

An aerial photograph of a large-scale mining or remediation site. The terrain is dark and heavily eroded, with visible tire tracks and a yellow excavator in the lower-left quadrant. The overall scene is desolate and industrial.

# Good Samaritan Cleanups at Abandoned Mines

BY JASON KING

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*This article highlights legal liabilities facing would-be “Good Samaritan” entities who voluntarily clean up abandoned hard rock mining sites and describes how the recently enacted Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024 addresses those concerns to promote cleanups.*

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**T**he legacy of historic mining practices is one of the greatest impacts to our nation’s waterways. For over a century, mining operations extracted valuable minerals with minimal regard to environmental protection. More than 500,000 abandoned mine lands dot the American West, leaving behind countless waste piles and tunnels generating acidic discharges with high concentrations of harmful metals.<sup>1</sup> The US Environmental Protection Agency (EPA) estimates that abandoned hard rock mines affect 40% of headwaters in the western United States.<sup>2</sup> While modern day mining regulations mitigate environmental impacts via reclamation requirements,<sup>3</sup> no law effectively addresses the large-scale pollution from abandoned hard rock mines.

In 2016, Colorado’s Department of Public Health and Environment and Department of Natural Resources inventoried inactive mine sites throughout the state that discharge acidic water.<sup>4</sup> Despite 45 years of government-enforced investigation and cleanup under the federal Superfund program,<sup>5</sup> the majority of abandoned mines impacting Colorado water’s waterways have not been addressed.<sup>6</sup> These mines continue to pollute approximately 1,800 miles of rivers within the state with heavy metals and low pH.<sup>7</sup> Acidic discharges harm fish and other aquatic resources and can negatively impact drinking water and agricultural water sources.<sup>8</sup>

For over two decades, congressional representatives, state and federal regulators, the Western Governors’ Association, and several non-governmental organizations (NGOs) collaborated on federal legislation to promote voluntary “Good Samaritan” cleanups at abandoned mines. Good Samaritans are public and private entities having no connection to past mining operations who seek to improve

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environmental conditions at an abandoned mine site. Since 1995, over a dozen Good Samaritan bills have been introduced through largely bipartisan efforts. All focused on creating a distinct permitting system for Good Samaritan projects, either through amendments to the Federal Water Pollution Control Act (commonly known as the Clean Water Act) (CWA)<sup>9</sup> or in stand-alone bills. For various reasons, none of these bills emerged from committee until the 118th Congressional session this past fall.

On December 17, 2024, President Biden signed into law the Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024 (the Act), introduced by Sens. Heinrich (D-NM) and Risch (R-ID) as Senate Bill 2781.<sup>10</sup> The Act garnered overwhelming bipartisan support in Congress, including from both Colorado senators<sup>11</sup> and five of Colorado’s eight representatives.<sup>12</sup> Colorado Attorney General Phil Weiser and Department of Natural Resources Executive Director Dan Gibbs submitted letters to Congress in support of SB 2781, as did a host of Colorado local governments and NGOs.

This article describes the legal landscape prior to the Act’s passage and highlights key components of the Act and permitting process.

#### **Pre-Act Legal Landscape**

Abandoned mine cleanups—especially those attempting to improve mine-impacted water quality—carry inherent risks. Absent Good Samaritan protections, project proponents faced potential liability under the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA),<sup>13</sup> also known as the Superfund law, and the CWA. Both statutes authorize injunctive relief and monetary penalties against liable parties.<sup>14</sup> CERCLA and the CWA also have broad citizen suit provisions expanding these risks beyond the threat of government enforcement.<sup>15</sup>



### CERCLA

CERCLA cleanups must follow a prescriptive process set forth in federal regulations requiring project proponents to identify and comply with a host of “applicable or relevant and appropriate requirements” (ARARs) of federal and state environmental laws.<sup>16</sup> ARARs are determined by the site’s location, targeted chemicals, and proposed response actions.<sup>17</sup> Cleanup entities who fail to meet ARARs or worsen environmental conditions are potentially liable under CERCLA § 107 as “operators” of a facility releasing a hazardous substance.<sup>18</sup> In addition, property owners who merely grant Good Samaritan entities permission to conduct cleanup activities face similar liability as an “owner” of such facility.<sup>19</sup> CERCLA applies strict, joint and several liability to any person deemed an owner or operator of a facility from which a hazardous substance is released.<sup>20</sup> Liable parties are either

required to remediate the contamination<sup>21</sup> or pay state and federal agencies’ costs of doing so.<sup>22</sup> Under CERCLA, abandoned mine sites are considered “facilities,”<sup>23</sup> and mine-impacted water or waste piles qualify as a “hazardous substances.”<sup>24</sup> Current property owners and Good Samaritans meet CERCLA’s definitions for “owners” and “operators,” respectively.<sup>25</sup>

