

Union Calendar No. 215

117TH CONGRESS
2^D SESSION

H. R. 1146

[Report No. 117–293]

To amend the Surface Mining Control and Reclamation Act of 1977 to authorize partnerships between States and nongovernmental entities for the purpose of reclaiming and restoring land and water resources adversely affected by coal mining activities before August 3, 1977, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 2021

Mr. LAHOOD introduced the following bill; which was referred to the
Committee on Natural Resources

APRIL 25, 2022

Reported from the Committee on Natural Resources; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to authorize partnerships between States and nongovernmental entities for the purpose of reclaiming and restoring land and water resources adversely affected by coal mining activities before August 3, 1977, 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 “Community Reclama-
 5 tion Partnerships Act”.

6 **SEC. 2. REFERENCE.**

7 Except as otherwise specifically provided, whenever in
 8 this Act an amendment is expressed in terms of an amend-
 9 ment to a provision, the reference shall be considered to
 10 be made to a provision of the Surface Mining Control and
 11 Reclamation Act of 1977 (30 U.S.C. 1201 et seq.).

12 **SEC. 3. STATE MEMORANDA OF UNDERSTANDING FOR CER-**
 13 **TAIN REMEDIATION.**

14 (a) MEMORANDA AUTHORIZED.—Section 405 (30
 15 U.S.C. 1235) is amended by inserting after subsection (l)
 16 the following:

17 “(m) STATE MEMORANDA OF UNDERSTANDING FOR
 18 REMEDICATION OF MINE DRAINAGE.—

19 “(1) IN GENERAL.—A State with a State pro-
 20 gram approved under subsection (d) may enter into
 21 a memorandum of understanding with relevant Fed-
 22 eral or State agencies (or both) to remediate mine
 23 drainage on abandoned mine land and water im-
 24 pacted by abandoned mines within the State. The

1 memorandum may be updated as necessary and re-
2 submitted for approval under this subsection.

3 “(2) MEMORANDA REQUIREMENTS.—Such
4 memorandum shall establish a strategy satisfactory
5 to the State and Federal agencies that are parties
6 to the memorandum, to address water pollution re-
7 sulting from mine drainage at sites eligible for rec-
8 lamation and mine drainage abatement expenditures
9 under section 404, including specific procedures
10 for—

11 “(A) ensuring that activities carried out to
12 address mine drainage will result in improved
13 water quality;

14 “(B) monitoring, sampling, and the report-
15 ing of collected information as necessary to
16 achieve the condition required under subpara-
17 graph (A);

18 “(C) operation and maintenance of treat-
19 ment systems as necessary to achieve the condi-
20 tion required under subparagraph (A); and

21 “(D) other purposes, as considered nec-
22 essary by the State or Federal agencies, to
23 achieve the condition required under subpara-
24 graph (A).

25 “(3) PUBLIC REVIEW AND COMMENT.—

1 “(A) IN GENERAL.—Before submitting a
2 memorandum to the Secretary and the Admin-
3 istrator for approval, a State shall—

4 “(i) invite interested members of the
5 public to comment on the memorandum;
6 and

7 “(ii) hold at least one public meeting
8 concerning the memorandum in a location
9 or locations reasonably accessible to per-
10 sons who may be affected by implementa-
11 tion of the memorandum.

12 “(B) NOTICE OF MEETING.—The State
13 shall publish notice of each meeting not less
14 than 15 days before the date of the meeting, in
15 local newspapers of general circulation, on the
16 Internet, and by any other means considered
17 necessary or desirable by the Secretary and the
18 Administrator.

19 “(4) SUBMISSION AND APPROVAL.—The State
20 shall submit the memorandum to the Secretary and
21 the Administrator of the Environmental Protection
22 Agency for approval. The Secretary and the Admin-
23 istrator shall approve or disapprove the memo-
24 randum within 120 days after the date of its sub-
25 mission if the Secretary and Administrator find that

1 the memorandum will facilitate additional activities
2 under the State Reclamation Plan under subsection
3 (e) that improve water quality.

4 “(5) TREATMENT AS PART OF STATE PLAN.—

5 A memorandum of a State that is approved by the
6 Secretary and the Administrator under this sub-
7 section shall be considered part of the approved
8 abandoned mine reclamation plan of the State.

