

117TH CONGRESS
2D SESSION

S. 5294

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish within the Environmental Protection Agency the Office of Mountains, Deserts, and Plains, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2022

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

A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish within the Environmental Protection Agency the Office of Mountains, Deserts, and Plains, 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 “Legacy Mine Cleanup
5 Act of 2022”.

1 **SEC. 2. OFFICE OF MOUNTAINS, DESERTS, AND PLAINS.**

2 Title I of the Comprehensive Environmental Re-
 3 sponse, Compensation, and Liability Act of 1980 (42
 4 U.S.C. 9601 et seq.) is amended by adding at the end
 5 the following:

6 **“SEC. 129. OFFICE OF MOUNTAINS, DESERTS, AND PLAINS.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) APPROPRIATE COMMITTEES OF CON-
 9 GRESS.—The term ‘appropriate committees of Con-
 10 gress’ means—

11 “(A) the Committee on Appropriations of
 12 the Senate;

13 “(B) the Committee on Energy and Nat-
 14 ural Resources of the Senate;

15 “(C) the Committee on Environment and
 16 Public Works of the Senate;

17 “(D) the Committee on Health, Education,
 18 Labor, and Pensions of the Senate;

19 “(E) the Committee on Indian Affairs of
 20 the Senate;

21 “(F) the Committee on Appropriations of
 22 the House of Representatives;

23 “(G) the Committee on Energy and Com-
 24 merce of the House of Representatives;

1 “(H) the Committee on Transportation
2 and Infrastructure of the House of Representa-
3 tives;

4 “(I) the Committee on Natural Resources
5 of the House of Representatives; and

6 “(J) the Committee on Oversight and Re-
7 form of the House of Representatives.

8 “(2) COVERED MINE.—The term ‘covered mine’
9 means an abandoned hardrock mine site.

10 “(3) ELIGIBLE NON-NPL SITE.—The term ‘eli-
11 gible non-NPL site’ means a site—

12 “(A) that is not on the National Priorities
13 List; but

14 “(B) with respect to which the Adminis-
15 trator determines that—

16 “(i) the site would be eligible for list-
17 ing on the National Priorities List based
18 on the presence of hazards from contami-
19 nation at the site, applying the hazard
20 ranking system described in section 105(c);
21 and

22 “(ii) for removal site evaluations, en-
23 gineering evaluations/cost analyses, reme-
24 dial planning activities, remedial investiga-
25 tions and feasibility studies, and other ac-

1 tions taken pursuant to section 104(b), the
2 site—

3 “(I) has undergone a pre-
4 CERCLA screening; and

5 “(II) is included in the Super-
6 fund Enterprise Management System.

7 “(4) NAVAJO NATION ABANDONED URANIUM
8 MINE SITE.—The term ‘Navajo Nation abandoned
9 uranium mine site’ means an abandoned uranium
10 mine site on land of the Navajo Nation.

11 “(5) OFFICE.—The term ‘Office’ means the Of-
12 fice of Mountains, Deserts, and Plains established by
13 subsection (b)(1).

14 “(6) REGIONAL OFFICE.—The term ‘Regional
15 Office’ means a Regional Office of the Environ-
16 mental Protection Agency.

17 “(b) ESTABLISHMENT.—

18 “(1) IN GENERAL.—There is established within
19 the Environmental Protection Agency the Office of
20 Mountains, Deserts, and Plains.

21 “(2) DIRECTOR.—The Office shall be headed by
22 a Director, to be appointed by the Administrator (or
23 a designee).

24 “(c) PURPOSES.—The purposes of the Office shall
25 be—

1 “(1) to coordinate and provide oversight over
2 response actions of the Environmental Protection
3 Agency carried out at a covered mine in accordance
4 with this Act;

5 “(2) to establish and disseminate best practices
6 for covered mine response actions, including identi-
7 fying innovative technologies and reuse approaches
8 that support those response actions;

9 “(3) to collaborate with Regional Offices, Fed-
10 eral land management agencies, States, and vol-
11 untary nongovernmental organizations, watershed
12 groups, nonliable mining companies, and other enti-
13 ties to facilitate voluntary response actions at cov-
14 ered mines;

15 “(4) to lead Environmental Protection Agency
16 efforts to coordinate and expedite the completion of
17 response actions at covered mines on Tribal land, in-
18 cluding Navajo Nation abandoned uranium mine
19 sites;

20 “(5) to coordinate with the Secretary of the In-
21 terior, the Secretary of Energy, the Secretary of
22 Health and Human Services, the Nuclear Regulatory
23 Commission, and other Federal agencies, as the Ad-
24 ministrator determines to be appropriate, to ensure
25 interagency coordination of covered mine response

1 actions, with priority given to coordinating, and
 2 where possible, combining, Federal efforts to fund
 3 response actions at covered mines for which there is
 4 no potentially responsible party; and

5 “(6) to carry out other actions, as determined
 6 to be necessary by the Administrator—

7 “(A) to support efforts to investigate, char-
 8 acterize, or cleanup a discharge, release, or
 9 threat of release of a hazardous substance, pol-
 10 lutant, or contaminant into the environment at
 11 or from a covered mine; or

12 “(B) to otherwise protect and improve
 13 human health and the environment.

