

Environmental Good Samaritan Act

The Environmental Good Samaritan Act protects landowners, groups and individuals who volunteer to do such projects from civil and environmental liability. This law is intended to encourage landowners and others to reclaim abandoned mineral extraction lands and abate water pollution caused by abandoned mines, and oil and gas wells. The Pennsylvania Department of Environmental Protection (DEP) is accepting projects for protection under the Environmental Good Samaritan Act. DEP will administer and review project proposals to determine project eligibility.

The Environmental Good Samaritan Act was signed into law, along with Growing Greener, on Dec. 15, 1999. Growing Greener is the largest environmental initiative in Pennsylvania's history, investing \$1.3 billion through 2012 to address the commonwealth's critical environmental priorities. The Environmental Good Samaritan Act is also one of the program initiatives of Reclaim PA, a program designed to maximize reclamation of Pennsylvania's quarter-million acres of abandoned mineral extraction lands, through increased mine operator, volunteer and DEP efforts.

Who is eligible for protection under the Act?

Any landowner who provides access to the land without charge or compensation for a reclamation or water pollution abatement project is eligible for protection under the Environmental Good Samaritan Act.

Additionally, any person, corporation, nonprofit organization or government entity that participates in a project is eligible for protection if they:

- Provide equipment, materials or services for the project for no profit;
- Did not cause or create the abandoned mineral extraction land or water pollution;
- Were not ordered by the state or federal government to do the work;
- Are not performing the work under a contract for profit, such as a competitive bid project or a Government-Financed Construction Contract; and
- Are not the surety that issued the bond for the site.

What types of land reclamation projects are covered?

Eligible projects are those that restore mineral extraction lands that have been abandoned or not completely reclaimed. This also includes areas where the mine operator has forfeited bonds on the site. Typical conditions that are suitable for land reclamation projects include abandoned mine pits and underground mine entrances, refuse piles, dangerous highwalls and unplugged oil and gas wells.

Projects addressing areas where abandoned structures or equipment from past mineral extraction operations are located are also eligible. DEP must approve each project and determine that the project will not cause water pollution.

What types of water pollution projects are covered under the Act?

Eligible water pollution abatement projects are those that treat or stop water pollution caused by abandoned mines or oil and gas wells. Project proposals must be capable of improving water quality and must be approved by DEP.

What protections are provided to landowners who allow their property to be used for a water pollution abatement or land reclamation project?

Landowners who provide access to the project area are not responsible for:

- Injury or damage to a person who is restoring the land or treating the water pollution while the person is on the project area;
- Injury or damage to a person that is caused by the people restoring the land or treating the water pollution;
- Injury or damage to a person as a result of the project;
- Any pollution that may be caused by the project; or
- The operation, maintenance or repair of any water pollution treatment equipment constructed on the land, unless the landowner damages or destroys the water pollution treatment equipment or refuses to allow the equipment to be operated or repaired.

Are there exceptions to the protections provided to landowners under the Act?

Landowners will not be protected from liability if they:

- Deliberately or recklessly cause injury or property damage;
- Charge a fee or receive some other form of compensation for access to the land;

- Violate the law; or
- Fail to warn those who are working on the project about any dangerous conditions of which they are aware within the project work area.

In addition, landowners will not be protected under the Act if the project damages adjacent or downstream landowners, and those individuals had not received written or public notice of the proposed project. This notice is given while DEP is reviewing the proposed project.

What protections are available to individuals who participate in a land reclamation or water treatment project?

Participants in a land reclamation or water pollution abatement project are not responsible for:

- Injury or damage that occurs during the work on the project;
- Any pollution coming from the water treatment facilities; or
- Operating, maintaining or repairing the water treatment facilities.

Are there any exceptions to the protections provided to a participant in a land reclamation or water treatment project?

Participants will not be protected from liability if they:

- Cause increased pollution by activities that are unrelated to work on the approved project;
- Deliberately or recklessly cause injury or property damage; or
- Violate the law.

Additionally, participants are not protected under the Act if the project damages adjacent or downstream landowners, and written or public notice of the proposed project was not provided. This notice is given while DEP is reviewing the proposed project.

How do the protections work?

The Environmental Good Samaritan Act provides protection under state law only and does not apply to federal law. While DEP determines project eligibility under the Act, DEP does not have the authority to make legal rulings on who receives protections from liability. That issue must be resolved in civil court. If a landowner or participant in a project is sued for injury or damage, they should use DEP's approval of the project and record of landowners and participants in their defense.

How can I get protection under the Act?

Only projects approved by DEP are eligible for protections under the Environmental Good Samaritan Act. DEP has developed a project proposal form for participants and landowners, which is available in DEP's District Mining Offices or online at www.dep.pa.gov.

Each proposal must identify the project participants and landowners, describe the location of the project and the environmental problems that will be addressed, and establish a work plan for the proposed project.

The District Mining Office that oversees the project area will evaluate each proposal and determine if the project is capable of reclaiming the land or improving water quality. The District Mining Offices will also advise participants on any permits that may be needed. Once the project is approved, DEP will maintain a permanent record of the participants and landowners who are protected under the Environmental Good Samaritan Act.

For more information or assistance, or to request a project proposal form, please contact DEP's District Mining Offices:

Pottsville District Mining Office

5 West Laurel Boulevard
Pottsville, PA 17901-2454
Telephone: 570-621-3118

Knox District Mining Office

White Memorial Building
P.O. Box 669
Knox, PA 16232-0669
Telephone: 814-797-1191

New Stanton District Mining Office

P.O. Box 133
New Stanton, PA 15672
Telephone: 724-925-5500

Moshannon District Mining Office

186 Enterprise Drive
Philipsburg, PA 16866
Telephone: 814-342-8200

Cambria District Mining Office

286 Industrial Park Road
Ebensburg, PA 15931
Telephone: 814-472-1900

California District Mining Office

25 Technology Drive
California Technology Park
Coal Center, PA 15423
Telephone: 724-769-1100

For more information, visit www.dep.pa.gov.