CERCLA liability can deter would-be Good Samaritans from conducting cleanups at abandoned mine sites. And despite the EPA’s recent efforts to promote CERCLA liability shields through administrative tools such as guidance<sup>26</sup> and “comfort letters,”<sup>27</sup> very few Good Samaritan projects have been performed under Superfund authorities.

### CWA

Since many Good Samaritan projects attempt to treat and manage surface water discharges,

Good Samaritans must also grapple with the even less flexible CWA requirements. The CWA prohibits discharges of pollutants from identifiable “point sources” into navigable waters without a permit.<sup>28</sup> Point source discharges are regulated under the CWA’s National Permit Discharge Elimination System (NPDES).<sup>29</sup> NPDES permits define performance metrics as concentration-based numeric effluent limits for metals and other parameters calculated to support existing water quality standards in a receiving water body.<sup>30</sup> Effluent limits can be very stringent and go well beyond what Good Samaritan projects can achieve considering their limited budgets and treatment options. Moreover, abandoned mine sites are by nature located in highly mineralized areas where background water quality is impaired from naturally occurring high metals concentrations. Applying a CWA-based performance measure

lacks flexibility and is not appealing to would-be Good Samaritans.

Similar to CERCLA, the CWA holds owners or operators strictly liable for unpermitted point source discharges.<sup>31</sup> Diversion channels, settlement ponds, and other engineered features of Good Samaritan projects meet the CWA's definition of a "point source,"<sup>32</sup> while acidic mine water contaminated with heavy metals qualifies as a "pollutant."<sup>33</sup> As with CERCLA, current property owners and Good Samaritan project proponents face CWA liability as owners or operators of an illegal point source discharge. Two separate federal court rulings in the Fourth and Ninth Circuits leave no doubt that Good Samaritan entities and property owners can be held liable for unpermitted point source discharges of mine-impacted water at abandoned mine cleanups.<sup>34</sup>

### **Act Components**

The Act creates a new paradigm to facilitate voluntary cleanups at abandoned mines. It balances the need to incentivize Good Samaritan entities while protecting against further harm to the environment. Proponent incentives include setting reasonable, achievable performance standards to measure project success; offering technical support; and, most important, providing liability protection from CERCLA and the CWA. The Act also prevents further degradation from baseline conditions while ensuring bedrock environmental laws and enforcement programs are not compromised or circumvented by parties liable for creating the mine waste. And Good Samaritan projects must have sufficient operating, monitoring, and maintenance plans to ensure long-term project performance. The Act incorporates these concepts in a manner that both fosters collaboration and provides public input from interested stakeholders in the affected communities and beyond.

### **Who Is Eligible to Be a Good Samaritan?**

The Act defines a "Good Samaritan" as any "person"<sup>35</sup> who (1) is not a past or current owner or operator of an abandoned mine; (2) had no role in creating mine waste at the site; and (3) is not potentially liable under any federal, state, tribal, or local law for addressing the

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waste.<sup>36</sup> Good Samaritans must also demonstrate expertise in performing mine cleanups along with sufficient resources to implement the project.<sup>37</sup> Typical Good Samaritans will be state mine reclamation agencies, NGOs, and mining companies with experience implementing cleanup projects.