9 “(n) COMMUNITY RECLAIMER PARTNERSHIPS.—

10 “(1) PROJECT APPROVAL.—Within 120 days
11 after receiving such a submission, the Secretary
12 shall approve a Community Reclaimer project to re-
13 mediate abandoned mine lands if the Secretary finds
14 that—

15 “(A) the proposed project will be con-
16 ducted by a Community Reclaimer as defined in
17 this subsection or approved subcontractors of
18 the Community Reclaimer;

19 “(B) for any proposed project that remedi-
20 ates mine drainage, the proposed project is con-
21 sistent with an approved State memorandum of
22 understanding under subsection (m);

23 “(C) the proposed project will be con-
24 ducted on a site or sites inventoried under sec-
25 tion 403(c);

1 “(D) the proposed project meets all sub-
2 mission criteria under paragraph (2);

3 “(E) the relevant State has entered into an
4 agreement with the Community Reclaimer
5 under which the State shall assume all respon-
6 sibility with respect to the project for any costs
7 or damages resulting from any action or inac-
8 tion on the part of the Community Reclaimer in
9 carrying out the project, except for costs or
10 damages resulting from gross negligence or in-
11 tentional misconduct by the Community Re-
12 claimer, on behalf of—

13 “(i) the Community Reclaimer; and

14 “(ii) the owner of the proposed project
15 site,

16 if such Community Reclaimer or owner, respec-
17 tively, did not participate in any way in the cre-
18 ation of site conditions at the proposed project
19 site or activities that caused any lands or
20 waters to become eligible for reclamation or
21 drainage abatement expenditures under section
22 404;

23 “(F) the State has the necessary legal au-
24 thority to conduct the project and will obtain all
25 legally required authorizations, permits, li-

1 censes, and other approvals to ensure comple-
2 tion of the project;

3 “(G) the State has sufficient financial re-
4 sources to ensure completion of the project, in-
5 cluding any necessary operation and mainte-
6 nance costs (including costs associated with
7 emergency actions covered by a contingency
8 plan under paragraph (2)(K)); and

9 “(H) the proposed project is not in a cat-
10 egory of projects that would require a permit
11 under title V.

12 “(2) PROJECT SUBMISSION.—The State shall
13 submit a request for approval to the Secretary that
14 shall include—

15 “(A) a description of the proposed project,
16 including any engineering plans that must bear
17 the seal of a professional engineer;

18 “(B) a description of the proposed project
19 site or sites, including, if relevant, the nature
20 and extent of pollution resulting from mine
21 drainage;

22 “(C) identification of the past and current
23 owners and operators of the proposed project
24 site;

1 “(D) the agreement or contract between
2 the relevant State and the Community Re-
3 claimer to carry out the project;

4 “(E) a determination that the project will
5 facilitate the activities of the State reclamation
6 plan under subsection (e);

7 “(F) sufficient information to determine
8 whether the Community Reclaimer has the
9 technical capability and expertise to successfully
10 conduct the proposed project;

11 “(G) a cost estimate for the project and
12 evidence that the Community Reclaimer has
13 sufficient financial resources to ensure the suc-
14 cessful completion of the proposed project (in-
15 cluding any operation or maintenance costs);

16 “(H) a schedule for completion of the
17 project;

18 “(I) an agreement between the Community
19 Reclaimer and the current owner of the site
20 governing access to the site;

21 “(J) sufficient information to ensure that
22 the Community Reclaimer meets the definition
23 under paragraph (3);

24 “(K) a contingency plan designed to be
25 used in response to unplanned adverse events

1 that includes emergency actions, response, and
2 notifications; and

3 “(L) a requirement that the State provide
4 notice to adjacent and downstream landowners
5 and the public and hold a public meeting near
6 the proposed project site before the project is
7 initiated.

8 “(3) COMMUNITY RECLAIMER DEFINED.—For
9 purposes of this section, the term ‘Community Re-
10 claimer’ means any person who—

11 “(A) seeks to voluntarily assist a State
12 with a reclamation project under this section;

13 “(B) did not participate in any way in the
14 creation of site conditions at the proposed
15 project site or activities that caused any lands
16 or waters to become eligible for reclamation or
17 drainage abatement expenditures under section
18 404;

19 “(C) is not a past or current owner or op-
20 erator of any site with ongoing reclamation obli-
21 gations; and

22 “(D) is not subject to outstanding viola-
23 tions listed pursuant to section 510(c).”.

1 **SEC. 4. CLARIFYING STATE LIABILITY FOR MINE DRAINAGE**
2 **PROJECTS.**

3 Section 413(d) (30 U.S.C. 1242(d)) is amended in
4 the second sentence by inserting “unless such control or
5 treatment will be conducted in accordance with a State
6 memorandum of understanding approved under section
7 405(m) of this Act” after “Control Act” the second place
8 it appears.

9 **SEC. 5. CONFORMING AMENDMENTS.**

10 Section 405(f) (30 U.S.C. 1235(f)) is amended—

11 (1) by striking the “and” after the semicolon in
12 paragraph (6);

13 (2) by striking the period at the end of para-
14 graph (7) and inserting “; and”; and

15 (3) by inserting at the end the following:

16 “(8) a list of projects proposed under sub-
17 section (n).”.

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