14 “(d) DUTIES.—The Administrator shall carry out
 15 through the Office, at a minimum, the following duties:

16 “(1) EMPHASIS LIST.—

17 “(A) IN GENERAL.—The Administrator
 18 shall establish a list of covered mines that are
 19 prioritized for response actions under this Act.

20 “(B) UPDATES; REPORTS.—The Adminis-
 21 trator shall annually—

22 “(i) update the list under subpara-
 23 graph (A); and

1 “(ii) submit to the appropriate com-
2 mittees of Congress a report describing the
3 covered mines on the list.

4 “(C) COORDINATION.—The Administrator
5 shall—

6 “(i) regularly coordinate with Re-
7 gional Offices, Federal agencies, States,
8 Indian tribes, and stakeholders to make
9 progress with respect to the covered mines
10 on the list under subparagraph (A); and

11 “(ii) ensure that Regional Offices
12 make progress with respect to each covered
13 mine on the list.

14 “(2) COMMUNITY ENGAGEMENT.—The Admin-
15 istrator shall—

16 “(A) maintain and update, as needed, best
17 practices for engaging with local communities
18 with respect to response actions on covered
19 mines; and

20 “(B) coordinate with Regional Offices to
21 support engagement with local communities de-
22 scribed in subparagraph (A).

23 “(3) PROCESS IMPROVEMENT.—

24 “(A) IN GENERAL.—The Administrator
25 shall—

1 “(i) establish a standard process for
2 developing, reviewing, and approving site
3 assessments, remedial investigations, and
4 feasibility studies for covered mines;

5 “(ii) conduct research of, and identify,
6 technologies and remedial and removal ap-
7 proaches that are the most successful in
8 limiting the acute and chronic risks posted
9 to human health and the environment by
10 covered mines;

11 “(iii) to the extent technically feasible,
12 establish remedial and removal standards
13 for various types of covered mines, includ-
14 ing type of mineral and design; and

15 “(iv) support—

16 “(I) consultations with Indian
17 tribes with respect to covered mines;
18 and

19 “(II) efforts to provide regular
20 updates to all levels a Tribal govern-
21 ment with respect to response actions
22 for covered mines.

23 “(B) TRIBAL CONSULTATION.—In sup-
24 porting consultations with Indian tribes under

1 subparagraph (A)(iv)(I), the Administrator
2 shall—

3 “(i) share all available covered mine
4 data with Tribal partners; and

5 “(ii) ensure that Tribal allottee right-
6 of-way regulations of the Eastern Regional
7 Office of the Bureau of Indian Affairs are
8 followed.

9 “(4) INTERAGENCY PLAN TO ADDRESS URA-
10 NIUM CONTAMINATION ON THE NAVAJO NATION.—

11 Not later than 1 year after the date of enactment
12 of this section, and not less frequently than once
13 every 5 years thereafter, the Administrator, in con-
14 sultation with all levels of affected Tribal govern-
15 ments, shall prepare and submit to the appropriate
16 committees of Congress a report describing a multi-
17 year interagency plan for the coordination of the
18 Federal Government with States and Tribal govern-
19 ments to carry out response actions at Navajo Na-
20 tion abandoned uranium mine sites, including—

21 “(A) goals for the assessment of, and re-
22 sponse actions at, Navajo Nation abandoned
23 uranium mine sites;

1 “(B) target dates by which goals described
 2 in subparagraph (A) are anticipated to be
 3 achieved; and

4 “(C) the activities to be carried out by
 5 each Federal agency under the plan.

6 “(5) ADMINISTRATIVE AND TECHNICAL ASSIST-
 7 ANCE.—The Administrator shall, as appropriate,
 8 provide to States, units of local government, Indian
 9 tribes, and other entities technical assistance with
 10 respect to response actions on covered mines.

