus on hard rock mines in both documents was a policy decision at the time.

While the focus of both documents addresses abandoned hard rock mines, there is nothing that restricts its broader application. The “Frequently Asked Questions” developed to accompany the 2007 guidance specifically recognizes the potential for broader application of the guidance. While EPA previously made a policy decision not to apply the Good Samaritan Initiative at abandoned surface and deep coal mines, at this time EPA is willing to consider application of Good Samaritan principles to such mines. Initially, due to limited resources, EPA may limit the number of requests it accepts for consideration. However, before any action is taken by EPA on such a request at abandoned coal mines, the action needs to be coordinated by EPA and the potential Good Samaritan with the Office of Surface Mining Reclamation and Enforcement (OSMRE) and the relevant State to assure consistency and the most effective use of scarce resources. Under Title IV of the Surface Mining Coal Reclamation Act (SMCRA), 30 USC 1201 et seq., Congress established a fund, operated by OSMRE, which is the primary focus of the U.S. Government and States for reclamation of “pre-SMCRA” mines on private lands.<sup>1</sup> In particular, it will be important to understand how a Good Samaritan agreement may impact access to SMCRA remediation funds. EPA also encourages Good Samaritans to consider use of a State’s voluntary clean-up program and encourages States to assume the lead.

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<sup>1</sup> This reference includes projects funded by OSMRE under the Abandoned Mine Land Reclamation Economic Development Pilot Program for FY2016 (P.L. 114-113).