### **What Sites Are Eligible for Good Samaritan Projects?**

Eligible sites are abandoned or inactive hard rock mine sites within the United States, excluding coal mines, that produced minerals prior to 1980 under the Mining Law of 1872.<sup>38</sup> The Act also excludes mine sites that are in shutdown or temporary cessation from mining activities; that are listed or proposed for listing on CERCLA's National Priorities List or where CERCLA response action is either planned or ongoing; and that have a "responsible owner or operator."<sup>39</sup> Notably, a "responsible owner or operator" is not just an owner-operator under CERCLA

and CWA, but must also be "financially able to comply" with all remediation requirements under those statutes.<sup>40</sup>

### **What Are Examples of Good Samaritan Projects?**

Good Samaritan projects fall into two informal categories: (1) projects that either physically relocate waste rock or tailings or construct physical barriers on top of mine waste, referred to as "dirt projects"; and (2) projects that manage surface water flows. Examples of water management projects are diversion channels constructed with limestone that route mine-impacted water into sediment ponds as a form of passive treatment.<sup>41</sup> Channels are also used to divert cleaner, non-impacted water away from mine waste sources. The Act prohibits more complex water projects attempting to draw down impounded water within a mine or stop the flow of mine-impacted water by installing an engineered bulkhead near the portal.<sup>42</sup>

### *How Is the Good Samaritan Program Implemented?*

The Act creates a new permitting program administered primarily by the EPA with federal land management agencies (FLMs) issuing permits on federal lands.<sup>43</sup> Congress declared this a pilot program, limiting the EPA and FLMs to issue no more than 15 permits over a seven-year period, after which the bill either sunsets or is reauthorized by Congress.<sup>44</sup> The EPA may promulgate regulations deemed necessary to carry out the permitting program.<sup>45</sup> If the EPA does not pursue regulations within 180 days of enactment, it must publish guidance to facilitate implementing the permit program.<sup>46</sup> Unlike past bills, the Act does not allow federal agencies to delegate permitting authority to states or tribes.

The Act integrates a key component into the permitting process stressed by environmental interests—additional review under the National Environmental Policy Act (NEPA).<sup>47</sup> Good Samaritan permitting is deemed a “major federal action” triggering NEPA review to assess whether issuing a Good Samaritan permit will result in significant environmental impact.<sup>48</sup> The EPA and FLMs are required to conduct an environmental assessment and can only issue a permit based on a finding of no significant impact.<sup>49</sup>

### *What Is Required in a Good Samaritan Permit Application?*

Generally, Good Samaritan permit applications must show that the prospective permittee and mine site meet the eligibility criteria explained above.<sup>50</sup> Applicants must describe all efforts taken to identify a viable owner or operator.<sup>51</sup> Applicants must also characterize current site conditions and provide a detailed remediation plan for the proposed work.<sup>52</sup> Site characterization describes site boundaries, existing waste sources, and baseline environmental conditions, including the quality of water impacted by mine waste.<sup>53</sup> Remediation plans include proposed activities and associated engineering plans; anticipated water quality improvements; a project budget and implementation schedule; and operation, maintenance, and monitoring plans.<sup>54</sup> Applicants must also provide financial assurance to carry out the proposed work—either

sufficient funds in hand or through a third-party financing mechanism.<sup>55</sup>

### *What Performance Standards Apply to Good Samaritan Projects?*

The Act departs from the CWA’s stringent, numeric effluent-limit-based approach and employs more qualitative performance objectives. Good Samaritan permits will be issued upon an applicant showing that, compared to baseline conditions, activities will make “measurable progress” toward achieving improved water, soils, and sediment quality while reducing threats to these and other environmental media.<sup>56</sup> While progress for water quality is measured in comparison to applicable water quality standards,<sup>57</sup> permits do not contain numeric effluent limits. Good Samaritan projects succeed when cleanup activities incrementally improve environmental conditions while reducing further risks to human health and the environment.

### *What Liability Protections Apply to Good Samaritan Projects?*

Once a Good Samaritan permit is issued, the permittee is shielded from CERCLA and CWA liability for the life of the project.<sup>58</sup> This includes protection from third-party actions brought under CERCLA and CWA citizen suit provisions.<sup>59</sup> The Act also exempts permittees from obtaining NPDES and other environmental regulatory permits.<sup>60</sup> Liability protection is conditioned upon the permittee complying with all permit terms.<sup>61</sup> Any permit violation resulting in surface water quality or other environmental conditions “measurably worse” than baseline conditions jeopardizes these liability and enforcement protections.<sup>62</sup> In this instance, the permittee must take “reasonable measures” to restore baseline conditions to the EPA’s satisfaction.<sup>63</sup> Failure to correct such permit violations results in the permittee losing liability protections provided by the Act.<sup>64</sup>

In addition to permittees, the Act extends liability protections to any “Cooperating Person” identified in a permit application as a cooperating entity, excluding “responsible owners or operators” or federal agencies.<sup>65</sup> This provision incentivizes landowners to allow

Good Samaritan projects on their property by limiting their risk of owner liability under CERCLA and CWA.