11 “(e) AUTHORIZATION OF APPROPRIATIONS FOR
 12 SUPERFUND ACTIONS AT ABANDONED HARDROCK MIN-
 13 ING SITES ON TRIBAL LAND.—

14 “(1) AUTHORIZATION OF APPROPRIATIONS.—In
 15 addition to amounts otherwise available, there are
 16 authorized to be appropriated for each of fiscal years
 17 2023 through 2032, to remain available until ex-
 18 pended—

19 “(A) \$97,000,000 to the Administrator to
 20 carry out this subsection (except for paragraph
 21 (3)); and

22 “(B) \$3,000,000 to the Administrator of
 23 the Agency for Toxic Substances and Disease
 24 Registry to carry out paragraph (3).

1 “(2) USES OF AMOUNTS.—Amounts appro-
2 priated under paragraph (1)(A) shall be used by the
3 Administrator—

4 “(A) to carry out removal actions on aban-
5 doned hardrock mine land located on Tribal
6 land;

7 “(B) to carry out response actions, includ-
8 ing removal and remedial planning activities,
9 removal and remedial studies, remedial actions,
10 and other actions taken pursuant to section
11 104(b) on abandoned hardrock mine land lo-
12 cated on Tribal land at—

13 “(i) eligible non-NPL sites; and

14 “(ii) sites listed on the National Pri-
15 orities List; and

16 “(C) to make grants under paragraph (4).

17 “(3) HEALTH ASSESSMENTS.—Subject to the
18 availability of appropriations, the Agency for Toxic
19 Substances and Disease Registry, in coordination
20 with Tribal health authorities, shall perform 1 or
21 more health assessments at each eligible non-NPL
22 site that is located on Tribal land.

23 “(4) TRIBAL GRANTS.—

24 “(A) IN GENERAL.—The Administrator
25 may use amounts appropriated under para-

1 graph (1)(A) to make grants to eligible entities
2 for the purposes described in subparagraph (C).

3 “(B) ELIGIBLE ENTITIES.—An entity that
4 is eligible to receive a grant under this para-
5 graph is—

6 “(i) the governing body of an Indian
7 tribe; and

8 “(ii) a legally established organization
9 of Indians that—

10 “(I) is controlled, sanctioned, or
11 chartered by the governing bodies of 1
12 or more Indian tribes to be served, or
13 that is democratically elected by the
14 adult members of the Indian commu-
15 nity to be served, by that organiza-
16 tion; and

17 “(II) includes the maximum par-
18 ticipation of Indians in all phases of
19 the activities of that organization.

20 “(C) USE OF GRANT FUNDS.—A grant
21 under this paragraph shall be used—

22 “(i) for carrying out activities in ac-
23 cordance with the second sentence of sec-
24 tion 117(e)(1);

1 “(ii) for obtaining technical assistance
2 in carrying out response actions under
3 clause (iii); or

4 “(iii) for carrying out response ac-
5 tions, if the Administrator determines that
6 the Indian tribe has the capability to carry
7 out any or all of those response actions in
8 accordance with the criteria and priorities
9 established pursuant to section 105(a)(8).

10 “(D) APPLICATIONS.—To be eligible to re-
11 ceive a grant under this paragraph, an eligible
12 entity shall submit to the Administrator an ap-
13 plication at such time, in such manner, and
14 containing such information as the Adminis-
15 trator may require.

16 “(E) COST SHARE.—The Federal share of
17 the cost of activities carried out using a grant
18 under this paragraph shall be 100 percent.

19 “(5) STATUTE OF LIMITATIONS.—If a response
20 action described in paragraph (2)(B) is scheduled at
21 an eligible non-NPL site, no action may be com-
22 menced for damages with respect to that eligible
23 non-NPL site unless the action is commenced within
24 the timeframe provided for such actions with respect
25 to facilities on the National Priorities List in the

1 first sentence of the matter following subparagraph
2 (B) of section 113(g)(1).

3 “(6) COORDINATION.—The Administrator shall
4 coordinate with the Indian tribe on whose land the
5 applicable site is located in—

6 “(A) selecting and prioritizing sites for re-
7 sponse actions under subparagraphs (A) and
8 (B) of paragraph (2); and

9 “(B) carrying out those response actions.”.

10 **SEC. 3. ABANDONED AND INACTIVE NONCOAL MINE RES-**
11 **TORATION.**

12 Section 560 of the Water Resources Development Act
13 of 1999 (33 U.S.C. 2336) is amended—

14 (1) in subsection (c), by inserting “or on land
15 taken into trust by the Secretary of the Interior on
16 behalf of, and for the benefit of, an Indian Tribe”
17 after “land owned by the United States”; and

18 (2) in subsection (f), by striking “\$30,000,000”
19 and inserting “\$50,000,000”.

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