### *How Are Good Samaritan Permit Violations Enforced?*

Unlike previous Good Samaritan bills, the Act provides less specificity on how permit violations are enforced. Enforcement appears limited to instances where permit violations lead to “measurably worse” environment conditions.<sup>66</sup> As described above, permittees are given the opportunity to take “reasonable measures” to restore baseline conditions before losing liability protections, presumably subjecting them to CWA and CERCLA enforcement actions.<sup>67</sup> The Act provides the EPA sole discretion to discern what constitutes “measurably worse” and “reasonable measures.”<sup>68</sup> It appears that no other enforcement is authorized by the Act or elsewhere until the EPA determines the severity of a permit violation justifies revoking liability protections afforded in section 4(n) of the Act.

### *What Other Activities Can Be Included in a Good Samaritan Permit?*

The Act allows the EPA to issue up to 15 separate permits for “investigative sampling” to help Good Samaritans characterize current environmental conditions and determine the degree to which a remediation project can improve environmental media quality.<sup>69</sup> Permittees are not obligated to implement a cleanup after conducting investigative sampling;<sup>70</sup> however, those choosing to do so can convert their sampling permits to remediation permits.<sup>71</sup>

The Act also permits Good Samaritans to process previously mined ores, minerals, wastes, or other materials—referred to as “re-processing”—in conjunction with remediation activities on federal land.<sup>72</sup> Proceeds from reprocessing can only be used to defray cleanup costs or reimburse federal oversight costs.<sup>73</sup> Any additional proceeds must be deposited in the Good Samaritan Mine Remediation Fund established in section 5(a) of the Act.<sup>74</sup> No other mineral exploration, processing, beneficiation, or mining activities are allowed under Good Samaritan permits.

## How Is a Good Samaritan Project Funded?

Aside from reprocessing proceeds, the Act provides no funding mechanism for Good Samaritan entities. Remediation projects conducted pursuant to Good Samaritan permits are eligible to receive federal grants offered under CWA § 319 (EPA's Non-point Source Management Program) and CERCLA § 104(k) (EPA's Brownfields Program).<sup>75</sup> As referenced above, the Act creates a special account within the US Treasury called the Good Samaritan Mine Remediation Fund containing funds from various sources, including appropriation acts, mine waste reprocessing proceeds, financial assurance from permittees, and donations.<sup>76</sup> Those funds can only be used by the EPA or FLMs for the purpose of carrying out the Act.<sup>77</sup>

## Conclusion

After nearly 30 years, Congress and stakeholders overcame thorny liability issues and moved forward to enact Good Samaritan legislation. In doing so, Congress steered away from a long-standing policy of perfection being the enemy of the good that plagued prior bills from gaining consensus support. The Act effectively strikes balance in permitting Good Samaritan projects that aim for incremental improvements while providing safeguards to limit the risk of further environmental harm. Colorado and other western states will see immediate benefits from the Good Samaritan pilot program and the additional public and private resources it brings to address abandoned mine pollution. <sup>CL</sup>



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## NOTES

1. US Department of Labor Mine Safety and Health Administration, <https://www.msha.gov/news-media/special-initiatives/2015/09/24/stay-out-stay-alive>. Abandoned mine lands are areas affected by past mining operations that contain waste rock piles (rock removed to reach targeted ore deposits) and tailings (by-products of ore processing). USGS, *The USGS Abandoned Mine Lands Initiation: Protecting and Restoring the Environment Near Abandoned Mine Lands Fact Sheet 095-99* (Jan. 1999), <https://pubs.usgs.gov/publication/fs09599>.
2. US EPA, *Liquid Assets 2000: America's Water Resources at a Turning Point* 10 (May 2000), <https://nepis.epa.gov/Exe/ZyPDF.cgi/20004GRW.PDF?Dockkey=20004GRW.PDF>.
3. See, e.g., Colorado's Active Mine Program implemented pursuant to the Colorado Mined Land Reclamation Act, CRS §§ 34-32-101 et seq., and Colorado Mined Land Reclamation Board Regulations, 1 CCR § 407-1. See also <https://drms.colorado.gov/boards/mined-land-reclamation-board>.
4. See Colorado Abandoned Mines Water Quality Study Data Report (June 2017), <https://erams.com/co-abandoned-mines-water-quality>.
5. The Superfund program is administered by the US EPA, in cooperation with state and tribal remediation programs, pursuant to CERCLA, 42 USC §§ 9601 et seq. These governmental entities or potentially responsible parties conduct CERCLA cleanups. See CERCLA § 104, 42 USC § 9604.
6. See Colorado Abandoned Mines Water Quality Study Data Report, *supra* note 4 at 5. Of the 224 draining mines inventoried in Colorado, the report identifies only 44 mines as being remediated with another 32 mines under investigation. *Id.*
7. *Id.* at 4.
8. *Id.*
9. CWA §§ 101 et seq., 33 USC §§ 1251 et seq.
10. Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024, Pub. L. No. 118-155, 138 Stat. 1692 (SB 2781) (hereinafter "Act").
11. <https://www.congress.gov/bill/118th-congress/senate-bill/2781/cosponsors>.
12. See sponsorship for companion bill HR 7779, <https://www.congress.gov/bill/118th-congress/house-bill/7779/cosponsors>.
13. CERCLA §§ 101 et seq., 42 USC §§ 9601 et seq.
14. See CWA § 309(d), 33 USC § 1319(d), and CERCLA §§ 106(a) and 109(a), 42 USC §§ 9606(a) and 9609(a).
15. See CWA § 505, 33 USC § 1365, and CERCLA § 310, 42 USC § 9659.
16. See National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300.400(g). See also CERCLA § 121(d)(2)(A), 42 USC § 9621(d)(2)(A).
17. See NCP, 40 CFR § 300.5 (definition of "applicable requirements").
18. See CERCLA § 107(a), 42 USC § 9607(a).
19. *Id.*
20. See *id.* § 101(32), 42 USC § 9601(32) (defining "liability" as the standards of liability set forth in CWA § 311, 33 USC § 1321. CERCLA imposes strict liability, which can be joint and several in cases of indivisible harm). *United States v. Monsanto Co.*, 858 F.2d 160, 168, 171 (4th Cir. 1988).
21. See CERCLA §§ 104(a)(1) and 106(a), 42 USC §§ 9604(a)(1) and 9606(a).
22. *Id.* § 107(a), 42 USC § 9607(a).
23. See *id.* § 101(9)(b), 42 USC § 9601(9)(b) (defining "facility" as "any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located").
24. See *id.* § 101(14), 42 USC § 9601(14) (defining "hazardous substance" as any substance (1) designated a hazardous substance under CWA § 311(b)(2)(A), 33 USC § 1321(b)(2)(A); (2) designated a hazardous substance under CERCLA § 102; (3) listed or having the characteristics of a hazardous waste under the Resource Conservation and Recovery Act § 3001, 42 USC § 6921; (4) designated a toxic pollutant under CWA § 307(a), 33 USC § 1317(a); (5) listed as a hazardous air pollutant under the Clean Air Act § 112, 42 USC § 7412; and (6) identified as an imminently hazardous chemical substance or mixture under the Toxic Substances Control Act § 7, 15 USC § 2606).
25. See *id.* § 101(20)(A), 42 USC § 9601(20)(A) (defining "owner or operator" as any person or owning or operating a facility).
26. See Memorandum from Nakayama et al., US EPA, "Interim Guiding Principles for Good Samaritan Projects at Orphan Mining Sites and Transmittal of CERCLA Administrative Tools for Good Samaritans" (June 6, 2007), <https://www.epa.gov/sites/production/files/2015-09/documents/cercla-goodsam-principles-mem-ed2015.pdf>.
27. Memorandum from Bodine, US EPA, "2019 Policy on the Issuance of Superfund Comfort/Status Letters" (Aug. 21, 2019), [https://www.epa.gov/sites/production/files/2019-08/documents/comfort-status-ltr-2019-mem\\_0.pdf](https://www.epa.gov/sites/production/files/2019-08/documents/comfort-status-ltr-2019-mem_0.pdf).
28. See CWA §§ 101, 301, and 311, 33 USC §§ 1251, 1311, and 1321.
29. See *id.* § 402, 33 USC § 1342.
30. *Id.* §§ 301 and 402, 33 USC §§ 1311 and 1342.

31. *Id.* § 309, 33 USC § 1319.

32. “Point source” is defined as “any discernable, confined and discrete conveyance including any pipe, ditch, channel, tunnel . . . from which pollutants are or may be discharged.” *Id.* § 502(14), 33 USC § 1362(14).

33. “Pollution” is defined as “the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.” *Id.* § 502(19), 33 USC § 1362(19).

34. See *Comm. to Save Mokelumne River v. East Bay Mun. Util. Dist.*, 13 F.3d 305 (9th Cir. 1993) (state agency and utility district held liable for unpermitted discharges from mine reclamation diversion structures owned and operated by the defendant entities). See *W. Va. Highlands Conservancy v. Huffman*, 625 F.3d 159 (4th Cir. 2010) (state agency held liable for unpermitted discharges associated with reclamation efforts at coal mines acquired by the state as a result of bond forfeiture).

35. The Act incorporates CERCLA and CWA definitions and defines a “person” as: an individual, a firm, a corporation, an association, a partnership, a consortium, a joint venture, a commercial entity, a nonprofit organization, the federal government, a state (including a

political subdivision of a state), an interstate entity, a commission, or an Indian tribe. See Act § 2(13), incorporating CERCLA § 101(21), 42 USC § 9601(21), and CWA § 502(5), 33 USC § 1362(5).

36. Act § 2(9).

37. *Id.* § 4(c)(5).

38. *Id.* § 2(1)(A)(i) and (v). See also *id.* § 4(b)(1)(A).

39. *Id.* § 2(1)(C)(i)–(iv).

40. *Id.* § 2(16) (defining “responsible owner or operator”).

41. See Ford, *Passive Treatment Systems for Acid Mine Drainage*, Technical Note 409 5, US Bureau of Land Management Papers (Apr. 2003), <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1018&context=usblm-pub#:~:text=THERE%20ARE%20MANY%20TYPES%20of,neutralize%20acidity%20and%20precipitate%20metals>.

42. Act § 2(14)(C) (excluding these activities from the definition of “remediation”).

43. *Id.* § 4(a).

44. *Id.*

45. *Id.* § 4(s)(1)

46. *Id.* § 4(s)(2).

47. *Id.* § 4(l). See also NEPA §§ 2 et seq., 42 USC §§ 4321 et seq.

48. Act § 4(l). See also NEPA § 102, 42 USC § 4332.

49. Act § 4(l).

50. *Id.* § 4(b)(1).

51. *Id.* § 4(b)(2).

52. *Id.* § 4(c).

53. *Id.* § 4(c)(1), (4), (6).

54. *Id.* § 4(c)(7), (8), (13), (14).

55. *Id.* § 4(c)(12) and (m)(1)(A)(vi)(V).

Third-party financial insurance mechanisms include corporate guarantees from parent or other corporate affiliates, letters of credit, trusts, surety bonds, or insurance.

56. *Id.* § 4(m)(1)(A)(v).

57. *Id.* § 4(m)(1)(A)(v)(I).

58. *Id.* § 4(n)(3).

59. *Id.* § 4(n)(3)(B).

60. *Id.* § 4(n)(1)(B).

61. *Id.* § 4(n)(3)(E).

62. *Id.*

63. *Id.* § 4(n)(3)(E)(ii).

64. *Id.* § 4(n)(3)(F).

65. *Id.* § 4(n)(1), (3).

66. *Id.* § 4(n)(1)(E).

67. *Id.* § 4(n)(1)(E)(ii).

68. *Id.* § 4(n)(1)(E).

69. *Id.* § 4(d).

70. *Id.* § 4(d)(6).

71. *Id.* § 4(e)(1).

72. *Id.* § 4(f)(4)(B).

73. *Id.* § 4(f)(4)(B)(iii).

74. *Id.* § 4(f)(4)(B)(iv).

75. *Id.* § 4(p).

76. *Id.* § 5(a).

77. *Id.* § 5(d).

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